



CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

## **Case ID 1500152111**

**Erf 4932, 48 Lekkerwater Road,  
Sunnydale, Noordhoek**

### **Development Management**

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Our Ref: 618/10/93 – Rev 3

Date: 11<sup>th</sup> March 2026

### **MOTIVATIONAL REPORT: APPLICATION FOR REMOVAL OF A TITLE DEED CONDITION, REZONING, CONSENT, COUNCIL'S APPROVAL & PERMANENT LAND USE DEPARTURES – ERF 4931 NOORDHOEK**



Figure 1 - LOCALITY MAP

### **SERVICE WITH EXCELLENCE AND EXPERIENCE**

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## 1. **ABSTRACT:**

Erf 4931 Noordhoek is located at No. 48 Lekkerwater Road, Sunnydale. It is owned by [redacted] and is 8 565m<sup>2</sup> in extent. The property is zoned Single Residential Zone 1 (SR1), and is represented on Diagram S.G. No. 2869/1939.

The property is proposed to be used for mental health support workshops, skills training and long-term rental, and no subdivision of the property is proposed. As the property is currently zoned Residential Zoning 1 (R1), which limits the number of dwellings to 3, and the property currently contains 5 dwellings and 2 flats, a rezoning of the property to General Residential Zone 2 (for group housing), with Consent for an Institution and Place of Instruction, will be required, along with the associated permanent land use departures. An alternative zoning category could have been Community Zone 1, noting that this will also have required the Consent of Council for an Institution. This has been clarified during the Pre-application Consultation process, wherein the GR2 zone was considered to be the more appropriate zoning.

Attention is drawn to several previous attempts to obtain building plan approval for the 5 dwellings that were built on the property many years ago by the erstwhile owner, but these plans were not capable of approval, as the then SR1 zoning did not permit more than 2 dwellings.

The Title Deed contains a condition, being Condition B., in favour of John Richard Jordan de Stadler and successors in title, which reads: "That no shops or places for carrying on business of whatsoever nature shall at any time be erected on the said land". This condition, being a private one, is to be removed, as the proposed use of the property includes the functioning of a business component. The extent of the advertising was discussed during the Pre-application Consultation, constituted in terms of Section 70(2) of the CTMPBL, 2015, as amended, and it was agreed that this extent be limited to surrounding property owners only. This will be more fully motivated below.

A Site Development Plan has been prepared, and is submitted with this application, to illustrate the proposal in more detail, for which see Drawing Nos. 14.04-01-100E, 101D, 102D, 103D, 104C, 105E, 106D, 107D, &108A, dated 18/09/2024, revised on the 7th March 2026, prepared by Chelsea Pedersen Architecture (CPA).

It is to be noted that a Freshwater study had previously been done by Dr Liz Day in December 2004 for a previous application for subdivision, which was never concluded. This report made certain recommendations, which remain pertinent to the current application, notwithstanding the fact that no subdivision is now proposed. Dr Day is unfortunately not able to provide any further current feedback herein, due to other work pressure, and referred the client to Dean Ollis, of Inland Waters, who has stated that the proposed Rezoning does not trigger the criteria of NEMA, and that no Basic Assessment, nor an application in terms of the National Water Act for a Water Use License is required. Dr Day had proposed a buffer from the existing pond up to the 5m contour line, which approximates where the existing precast concrete fences cross the property. This has been shown on the SDP.

It is also to be noted that a Heritage Report was prepared by Dr. Jason Orton in August 2004 for the then proposed subdivision application, and this was approved by Heritage Western Cape. However, now that the subdivision is no longer being proposed, but rather a rezoning, the provisions of Section 38(1)(d) of the National Heritage Resources Act, No. 25 of 1999, apply, which states that the limit in size of the property to be rezoned is 10 000m<sup>2</sup>. The size of the subject property is 8 565m<sup>2</sup>, excluding it from the provision of the Act.

A Vegetation Report has been prepared, which is submitted with this planning application. No new structures are being proposed in this application, and hence none of the existing vegetation will be impacted upon, or removed.

Further to the Pre-application Consultation, wherein it was identified that a part of the property may be required for the extension to Houmoed Avenue, clarity was sought from the Transport Infrastructure Planning and Development Branch, per Mark Pinder. This part of Houmoed Avenue has been earmarked for expropriation in 2026/2027. The current SDP for the property does not include this portion of land. Further, the City's Zoning Map does not show it as being designated as Transport Zone 2. As it is known at this stage that the land will be required, it has been recommended by Marlyn Botha, of Transport Planning, that a condition of approval be included, limiting the amount of compensation be tied to the current zoning of the property, i.e., R1, to prevent a higher compensation being payable, once the rezoning to GR2 has been approved.

Compliance with the Sunnydale Local Area Structure Plan, the MSDF, 2023, the SDSDF, 2023, and any other relevant policies, are covered in the report below. It is understood that the Masiphumelele Local Spatial Development Framework is about to be published. This earmarks the subject property for Mixed Use. The application at hand aligns with this intent.

The firm of Duncan Bates Professional Land Surveyors has been appointed by the Registered Owner to submit this application, as per the Power of Attorney attached.

## **2. PROPERTY DESCRIPTION:**

|                                   |                                          |
|-----------------------------------|------------------------------------------|
| Erf No.                           | Erf 4931 Noordhoek                       |
| Diaram No.                        | S.G. No. 2869/1939                       |
| D/T No.                           |                                          |
| Current Owner                     |                                          |
| By D/T                            |                                          |
| Original Extent (m <sup>2</sup> ) | 8 565 m <sup>2</sup>                     |
| Current Zoning                    | Residential Zoning 1 (R1)                |
| Proposed Zoning                   | General Residential Subzone 2 (GR2)      |
| Consent Use                       | Institution, Place of Instruction        |
| By-Law                            | CTMPABL, 2025                            |
| SubCouncil                        | 19                                       |
| Ward                              | 69                                       |
| Zoning Scheme                     | Cape Town DMS, 2025                      |
| Street Address                    | No. 48 Lekkerwater Road, Sunnydale, 7975 |

### 3. STATUTORY FRAMEWORK:

#### 3.1 TITLE DEED CONDITIONS:

As stated above, there is a private Title Deed condition that will need to be removed. (See the attached Conveyancer's certificate). This condition is enumerated in the development proposal below.

#### 3.2 CITY OF CAPE TOWN MUNICIPAL PLANNING AMENDMENT BY-LAW, 2025:

##### 3.2.1. Removal of Restrictions:

The Title Deeds contains a private restrictive condition, relating to the use of the property.

An application to remove condition B. of D/T No. \_\_\_\_\_ is required, as per Section 48 of the CTMPBL, 2015, as amended (submitted as application type 42(g)). The condition, originating in D/T No. \_\_\_\_\_ being in favour of \_\_\_\_\_ and his successors in title, as owner of the remaining extent, reads:

*"That no shops or places for carrying on business of whatsoever nature shall at any time be erected on the said land"*.

The remaining extent is shown on the diagram of the parent property below (Figures 2, 3 and 4), which remainder has been further subdivided many times, resulting in numerous successors in title.

