CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Case ID 1500164562

Erf 543, 23 Lower Kloof Road, Signal Hill/Lions Head, Clifton

Development Management

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Date: July 2026

Ref: 7301 (Hayley Geary)

Your ref:

TOMMY BRÜMMER
TOWN PLANNERS

DEPARTURES, AMENDED CONDITIONS & CONSENT: ERF 543 CLIFTON AT 23 LOWER KLOOF ROAD, CLIFTON



1 INTRODUCTION

The purpose of this application is to obtain approval for extensions to the garage and further alterations and extensions to the existing dwelling house.

Firstly, the property is subject to the following title deed conditions:

- No removal of trees.
- No excavation on the site.
- A maximum development envelope for the site.

Secondly, the property is subject to conditions of approval from 2023, which also restricts the development potential of the property to be substantially in accordance with the approved plans. The following alterations and extensions are proposed:

- First Storey- excavation of the first storey, below the ground level to increase the floor area of this storey, as well as internal alterations.
- Second Storey- The guest suite, below the garage, will be increased in size (due to the garage extension above). There will be internal reconfiguration of spaces, but largely the envelope of the main house will remain the same at this level. The extension to the garage and studio will require the removal of 2 trees.
- Third Storey- The loft area will be internally reconfigured, but no additional floor space will be achieved due to the alterations.
- Garage- The garage structure, at the street-level, will be increased in size.

- Roof- There will be changes to the roof structure. Two flat roofs are proposed on either side of the dwelling.
- The total floor area increases from 657 m² on the approved plans to 675 m² on the new plans, representing an increase of approximately 18 m².

It is noted that the property is situated on the lower side of Lower Kloof Road, which is a designated Scenic Drive and Road of Metropolitan Significance.

2 APPLICATIONS

The following applications are therefore required:

- Application in terms of Section 42(h) of the MPBL for the **consent in terms of a restrictive title deed** condition C.I(13.1) of Deed of Transfer relating to the removal of Trees from the site.

- Application in terms of Section 42(h) of the MPBL for the **consent in terms of a restrictive title deed** condition C.I(14) of Deed of Transfer relating to the excavations on the site.

- Application in terms of Section 42(h) of the MPBL for the **consent in terms of a restrictive title deed** condition C.II of Deed of Transfer relating to the alterations to the building envelope.

- Application in terms of Section 42(j) of the MPBL for the **amendment of the 2023 existing condition of approval,** namely condition 2.1, relating to the development envelope.

  APPROVED CONDITION
  2.1 The maximum building height and the maximum permissible development envelope shall be substantially in accordance with the Site Development Plans submitted with this application to the satisfaction of the authorised official: Development Management.

  PROPOSED CONDITION
  2.1 The maximum building height and the maximum permissible development envelope shall be in accordance with the revised Site Development Plans submitted with this application to the satisfaction of the authorised official: Development Management.

- Application in terms of Section 42(j) of the MPBL for the **amendment of the 2023 existing condition of approval,** namely condition 2.2, relating to the protrusion above the scenic drive.

  APPROVED CONDITION
  2.2 The maximum projection of development above the Scenic Drive in terms of the departure granted from item 171 shall be as shown on the abovementioned Site Development Plan to the satisfaction of the authorised official: Development Management.

  PROPOSED CONDITION
  2.2 The maximum projection of development above the Scenic Drive in terms of the departure granted from item 171 shall be as shown on the abovementioned revised Site Development Plan to the satisfaction of the authorised official: Development Management.

- Application in terms of Section 42(d) of the MPBL to permit the following **departures**:

  - Item 22(c)(ii) to permit the flat roof changes on the north-eastern common boundary, beyond 12m from the street, to be 5.46m in height, in lieu of 4m.
  - Item 22(c)(ii) to permit the flat roof changes on the south-eastern common boundary, beyond 12m from the street, to be 5.36m in height, in lieu of 4m.
  - Item 22(d) to permit the flat roof changes on the north-eastern common boundary to be 2.1m from the north- eastern common boundary, in lieu of 3m.
  - Item 22(d) to permit the flat roof changes on the south-eastern to be 2.1m from the south- eastern common boundary, in lieu of 3m.
  - Item 22(d), (f) & Item 121(2) to permit the guest suite and garage extensions to be 0m from the street boundary, in lieu of 3.5m & 5m.
  - Item 22(d) & (f) to permit the guest suite and garage extensions to be 0m from the north- eastern common boundary, in lieu of 3m.
  - Item 171(1 & 2) to permit the proposed extensions to the garage to be built above the scenic drive.



