



REPORT TO: **MUNICIPAL PLANNING TRIBUNAL**

ITEM NO **MPTSW19/05/19**

WARD 74: APPLICATION FOR SUBDIVISION IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: ERF 4398 HOUT BAY, 37 NOOITGEDACHT DRIVE

Case ID	70433728
Case Officer	P Absolon
Case Officer phone number	021 444 7728
District	Southern
Ward	74
Ward Council	R Gwintas
Report date	2018-04-27

1. EXECUTIVE SUMMARY

Property description	Erf 4398 Hout Bay
Property address	37 Nooitgedacht Drive
Application components / description	To subdivide the property into 2 portions (Portion 1: ±990m² and Remainder: ±1789m²) as per the plan of subdivision LUM/33/4398 attached as Annexure C.
Site extent	2779m²
Current zoning	Single Residential Zone 1
Current land use	Dwelling house & second dwelling
Overlay zone applicable	None
PHRA or SAHRA heritage	No
Public participation outcome summary	3 objections were received.
Recommended decision	
Approval	<input checked="" type="checkbox"/>
Refusal	<input type="checkbox"/>
Approval in part & Refusal in part	<input type="checkbox"/>

2. BACKGROUND FACTS

2.1 None.

3. SUMMARY OF APPLICANT'S MOTIVATION

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

- The subject property is relatively large.
- The proposed erf sizes will not detract from the character of the area.
- There is no minimum erf size for this part of Hout Bay.
- The marginal increase in density is within the ambit of the City's Densification Policy.

- The proposal complies with the Provincial Spatial Development Framework, the Municipal Spatial Development Framework, the Southern District Plan and the Densification Policy.
- The proposal complies with the criteria in Section 99 of the MPBL and with the development principles in LUPA & SPLUMA.

4. PUBLIC PARTICIPATION

		Applicable	Dates / Comments
Advertising	Notice in the media (s81)		
	Notice to a person (s82)	✓	2019-02-13
	Notice to Community organization (s83)	✓	2019-02-13
	Notice to Ward Councillor (s83)	✓	2019-02-11
	Notice of no objection (s84)		
	Notice to Provincial Government (s86)		
	Notice to an Organ of State (s87)		
Outcome	Public meeting		
	On-site display	✓	2019-02-13
	Objections	✓	3 objections were received
	Objection petition		
	Support / No objection		
	Comments		
	Ward Councillor response		

Summary of objections received

- 4.1. Objections received in respect of the application (see Annexure E) may be summarised as follows:
- The proposal will result in noise pollution.
 - The proposal will result in traffic congestion.
 - The proposal will impact on the privacy of the abutting properties.
 - The proposal will negatively impact on the value of the abutting properties.
 - No building plans were submitted with the proposal.
 - If the subdivision is approved, 4 dwellings will be permitted. These may be turned into a sectional title scheme.
 - The rural charm of the area will be destroyed.
 - There is a concern regarding a possible future driveway in Silvertree Close.

Summary of applicant's response to public participation

- 4.2. The applicant's response to the objections received (see Annexure F) may be summarised as follows:
- The objectors are concerned about increased densification in the area but do not acknowledge Council's approved Densification Policy.
 - The subject application is within the ambit of the Densification Policy.
 - The objectors have not provided proof that this application will lead to the decrease in value of their properties.
 - Many home buyers are looking for smaller, more compact properties which are reflected in today's housing market, and in valuations of smaller properties.
 - All 3 objectors speculate that the subject property will change their plans and introduce a new access point to the subdivided portion in Silvertree Close.
 - It is not incumbent on the applicant to have building plans finalized for a subdivision application.

5. BACKGROUND TO PROPOSAL

Description of the area / surrounding land uses

- 5.1 The subject property is located in an area which can be described as being a middle to upper-income, low density, suburban, residential area. The surrounding properties typically contain large detached dwelling houses set on large sized erven. The area is very well vegetated and has a close relationship to the surrounding mountains and valley floor.

Property description

- 5.2 The subject property contains a main dwelling house, second dwelling, a garage and a swimming pool, set in a large garden. Vehicular and pedestrian access is taken from Noolgedacht Drive. The property contains numerous trees.

Zoning

- 5.3 As can be seen from Annexure B, the subject property as well as all of the immediate surrounding properties are zoned Single Residential Zone 1.

Proposed development

- 5.4 It is proposed to subdivide the property into 2 portions (Portion 1: ±990m² and Remainder: ±1789m²) as per the plan of subdivision LUM/33/4398 attached as Annexure C. The Remainder contains a dwelling house and second dwelling. Portion 1 is vacant. No proposed building plans were submitted for Portion 1 and all development thereon will need to comply with the requirements of the Development Management Scheme (DMS).

6. PROPOSAL ASSESSMENT

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

- 6.1.1. Compliance with the requirements of the MPBL:
- The application complies with the basic requirements of the MPBL.
 - As there is no unauthorised land use or building work related to this application, no administrative penalty is required.
- 6.1.2. Compliance or consistence with the municipal spatial development framework:
- The application complies with the Municipal Spatial Development Framework as explained in Section 6.2.1 below.
- 6.1.3. Consideration in terms of Section 99(3) of the desirability of the following criteria:
- For the reasons given in Section 6.2.4 below, this Department is of the opinion that the proposal is desirable.
- 6.1.4. Would approval of the application have the effect of granting the property the development rules of the next subzone within a zone?
- N/A

I am satisfied that the decision making criteria in Section 99(1) have been complied with.