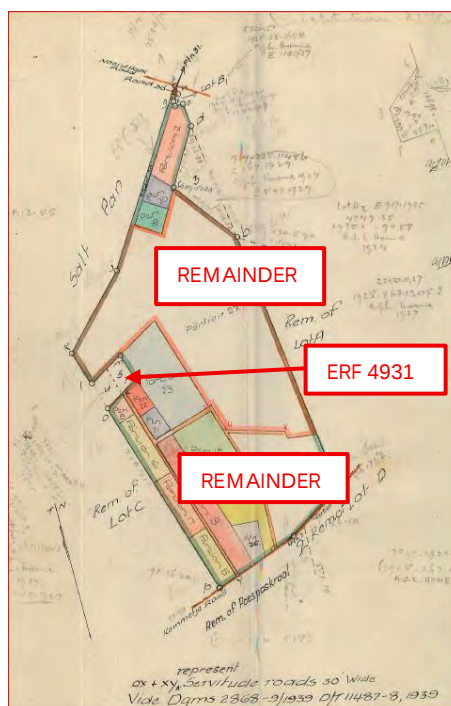


Figure 2 - Extract of Parent Diagram showing extent of the remainder

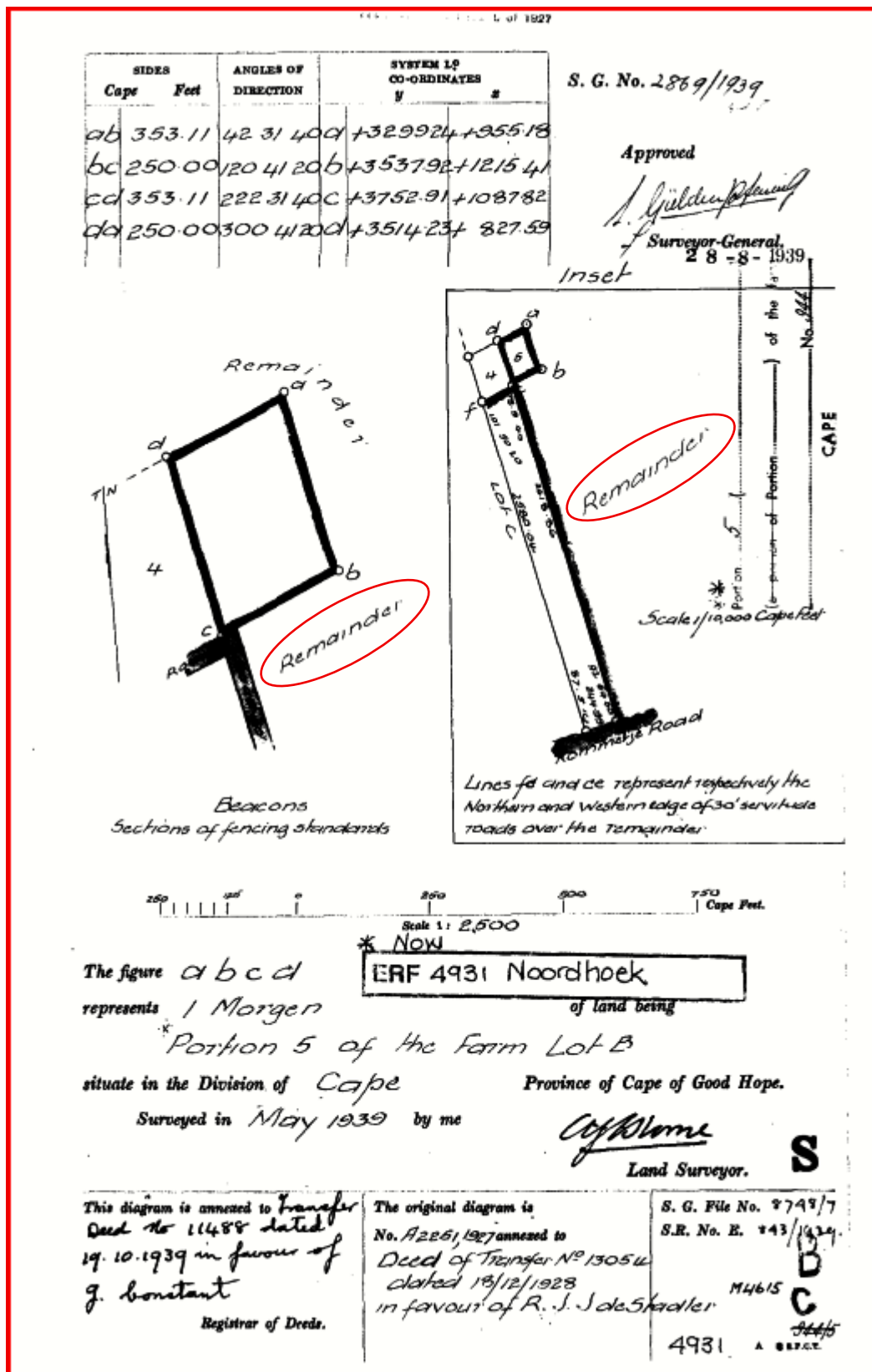
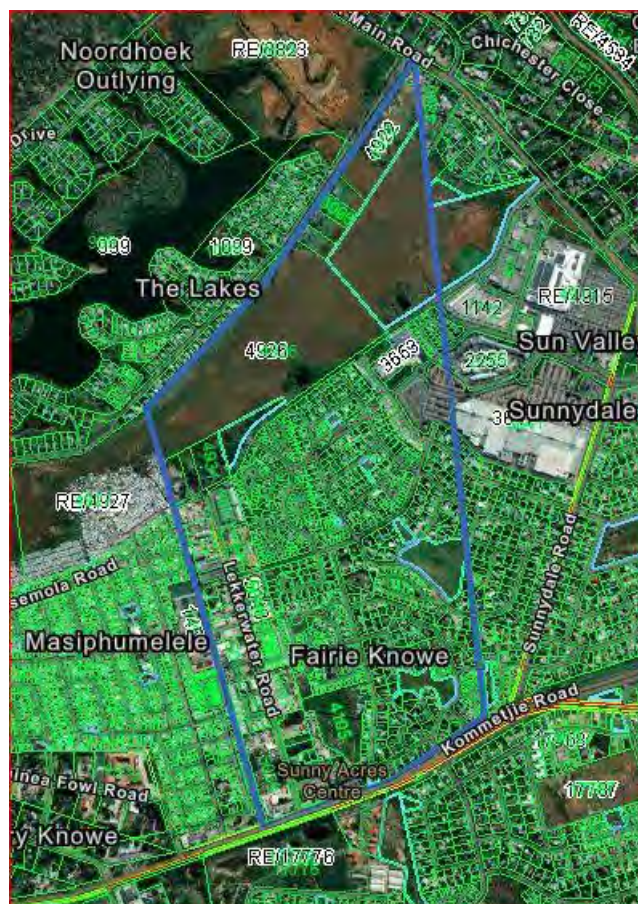


Figure 3 - S-G Diagram of Erf 4931

As discussed with the Case Officer during the Pre-application Consultation, and afterwards, it was agreed that the impact on the said successors in title will be minimal, given the small-scale nature of the business proposed to be conducted on the subject property, and hence the advertising would not need to be



### **3.3 LAND USE PLANNING ACT, No. 3 OF 2014:**

In terms of Section 39(5) of LUPA, the municipality must, when considering the removal of title deed restrictions, have regard to at least the following:

- (a) *the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;*

The restrictive condition was imposed by \_\_\_\_\_ in his own favour, and his successors in title, of the remaining extent of the original farm, No. 944. Since the condition was imposed, in 1939, the remaining extent has been subdivided many times, covering properties along the eastern side of Lekkerwater Road, all of which operate business of different kinds, further to the east, and north-east, being mostly residential in nature, and then further to the north-east, comprising the Longbeach Mall shopping precinct. The financial value of the rights for the successors in title is infinitesimally small, given that many of them operate large businesses from their properties. It would be impossible for an actuary to compute the financial, or other (presumably in the form of business competition), value of the right.

- (b) *the personal benefits which accrue to the holder of rights in terms of the restrictive condition;*

Again, the personal benefits which accrue to the holder of rights of the restrictive condition is minute, and there would be little or no difference in such personal benefits whether such rights were exercised, or not.

- (c) *the personal benefits which will accrue to the person seeking the removal, suspension, or amendment of the restrictive condition if it is removed, suspended, or amended;*

The property owner will enjoy some good personal benefits from the proposed removal of this private condition of title, as it will allow the proposed development in accordance with the Site Plan, which reflects the current extent of the existing buildings on the property, and the use of some of them in terms of the institutional and place of instruction usage. This unlocks value for the owner, which will benefit future owners as well. The law in general enables restrictive conditions to be removed, suspended, or amended, within reason, and allows positive changes to the built environment, with the evolving needs of property owners, and the community.

- (d) *the social benefit of the restrictive condition remaining in place in its existing form;*

If the title deed condition (only 1 in this instance) were to remain in place, this would effectively prevent the use of the property for the proposed mental health support workshops, and skills training, which actually provide a social benefit to the community. So there would be a negative social benefit to keeping the condition in place.

- (e) *the social benefit of the removal, suspension, or amendment of the restrictive condition; and*

The social benefit of removing the condition will be substantial, given that the intent of the institutional usage would be to re-habituate individuals for integration back into society.

- (f) *whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.*

The removal of the condition will remove all of the rights enjoyed by the beneficiaries, but there would be zero negative impact flowing from the right.

### **3.4 SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, No. 16 OF 2013:**

In terms of Section 7 of SPLUMA, land development is to be promoted in areas which are sustainable, and which limit urban sprawl. The subject property is located within the urban development edge, in an area where residential development is promoted and preferred.

Further, optimal utilization of land is encouraged. It is also stated that the proposal will have no negative impact on neighbouring properties in terms of privacy, loss of views, amenity, property value, and general enjoyment.

Approval of the application will allow for the efficient use of land as well as improved living space in close vicinity to various urban opportunities. Accordingly, the proposal is considered to be consistent with the provisions of Section 7 of SPLUMA.

In terms of Section 42(1)(c) of SPLUMA, it is held that the removal of this private title deed condition will be repugnant to the public interest, or the constitutional transformation imperatives and the related duties of the state. The facts and circumstances relevant to the application have been clearly set out in Abstract above, together with reference to the relevant Statutory Framework, Desirability and Motivation, which will adequately assist the MPT in supporting the application. The detailed manner in which the respective rights and obligations of all those affected have been set out in the LUPA section above, concluding that the approval of the application will have a social benefit for the community, a personal benefit for the proprietor of the Institution and Place of Instruction, and will have no negative impact on any affected party. There is no impact on engineering services, social infrastructure or open space requirements.

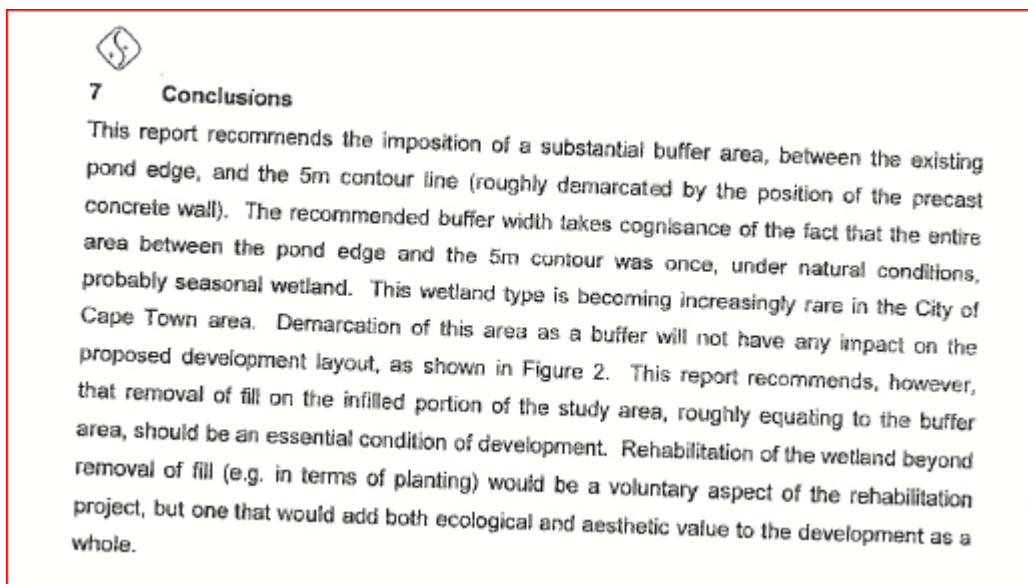
In terms of Section 47(2) of SPLUMA, it is stated that the approval of this removal of this private title deed condition will not derogate from the rights of anyone affected, nor will the public interest be compromised, in terms of Section 25 of the Constitution.