Aerial Photograph

3 BACKGROUND

2004 Rezoning & Subdivision	In 2004, an application for rezoning from Public Open Space to Single Dwelling Residential was approved. The approvals were granted subject to conditions which essentially limit the development potential of the property to the existing dwelling on the site. In terms of the deed of sale entered into with the City of Cape Town, the conditions were registered against the title deed of the property.
2023 Extensions	In 2023, an application was approved for extensions and alterations to the dwelling. The approval made provision for additions to the existing dwelling, a relaxation of the title deed conditions for excavation, alterations to the boundary wall, improvements exceeding the title deed building development and height restrictions, the deletion of the 2004 rezoning condition relating to the development envelope, permanent departures for the boundary wall height, Scenic Drive departure and a pool pump room setback. As well as a correction of the zoning map error...

4 TITLE DEED RESTRICTIONS

Erf 543 contains title deed restrictions restricting any further development or excavation.

Condition C.I(13.1): *allow any such tree or hedge to be lopped, cut back or pruned or removed without the Manager Environmental Management, City of Cape Town, first giving written consent.*

Condition C.I(14): *No Excavation, creation of any terraces, removal of any soil or similar matter from this Erf is permitted without prior written consent of the City of Cape Town.*

Condition C.II:

II. **SUBJECT FURTHER** to the following building development and height restrictions in respect of any improvements on the Erf, imposed by and in favour of the City of Cape Town, in which restrictions all heights are given in relation to Town Survey Marks 10F10 and 11F10 and relate to Mean Sea Level, viz:-

1.1 The figure ABCDEFGH on Servitude Diagram S.G. Number 3728 / 2005 represents 59 (Fifty Nine) Square Metres of land which is subject to a restriction in height of no more than 51,05 metres (top of balcony railing above verandah);

1.2 The figure C1D1E1F1G1H1 on Servitude Diagram S.G. Number 3728/2005 represents 26 (Twenty Six) Square Metres of land which is subject to a restriction in height of no more than 53,80 metres (top of railing around annex roof);

1.3 The figure J1K1L1M1 on Servitude Diagram S.G. Number 3728/2005 represents 32 (Thirty Two) Square Metres of land which is subject to a restriction in height of no more than 55,55 metres (top of garage parapet roof);

1.4 The figure EJKLMNPQRSTUVWXZA1B1F on Servitude Diagram S.G. Number 3728/2005 represents 219 (Two Hundred and Nineteen) Square Metres of land which is subject to a restriction in height of no more than 55,90 metres (height of apex of roof), and is subject further to the following height restrictions around the perimeter of the house;

ROOF HEIGHT RESTRICTIONS (metres above mean sea level)

E: 53,50	K: 52,65	N: 53,45	R: 52,80	U: 52,80
X: 53,50	A1: 53,05	F: 53,45	L: 52,60	P: 53,45
S: 53,45	V: 52,80	Y: 53,45	B1: 53,40	J: 53,40
M: 53,40	Q: 52,80	T: 53,50	W: 53,50	Z: 53,05

No further improvements exceeding the above described restrictions shall be permitted without the prior consent in writing from the City of Cape Town.

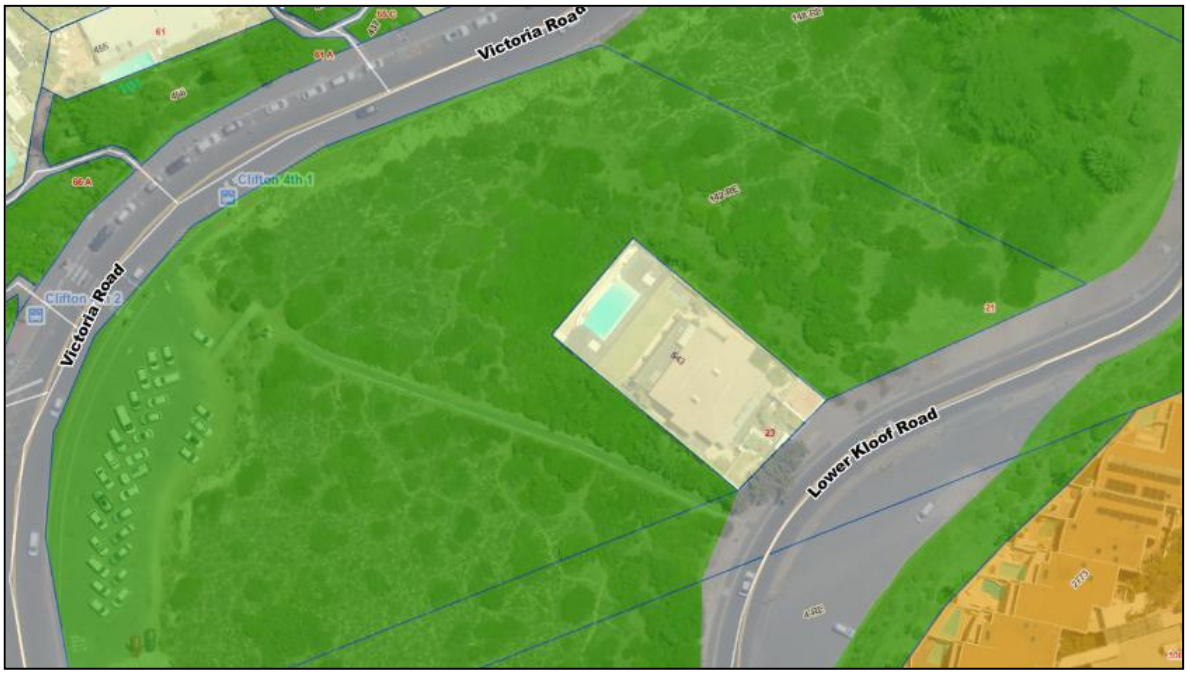
(being the figures efghjklm; g1h1j1k1l1m1; n1p1q1r1 and jnpqrstuvwxza1b1c1d1e1f1k respectively on Diagram S.G. Number 448/2005 annexed hereto)