I am satisfied that the considerations in Section 99(3) have been assessed and that the proposed land use is desirable.

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

6.2.1. Any applicable spatial development framework:

- The proposal is consistent with the Southern District Plan which promotes contextually appropriate densification. The sub-district development guidelines state that "in recognition of the need for densification and also declining household sizes, densification, particularly by means of small-scale, low impact subdivision and second dwellings, is encouraged".
- The proposal is consistent with the Municipal Spatial Development Framework due to the proposal amounting to contextually appropriate residential densification. The property is in an area designated as a consolidation area.

6.2.2. Relevant criteria contemplated in the DMS:

- N/A

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

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

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

- a. Socio-economic impact: Approval of the proposal will have a positive impact in this regard in providing increased residential accommodation in a relatively well located area.
- b. Compatibility with surrounding uses:
 - The proposed use is entirely residential and is compatible with the surrounding uses.
 - The resultant erven will fit in well with those in the broader area, which contains a wide range of erf sizes.
 - The level of densification being provided is moderate. Only 1 additional erf will be created.
 - The size of each portion is reasonable within this context and is large within a City context.
 - Portion 1 is sufficiently large to be developed with a dwelling house that is in keeping with other houses in the area and without the need for departures.
- c. Impact on the external engineering services: The proposal will not have a negative impact on engineering services. Council's relevant services departments have confirmed that adequate services are available (see Annexure G). A development contribution is payable.
- d. Impact on safety, health and wellbeing of the surrounding community: The proposal will not impact negatively on the safety, health or wellbeing of neighbours.

- e. Impact on heritage: There will be no negative impact on heritage. The property is not located in a heritage protection overlay zone and the existing buildings are not older than 60 years.
- f. Impact on the biophysical environment: The site is already developed and the property is not environmentally sensitive. It appears to be possible to develop Portion 1 with minimal impact on the existing trees.
- g. Transport considerations: The traffic impact will be negligible due to the small magnitude of the densification proposed. Both portions are sufficiently large to provide adequate off-street parking that complies with the requirements of the Development Management Scheme. Transport Planning has assessed the application and has no objection (see Annexure G).
- h. Mitigating conditions: None are necessary other than those relating to services. The Development Management Scheme has sufficient controls relating to any further development on both portions.

6.2.5. Impact on existing rights:

- The proposal will not impact significantly on existing rights.
- The development rules in terms of maximum building height and floor space for both portions will not change as a result of the subdivision.
- Although the building lines will be reduced as a result of the subdivision (from 6m to 3m), these will still remain large in this context. The new building lines will be the same as for numerous other erven in the area.

6.2.6 Other considerations prescribed in relevant national or provincial legislation (ie Section 59 of the Land Use Planning Act and Section 7 of the Spatial Planning and Land Use Management Act):

- **Principle of spatial justice**: Indirectly, contextually appropriate densification, such as this proposal, will cumulatively (at a city-wide scale) contribute to spatial justice in terms of taking off pressure for development elsewhere that drives the poor to the periphery of the city. In other words, low densities close to areas with good opportunities displaces other people to worse located land. The biggest impact is on the urban poor.
- **Principle of spatial sustainability**: Contextually appropriate densification, such as this proposal, will contribute to environmental sustainability by reducing pressure on valuable agricultural and natural land. Such applications effectively act to reduce urban sprawl and result in the better use of land (which is a scarce resource) and existing municipal services.
- **Principle of efficiency**: Contextually appropriate densification, as is the case in this instance, results in the more efficient use of land and municipal resources.
- **Principle of spatial resilience**: Contextually appropriate densification, as is the case in this instance, facilitates spatial resilience in that, inter alia, it allows better options to residents.
- **Principle of good administration**: The proposal has been processed in accordance with the relevant laws.

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

6.3 Regarding the objections:

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- 6.3.1 Some of the issues raised by the objectors have been addressed above. However, some additional issues are addressed below.
- 6.3.2 This Department does not agree that the value of the objectors' properties will be negatively impacted upon by the proposal. In any event it must be noted that the Land Use Planning Act, 2014, and the Spatial Planning and Land Use Management Act, 2013, state that an application may not be refused solely on the ground that the value of a property is affected.
- 6.3.3 Regarding vehicular access off Silvertree Close, it must be noted that it is speculative as to where any new development for Portion 1 will take access. In any event, even without subdivision, there is nothing preventing the existing 2 dwelling houses on the property taking vehicular access off Silvertree Close. The potential for new vehicular access points off Silvertree Close will not change as a result of the subdivision. (Note that for the purpose of the subdivision plan, the applicant has indicated that the new access to Portion 1 will be from Nodifgedacht Drive.)
- 6.3.4 The objectors do not directly abut the subject property and any increase in noise will not be significant.
- 6.3.5 In this context and for portion sizes as proposed, there is no need to provide plans of a proposed development on Portion 1. All new development will need to comply with the development rules in the DMS which are adequate to protect the character of the area and minimise the impact on the surrounding properties.
- 6.3.6 If the existing and / or new dwellings were sectionalised or not, this would have no impact on the objectors as this will not impact in any way on the development potential of the portions.

