

ITEM NUMBER : C 14/03/11

**RECOMMENDATION FROM THE EXECUTIVE MAYOR: 02 MARCH 2011**

**MC 16/03/11 APPLICATION FOR A DOUBLE STOREY ADDITION IN LIEU OF A SINGLE STOREY ON ERF 6331 HOUT BAY, 4 SANDPIPER PLACE**

**AANSOEK OM 'N DUBBELVERDIEPING AAN TE BOU IN PLAAS VAN 'N ENKELVERDIEPING OP ERF 6331, HOUTBAAI, SANDPIPER PLACE 4**

**ISICELO SOKONGEZA KOMGANGATHO WOMHLABA UKUBA IBEMIBINI ENDAWENI YOMGANGATHO OMNYE NGOKUJOLISWE KWISIZA-6331, ESISE-HOUT BAY, 4 SANDPIPER PLACE**

**RECOMMENDED** that Council confirm the decision made by the Spatial Planning, Environment and Land Use Management Committee, that the application for permission of the Engineer to permit a building to be extended over the existing garage to form a double-storey portion of the dwelling on Erf 6331, Hout Bay, at 4 Sandpiper Place be approved in accordance with the plans drawn by Richard Adcock Architect dated 1 February 2006 with drawing numbers 758-101, 758-102, 758-103, all Revision A.

**AANBEVEEL** dat die Raad die besluit geneem deur die komitee oor ruimtelike beplanning, omgewing en grondgebruikbestuur, dat die aansoek om toestemming van die ingenieur om toe te laat dat 'n gebou verleng word oor die bestaande motorhuis om 'n dubbelverdiepinggedeelte van die woning op erf 6331, Houtbaai, te Sandpiper Place 4 te skep, goedgekeur word in ooreenstemming met die planne opgetrek deur Richard Adcock Architect, van 1 Februarie 2006, met tekeningnommers 758-101, 758-102, 758-103, alles hersiening A.

**KUNDULULWE** ukuba iBhunga maliqinisekise isigqibo esenziwe yiKomiti yoCwangciso lwamaBala, okusiNgqongileyo noLawulo lokuSetyenziswa koMhlaba sokuba kuphunyezwe isicelo sokuvumela iNjineli ukuba ivumele ukuba kwandiswe isakhiwo ukuba sandiswe kwigaraji esele imiselwe ukuze kumiselwe omnye umgangatho kwindlu yokuhlala esiSiza-6331, esise-Hout Bay, 4 Sandpiper Place, ngokweepiani ezizotywe ngabayili bezakhiwo abangakawa-Richard Adcock Architect ezibhalwe umhla wo-1 Februwari 2006 kunye neenombolo zemizobo ezingu-758-101, 758-102, 758-103, zonke eziluPhengululo-A.



**REPORT TO EXECUTIVE MAYOR  
2 MARCH 2011**

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- 1 **ITEM NUMBER : MC 16/03/11**
  - 2 **APPLICATION FOR A DOUBLE STOREY ADDITION IN LIEU OF A SINGLE STOREY ON ERF 6331 HOUT BAY, 4 SANDPIPER PLACE**
  - 2 **AANSOEK OM 'N DUBBELVERDIEPING AAN TE BOU IN PLAAS VAN 'N ENKELVERDIEPING OP ERF 6331, HOUTBAAI, SANDPIPER PLACE**
  - 2 **ISICELO SOKONGEZWA KWESAKHIWO ESINEMIGANGATHO EMIBINI ENDAWENI YESAKHIWO ESINOMGANGATHO OMNYE KWISIZA 6331 HOUT BAY, SANDPIPER PLACE  
193614/SP D-S**

**LSU A8190**

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On 2011-02-09 the Spatial Planning, Environment and Land Use Management Committee (Spelum) considered the attached report dated 1 December 2010 when it resolved:

- 1 That the application for permission of the Engineer to permit a building to be extended over the existing garage to form a double-storey portion of the dwelling on Erf 6331 Hout Bay, at 4 Sandpiper Place **BE APPROVED** in accordance with the plans drawn by Richard Adcock Architect dated 1 February 2006 with drawing numbers 758-101, 758-102, 758-103, all Revision A. for the reasons as set out in the report dated 1 December 2010.
- 2 That, in light of the fact that the Executive Director: Strategy and Planning has elected to not exercise his general delegation and Spelum is authorized to exercise a power, function or duty conferred on Council provided that it shall report thereon to the next Council meeting and Council shall either confirm vary or revoke the decision , the above decision **BE REFERRED TO COUNCIL** to confirm, vary or revoke the above decision and no rights shall accrue until Council has so resolved on this matter.
- 3 **TO RECOMMEND** that the decision, as set out in resolution 1 above, **BE CONFIRMED** by Council.