These conditions were imposed by and in favour of the City of Cape Town upon the subdivision of this property. This application is therefore made to obtain written consent in terms of Section 42(h) of the MPBL, to permit the proposed excavation, removal of trees and the further changes and extensions to the existing dwelling house & garage.

5 ZONING

5.1 Zoning

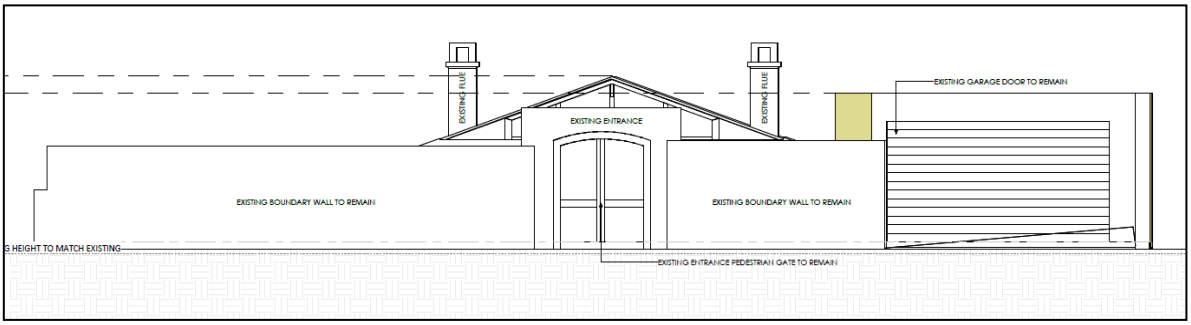
The is currently zoned R1.



Zoning Map

5.2 Overlay zoning

Lower Kloof Road is a scenic drive and the property is accordingly part of a Scenic Drive Overlay (SDO) Zoning which means that the property is subject to the general provisions in Item 171 of the DMS. Although the proposed extensions to the garage will be higher than the pedestrian footpath, they will largely be concealed behind the existing garage structure and boundary wall and therefore will be only marginally visible from the scenic drive, as seen in the elevation drawing below.