7. REASONS FOR DECISION

- 7.1. Reasons for the recommended decision for **approval** relating to the application for the subdivision may be summarised as follows:
 - 7.1.1 The proposal is compatible with the surrounding land uses and will not change the character of the area.
 - 7.1.2 The proposal will not have a significant negative impact on neighbouring properties.
 - 7.1.3 The level of densification proposed is low and is contextually appropriate.
 - 7.1.4 The size of each portion is reasonable within this context and is large within a City context.
 - 7.1.5 The proposal complies with the Southern District Plan, the Densification Policy, and the Municipal Spatial Development Framework. The proposal also indirectly supports the Economic Growth Strategy.
 - 7.1.6 There is adequate infrastructural capacity for the proposal.
 - 7.1.7 Adequate off-street parking will be provided. The traffic impact will be negligible.

- 7.1.8 The proposal will not have a significant impact on the biophysical environment.
 7.1.11 The proposal will have a positive socio-economic impact.
 7.1.12 The proposal is desirable and does not impact significantly on existing rights.

8. RECOMMENDATION

In view of the above, it is recommended that:

- 8.1 The application for the subdivision of Erf 4398 Hout Bay, **be approved** in terms of Section 98(b) of the Municipal Planning By-Law, 2015, as per plan of subdivision LUM/33/4398, subject to the conditions contained in Annexure A.

ANNEXURES

Annexure A	Application details and proposed conditions
Annexure B	Locality plan / public participation map
Annexure C	Subdivision plan LUM/33/4398
Annexure D	Applicant's motivation
Annexure E	Objections
Annexure F	Applicant's response to objections
Annexure G	Internal departmental comments
Annexure H	Conveyancer's certificate
Annexure I	Title deed
Annexure J	List of relevant parties

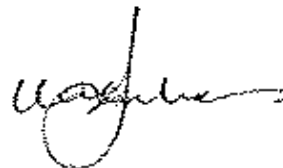


Section Head

Name: P Hoffa

Tel no: 021 444 7724

Date: 2019-04-29



District Manager

Name: U Gonsalves

Tel no: 021 444 7720

Date: 2019-04-30

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 4398 Hout Bay, 37 Noolgedacht Drive

"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: 70433728

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

- 1.1 The subdivision of the property into 2 portions (Portion 1: $\pm 990\text{m}^2$ and Remainder: $\pm 1789\text{m}^2$) as per plan of subdivision LUM/33/4398.

2 CONDITIONS IMPOSED IN TERMS OF SECTION 100 OF THE MUNICIPAL PLANNING BY-LAW, 2015 WHICH MUST BE COMPLIED WITH AT THE COST OF THE DEVELOPER AND TO THE SATISFACTION AND ACCEPTANCE OF THE COUNCIL PRIOR TO THE TRANSFER OR SEPARATE REGISTRATION IN THE DEEDS REGISTRY OF ANY LAND UNIT ARISING FROM THIS SUBDIVISION APPROVAL (SEE SECTION 137 OF THE MUNICIPAL PLANNING BY-LAW):

2.1 Sanitation

- 2.1.1 Sewer connections shall be provided for each portion.

- 2.1.2 A sewer servitude shall be registered over Portion 1 in favour of the Remainder where the sewer serving the Remainder crosses Portion 1. The width and conditions of the servitude shall be to the satisfaction of the Director: Sanitation.

2.2 Water

- 2.2.1 The applicant shall be responsible for all associated costs for relocating any water services infrastructure (inclusive of water meters).

- 2.2.2 The service piping between the 2 portions must be separated by a registered plumber.

2.3 Development Charges

- 2.3.1 The owner/developer shall pay a development charge (DC) in accordance with the approved Development Charges Policy for Engineering Services for the City of Cape Town. The total amount payable for the proposed land use right in accordance with the attached DC calculation is R 50 325.57. This amount is valid up to 2019-06-30 and the amount due will be escalated annually with the Construction Price Adjustment Formula (CPAF) using the industry indices of StatsSA.

2.4 General

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

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

2.5 Electricity Services

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

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

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

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

ANNEXURE C

NOTES

1. The figure "ABCDEF" represents Erf 4398, in extent 2 779m².
2. The figure "GHIKDEF" represents Portion 1, in extent 990m².
3. The figure "ABIKHG" represents the Remainder, in extent 1 789m².
4. Areas and dimensions are approximate being subject to final survey.
5. All trees to be retained except #4

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REVISIONS

NOTES

NO. DATE

M.A. SMITH

TOWN & REGIONAL PLANNERS
 P.O. Box 26365
 Hout Bay 7872
 (021) 790 7989
 Email: mikasmith@mweb.co.za