**3 RECOMMENDATION FROM THE SPATIAL PLANNING, ENVIRONMENT AND LAND USE MANAGEMENT COMMITTEE: 09 FEBRUARY 2011 (SPEL12/02/11)**

That the decision made by the Spatial Planning, Environment and Land Use Management Committee, that the application for permission of the Engineer to permit a building to be extended over the existing garage to form a double-storey portion of the dwelling on Erf 6331 Hout Bay, at 4 Sandpiper Place **BE APPROVED** in accordance with the plans drawn by Richard Adcock Architect dated 1 February 2006 with drawing numbers 758-101, 758-102, 758-103, all Revision A,

**BE CONFIRMED** by Council.

**3 AANBEVELING VAN DIE KOMITEE OOR RUIMTELIKE BEPLANNING, OMGEWING EN GRONDGEBRUIKBESTUUR: 09 FEBRUARIE 2011 (SPEL12/02/11)**

Dat die besluit geneem deur die komitee oor ruimtelike beplanning, omgewing en grondgebruikbestuur, dat die aansoek om toestemming van die ingenieur om toe te laat dat 'n gou oor die bestaande motorhuis verleng word om 'n dubbelverdiepinggedeelte van die woning te vorm op erf 6331, Houtbaai, te Sandpiper Place 4, **GOEDGEKEUR WORD** in ooreenstemming met die planne opgetrek deur Richard Adcock Architect van 1 Februarie 2006 met tekeningnommers 758-101, 758-102, 758-103, alle hersiening A,

deur die Raad **BEKRAGTIG WORD**.

**3 ISINDULULO ESIFUNYENWE KWIKOMITI YOCWANGCISO LWEMIHLABA, ULAWULO LOKUSINGQONGILEYO NOSETYENZISO-MHLABA: 09 FEBRUWARI 2011 (SPEL12/02/11)**

Ukuba isigqibo esenziwe yiKomiti yoCwangciso lweMihlaba, uLawulo lokuSingqongileyo nolokuSetyenziswa komhlaba, sokuba **MAKUPHUNYEZWE** isicelo semvume yeNjineli ukuba ivumele ukuba kwandiswe isakhiwo sifikelele kwigaraji ekhoyo ukwenza inxalenye ibe yenemigangatho emibini kulungiselelwa indawo yokuhlala kwiSiza 6331 eHout Bay, kwanombolo 4 Sandpiper Place ngokungqinelana nezicwangciso ezazotywa ngu-Richard Adcock Architect ngomhla woku-1 Februwari 2006 iinombolo zemizobo izezi 758-101, 758-102, 758-103, zonke iluPhengululo A,

**MASIQINISEKISWE** liBhunga.

REPORT TO SPATIAL PLANNING, ENVIRONMENT  
& LAND USE MANAGEMENT COMMITTEE AND  
FULL COUNCIL



APPLICATION NO 193614  
FILE REFERENCE LUM/33/6331  
AUTHOR SP DENOON-STEVENSON  
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DISTRICT SOUTHERN  
SUBCOUNCIL GOOD HOPE  
WARD 74  
WARD CDUNCILLOR M HAYWOOD  
REPORT DATE 1 DECEMBER 2010

ITEM NO SPEL 12/02/11

APPLICATION FOR A DOUBLE STOREY ADDITION IN LIEU OF A SINGLE  
STOREY ON ERF 6331 HOUT BAY, SANDPIPER PLACE

AANSOEK OM 'N DUBBELVERDIEPING AAN TE BOU IN PLAAS VAN 'N  
ENKELVERDIEPING OP ERF 6331, HOUTBAAI, SANDPIPER PLACE

ISICELO SOKONGEZA KWESAKHIWO ESINEMIGANGATHO EMIBINI  
ENDAWENI YESAKHIWO ESINOMGANGATHO OMNYE KWISIZA 6331 HOUT BAY,  
SANDPIPER PLACE

## 1 DECISION AUTHORITY

	RECOMMENDATION	DECISION
SUBCOUNCIL		
SPELUM	✓	
PEPCO		
MAYCO		
COUNCIL		✓
PGWC		

### Delegation

There is no specific delegation to deal with this matter to any of Council's Committees or officials, and the Executive Director: Strategy and Planning has elected to not exercise his general delegation. Thus the decision on this matter needs to be made by full Council, after a recommendation by SPELUM (see Paragraph 2.2.8 for an explanation).