Visual impact of garage extension on Street boundary

5.3 Previous Conditions of Approval

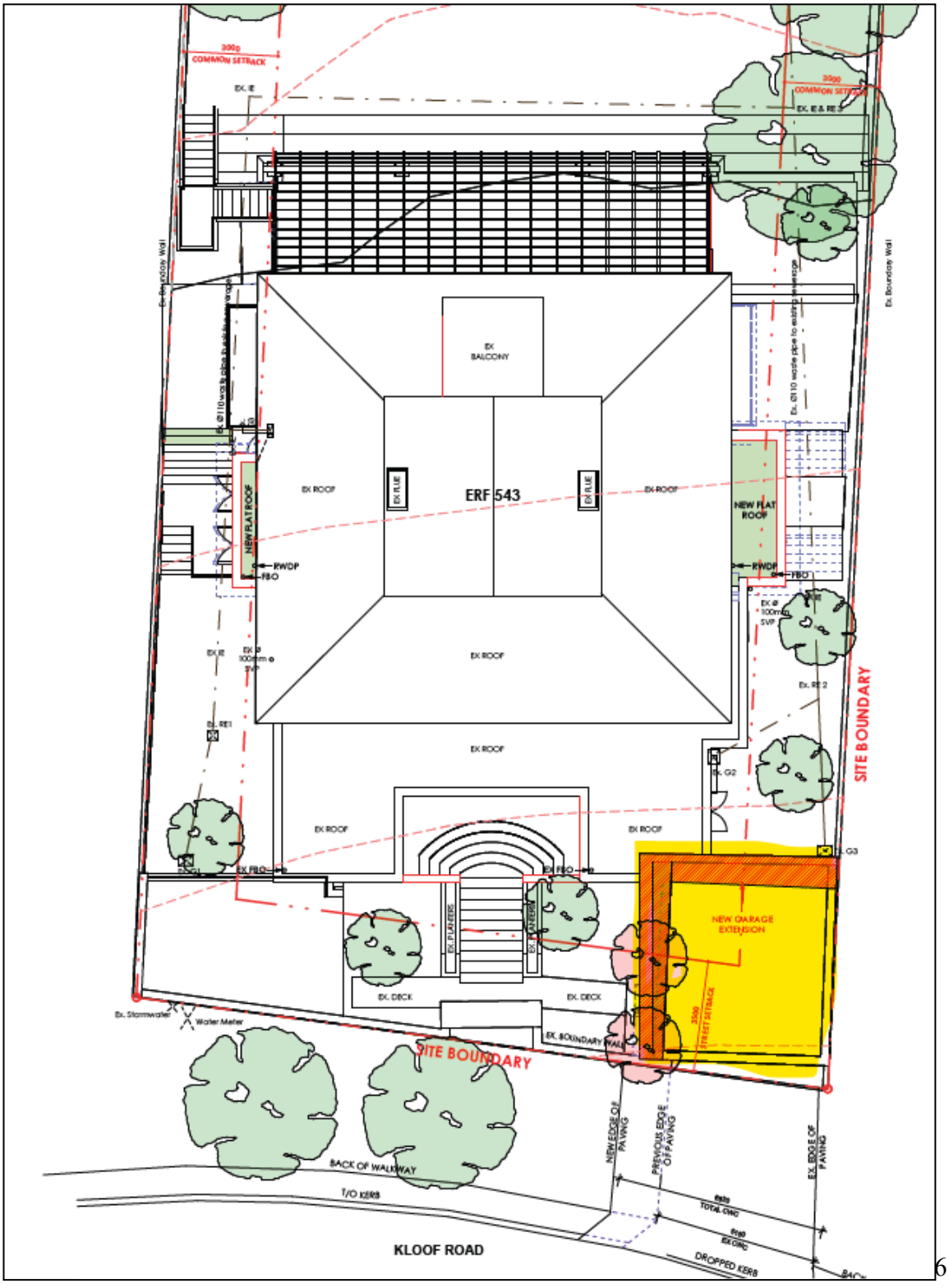
It is noted that the previous 2023 approval restricted the development envelope to be substantially in accordance with the plans provided. These conditions read as follows:

2.1 The maximum building height and the maximum permissible development envelope shall be substantially in accordance with the Site Development Plans submitted with this application to the satisfaction of the authorised official: Development Management.

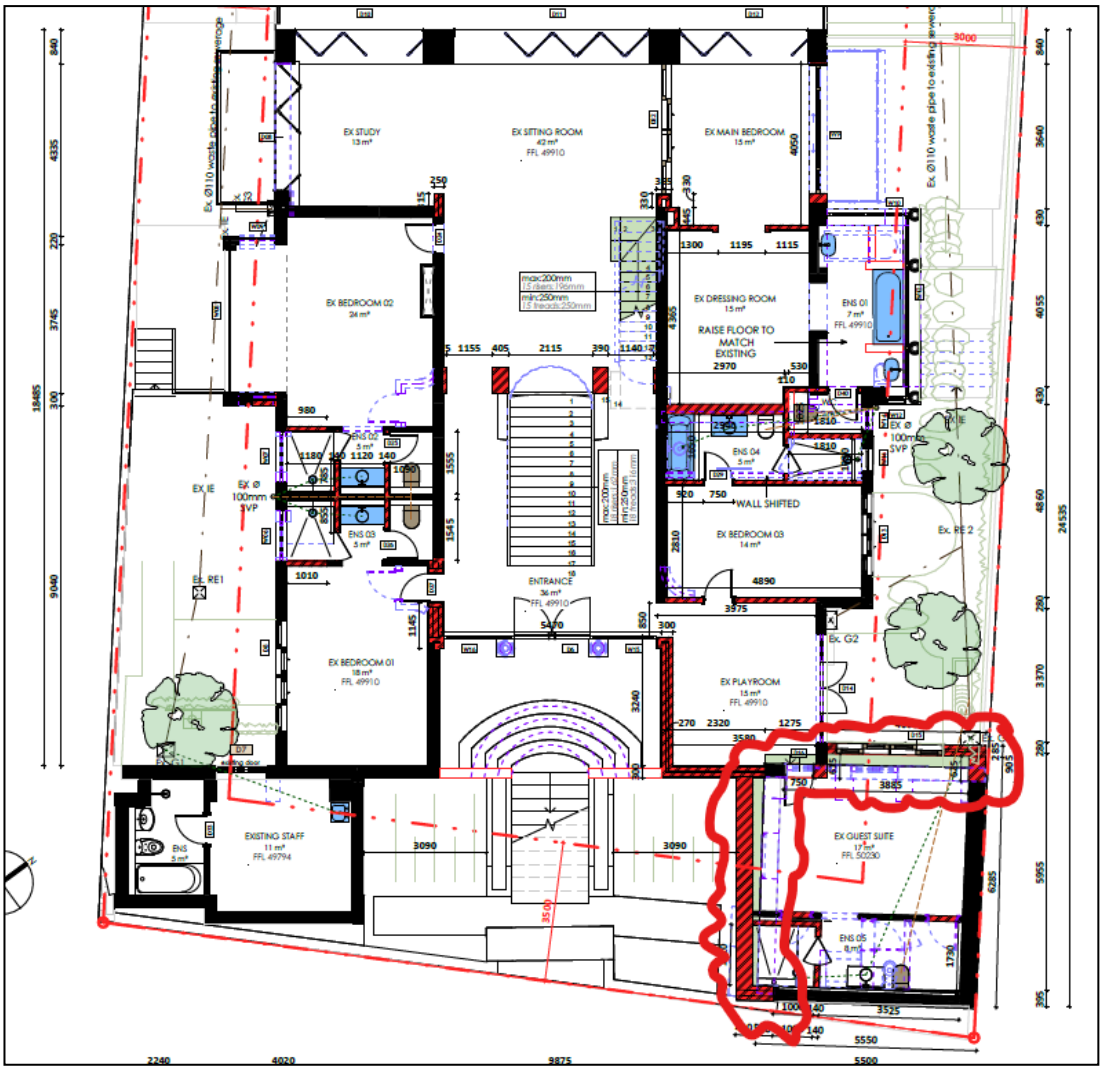
2.2 The maximum projection of development above the Scenic Drive in terms of the departure granted from item 171 shall be as shown on the abovementioned Site Development Plan to the satisfaction of the authorised official: Development Management.