DRAWING TITLE

PLAN
 SHOWING
 PROPOSED SUBDIVISION OF
 ERF 4398 (PTN. OF ERF 1299)
 HOUT BAY

DRAWING NUMBER

MAS_4398 HB/01

SCALE

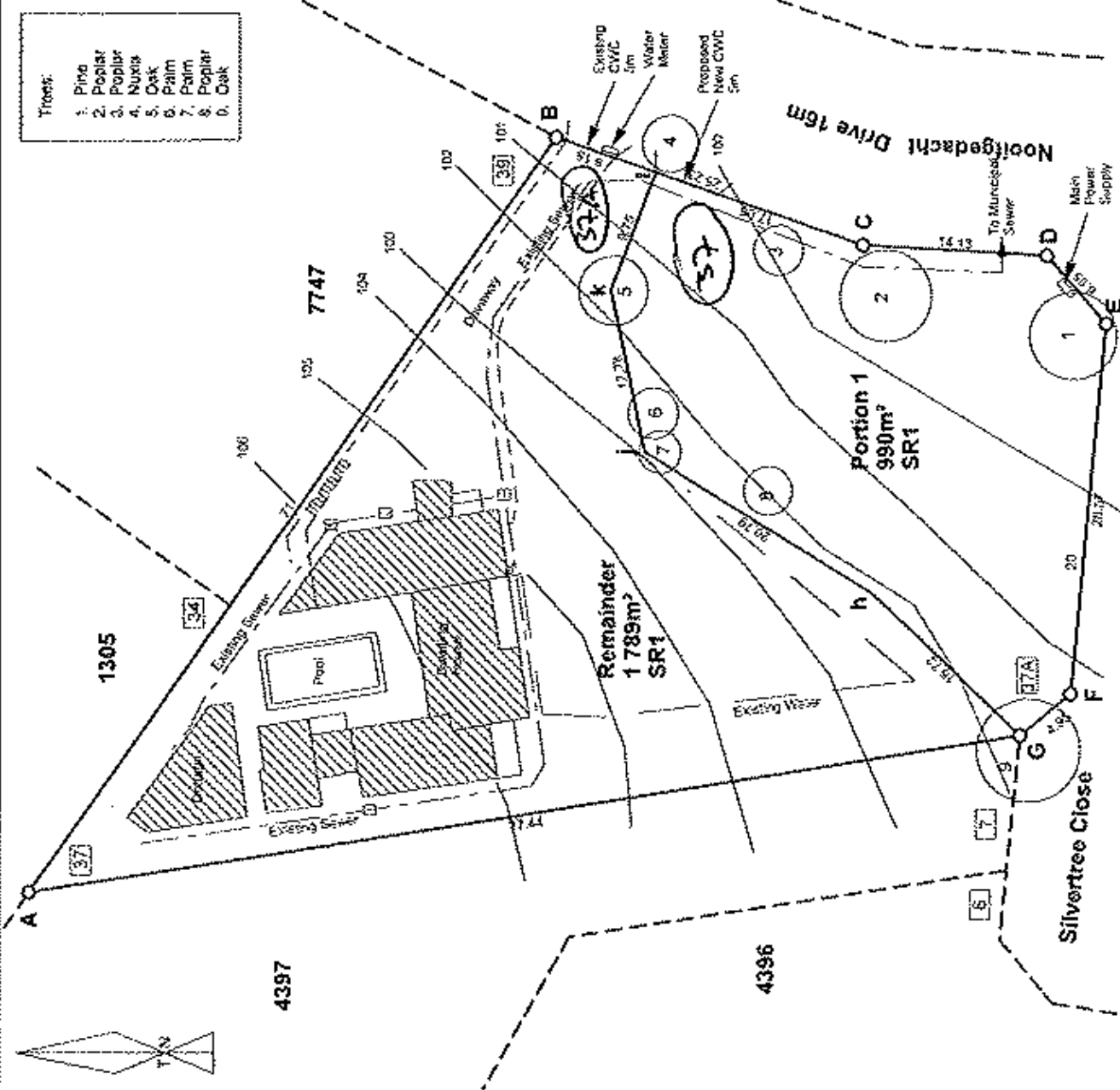
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DRAWN BY

M.A. SMITH

DATE

2018-11-07



1. INTRODUCTION

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- 1.1 The applicants are the owners of Erf 4398 Hout Bay, situated at No. 37 Nooitgedacht Drive in Hout Bay.
- 1.2 This application is to subdivide the property into two portions of 1 789m² and 990m², in terms of section 42(d) of the City of Cape Town Municipal Planning By-law (MPBL), 2015.
- 1.3 The property is currently developed with a dwelling house, cottage, and swimming pool on the north-western side. The intention is to subdivide off a vacant garden portion on the south-eastern side of the property as depicted on the Subdivision Plan submitted with this application.
- 1.4 There is an existing approved CWC on the north-eastern side of the property off Nooitgedacht Drive giving access to the existing dwelling house and cottage. It is proposed to construct a new CWC for the subdivided portion off Nooitgedacht Drive in the position depicted on the Subdivision Plan.

2. OWNERSHIP AND PROPERTY DETAILS**2.1 Title Deed Ownership and Extent**

- 2.1.1 The property is owned by Peter Michael Mueller and Sharon Marie Mueller, held by Deed of Transfer No. 21909/2002.
- 2.1.2 The property is 2 779m² in extent.

2.2 Mandate

- 2.2.1 M. A. Smith is authorized to submit this application on behalf of the registered owners by the Power of Attorney submitted with this application.

2.3 Locality

- 2.3.1 The property is situated at No 37 Nooitgedacht Drive, which is accessed off Valley Road via Lentedal Road in the south or off Park Avenue to the north.

2.4 Title Deed Restrictions

- 2.4.1 There are no restrictive conditions of title contained in the deed of transfer of the property that prohibits it from being subdivided as proposed.
- 2.4.2 A conveyancer's certificate has been submitted with the application documentation which confirms the above statement.

2.5 SG Diagram

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- 2.5.1 The property is shown on SG Diagram No. 5744/81, which has been submitted with the application documents.

2.6 Zoning

- 2.6.1 The property is zoned *Single Residential 1 (SR1)* in terms of the Development Management Scheme of the Cape Town MPBL.