## 2 EXECUTIVE SUMMARY

### 2.1 Application / Development proposal

Application for a double storey addition in lieu of a single storey to permit a room to be built on top of the existing garage, in accordance with the Site Development Plan (SDP), attached as Annexure 3.

## 2.2 Background information

- 2.2.1 In 1991 the then Regional Services Council approved a rezoning of the parent property from Rural to Subdivisional Area for Single Residential, Special Residential (Group Housing) and Public Open Space purposes. The report on the application (see Annexure 8) stated that "following the concerns of visibility", the following condition be imposed: "Only single-storey structures to be permitted on the upper row of erven: permission for double-storey to be at the Engineer's discretion."
- 2.2.2 On 14 June 2006 the Spatial Planning, Environment and Land Use Management Committee (SPELUM) approved an application for:
- double storey additions in lieu of single storey,
  - relaxation of the rear building line to 6,71m in lieu of 10,00m to permit house additions to encroach,
  - relaxation of the side building line to 4,35m in lieu of 6,00m to permit house additions to encroach.
- as departures in terms of Section 15 of the Land Use Planning Ordinance No 15 of 1985 (LUPO). The Departmental report to SPELUM dated 13 January 2006, which recommended approval of the application, is attached as Annexure 9.
- 2.2.3 A subsequent appeal in terms of the Local Government: Municipal Systems Act No 32 of 2000 by the objector, R & MJ Morris, was declared invalid as it was received late.
- 2.2.4 A subsequent appeal in terms of LUPO by the objector was partially upheld by the Provincial Government of the Western Cape (PGWC) in 2008 (see Annexure 10) in that:
- permission to build double storey over the existing garage was refused;
  - permission to build double storey over the sloping roof on the southern side of the dwelling was approved;
  - The departures relating to the rear building line were approved.
- 2.2.5 The applicant then took the application on review to the High Court to set aside the Minister's (DEADP) decision. On 9 July 2009 the High Court set aside the decision to refuse the double storey portion over the existing garage, and remitted the application back to the City for consideration and decision (see Annexure 11). It is important to note that the Court did not set aside the approval of the "partially double-storeyed extension over the sloping roof on the southern side of the dwelling", even though this was dealt with under the same procedural mechanisms as was the portion over the existing garage.
- 2.2.6 The High Court's setting aside of the Minister's decision was on the basis that the application for the double storey structures could not be a departure in terms of Section 15 of LUPO as the restriction was not in terms of the Zoning Scheme Regulations. Thus, the appeal against SPELUM's decision in terms of Section 44 of LUPO was invalid.

- 2.2.7 Subsequent to the High Court ruling, this Department has re-advertised this application without reference to LUPO in terms of and in accordance with the Promotion of Administrative Justice Act No 3 of 2000.
- 2.2.8 The application requires the permission of the 'Engineer.' Local government has changed significantly in the intervening period since the relevant condition was imposed, and there is no direct equivalent of the 'Engineer' who was, at the time, the most senior official responsible for all engineering and town planning matters. The closest person to the Engineer is the Executive Director: Strategy & Planning. However, the Acting Executive Director: Strategy & Planning has elected to not exercise his delegation in this regard and thus the decision on the application will need to be made by full Council (after SPELUM has made a recommendation on the matter).
- 2.2.9 The application currently under consideration only deals with the issue of the proposed double storey over the existing garage (and does not deal with the setback departures, which have already been finalised and which decision was not set aside by the High Court).
- 2.2.10 The SDP attached as Annexure 2 was originally advertised in 2005. This shows the proposed study over the entire extent of the garage. As a result of negotiations with the objector the Site Development Plan was amended to set the study back by 1.5m, and this revised SDP was attached in the 2006 report to SPELUM. This revised SDP is attached as part of Annexure 9. The applicant has advised that given the unsuccessful negotiations with the objector that he wishes to pursue the originally advertised SDP (which is attached as Annexure 2).

### 2.3 Recommended decision

For approval.