As per the City's policies and planning legislation, including the Densification Policy, and the Southern District Spatial Development Framework, the proposed general residential and minor business use development and intensification in an appropriate urban context serves the public interest, and is desirable.

### **3.5 NATIONAL ENVIRONMENTAL MANAGEMENT ACT (NEMA):**

The proposed removal of a private title deed condition, rezoning and permanent land use departures, do not trigger the need for a NEMA Basic Assessment process.

A subset of the environmental considerations is the Freshwater aspect of the property. As stated above, Liz Day prepared an assessment for a previous proposed application for a subdivision of the property, which was never submitted to the City for consideration. The report is appended to this application bundle for further reference. The elements of that study remain relevant, and the report concludes as follows:



**Figure 5 - Extract of Freshwater Report by Liz Day**

It is to be noted that no new development of the property, in the form of new structures, is proposed in this application.

Attention is further drawn to the second part of paragraph 3.8 on page 13 below, referring to figure 8, which shows the very significant encroachment of the shacks located to the north of Masiphumelele into the Noordhoek Wetlands. In the event that double standards are permitted, the property owner will gladly agree to an ecological buffer between the northern boundary of the property, and the line BA1 to BA2 shown on the Site Plan, as submitted with this application.

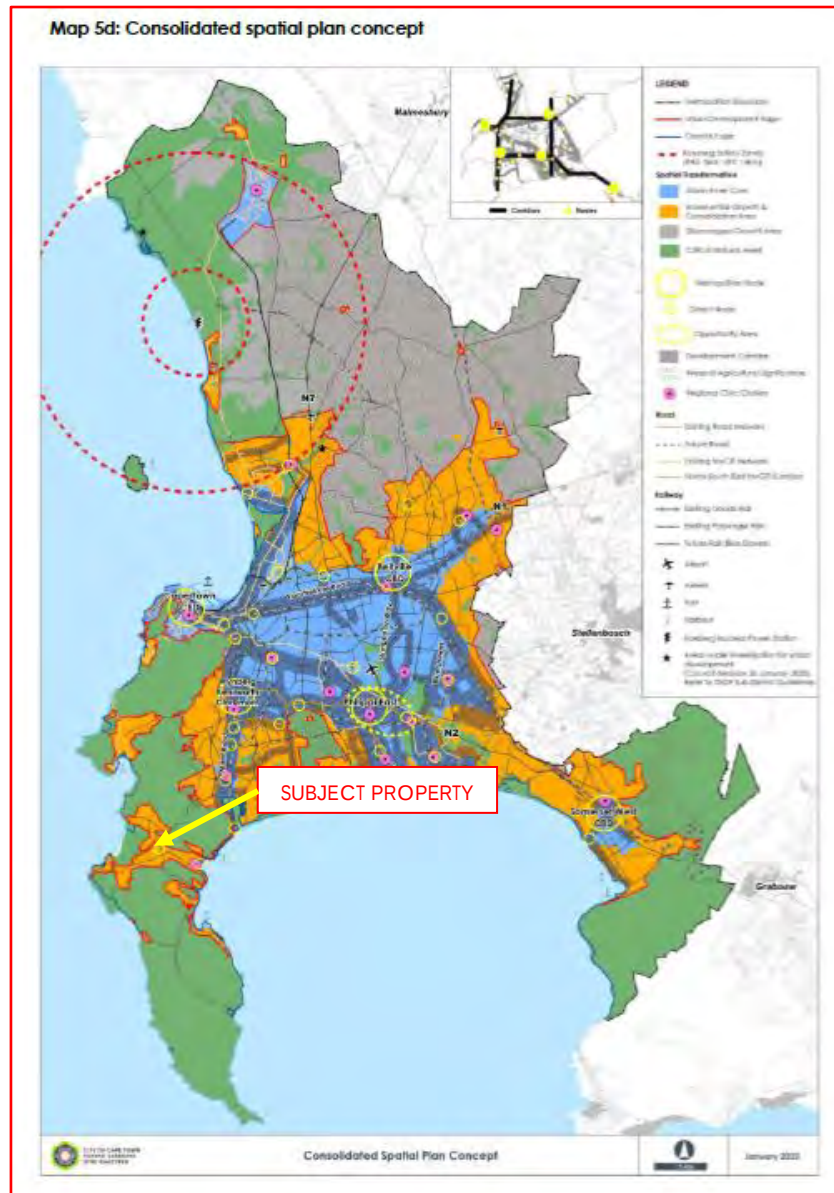
### **3.6 NATIONAL HERITAGE RESOURCES ACT (NHRA):**

The provisions of Section 38(1)(d) of the NHRA requires an NID for properties larger than 10 000m<sup>2</sup>, and the area of the subject property is 8 565m<sup>2</sup>, this application does not trigger the need for a heritage application.

### 3.7 CAPE TOWN MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK, 2023 (MSDF):

In terms of the MSDF 2023, the property is located in an area designated as an Incremental Growth and Consolidation Area.

The property is located inside of the Urban Development Edge. The proposal provides for long-term rentals, an institution and a place of instruction, comprising 5 dwelling units and 2 flats, in close proximity to amenities, and manages urban growth within the serviced existing urban footprint. No changes to the MSDF are thus required.



urban agriculture in Lochiel Road smallholdings area, but also allow for alternative non-smallholding uses as appropriate, but primarily aimed at providing for the growing community facility and residential needs of the existing Masiphumelele community. Community services should ideally locate in the eastern part of this area close to public transport, the PTI, and already existing facilities. All future land uses should be carefully considered in relation to (not compromising) existing urban agriculture activities. Future residential uses should ideally contribute to widening the range of housing types in the Far South area." As the application at hand provides for residential and community purposes, no deviation from the SDSDF is thus required.

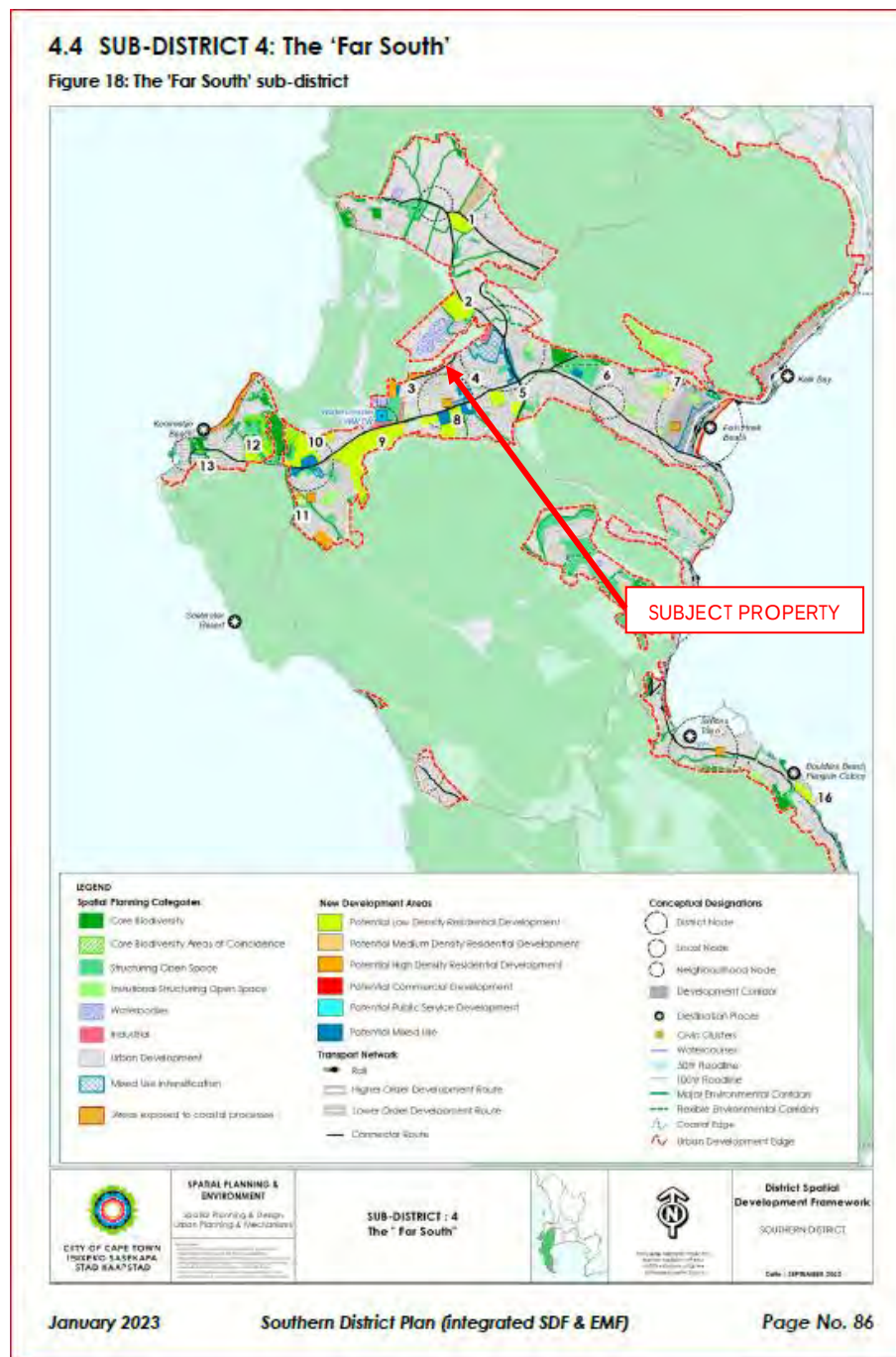


Figure 7 - Extract from SDSDF: Sub District 4: the "Far South"

The Case Officer, in an e-mail of the 18<sup>th</sup> February 2026, requested that a plan be provided showing the hard surfacing of the property. Attention is drawn to the fact that this is a requirement list under paragraph r.30(iii) of the SDSDF, which is for Noordhoek Silvermine Specific. This "*Limit maximum hard surfacing (including roofing, paving). This should be 500m<sup>2</sup> or 40% whichever is greater on erven 1000-2000m<sup>2</sup>, 750m<sup>2</sup> or 30% whichever is greater on erven >2000m<sup>2</sup>.*" Notwithstanding the fact that the subject property does not fall in the Noordhoek Silvermine Specific area, such a plan has been provided, being Drawing No. 14.04-01-108a, dated 7/03/2026, by CPA. In any event, the permitted hard surfacing would have been 2569m<sup>2</sup>, whereas the actual is 1668m<sup>2</sup>.