3. THE PROPOSAL (SEE SUBDIVISION PLAN)

- 3.1. The proposal is to subdivide the property into two portions of 1 789m² and 990m², in accordance with the Subdivision Plan submitted with this application.
- 3.2 Access to the vacant subdivided portion will be off a new CWC on Nooitgedacht Drive (as indicated on the Subdivision Plan) whilst access to the existing dwelling house on the proposed "Remainder" will be via the existing CWC on Nooitgedacht Drive (See Subdivision Plan).
- 3.3 The existing sewer serving the dwelling house runs through a portion of the proposed "Portion 1". A 3m wide sewer servitude will be registered over this portion of the sewer traversing "Portion 1" in favour of the "Remainder".

4. MOTIVATION

- 4.1 The subject property is relatively large (2 779m²) and can be properly subdivided such that there will be a proper building parcel on the subdivided portion (See Subdivision Plan).
- 4.2 The resulting erf sizes of 1 789m² and 990m² are large enough so as not to detract from the character of this part of Hout Bay.
- 4.3 There is no minimum erf size for this part of Hout Bay, as designated on the Hout Bay / Llandudno Local Area Overlay Zone (LAO/11).
- 4.4 The marginal increase in density is entirely within the ambit of the city's approved Densification Policy.
- 4.5 Planning Policies

4.5.1 *Provincial Spatial Development Framework*

Since the Provincial SDF demarcates the site as being suitable for Urban Development purposes, the proposed subdivision is consequently in line with the policies of the Provincial Spatial Development Framework.

4.5.2 *Municipal Spatial Development Framework*

The Municipal SDF calls for the creation of an efficient urban structure, through encouraging high density, mixed uses and development in appropriate areas. The proposal is therefore seen to be in line with the principles of the Municipal Spatial Development Framework.

4.5.3 *The District SDF: The Southern District Plan – (Hout Bay to Llandudno Sub-District)*

One of the development guidelines of this Plan is that there is “... a recognition of the need for densification and also declining household sizes. Densification, particularly by means of small-scale, low-impact subdivisions should be encouraged”.

4.5.4 *The City of Cape Town Densification Policy*

The proposal is in line with the principles of the densification strategy for the City of Cape Town. One of the principles of this strategy is to provide for a more efficient city by encouraging marginal densification. The following is an excerpt from this densification policy:

“All residential areas are suitable for incremental densification through second dwellings (such as ‘granny flats’) or subdivisions, as long as they do not damage the character of the area, and the City’s engineers are satisfied that the infrastructure will cope with the increased densities” – (own bold type added).

4.6 Benefits of Densification – The City of Cape Town’s Densification Strategy

4.6.1 The densification strategy attempts to address the following, which are meritorious in this case:

- More efficient use of existing municipal infrastructure;
- More efficient use of land especially in sought-after areas and areas with an abundance of social, institutional and recreational opportunities (such as Hout Bay);
- Mitigation of urban sprawl;
- Equity within residential areas should be encouraged.
- More people should be able to live in and enjoy the benefits of well - located areas and areas with good amenities.
- Densification contributes significantly towards environmental sustainability.

4.7 Compliance with Section 99 of the By-Law

4.7.1 The application complies with the following minimum threshold requirements of Section 99 of the By-Law:

- (i) It complies with the requirements of the By-Law;
- (ii) It is consistent with the MSDP;
- (iii) The proposed lands use is desirable in terms of council's densification policy;
- (iv) The granting of the application will not have the effect of granting the property the development rules of the next Sub-zone.

4.8 Development Principles Contemplated in SPLUMA and LUPA

4.8.1 It is considered that the development principles contemplated in Chapter 2 of SPLUMA and LUPA are not applicable for the following reasons:

- (i) *Principle of Spatial Justice* – the current application is primarily and simply to permit the subdivision of the property in accordance with council's approve densification policy. Market forces will determine the sale of the subdivided portion;
- (ii) *Principle of Spatial Sustainability* – there is only a minor densification proposed and no provision of infrastructure or social services in this application;
- (iii) *Principle of Efficiency* – there is no new land development proposed in this application – only infill by means of subdivision;
- (iv) *Principle of Spatial Resilience* – the proposal complies with the District Plan for the area;
- (v) *Principle of Good Administration* – there is no need for an integrated approach to land development as far as this application is concerned.

4.9 It is considered that this application has merit and it is therefore respectfully requested that it be recommended for approval.

Patrick John Absolon

From: Vere Morrison <veremorrison@gmail.com>
Sent: Monday, March 18, 2019 3:25 PM : 759
To: Comments_Objections Southern
Cc: Patrick John Absolon
Subject: Objection re: Erf 4398 Hout Bay, application no. 70433728.

To whom it may concern

I am the owner of 6 Silvertree Close, Hout Bay (Erf 4396) and hereby lodge an **objection** to the application for subdivision into two portions of 37 Nooitgedacht Drive (Erf 4398), application number 70433728, case I.D: 70433728:

I purchased my property in Silvertree Close because I wanted a spacious property on which I could enjoy less noise and more privacy. My concern is that by allowing the subdivision of 37 Nooitgedacht Drive, a property effectively two doors down from mine, congestion and noise will increase and the level of spaciousness and privacy I currently enjoy in this neighbourhood will decrease. I am further concerned that the densification of the neighbourhood will make it less attractive to potential buyers and thus lower the value of my property.

In addition to the above, there are already four driveways accessing Silvertree Close. I am concerned that if the owner decides to access Silvertree Close by a fifth driveway, it will make the close very congested as there is limited parking in the cul-de-sac.

I further object as there were no plans given to me along with the Application for Subdivision of Erf 4398, when it arrived from the City of Council. I have no idea what they intend building on the land once it is subdivided and/or sold.