6 DEVELOPMENT PROPOSAL

- The proposal includes extensions to the existing garage, which takes access from the scenic drive. This extension will remove 2 Olive Trees from the courtyard area. Considering that the garage exceeds 3.5m in height, it does not comply with Item 22(f) of the DMS. Therefore, the garage will require a departure from the common boundary. This extension of the guest suite and garage also requires a street building line departure of 0m, in lieu of 3.5m (item 22(d)) & 5m (item 121(2)).



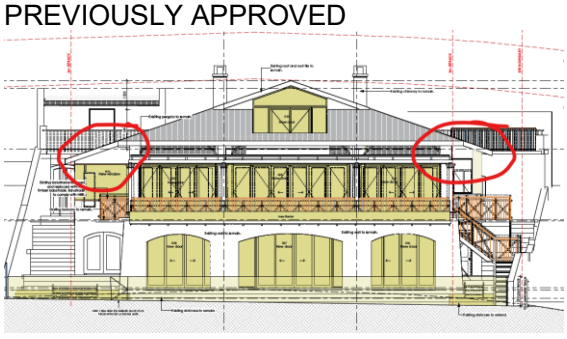
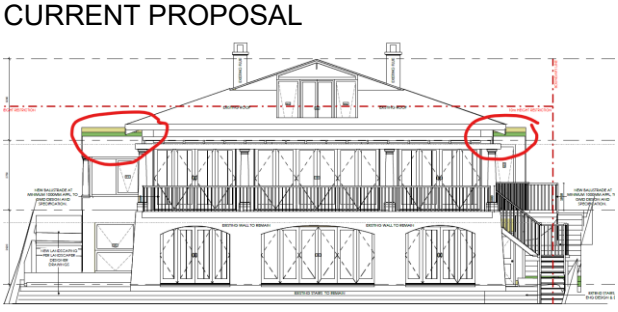
- The guest suite beneath the garage will therefore also be extended slightly. This extension requires departures from both the street and common boundaries.



Second Storey Extensions and alterations

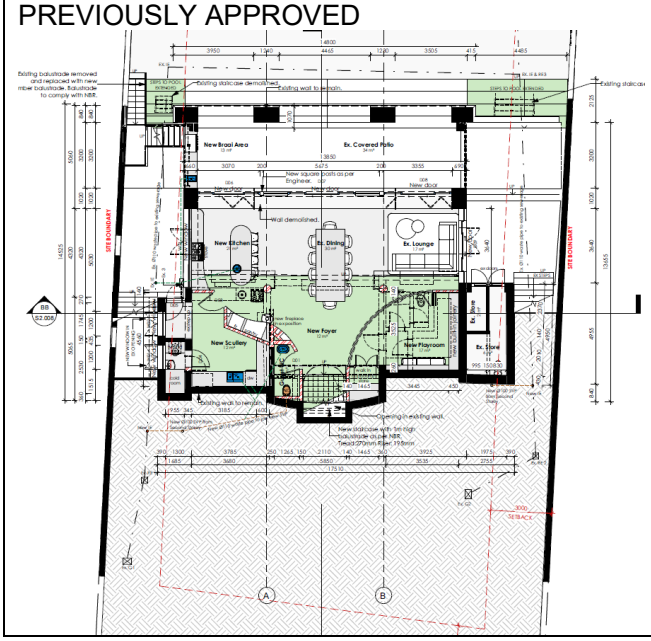
- The internal spaces on the second storey will be reconfigured. Although the envelope of the house itself (other than the guest suite) on the second storey will not change, there will be changes to the wall materials near the entrance area from glass to a solid brick wall.