Whilst the subject property is located on, but within, the Urban Development Edge, note should be taken of the scant regard for the integrity of this Edge by the nearby very significant encroachment of shack dwellings just north of the Masiphumelele township, coupled with its encroachment into the Noordhoek Wetlands. (see figure 8 below).

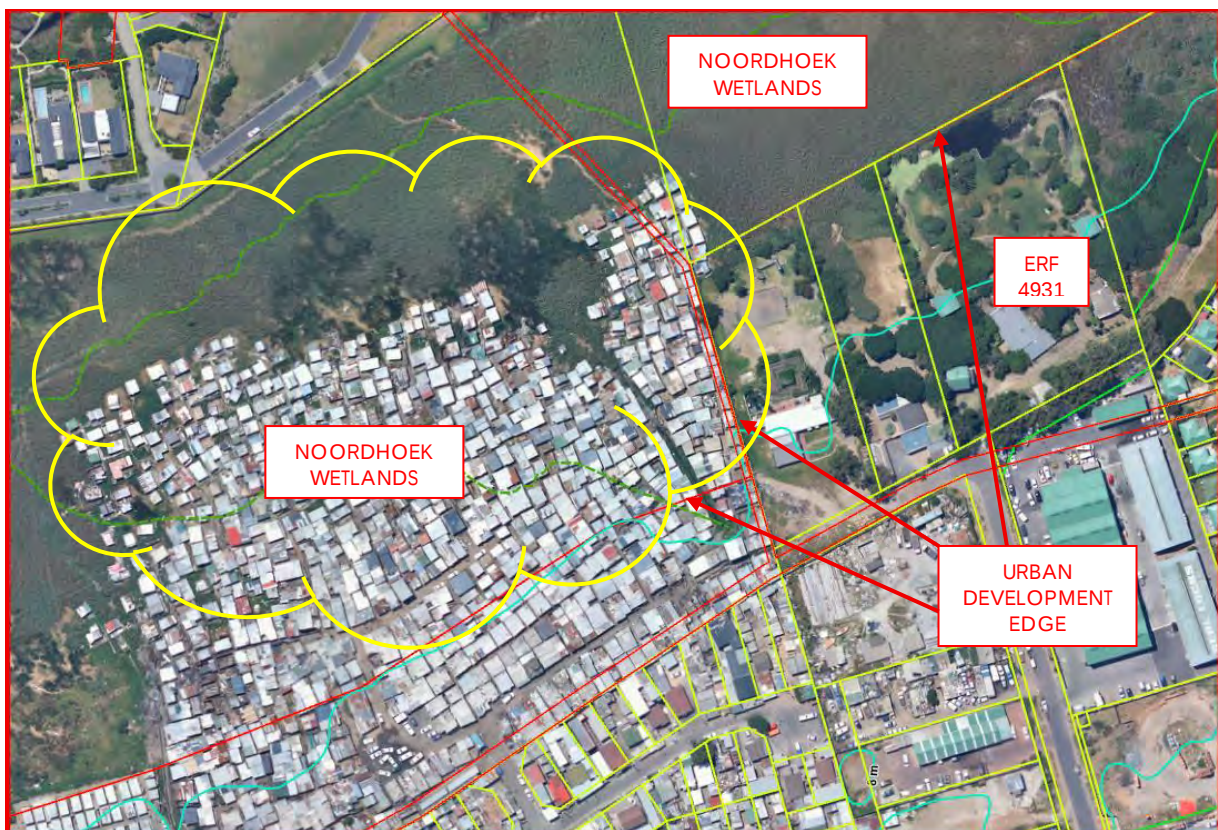


Figure 8 - EXTRACT OF CITY MAP VIEWER, SHOWING THE URBAN DEVELOPMENT EDGE

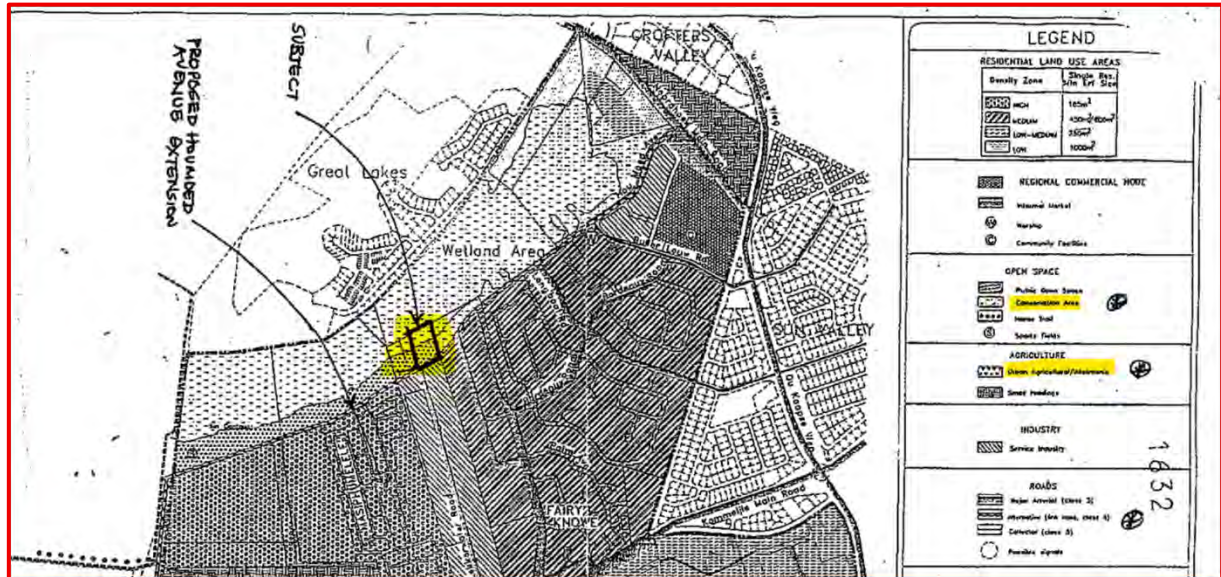
### **3.9 SUNNYDALE LOCAL AREA STRUCTURE PLAN, 1995:**

With regard to the Sunnydale Local Area Structure Plan, it is noted that the northern portion of the subject property is designated Conservation Area, the southern portion as Urban Agricultural/allotments (for which see Figure 9 below), and hence a **deviation** therefrom is required.

The proposed rezoning from R1 to GR2 will not, in fact, create an increase in density, as the dwelling units have been in existence for many years already,

and, in any event, the Structure Plan permits 13du/ha in the area north of Kommetjie Main Road.

Further, the SDP reflects the northern portion of the property as an ecological buffer, which accords with the Structure Plan, but the southern portion, containing the 5 dwelling units and 2 flats, to be used for long-term rentals, an Institution and a Place of Instruction is not in alignment therewith.



3) Budget has been provided in FY 2026/27 to commence with acquisitions and the detailed stage of Phase 1, so it is the intention to commence with the acquisition of the outstanding road reserve shortly."

As this portion of road reserve is expected to be expropriated in the no-too-distant future (2026/2027), it is held that this portion should not be included in the current SDP and Architectural plans, and that the normal process of expropriation runs its course. During the said Pre-application Consultation, Marlyn Botha of the Transport Impact Assessment & Development Control Branch recommended that a possible condition of the Rezoning be included, setting any compensation to be determined for the current zoning, i.e., R1, obviating the need to pay a possible higher amount, linked to the rezoned property.

A plan has been provided, which shows the approved alignment of Houmoed Avenue, as it affects Erf 4931, for which see Figure 10 below.