### 2.4 Property & general information

Erf / Farm no	6331 Hout Bay
Extent	1093m <sup>2</sup>
Registered owner	MB Schronen
Applicable Zoning scheme	Divisional Council of the Cape
Current zoning	Single Residential
Current land use	Residential
Title Deed no	T89207/1994
Any unauthorised land use / building work	No
Previous approvals granted	Yes – See Section 2.2 above
Special / Conservation area	No
Subject to SAHRA / PHRA	No
Applicant	Richard Adcock Architect
Application submission date	6 August 2009

## 2.5 Public participation

		YES	NO	DATES / No RECEIVED / COMMENT
Advertising	Press		✓	
	Gazette		✓	
	Notices	✓		31 May 2010
	Ward councillor	✓		31 May 2010
	Community organisation(s)	✓		31 May 2010
	Public meeting		✓	
Response	Objections	✓		1
	Objection petition		✓	
	Support / No objection	✓		3
Interview request	Applicant		✓	
	Objector		✓	

## 2.6 Annexures

- Annexure 1 Locality and advertising plan
- Annexure 2 Site Development Plan
- Annexure 3 Title Deed
- Annexure 4 Conveyancer's certificate
- Annexure 5 Applicant's original motivation
- Annexure 6 Objection / No objections
- Annexure 7 Applicant's response to the objection
- Annexure 8 1991 report of the Western Cape Regional Services Council imposing a single storey restriction
- Annexure 9 2006 report to SPELUM
- Annexure 10 2008 letter from DEADP indicating the outcome of the appeal
- Annexure 11 Order of the High Court
- Annexure 12 List of relevant parties

## 3 LEGAL REQUIREMENTS

This application was advertised in terms of the Promotion of Administrative Justice Act No 3 of 2000.

## 4 STAFF IMPLICATIONS

Does your report impact on staff resources or result in any additional staffing resources being required?

No

Yes

**5 Environmental implications**

Does your report result in any of the following:

No

Yes (if yes, please select from list below by clicking on the relevant tick box)

Loss of or negative impact on natural space and/or natural vegetation, rivers, vleis or wetlands?  Loss of or negative impact on the city's heritage, cultural and scenic resources?

An increase in waste production or concentration, pollution or water usage?  Development or any construction within 500m of the coastline?

Does your activity comply with the National Environmental Management Act (NEMA)? (mark by clicking on the tick box)

Yes

No

Does your report complement and support the City's approved IMEP strategies? (if yes, please select from list below by clicking on the relevant tick box)

Biodiversity Strategy and Biodiversity Network	<input type="checkbox"/>	Coastal Zone Management Strategy	<input type="checkbox"/>	Energy and Climate Change Strategy	<input type="checkbox"/>
Environmental Education and Training Strategy	<input type="checkbox"/>	Heritage Management Strategy	<input type="checkbox"/>	Air Quality Management Plan	<input type="checkbox"/>
Integrated Waste Management Strategy	<input type="checkbox"/>	Invasive Species Strategy	<input type="checkbox"/>		

Do the activities/actions arising from your report: (if yes, please select from list below by clicking on the relevant tick box)

Enhance Cape Town's unique environmental assets?  Negatively impact on Cape Town's unique environmental assets?

**6 FINANCIAL IMPLICATIONS**

None.

**7 SUMMARY OF APPLICANT'S MOTIVATION**

The applicant's motivation of the proposed development (see Annexure 5) may be summarised as follows (in so far as it relates to the new study on top of the existing garage):

- The existing house is built on a steep slope and every effort has been made to limit the overall height of the building, with a significant portion of the building being built below the original ground level.
- The proposed new addition is no higher than the existing building and the new portion over the existing garage is stepped down along the slope in order to limit the scale & height of the building.



- The overall work will have a limited effect on the views from adjacent sites. In any event, the trees planted to screen Erf 6330 from the subject property obscures the current view.
- Many examples of double storey dwellings backing up onto the 'mountain reserve' exist adjacent to the applicant's site.
- The objector's house can be considered to be double storey.
- At no time in the past has the applicant ever been consulted or requested to sign any "letters of no objection" from any of the neighbours with double storey dwellings.
- It appears that double storey dwellings are not seen as undesirable in this portion of Hout Bay at all. The objections from the adjoining neighbour should therefore be seen as acting in bad faith as planning permission for his double storey building, constructed sometime after the applicant's dwelling was completed, was granted by the local authority without the consent of the applicant who was never consulted in this matter.