For the above reasons, I hereby object to the proposed subdivision.

Yours faithfully

Carrol A H Morrison

021 790 1377

Patrick John Absolon

From: Alan Hutton <alan.hutton@uct.ac.za>
Sent: Sunday, March 17, 2019 5:36 PM
To: Comments, Objections Southern
Subject: Objection re: Erf 4398 Hout Bay, application no. 70433728

To whom it may concern

I am the owner of 5 Silvertree Close, Hout Bay (Erf 4395) and hereby lodge an objection to the application for subdivision into two portions of 37 Nooitgedacht Drive (Erf 4398), application number 70433728.

My interest in the application arises because of being a close neighbour to the property in question. The whole point of purchasing property in this area of Hout Bay is to enjoy the uncluttered spaciousness of the large erven that currently exist in the surroundings. No building plans are given in the application, but subdivision of the property in question could result in up to two new dwellings on Portion 1 and even an additional dwelling on the Remainder, resulting in undesirable densification of housing in the area, with concomitant increase in traffic, noise, general business, and thereby degrading the feeling of spaciousness and quality of the neighbourhood.

Further, although access to the proposed Portion 1 is shown on the plan to be via Nooitgedacht Drive, without building plans it is impossible to say that this might not be changed to driveway access from Silvertree Close, presently a quiet cul-de-sac, and this would certainly impact all who live in Silvertree Close.

I am of the opinion that such densification will make neighbouring properties less desirable, and hence lower the value of our properties.

For the above reasons, I hereby object to the proposed subdivision.

Yours faithfully

Prof. Alan Thomas Hutton
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 Hout Bay 7806
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TO WHOM IT MAY CONCERN

When we purchased our property over 25 years ago, we did it with the peace of mind that we were buying in an area that had large stands in the region of between 2500 and 2700 m². The idea of larger stands means that one's neighbours are not "on top of your doorstep".

If we had known that CCT were going to allow subdivisions, which they granted in 2013, we surely would have thought twice!

My first point is that council has let us down by allowing this By Law to be passed and now secondly the subdivision regarding 37 Nooigedacht Drive, ERF 4398 is exactly what we have been afraid of for all these years.

My objection is that by subdividing the property from 2779 m² into two sections, ie one of 1789 m² and the other of 990 m², allows the existing owner's P.M & S.M Mueller to develop FOUR dwellings in total on both sections. Two of which can be on their existing ERF of 1789 and two on the subdivided section of 990. Same applies that if the existing owners of the 1789 m² decide to sell the subdivided section to another purchaser, the new purchaser of the 990 m² may also develop two dwellings on the subdivided land. These may also be turned into sectional title if the new owner or existing owners so desires. Thirdly, as stipulated in the By Law of 2015 Item 140 (2)(A) Site Access and Exits. Motor vehicles and carriage way crossings shall be limited to one per site per Public Street or road a butting the site.

Even though the proposed driveway entrance to the proposed subdivided property is indicated to be on Nooigedacht Drive there is no guarantee according to the above By Law 140 that this will NOT at some stage impact on Silvertree Close.

This then incurred entrance point established in Silvertree Close (Cul De Sac) WILL impact on all neighbours concerned, create more traffic flow and heighten the noise volume to a higher level than what it already is!

If this subdivision is passed there is no way back and these developments will take place. There are no plans that have been submitted to give any indication of whether a double story is intended other than an eleven meter restriction on building height by council or the extent that the dwelling sizes will be! This is totally unacceptable to us and we are extremely unhappy with the idea.

Yours sincerely,

T.A. Simpson.



1762

M A Smith - Town and Regional Planner**In Association with J H Smith & Associates
Land Surveyors, Sectional Title Consultants**

3 Earl Street, Hout Bay

PO Box 26365 Hout Bay 7872

Cell: 083 270 1702

Email: mikesmith@nwweb.co.za

08 April 2019

The Executive Director: City of Cape Town's Transport and Urban Development Authority
City of Cape Town
Southern District
Private Bag X5
Plumstead
7801

Dear Sirs,

ERF 4398, 37 NOOITGEDACHT DRIVE, HOUT BAY: APPLICATION FOR SUBDIVISION IN TERMS OF SECTIONS 42(d) OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015: REPLY TO OBJECTIONS:

I hereby reply to the objections from C Morrison of Erf 4396, A Hutton (Erf 4395) and T Simpson. It is worth noting there are no objections from council's internal departments. All three objections are materially similar in content.

The objectors are concerned about increased densification in the area but do not acknowledge council's approved residential densification policy. These property owners (objectors) bought their properties at a time when the policy was not in place and they argue that it (densification) should simply not be allowed to happen. The truth is that the city seeks a more efficient city, and one of the ways of achieving it is by permitting contextually appropriate subdivisions. The subject application is entirely within the ambit of this policy.

The objectors raise concerns that the approval of this application will lead to a decrease in value of their properties. They do not, however, offer any empirical evidence to support this claim. On the contrary, many home buyers are looking for smaller, more compact properties which is reflected in today's housing market, and in valuations of smaller properties.

All three objectors speculate that the owners of the subject property will change their plans and introduce a new access point to the subdivided portion in Silvertree Close. The fact is that the owners want the new access point in Nooitgedacht Drive in the position indicated on the Subdivision Plan submitted with the application.

The objectors also claim that they should have sight of the applicant's building plans. It is not incumbent on the applicant to have building plans finalized for a subdivision application.