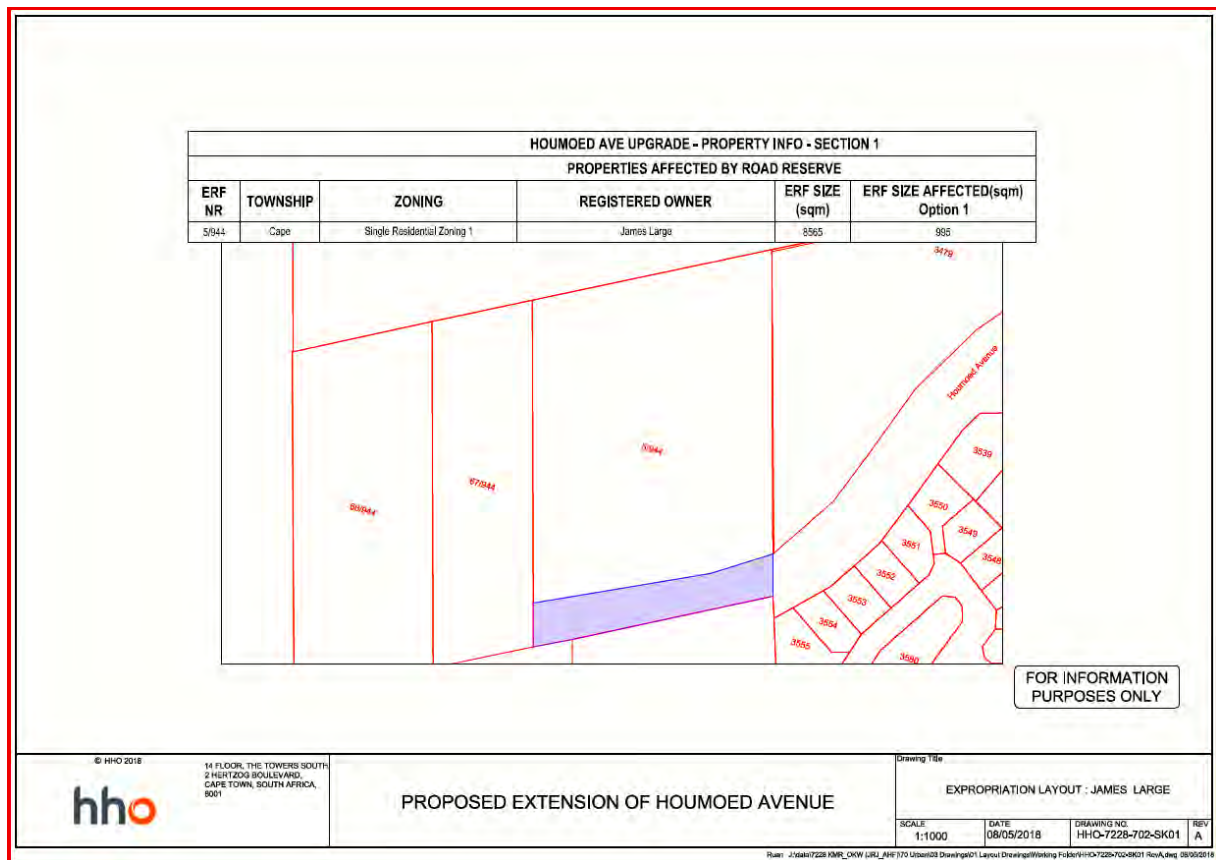


Figure 10 - Extent of Road Reserve over Erf 4931

Further, none of the existing permanent structures on Erf 4931 will be affected by the future expropriation (see Figure 11 below).

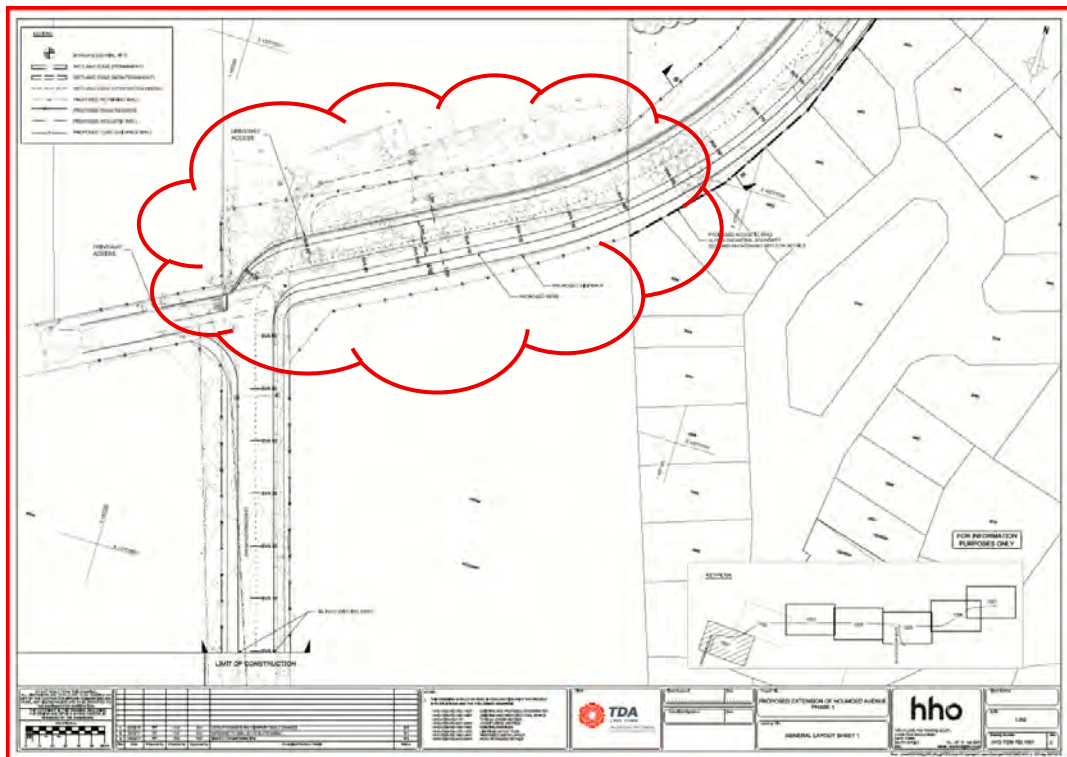


Figure 11 - Future Road Portion over Erf 4931 – Topography

### 3.11 CAPE TOWN DENSIFICATION POLICY, 2012 (CTDP):

The application at hand does not propose any additional dwelling units, and hence does not promote densification, per se. It does, however, promote more effective utilisation of the land, without impacting significantly on the surrounding properties. Densification, such as the previously unapproved 5 dwellings and 2 flats, for long-term rental, place of instruction, and institutional usage in this case, supports a positive social, economic, and environmental, restructuring of the City, and is thus in line with the objectives of the policy.

### 3.12 CAPE TOWN SOCIAL DEVELOPMENT STRATEGY 2013 (SDS):

The CTSDS defines the function of the City in promoting social development, which is the overall improvement and enhancement in the quality of life of all people, especially people who are poor or marginalised. The proposal at hand supports social development, as the use of parts of the buildings for mental health support workshops, coupled with skills development, to re-integrate individuals back into society, is to be approved with the Consent of the City as an Institution and Place of Instruction.

### 3.13 CAPE TOWN INCLUSIVE ECONOMIC GROWTH STRATEGY 2022 (IEGS):

The CTIEGS is a short, medium, and long term, plan to address the economic crisis facing Cape Town, within the greater South African context, and to identify advantages that could be leveraged. The proposal at hand is not impacted upon by the IEGS, given the small-scale nature of the proposal, although employment opportunities would be created for the running of the mental health support workshops and skills development.

#### 4. BASELINE INFORMATION:

The following information is given:

##### 4.1 SURROUNDING ZONINGS AND LAND USES:

The subject property is located in an area predominantly zoned R1, with other uses being TR2, GR1 and GI1 (see Figure 12 below).

The application at hand involves a rezoning of the property from R1 to GR2, with Consent for Institutional and Place of Instruction usage, which is considered to be compatible with the residential character of the area.

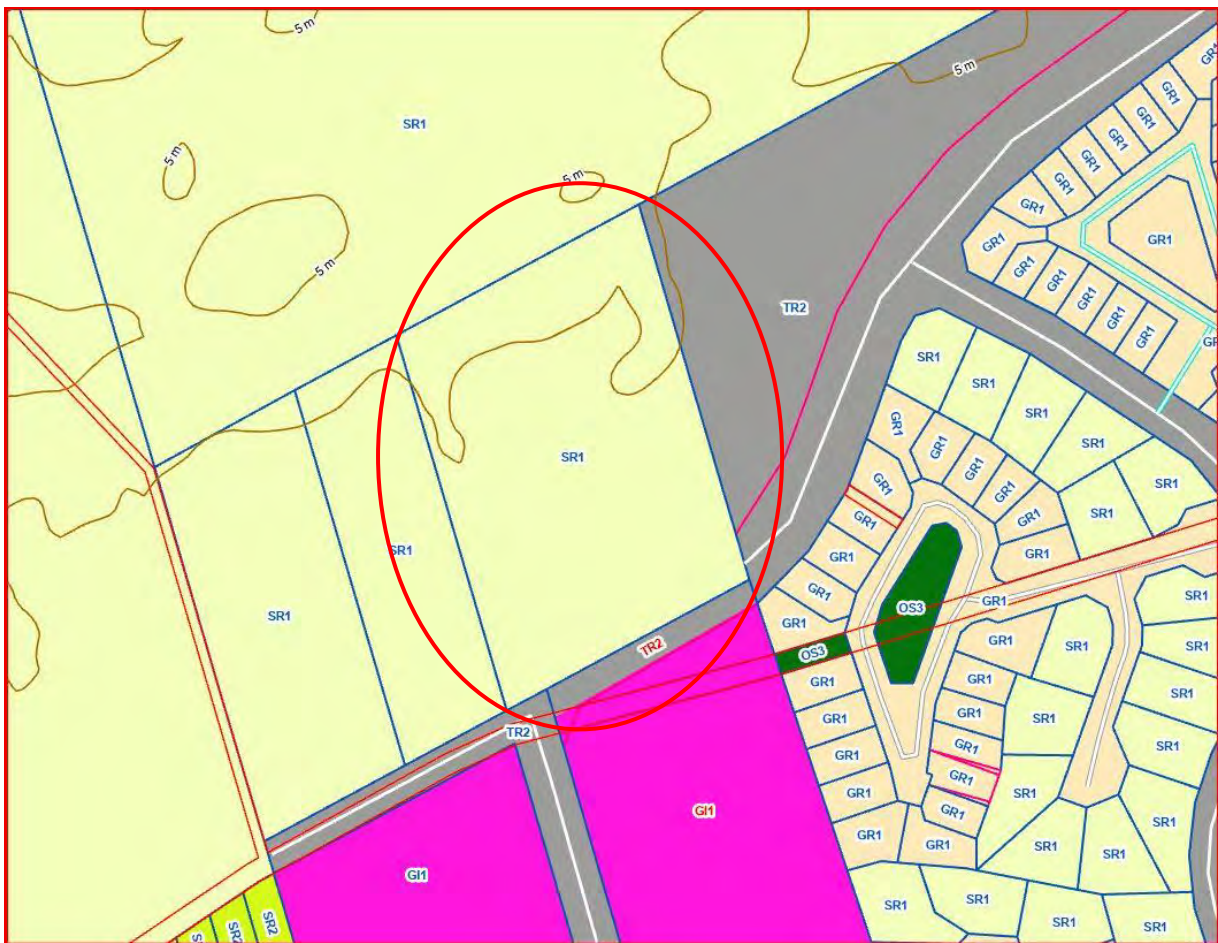


Figure 12 - Extract from City Zoning Viewer

##### 4.2 SURROUNDING PROPERTY SIZES:

The property sizes in the area range greatly, from 222m<sup>2</sup> to 8580m<sup>2</sup>, but this is not relevant, as no subdivision is being proposed herein.