## 8 SUMMARY OF OBJECTIONS / NO OBJECTIONS

The objection/no objections received (see Annexure 6) may be summarised as follows:

### 8.1 Objection

- The double storey buildings which have been permitted in the area are on erven to which the single storey restriction does not apply.
- The objector's property will face a decline in value if the development is permitted as the property will lose a portion of its view. This was substantiated by a valuation report commissioned by the objectors to review the impact that the proposed development will have on their property.
- The original decision by SPELUM was flawed as the official writing the report made a number of technical flaws in the report to SPELUM. He only did a site visit to the applicant's property and did not visit the objector's property, he argued that the objector's property was double storey, and did not assess the rationale behind the original imposition of the single storey restriction, and claimed that the objectors will suffer no impact as a result of the proposed development.
- The contention that the objector's house is double storey has no basis in fact, as the dwelling is split-level owing to the topography of the area, and is not double storey. The objectors have a 'room in the roof' design on the south-eastern portion of the building and this has been viewed as such by the municipality as per the approval of the objector's plans in 1995.
- The contention that every landowner has a right to seek to develop his or her property to the fullest extent allowed by the law needs to take account of the fact that the subdivision clause was imposed through legal means (i.e. through LUPO).
- The proposal to build a storey above the garage amounts to more than two storey's of height owing to the natural ground level.
- All houses on the erven to which the single storey restriction applies are located at roughly the same position so as to avoiding impacting on the light and views of neighboring houses. The proposed addition above the garage does not comply with this standard.

- No objection was raised to the relaxation of building lines to the rear of the property in the belief that the applicant would be willing to compromise with regard to building the room above the garage.
- The applicant and all purchasers of property in Sandpiper Close were aware when they purchased their property of the single storey restriction, and thus if they were unhappy with it they could have chosen to purchase property elsewhere.
- Those erven on the upper row sold for a higher price when they came onto the market than lower erven. This can be attributed to the restriction on double storied residences and the implications in terms of preserving assets such as views, light and winter sunshine.
- The proposed development will have a negative impact on the objector's views, particularly towards the north-east. Views from the objector's living area will particularly be negatively affected.
- The proposed development will lead to a reduction in privacy specifically on the deck area located on the northern side of the objector's house.
- The objectors are further concerned about the presence of a high, imposing, unattractive concrete structure right adjacent to their living area and deck.
- The relaxation of the LUPO condition would go against the social contract or commitment that this condition represents.
- The relaxation of the LUPO condition would set a precedent in the area. This would result in the opposite effect to that which the condition was aimed at achieving, namely excessive building bulk against the urban edge.
- There is no basis on which to conclude that the proposed double storey is "desirable", meaning that the application does not meet this test as per Section 36(1) of LUPO.
- If a proposal is put forward that could adversely affect the value of neighbouring properties, then it is incumbent on the municipality to refuse this application. There is case law that confirms this point. Accordingly, the original intention of the restriction on double-storey homes on these erven should be retained in the interests of the neighbourhood community, the rights of other residents in the area, the aesthetic quality of the area and the value of the objector's property.

## 8.2 No objections

- The Hout Bay and Llandudno Heritage Trust as well as the Residents' Association of Hout Bay have no objection to the proposal.
- J Bergman (owner of Erf 6328) has no objection to the proposed development.

## 9 SUMMARY OF APPLICANT'S RESPONSE

The applicant's response to the objection (see Annexure 7) may be summarised as follows:

- In terms of the urban edge in Hout Bay, there is nothing in particular to 'Sandpiper Place' in terms of the broader urban edge of Hout Bay that makes it worthy of special protection.
- The statement that none of the erven to which the double storey restriction applies have double storey dwellings is incorrect, 7 of the 8 erven to which

this restriction applies have portion of their homes as double storey dwellings, including that of the objector's home. Furthermore, the majority of buildings on the Hout Bay Urban Edge are double storey.