- On the second storey, the roofscape will be amended to include two flat roof wings on either side of the dwelling. These would require common boundary departures and height departures (as they exceed 4m in height from EGL).

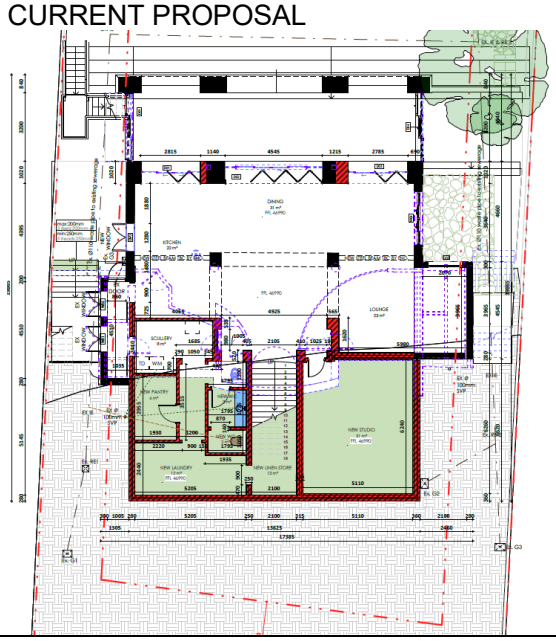
PREVIOUSLY APPROVED	CURRENT PROPOSAL
	

- On the first storey (ground floor), the proposal is to excavate beneath the house to increase the floor plate of this level. This will increase the floor space by approximately 18m². It is reiterated that this extension requires approval in terms of the title deed, which prohibits excavation of the site.

PREVIOUSLY APPROVED



CURRENT PROPOSAL



- The proposed increased floor plate on this level would not be visible from the outside as it takes place almost entirely beneath the ground level, as can be seen in the north-eastern elevation.