These objections should be dismissed.

Yours faithfully

**M A Smith
TRP (S.A.)**



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

TECHNICAL SERVICES: WATER INSPECTORATE

1763

BRIAN MEYER
Principal Technical Assistant

T: +27 21 4443396
E: Brian.Meyer@capetown.gov.za

**Water & Waste Services Directorate
Water and Sanitation Department**

CASE FILE NO: 70433728
ERF NUMBER: 4398
DATE: Monday, 11 March 2019

COMMENTS

CONTACT DETAILS, PHYSICAL ADDRESS & OTHER :

Nooilgedacht Drive, Houtbay.

The Sanitation division has no objection. A sewer servitude to be registered over Portion 1 in favour of of the Remainder.

Brian Meyer
021- 4443396



764

2019-03-04

DIRECTOR: PLANNING AND BUILDING DEVELOPMENT

PROPOSED SUBDIVISION OF ERF 4398: 37 NOOTGEDACHT DRIVE – HOUT BAY

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

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

Yours faithfully

DIRECTOR: ELECTRICITY GENERATION & DISTRIBUTION



TDA
CAPE TOWN

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

1765

MEMORANDUM

To: Development Management

From: Business Enablement GIS

Date: 12 February 2019

Subject: Branch comments with regards to Land Use Application

To Whom it may concern:

We approve the application but want to set a condition with regards to the street addresses.

The addresses provided below must be used as part of the subdivision.

Portion 1: No. 37 Nooitgedacht Drive Hout Bay

Remainder: No. 37A Nooitgedacht Drive Hout Bay

Kind Regards

Charleen

Charleen Martin

GIS Technician: TDA Cape Town

TDA Business Processes

Department: Business Enablement

3rd Floor, Transport Management Centre

Hugo Street, Goodwood

T: +27 21 400 6755

E: charleen.martin@capetown.gov.za

W: www.capetown.gov.za



TDA
CAPE TOWN

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

Reason for alternative: Support Application

1766

Transport Comment: 11-02-2019

RE: Application for subdivision (2 portions) on Erf 4398, Hout Bay (CASE ID: 70433728)

Our Ref: W6 - Erf 4398, Hout Bay

This branch offers no objection to this application for subdivision (2 portions) on Erf 4398, Hout Bay. No significant transport impact expected (if any).

Note: (1) Any work proposed within the road reserve must be designed and built to the design standards prescribed by the TDA: Asset Management and Maintenance Branch. (2) Should any fixtures (light poles, drainage systems, trees or fire hydrants) within the road reserve need to be removed or relocated, an approval must be obtained by the relevant City Branch prior to commencement of works.

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

Kind regards,
Marlyn Botha
for TDA: Transport & Urban Development Authority

021 – 444 9520



**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

Making progress possible. Together.

1767

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

4398
Hout Bay
M Smith
2779
February 26, 2019
2018/2019
70433728

Code	Description	Unit	Existing Right	Total New Right
RESIDENTIAL				
A1	Single Residential > 1000m² Erf	Dwelling unit	1	1
A2	Single Residential > 650m² Erf	Dwelling unit		1
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 / Agr-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 & corr. 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?

No

Development Charges Component Table									
Roads	trip/day	3.8000	R	5,882.31	R	22,352.76	R	3,552.91	R 25,769.67
Transport	pers. trip/peak period	0.1300	R	833.24	R	108.32	R	16.25	R 124.57
Stormwater	ha°C	0.0168	R	154,470.85	R	8,017.55	R	1,202.69	R 9,220.65
Sewerage	lit/day	0.9000	R	16,722.37	R	8,361.19	R	1,254.18	R 9,615.36
Water	lit/day	0.9000	R	2,061.25	R	1,955.12	R	275.92	R 2,231.04
Solid Waste	kg/day	7.4300	R	413.87	R	3,075.02	R	461.23	R 3,536.25

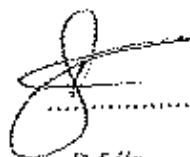
City of Cape Town		Developer/Owner	
Calculated by:	D Fritz	Received:	Mike Smith
Signature:		Signature:	
Date:	2/26/2019	Date:	26/03/2019

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

Conditions

- The owner/developer or their successors in title shall pay a development charge (DC) in accordance with the applicable City of Cape Town Policy relating to Development Charges for Engineering Services.
- The total amount payable for the proposed land use right in accordance with the attached DC calculation is R 50 325.57 and it must be noted that the amount due will be escalated annually with the Construction Price Adjustment Formula (CPAF) using the industry indices of StatsSA.
- DC's will be payable prior to any transfer of properties, approval of building plans or within 30 days of the approval of the land use where no transfer or building plans are required.
- Failure to pay the full DC liability will be construed as non-compliance to the conditions of approval and render the new land use to a non-conforming application.

Signature



D Fritz

Date

26/02/19.