- To the claim that this proposal falls outside the law misses the fact that the relevant clause makes provision for relaxing the single storey restriction. It is thus clear that under certain conditions double-storey dwellings can be permitted, as evidenced by the several erven with this restriction that already have double-storey dwellings.
- The claim that higher property values were attained as a result of the single storey restriction is incorrect in that the single storey clause makes provision for relaxation of the requirement, and thus there always existed a possibility that the surrounding homes could be built as double-storey dwellings. This could thus not realistically have an impact on the value of the erven with the single storey restriction. Furthermore, the valuer's report came to conclusion that the application should not be refused in terms of the building being unsightly or objectionable.
- It is untrue that proposed building will be higher than two storeys relative to ground level; it will in fact be 1.5m lower than the roof of the existing single storey portion of the dwelling.
- The claim that all the buildings in this area are setback similar distances to the street is incorrect; the proposed development is of similar scale and layout as that of the objectors, who in fact have their dwelling closer to the street than any of the structures on the subject erf.
- No agreement was reached between the applicant and the objectors that the objector would not object to the relaxation of the rear setback if the applicant did not build a study above the garage.
- The objectors have substantial views from their site, and the proposal only affects a portion of this overall vista.
- The loss of light needs to be viewed in relation to the positioning of the existing dwelling which is 2.7m from the common side boundary, 1.2m further than what is required by the Zoning Scheme Regulations. Furthermore, the proposed building work here complies with all of the Zoning Scheme Regulations and building regulations.
- In terms of concerns relating to privacy, the trees on the objector's property already screen his site from the subject property, and the overlooking features of the proposed development have been kept to a minimum.

## 10 PROPOSAL EVALUATION

### **Character of the Area and Surrounding Land Uses**

- 10.1 The area is primarily a upper income, medium density, suburban area, with the majority of the surrounding erven containing large detached Dwelling Houses. The surrounding erven's land use is primarily residential, with all the surrounding dwellings fronting onto a central public open space. To the west of Sandpiper Place are the slopes of the Karbonkelberg Mountain.

### **Description of the Subject Property**

- 10.2 As can be seen in the Site Development Plan (see Annexure 2) the property currently contains a medium sized dwelling constructed on a relatively steep slope, resulting in the property being constructed as a split-level dwelling. The

coverage of the existing dwelling is less than a third of the area of the subject erf.

### Zoning

- 10.3 The site and the surrounding residential properties are zoned Single Residential, as per the Divisional Council of the Cape Zoning Scheme. There are also three erven zoned as Public Open Space, to the south east, west and north of the property.

### Proposed Development

- 10.4 As can be seen from the SDP, attached as Annexure 2, the purpose of this report is to consider a study which is proposed to be built above the existing garage, thus permitting that portion of the dwelling to be double-storey.

### Urban Edge

- 10.5 As can be seen from the map in Annexure 1, the property is located on the inside edge of the Urban Edge. As the property is located on the Urban Transition Zone (UTZ), the proposal that needs to be considered is policy 5 of the *Peninsula Urban Edge Study* which states, "*special attention must be given in the processing of architectural and landscaping proposals in the UTZ to create an attractive zone as a transition between urban and rural areas.*" It is further stressed that landscaping and architectural controls should be used on the exposed slopes of the eastern and western urban transition zones of Hout Bay and Llandudno's slopes.
- 10.6 From visual inspection of the site, the proposed additional development is not readily visible beyond Sandpiper Place, and from the street the proposed development blends into the existing character of the surrounding dwellings. The proposed development is thus consistent with the *Peninsula Urban Edge Study*.

### Impact of the Proposal

- 10.7 It is important to reiterate that this application relates only to the 1991 rezoning condition that states, "Only single-storey structures to be permitted on the upper row of erven: permission for double-storey to be at the Engineer's discretion." The original 1991 report (see Annexure 8) was in relation to concerns that permitting development high up the mountain slope would have a significant negative visual impact on the surrounding area. It was resolved to allow development, but to limit it to a single storey. The report makes it clear that the reason for imposing the condition was to reduce the impact of the development when viewed from outside the development. This was particularly relevant to the urban edge which was a policy that was in its initial stages of formulation at the time of the imposition of the condition. The condition was not imposed to protect the views of erven within the development. Furthermore, it is essential to note that the condition does not preclude double storey dwellings, but ensures that if they are to be built, there is some control in order to ensure minimal impact.
- 10.8 This Department is of the opinion that the proposal will not impact on the character of the area or the neighbouring properties for the following reasons:
- Due to the steep topography of the site, the visual impact from the street and from further afield is such that the dwelling already appears to be double-storey. The proposed development will thus not increase the visual impact of

the dwelling on the streetscape and from further afield, thus satisfying the principle underlying the imposition of original rezoning condition.