##### 4.3 SLOPES:

The land slopes very gently from south to north, and the 6m contour bisects the property midway, from west to east. A small part of the property, the northern

area, is below the 5m contour level (which is shown in Figure 12 above), with the rest of the property being between the 5m and 7m contours.

#### **4.4 VEGETATION:**

The property has long-since been totally transformed for residential usage. However, a vegetation study has recently been undertaken (15/04/2024), and a tree inventory, with an associated map (for which see Figure 13 below) and a series of photographs, has been provided. A eucalyptus avenue has been identified along the southern boundary, and 2 milkwood groves, one along the western boundary, and one along the eastern one, have been shown on the plan. As there are no changes to the existing structures on the property proposed, there will be no impact on the vegetation, and hence no further action, in terms of the National Forests Act, 1998, is required. The two milkwood groves can act as the tree protection zones.



Figure 13 - Tree Assessment Plan

#### **4.5 STREETSCAPE:**

As no additional building work is proposed, and the application at hand is only for land use matters, there will be no change to the streetscape at all. This would no doubt change when the road reserve for Houmoed Avenue is expropriated in the future.

#### **4.6 SERVICES:**

No change to the service infrastructure will result from the approval of this application, as no additional dwellings/structures are proposed, and the existing ones have been there for many years.

#### **5. DEVELOPMENT RULES IN TERMS OF THE DMS:**

It is proposed to rezone the property from R1 to GR2, for the existing dwelling units and the flat on the property to be used for Group Housing (Item 40(a)), to be assessed in terms of Items 35 and 37 of the DMS, i.e., Dwellings 1, 2, 3, and 4, and Flat 1, with Consent for an Institution, and a Place of Instruction (Item 40(b)), i.e., Institution 2, to be assessed in terms of Item 47 of the DMS, and several permanent land use departures (top of building for Dwellings 3 and 4 (Item 35(c)), and raising of ground floor level for Dwellings 3 and 4) (Item 126(a)). An SDP has been provided by CPA, Drawing Nos. 14.04-01-100E, 101D, 102D, 103D, 104C, 105E, 106D, 107D, & 108A, dated 18/09/2024, revised on the 7th March 2026.

The SDP shows building 1 as Dwelling 1, incorporating a Place of Instruction (Administrative Office), Flat 1 (Red Pepper) and Institution 1 (Lemon Tree); building 2 as Dwelling 2 (Syringa); building 3 as Institution 2 and Place of Instruction (Oak); building 4 as Dwelling 3 (Milkwood); and building 5 as Dwelling 4 (Gumtree).

Item 44 of the DMS states: "The development rules which apply to an institution, place of instruction and place of assembly in item 47 shall apply to these uses in this zoning; provided that where the institution, place of instruction or place of assembly is situated within a building which is also used for flats or a boarding house, then the coverage, height and building line requirements for the flats or boarding house shall apply." Institution 1, and Institution Office (Place of Instruction) in this instance are located within Dwelling 1, and **no departures** are required to exceed the 60% coverage, the floor factor of 1,0, or the height above existing ground level to the top of the building of 15m.

Building 3 is used as Institution 2 and Place of Instruction, and hence is subject to Item 47, which permits a floor factor of 0,8, coverage of 80%, height above existing ground level to top of roof of 12m, and street and common boundary building lines of 3,0m. **No departures** are required herein.

#### **Group Housing:**

Item 35(a) – **Design Principles:** all buildings already exist, with buildings 1 and 2 being very old. Buildings 3 – 5 are more recent, but never-the-less, have been constructed with the same architectural design, and all are shown on the drawings submitted with the application. No new structures are proposed.

Item 35(b) – **Density:** the maximum gross density is 35 du/ha, which equates to 30 du/ha on the subject property. 5 dwelling units have been provided. **No departures are required herein.**

Item 35(c)(i) – **Height:** the maximum height to top of building above EGL permitted is 9m – the proposed heights are Dwelling 1 – 3,579m; Dwelling 2 – 3,651m; Dwelling 3 – 9,335m; Dwelling 4 – 9,335m. As building 3 is used as Institution 2 and Place of Instruction, Item 47 applies herein, and **no departure for building 3 is required.**

**Departures for Dwellings 3 and 4 to be 9,335m in lieu of 9,0m are required.**

Item 35(c)(ii) – **Item 126 Earth banks, retaining structures, support structures, and similar devices:** Without the approval of the City:

(a) no earth bank, retaining structure, column, suspended floor, other device or series of such devices shall be constructed that enables a ground floor of a building to be raised more than 1,5 m above existing ground level, provided that where such raising takes place, the height thereof shall still be measured from existing ground level. Dwellings 3 and 4 are **2,967m** above EGL.

**Council's Approval is required herein.**

Item 35(d) – **Open Space:** outdoor space of 50m<sup>2</sup> per dwelling unit is required. Thus, 350m<sup>2</sup> is required. As the northern portion of the site is proposed as an ecological buffer, which is 4190m<sup>2</sup> in extent, **no departure is required herein.**

Item 35(e)(i) – **Street Boundary Building Line:** the street boundary building line is 5,0m. The closest building (dwelling 1) is 17,445m from the street boundary, hence **no departure is required herein.**

Item 35(e)(ii) – **Common Boundary Building Line:** the common boundary building line is 3,0m. The closest building (dwelling 4) is 3,00m from the western common boundary, hence **no departure is required herein.**

Item 35(f) – **Internal Building Lines:** as there are no internal subdivisional boundaries, the internal street and common boundary building lines do not apply herein.

Item 35(g) – **Parking and Access:** in terms of Item 137, parking for group housing at the rate of 1,75 bays per dwelling unit, plus 0,25 bays for visitors, is required. Parking for the flats is at the rate of 1,25 bays per flat, plus 0,25 bays for visitors. This equates to 8 bays for the group housing units, plus 1 bay for the flat. For the Institution/Place of Instruction (2 rooms), and Instruction Office (1 room), 1 bay per room is required, plus 0.1 bay per person. This equates to 5 bays, allowing for the 3 rooms, plus a maximum of 20 people. 14 bays have been provided on site (see the drawings submitted with the application), hence **no departures are required herein.**

In terms of Item 140(2)(c) of Chapter 15, the minimum and maximum motor vehicle carriageway crossing widths are between **2,40m and 8,00m**

respectively. The existing carriageway crossing width on Lekkerwater Road is **4,30m**, and on Houmoed Avenue to the east is **3,75m**.

**No permanent land use departures are required herein.**

#### **Flats as an Additional Use Right:**

Item 37(a): the flat (Flat 1) forms an integral part of the group housing site, and complies with the development rules for group housing;

Item 37(b): the total floor space of the flats is 22,1m<sup>2</sup>, which does not exceed 40% of the floor space of all of the buildings on the group housing site, being 610,5m<sup>2</sup>. (i.e., = 3,6%)

Item 37(c): the open space requirement has been factored into Item 35(d) above.

#### **Gross Leasable Area (GLA):**

With regard to the mental health support workshops and skills training, being **the Institutional Use and Place of Instruction**, the CPA drawings state: Currently, only Institution 1 (29,71m<sup>2</sup> GLA), Institution 2 (89,93m<sup>2</sup> GLA), a small study Instruction Office (approx. 5,9m<sup>2</sup>) are used for Houses of Grace CT. The total GLA (Institutional and Place of Instruction Purposes) = **125,54m<sup>2</sup> GLA**"

It is proposed to permit an increase in the **GLA to 250m<sup>2</sup>** under this application, to avoid having to apply for an amendment of conditions of approval within the next few years, to permit the ease of expansion of the Institution within the current structures.

## **6. DESIRABILITY**

Section 99 of the CTMPBL sets out the criteria to be used in the assessment and decision-making process of an application. The application is desirable in terms of Section 99 of the CTMPBL, due to the following, as per the criteria:

### **(1) Compliance with the following minimum threshold requirements –**

(b) The proposed land use for GR2, with Consent for parts of the buildings being for Institutional use and Place of Instruction, supports the MSDF. The proposed use is consistent with, and complimentary to, the land pattern in the area, and is therefore consistent with the principles of the MSDF, 2023.

(d) An application is not required for a departure to alter the development rules relating to the permitted floor space, but a departure is required for height. However, the departure applied for is less than 10% of the maximum height, and hence does not trigger the threshold limit.

**(2) Consider all relevant considerations including the following –**

- (a) The proposal supports the MSDF, 2023, as well as the SDSDF, 2023. A deviation from the Sunnydale Local Area Structure Plan is required.
- (b) The proposal complies with the relevant criteria contemplated in the DMS. However, permanent land use departures are required, relating to the raising of ground floor level, and building heights.
- (c) The proposal does not contravene any policy or strategy, including the Social Development Strategy, and the Economic Growth Strategy.
- (d) The proposal is desirable in terms of subsection (3) below.
- (e) There is no adverse impact on existing rights, given the minor nature of the removal of the private title deed condition, and the relatively minor nature of the permanent land use departures being applied for (raising of ground floor level, and building heights).
- (f) The consolidation of land is not applicable herein.
- (g) The proposal does not contradict SPLUMA 2013, or any other considerations prescribed in relevant national or provincial legislation.
- (h) The application complies with the requirements of the CTMPBL, 2025. A pre-application consultation was held with the City's Case Officer, and the resulting minutes were approved, as required in terms of law.