APPROVED PLAN

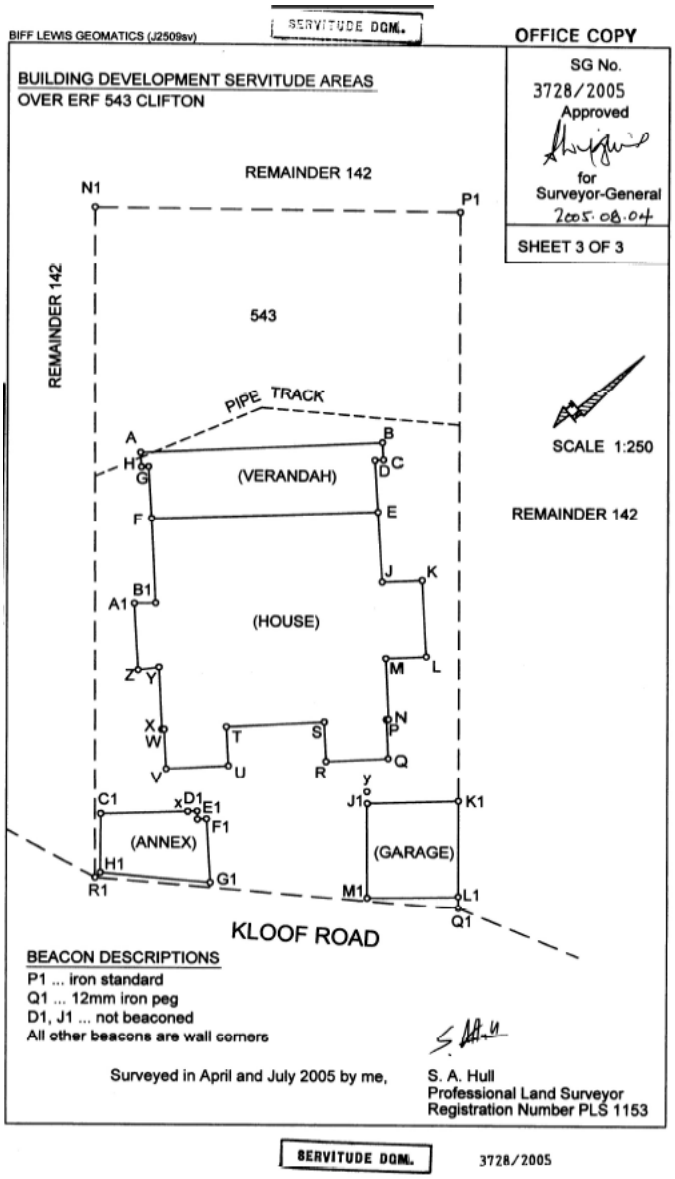


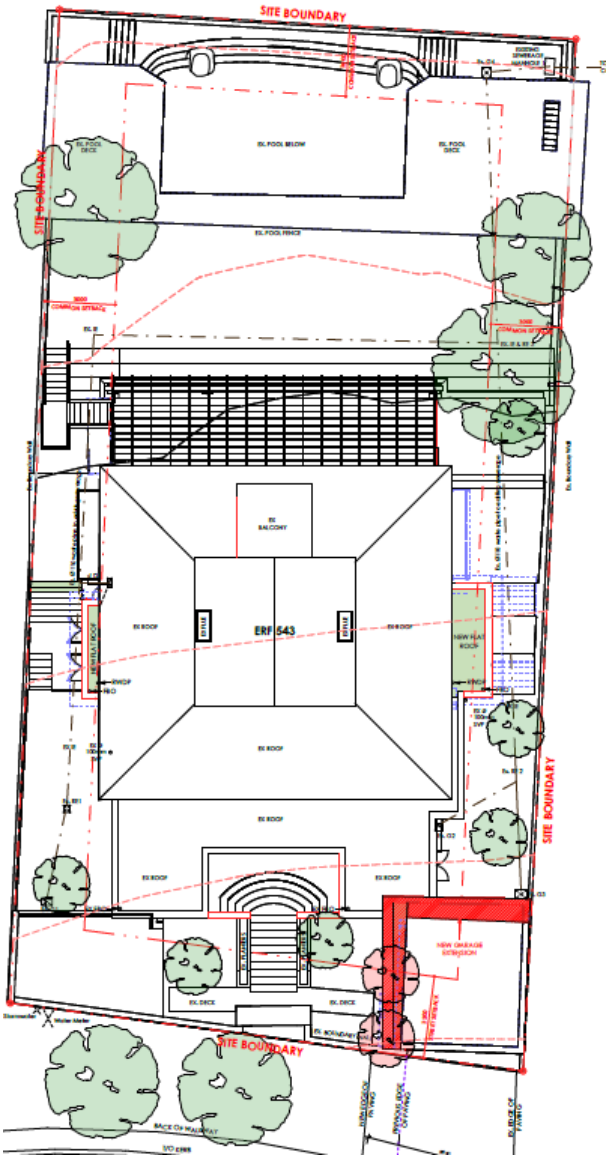
CURRENT PROPOSAL



- Any proposed additions beyond the approved envelope require the written consent of the City and the amendment of the previous condition of approval in order to permit the extensions.

- Below is an extract of the Maximum Development Envelope, as restricted in the title deed, versus the proposed extensions.





Title Deed MDE vs Proposed changes

- The proposed garage extensions and the further changes and extensions to the existing dwelling house will not be visible from the streetscape/scenic drive due to the existing boundary wall. The existing façade, as shown in the figure below, shall remain.



Street view

7 POLICY & PLANNING COMPLIANCE ON DECIDING ON A DMS APPLICATION:

Section 99 of the By-Law sets out the criteria for deciding on an application.

The application should be approved in terms of **Section 99(1)** of the By-law given that it complies with the minimum threshold requirements, ie the application is desirable, is consistent with the municipal spatial development framework (MSDF) and does require departures from floor space or height.

Section 99(2) of the MPBL requires the decision maker to consider that an application comply with applicable policies and strategies approved by the City. This application complies with the following City policies:

- Complies with Spatial Development Frameworks:
  - The application complies with the principles of the MSDF as the property is situated within the area earmarked as Urban Inner Core. This means that intensification of land uses is encouraged.
  - It is noted that the proposal also complies with the Table Bay District Plan.

- The application largely complies with the criteria contained in the DMS.

- Applicable Policy:
  - The proposed development will generate some temporary employment opportunities during construction, thus complying with the principles of the EGS strategy.

- The impact on existing rights:

  Relaxation of Title Deed Conditions
  - The relaxation of the title deed conditions is considered appropriate in this instance, as the proposed works do not undermine the original intent of the restrictions. The purpose of the conditions is to manage the extent of development on the property, protect the landscaped character of the site, and ensure that excavation or changes to the building envelope do not result in over-development or unacceptable visual impact.

- In this case, the proposed alterations and extensions are limited in scale and are largely contained within the existing developed footprint of the property. The excavation works will occur mostly below ground level and will not be visible from the street/ scenic drive, while the garage and guest suite extensions are minor and will be screened by the existing boundary wall.
- Although two trees are required to be removed to accommodate the garage extension, this removal is limited and can be mitigated through the imposition of a condition of approval to ensure replacement planting on the property.
- The proposed relaxation will therefore allow for reasonable improvements to the liveability of the existing dwelling, without changing the residential character of the site. The proposal will not compromise the scenic drive interface as the extension is so minor and largely screened by the existing solid boundary wall.