- The proposed additions will result in the Dwelling House being of a similar bulk and coverage to that of the surrounding properties.
- The height of the proposed study will be 1.4m lower than the current roof height of the main building.
- The proposed study is only a minor addition in relation to the scale of the existing dwelling.
- The existing garage and the proposed study have low floor to ceiling heights.
- The pitch of the proposed roof is low.
- If the walls of the garage were to be built higher and a steep pitched roof placed thereon (which could be done as of right), then the impact as alleged by the neighbours in terms of view could be comparable to what is proposed.

### **Response to Objections**

10.9 Many of the issues raised by the objector have been addressed above, but some further points need to be made.

10.10 The valuer did not seem to consider what could be built as of right as was argued earlier with regard to the possibility of building the garage with a steeply pitched roof or screen planting. Thus, the claim by the objectors, and premise on which the valuation report is based, that the rezoning condition prevented a loss of view is not strictly correct.

10.11 With regard to the objections relating to SPELUM's original decision, this decision no longer has relevance to the current application as the High Court remitted the application back to the City for new consideration and decision, effectively initiating a new process.

10.12 The application is being considered in terms of Section 36 of LUPO (which deals with decision criteria). (However, legal advice has indicated that Sections 15 and 44 do not apply.) This Department is of the opinion that this proposal does not impact on existing rights and does not lack desirability.

## **11 COMPLIANCE WITH STRATEGIC OBJECTIVES**

Approval of this application does not impact Council's strategic objectives as articulated in the current IDP.

## **12 REASONS FOR RECOMMENDATION**

Reasons for the recommendation of approval of this application may be summarized as follows:


- The original condition was imposed to mitigate the visual impact of proposed development on the urban edge. In relation to the existing dwelling the proposed development will not increase the visual impact on the surrounding area, and thus satisfies the principle underlying the imposition of the original rezoning condition.
- The proposed development is in character with the existing buildings in the surrounding area.

- The proposed development complies with the *Peninsula Urban Edge Study*.
- The overall vista enjoyed by the objectors is such that any loss of view caused by the proposed development is minor in comparison to the total view enjoyed from the objector's property.
- The scale of the proposed additional development is minor in relation to the scale of the existing dwelling house.
- The proposed additional development is lower than the height of the existing building.
- The impact on the objector is arguably no worse than if the portion of building in question (garage) were developed in accordance with existing rights.

### 13 RECOMMENDATION / AANBEVELING / IZINDULULO

In view of the above, it is recommended  
In die lig van bogenoemde, word aanbeveel  
Ngokwalo mcimbi ungentla, esi sisindululo

- A That the application for permission of the Engineer to permit a building to be extended over the existing garage to form a double-storey portion of the dwelling on Erf 6331 Hout Bay, **be approved** in accordance with the plans drawn by Richard Adcock Architect dated 1 February 2006 with drawing numbers 758-101, 758-102, 758-103, all Revision A.
- A Dat die aansoek om toestemming van die ingenieur om die vergroting van die gebou oor die bestaande motorhuis toe te laat met die oog op 'n dubbelverdieping-gedeelte op erf 6331, Houtbaai, **goedgekeur word** in ooreenstemming met die planne van 1 Februarie 2006 wat deur Richard Adcock Argitek opgetrek is met tekeningnommers 758-101, 758-102, 758-103, almal hersiening A.
- A Ukuba **makuphunyezwe** isicelo semvume seNjineli sokuvumela isakhiwo ukuba sandiswe ngaphezu kwegaraji ekhoyo ukwenzela ukuba ibe sisakhiwo esinemigangatho emibini kwindawo yokuhlala ekwiSiza 6331 eHout Bay, ngokungqinelana nezicwangciso ezizotywe ngabakwa-Richard Adcock Architect zamgomhla wo-1 Februwari 2006 ezinenombolo zomzobo ezingu-758-101, 758-102, 758-103, yonke ePhengululweyo A.



DELEGATED OFFICIAL / SECTION HEAD /  
PRINCIPAL PLANNER

Comment:

NAME

P. Hoffa

TEL

021 7108270

DATE

1/12/2010

*[Handwritten Signature]*

DISTRICT MANAGER

REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.

NON-COMPLIANT

NAME *P. W. Brown*  
TEL *710/259*  
DATE *1.12.10*

Comment:  
\_\_\_\_\_  
\_\_\_\_\_

*Completed  
14/12/2010*

*Supported.*