CONVEYANCER'S CERTIFICATE

I/we, **FRANK SAUNDRE HOLLAND**

(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 4398 HOUT BAY, IN THE CITY OF CAPE TOWN, CAPE DIVISION, PROVINCE OF THE WESTERN CAPE

(see 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. **GAAS 4398 H5/01**

Date

01/2018

Application type **SUBDIVISION - 42(c)**

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

121909/2002

3. LIST OF RESTRICTIVE TITLE CONDITIONS Please note: If every 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			
Building lines			
Height			
Number of dwellings			
Bulk floor area			
Coverage / built upon area			
Subdivision			
Servitudes that may be registered over or in favour of the property			
Other restrictive conditions limiting development			

Signed at **HOUT BAY**

on this

6th

day of

November

20

18

Company name **FRANK HOLLAND & ASSOCIATES**

Postal address **SUITE #274, PRIVATE BAG X4, POSTNET HOUT BAY**

7872

Signature

Tel **021 750 6006**

Email

frank@fhk.co.za

ADDENDUM A

Property reference		Adjunct		Adjunct	
Restrictive Conditions Imposed at Time of Township Establishment	Applicable Legislation or Type of Conditions	Application Necessary to City of Cape Town	Affected Conditions for Restricted Development or Use		General Identification to be supplied by Conveyancer
			Traditional Conditions	Traditional Conditions	
Restrictive Conditions Imposed at Time of Township Establishment	Municipal Planning By-law 2015	Mandatory	N/A	N/A	<ul style="list-style-type: none"> All properties in affected Township (attach a copy of approved general plan) Specified state departments
	33/34 of EUPD or any other legislation repealed in terms of EUPA (see section 2.1)	Mandatory	N/A	N/A	<ul style="list-style-type: none"> All properties in affected Township (attach a copy of approved general plan) Specified state departments
	None to 33/34	Voluntary	N/A	N/A	<ul style="list-style-type: none"> Properties or individuals affected by the condition Specified state departments
	Developer	Voluntary	N/A	N/A	<ul style="list-style-type: none"> 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	Individual (multiple affected parties)	No provision in MPB for application to be made to the City at this time	N/A	N/A	<ul style="list-style-type: none"> Persons whose rights are affected Specified state departments
	Person (individual only)	No provision in MPB for application to be made to the City at this time	N/A	N/A	<ul style="list-style-type: none"> Individual named Specified state departments

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

Version: 2016/12

35

ANNEXURE T

E00003498/2004

GEKANSCELLEER
CANCELLER

REGISTRAR/REGISTRAR

Prepared by me

CONVEYANCER
MCKEND, F.J.

VERBIND

MORTGAGE

R
FOR R 600 000.00

B67596/2002

2002-11-13

REGISTRAR/REGISTRAR

REGISTRAR/REGISTRAR

REGISTRAR/REGISTRAR

T 021909/2002

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN:

THAT ROYAL JEFF MCKEND

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN as the said Appearer being
duly authorised thereto by a Power of Attorney signed at KNYSNA on 23rd JANUARY 2002
and granted to him by:-

MAUREEN KATHLEEN COLYN
Identity Number 490428 9057 08 3
Married out of community of property

AND the Appearer declared that his said Principal had truly and legally sold on 26 June 2001 and that he, the said Appearer in his capacity aforesaid, did by these presents, cede and transfer, to and on behalf of:

1772

1. PETER MICHAEL MUELLER
Identity Number 490323 5136 18 5
Married, which marriage is governed by the laws of ENGLAND
2. SHARON MARIE MUELLER
Identity Number 550727 0238 18 0
Married, which marriage is governed by the laws of ENGLAND

their heirs, executors, administrators or assigns in full and free property

ERF 439P HOUT PAV
IN THE CITY OF CAPE TOWN
CAPE DIVISION
PROVINCE OF THE WESTERN CAPE

In Extent 2 779 (TWO THOUSAND SEVEN HUNDRED AND SEVENTY NINE) square metres;

FIRST TRANSFERRED by Deed of Transfer No. T24128/1982 with Diagram No. 5744/81 relating thereto and HELD by Deed of Transfer No. T44471/1987

- A. SUBJECT to the conditions referred to in Deed of Transfer No. T17231/1903.
- C. SUBJECT FURTHER to the conditions referred to in the endorsement dated 7th October 1980 on Deed of Transfer No. T7207/1980 reading:

"By Deed of Transfer No T37490/80 dated this day the Remainder of the within property is subject to the following conditions imposed in terms of Section 9 of Ordinance No 33 of 1934 as substituted by Section 4 of Ordinance No 19 of 1959 by the Administrator:

- (1) The owner 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 erven 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 for the purpose of constructing, altering, removing or inspecting any works connected with the above.

1773

- (2) The owner of this erf shall be obliged, without compensation, to remove 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."

1774

WHEREFORE the Appearer, renouncing all the right and title which the said:-

MAUREEN KATHLEEN COLYN

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

1. PETER MICHAEL AJJELLER

and

2. SHARON MARIE MUELLER

their heirs, executors, administrators or 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 R1 034 000,00 (ONE MILLION THIRTY FOUR THOUSAND RAND), transfer duty having been paid on R1 100 000,00 being the purchase price plus commission in terms of Section 6(1)(a) of Act 40/1949.

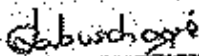
IN WITNESS WHEREOF I, the said Registrar, together with the Appearer, q.q. have subscribed to these presents and have caused the Seal of Office to be affixed thereto.

THUS DONE AND EXECUTED at the office of the REGISTRAR OF DEEDS at CAPE TOWN on 26 March 2002

q.q.



In my presence,


REGISTRAR OF DEEDS

ANNEXURE J**List of relevant parties****Applicant**

M A Smith Town Planner
mikesmith@mweb.co.za

Objectors

C A Morrison (Erf 4396)
6 Silvertree Close
Hout Bay

A T Hutton (Erf 4395)
Alan.hutton@uct.ac.za

T A Simpson (Erf 4394)
4 Silvertree Close
Hout Bay
7806