**(3) The following considerations are relevant to the assessment under subsections (1)(c) and (2)(d) –**

- (a) Socio-economic impact: The proposal has an indirect, positive socio-economic impact. The proposed use of part of the property for mental health support workshops and skills training will definitely contribute to the social aspect, as individuals will be able to be re-integrated into society, once their re-habitation has been concluded. The operational phase will also have a positive effect on sustainable job creation for the local community.
- (d) Compatibility with surrounding uses: The proposal is 100% compatible with the surrounding area, which is a mix of residential, business, and light industrial purposes.
- (e) There will be no additional impact on external engineering services, as the property already contains 5 dwellings and 2 flats, which have been in existence for many years, and which have utilised the existing service infrastructure.
- (f) There will not be a negative impact on the safety, health, and wellbeing of the surrounding community, given the continued use of the property for residential purposes. It will further contribute positively to the health and wellbeing of the surrounding community, given the use of part of the property for mental health support workshops and skills training purposes.
- (g) Impact on heritage: The property is not located in a heritage area, and the existing dwellings are not graded. The provisions of Section 38 of the NHRA do not apply herein.

- (h) There will be no significant impact on the biophysical environment. The property already contains 5 dwelling units and 2 flats, and no additional structures are proposed in this application. No vegetation, protected, or otherwise, will thus be impacted.
  - (i) There will be no negative impact on traffic, parking, access, and other transport related considerations. Access is currently provided off Lekkerwater Road, and no changes in the off-street parking are required.
  - (j) Whether the imposition of conditions can mitigate an adverse impact of the proposed land use: As there are no perceived adverse impacts, no additional conditions are proposed, or required. However, it has been requested by the Transport Department that the future expropriation of Houmoed Avenue be tied to the current R1 use, to prevent an increase in the value of the area to be expropriated, once the rezoning for enhanced rights has been granted. The approval of the application will be linked to the Site Plans provided.
- (4) N/A.
- (5) N/A

## **7. MOTIVATION**

- There is a private title deed condition preventing the proposed use of the property for business purposes (the mental health support workshops, and skills training, to be approved by way of the City's Consent for an Institution and Place of Instruction). This has been motivated in terms of Section 39(5) of LUPA in paragraph 3.3 above;
- The development proposal is aligned with the higher order legislation, i.e., SPLUMA, LUPA, the Cape Town Municipal Spatial Development Framework, 2023, the Southern District Spatial Development Framework, 2023, as well as the Cape Town Densification Policy, the Inclusive Economic Growth Strategy, and the Social Development Strategy;
- A deviation from the Sunnyside Local Area Plan, 1995, is required, as this designates the future use to be a mix of Conservation Area and Urban Agriculture. This plan is now outdated, and it is likely to be replaced in the near future by the Masiphumelele Local Structure Plan;
- The Noordhoek Local Area Overlay Zone is not applicable herein, as no subdivision is being proposed;
- The proposed development will have minimal financial impact on property values for other land owners in the immediate vicinity, as the main thrust of the proposal is to regularise the existing 5 dwellings and 2 flats, in the form of group housing, with parts thereof to be used for mental health support workshops and skills training purposes;

- The proposal is considered to comply with Section 99(1) of the CTMPBL;
- The impact of the granting of the permanent land use departures is considered to be relatively minor in nature, being 2 small building height departures, and the raising of the first floor of 2 of the structures more than the permitted maximum of 1,5m.
- The impact of the granting of the Council's Consent for an Institution (the proposed mental health support workshops), and a Place of Instruction (the skills training) will have a positive socio-economic impact;
- The provisions of NEMA do not trigger the need for a Basic Assessment;
- The provisions of the NHRA is not applicable herein;
- There will be no negative impact on the bio-physical environment, particularly given that an ecological buffer area of the northern portion of the property will minimize impact on the Wetlands, and the 2 existing milkwood thickets will remain untouched;
- The 'proposed' development is already serviced, and no additional services will be required;
- The proposal is considered to be compatible with the surrounding built environment;
- The existing rights of the surrounding property owners will not be significantly materially negatively affected;
- The social benefit of removing the relevant private title deed condition outweighs the social benefit of retaining such condition;
- The streetscape along Lekkerwater Road will not change at all. This will, however, change at some future date, once the land for the Houmoed Avenue extension has been expropriated, and the road constructed;
- The future expropriation of a portion of the property for the extension of Houmoed Avenue be tied to the current R1 zoning of the property, to prevent higher compensation being paid, based on the enhanced rights to be granted by the Rezoning to GR2.

**8. CONCLUSION:**

It has been demonstrated that the proposed Removal of the Title Deed condition against the business use of the property, the proposed Rezoning from R1 to GR2 for Group Housing, obtaining the Consent of Council for an Institution and Place of Instruction, and the proposed permanent land use departures, for Erf 4931 Noordhoek, is desirable in terms of section 99(3) of the CTMPABL, 2025, and capable of approval by the City.

**D.H. BATES****PROFESSIONAL LAND SURVEYOR**

## **9. SUMMARY OF APPROVALS REQUIRED – ERF 4931 NOORDHORK:**

### **9.1 Removal of Restrictions:**

An application to remove condition B. of D/T No. \_\_\_\_\_ is required, as per Section 48 of the CTMPABL, 2025 (submitted as application type 42(g)). The condition, originating in D/T No. \_\_\_\_\_ being in favour of \_\_\_\_\_ and his successors in title, as owner of the remaining extent, reads:

*"That no shops or places for carrying on business of whatsoever nature shall at any time be erected on the said land".*

### **9.2 Rezoning from R1 to GR2:**

An application to Rezone the property from R1 to GR2, for Group Housing, as per Section 44, in terms of Item 40(a) of the DMS (submitted as application type 42(a)) of the CTMPABL, 2025.

### **9.3 Consent (Institution and Place of Instruction):**

An application for the Consent of Council is required for an Institution and Place of Instruction in the GR2 Zone, in terms of Section 46, and in terms of Item 40(b) of the DMS (submitted as application type 42(i)) of the CTMPABL, 2025.

### **9.4 Permanent Land Use Departures:**

An application for the approval of the following permanent land use departures, in terms of Item 35(c)(i) of the DMS (submitted as application type 42(b)), based on the Site Plan, prepared by CPA, Drawing Nos. 14.04-01-100E, 101D, 102D, 103D, 104C, 105E, 106D, 107D, & 108A, dated 18/09/2024, revised on the 7th March 2026:

9.4.1. \_\_\_\_\_ to permit the height of Dwellings 3 and 4 to be 9,335m in lieu of 9,00m.

### **9.5 Council's Approval:**

An application for the Council's Approval is required for the raising of the ground floor of Dwellings 3 and 4 to **2,967m** in lieu of **1,50m**, in terms of Item 126(a) of the DMS (submitted as application type 42(i)) of the CTMPABL, 2025.

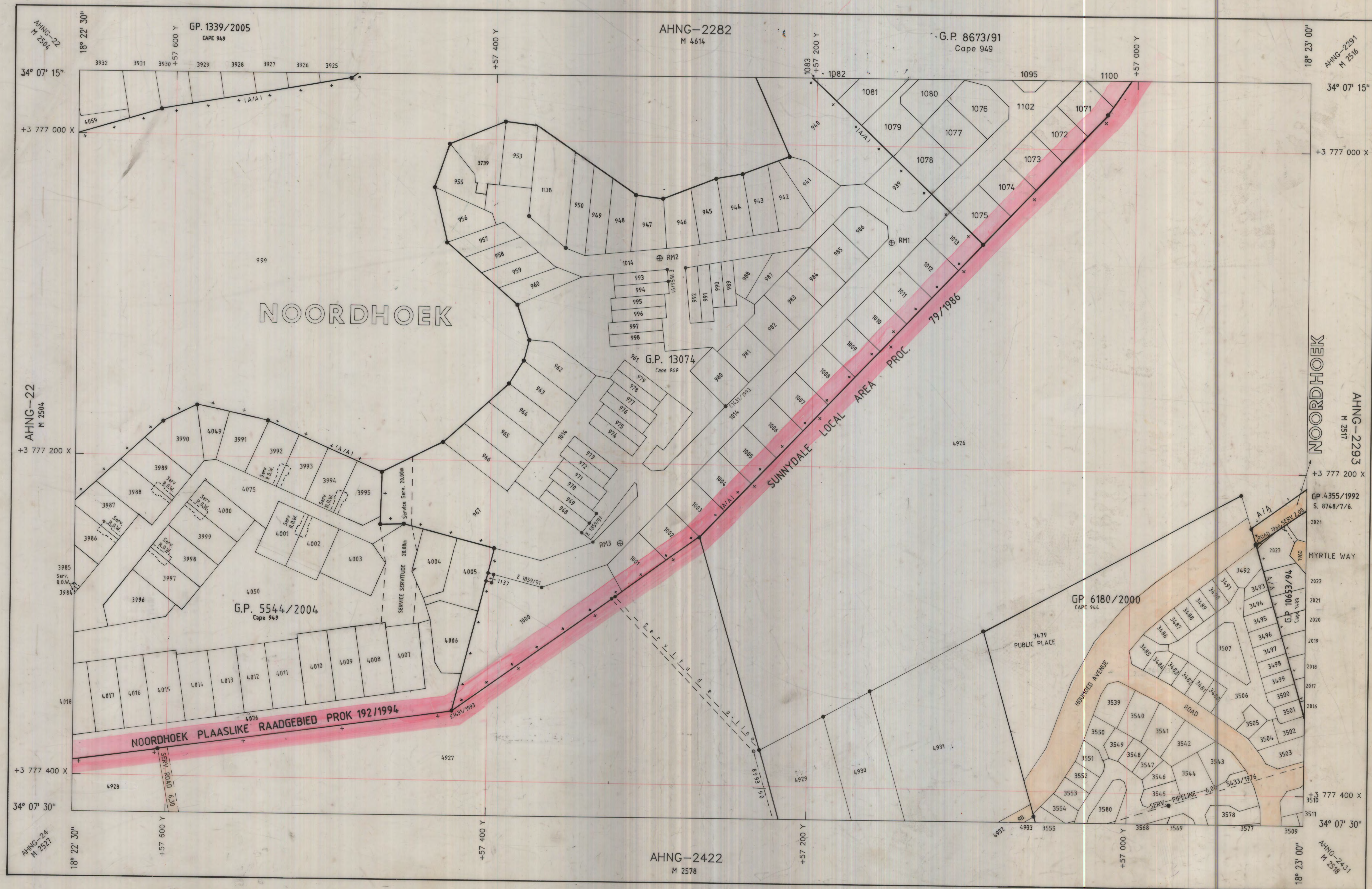
### **9.6 Deviation from the Sunnydale Local Area Structure Plan, 1995:**

A deviation from the Structure Plan to permit a Group Housing Site on the property, designated partly as a Conservation Area, and partly for Urban Agriculture.