Amendment of Conditions

- The amendment of conditions 2.1 and 2.2 of the previous planning approval is considered appropriate, as the proposed alterations and extensions remain consistent with the intent of the original approval, namely, to ensure that development on the property is limited to an acceptable building envelope and does not adversely impact on the Scenic Drive.
- The current proposal requires a revised SDP as portions of the works extend beyond the previously approved envelope, including the minor garage extension at street level, the related guest suite extension below, the excavation beneath the existing dwelling, and minor roof amendments.
- These changes are modest in scale and do not represent an intensification or over-development of the site. The majority of the works will either be below ground level, internal to the dwelling, or screened by the existing boundary wall, and will therefore not be visually imposing onto the Scenic Drive.
- Although the garage extension technically projects above the Scenic Drive level, it is located within the existing entrance/garage area and will be largely concealed behind the existing blank wall, meaning that the established streetscape and scenic drive interface will remain largely unchanged.
- The amendment of the previous conditions will therefore simply allow the approved development envelope and Scenic Drive projection to correspond with the revised plans, while still ensuring that the final development remains controlled through appropriate conditions of approval.

Departures

- It is noted that Lower Kloor Road is a Road of Metropolitan Significance.
- The departures relate to proposed extensions to the existing dwelling house and garage, rather than a new or intensified land use.
- The proposed street and common boundary departures are required for the minor garage and guest suite extensions, as well as changes to the flat roof closer to 3m from the common boundaries. These departures will be largely screened by the existing solid boundary wall, with 0% permeability.
- The common boundary height departures relates to the change of a portion of the existing roof structure from a lean-to roof type, to flat roof structures. This does not create a new extension of the dwelling house, but only relates to the roof form above a portion of the structure which exists beyond the 3m common boundaries. Accordingly, this departure from the common boundary building line and height would not have any external impact on existing rights as it does not produce a larger building.
- The Scenic Drive departure is technical in nature, as the garage extension may project above the level of the pedestrian footway; however, it will not introduce a visually prominent or intrusive element when viewed from the road and will not undermine the scenic or streetscape character of the area.
- The property is also relatively isolated, with the works largely contained within the established developed envelope of the site. Accordingly, the departures will not adversely affect any existing rights, amenity, access, views, or development potential of surrounding properties, and will simply allow for reasonable improvements to the liveability of the existing dwelling.

Section 99(3) of the MPBL deals with desirability and considerations that are relevant to the assessment under subsection (1) & (2) to which, the proposal would be desirable. The granting of the application is desirable for the following reasons;

• **Socio-economic Impact:** The proposed garage extensions and the further changes and extensions to the existing dwelling house do not have any adverse socio-economic impact on neighbours or the surrounding community. These works are largely not visible from the streetscape/Scenic Drive, or the pedestrian footpath, as they are concealed behind the existing boundary wall. The proposal will improve the liveability of the property, whilst still maintaining a relatively building envelope over the site.

• **Compatibility with surrounding uses:** The approved land use as a dwelling house will remain.

• **Impact on external engineering services**: There would be no impact on existing services as there is no intensification of land use.

• **The safety, health and wellbeing of surrounding community**: The proposed garage extensions and the proposed changes and extensions to the existing dwelling house will not have any impact on the surrounding area. The works are concealed behind the existing blank boundary wall and will largely not be visible from the street. Although a departure is required from the Scenic Drive Overlay provisions, the impact is technical in nature and does not alter the character of the streetscape.

• **Heritage:** The proposed alterations and extensions are not considered to impact on heritage resources, as the works are minor in nature and will not alter or intensify the existing use of the site. The extensions are largely contained within, or immediately adjacent to the existing built envelope, with the first storey excavation occurring below ground level and therefore not visible from the street. The garage and guest suite extensions are positioned behind the existing boundary wall and will be largely screened from the Scenic Drive, while the internal reconfigurations, minor roof amendments and loft alterations will not materially alter the overall height, scale or character of the dwelling. The proposal will therefore retain the established streetscape interface, existing residential character and visual relationship with the surrounding area, and any separate heritage requirements from Heritage Western Cape will be addressed through the appropriate process.

• **The biophysical environment**: The proposal will be circulated to the Environmental Department for comment. However, it is noted that the two olive trees in the entrance courtyard will need to be removed as a result of the garage extension. It is proposed that two replacement trees be planted on the property, in a position to be confirmed through the landscaping/building plan process, to mitigate the loss of the two olive trees.

• **Traffic impacts, parking & access:** There will be an improved parking situation as a result of this proposal.

• **Conditions of approval:** It is anticipated that this approval will be linked in accordance the site development plans provided.

8 CONCLUSION

The proposed amendments are not considered to undermine the visual, scenic or amenity value of the Scenic Drive. The property is already developed with an existing dwelling, and the 2023 approval confirmed that alterations and additions to the dwelling could be supported where the extent of the works is tied to the approved development envelope. These further extensions and alterations would mostly be invisible from the exterior of the property and will therefore have no impact on the scenic drive.

The proposal should therefore be recommended for approval.