1 : 1000

WHITE GROUP AREA PARA (b) PROC. 63/1967  
EXCLUDED FROM ACT 70/1970 G.N. 2140/1978

AHNG-2284



COMPILED IN THE OFFICE OF THE SURVEYOR-GENERAL CAPE

TRIG. SHEET NO. 3418 (61)

SYMBOLS : ● LO CONNECTED POINTS

○ LO CONNECTED BEACONS ESTABLISHED

○ POINTS NOT CONNECTED

⊙ BEACONS NOT CONNECTED ESTABLISHED

+ + + ALLOTMENT, MUNICIPAL, GROUP, BLACK AREA BOUNDARIES

. . . ESTABLISHED BOUNDARIES

DATE : AUG. 1989

COMPILED BY : E. VAN ZYL  
J. SWINERD

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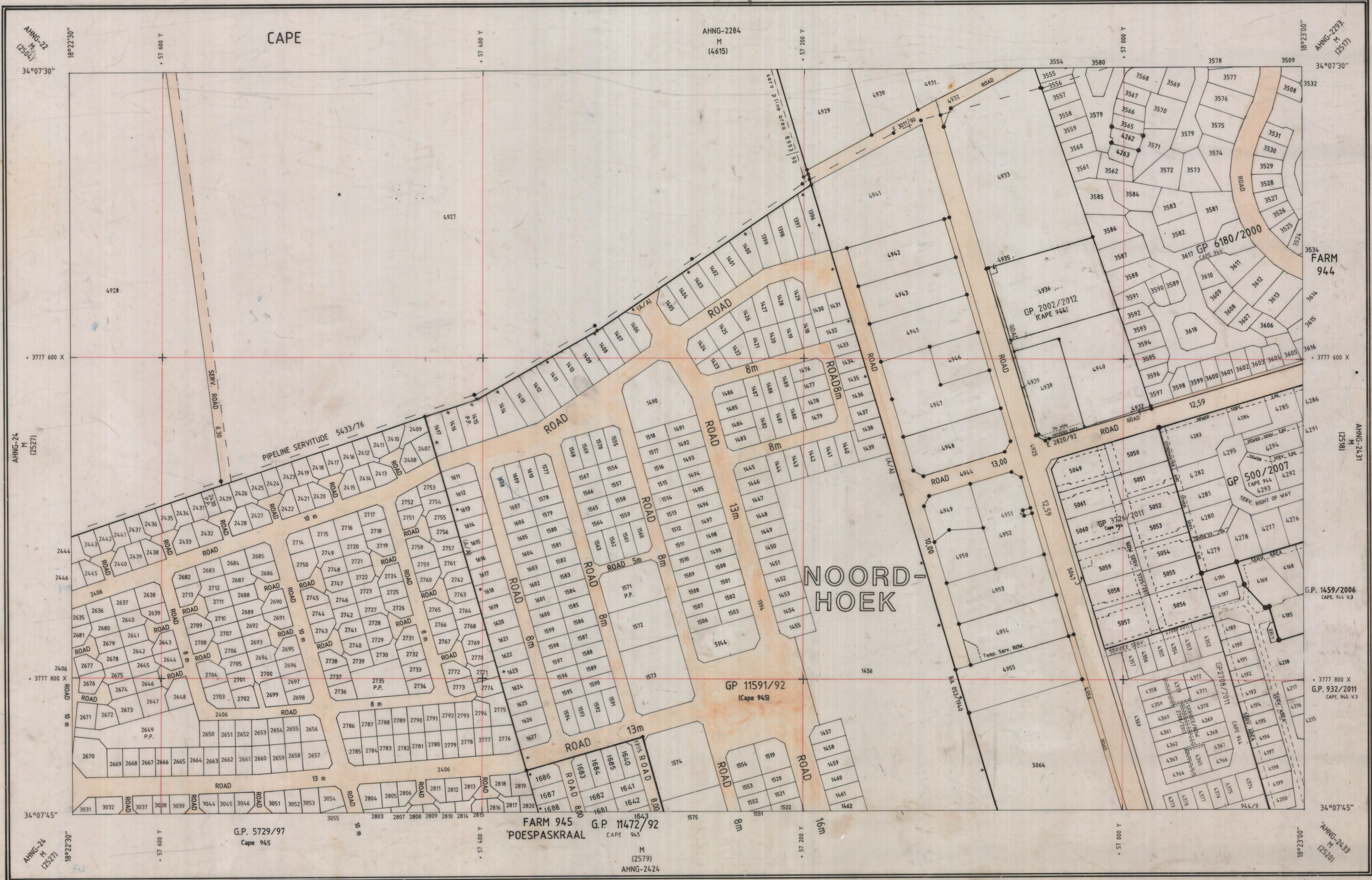
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WHITE GROUP AREA PARA (a) PROC 63/1967

SUNNYDALE LOCAL AREA

EXCLUDED FROM ACT 70/1970 GN. 2140 / 1978

AHNG-2422



COMPILED IN THE OFFICE OF THE SURVEYOR GENERAL CAPE TOWN JULY 1983 J.S.FLORENCE

TRIG SHEET NO. 3418

SYMBOLS SHOWN THUS:-

- LO CONNECTED BEACONS
- LO CONNECTED BEACONS ESTABLISHED
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| SIDES<br>Cape Feet | ANGLES OF<br>DIRECTION | SYSTEM 19<br>CO-ORDINATES |          |
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|                    |                        | y                         | x        |
| ab 353.11          | 42 31 40               | +329924                   | +955.18  |
| bc 250.00          | 120 41 20              | +353792                   | +1215.41 |
| cd 353.11          | 222 31 40              | +3752.91                  | +108782  |
| da 250.00          | 300 41 20              | +3514.23                  | -827.59  |

S. G. No. 2869/1939

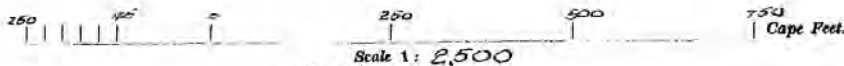
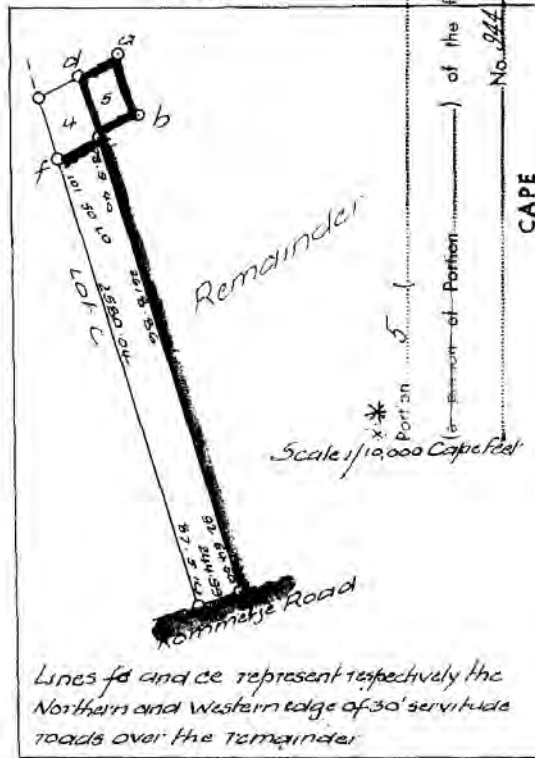
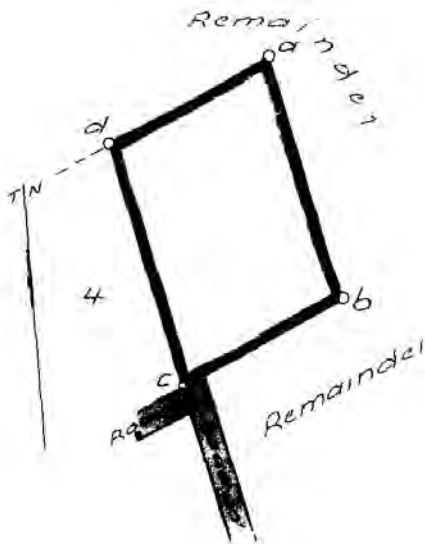
Approved

*J. J. J. J.*

Surveyor-General.

28-8-1939

Inset



The figure *abcd* represents 1 Morgen

\* Now **ERF 4931 Noordhoek** of land being

\* Portion 5 of the Farm Lot B

situate in the Division of Cape

Province of Cape of Good Hope.

Surveyed in May 1939 by me

*C. J. J. J.*

Land Surveyor.

**S**

This diagram is annexed to Transfer Deed No 11488 dated 19.10.1939 in favour of *J. Constant*

Registrar of Deeds.

The original diagram is No. A2251/1927 annexed to Deed of Transfer No 13054 dated 18/12/1928 in favour of

S. G. File No. 8749/7  
S.R. No. E. 43/1939

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4931 A 88267