



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

Case ID 1500158971

**Erf 3755, 80 Briza Road, Table View,
Milnerton**

Development Management

This cover page is added by the City of Cape Town as part of our standard branding and document-management process. It does not indicate that the City authored, verified or endorses the submission. All application documents remain the responsibility of the applicant and the City assesses them as submitted. Any errors or discrepancies will be addressed through the normal land use assessment process.

All rights reserved. No part of this data may be reproduced or transmitted without written permission from the Development Management Department of the City of Cape Town. This document is available on the City of Cape Town website (www.capetown.gov.za/LandUseNotices) for a limited time. Please do not host the document independently; you may link to it from the City's site. Documents downloaded from any other website cannot be verified for authenticity.



**APPLICATION FOR ROR, DEPARTURE AND CONSENT USE TO
ALLOW FOR A PLACE OF INSTRUCTION ON ERF 3755,
80 BRIZA ROAD,
TABLE VIEW**

May 2026

Table of Contents

1	INTRODUCTION	4
1.1	PROPERTY AND APPLICATION DETAILS.....	4
1.2	BACKGROUND	4
2	DEVELOPMENT INFORMANTS.....	5
2.1	LOCALITY.....	5
2.2	LOCAL CONTEXT AND CHARACTER ANALYSIS	5
2.3	SITE ANALYSIS	5
2.4	TITLE DEED CONDITIONS	5
2.5	ZONING AND DEVELOPMENT PARAMETERS.....	6
2.6	ACCESS AND PARKING	6
2.7	LEGISLATIVE INFORMANTS	6
2.7.1	CAPE TOWN SPATIAL DEVELOPMENT FRAMEWORK.....	6
2.7.2	BLAAUWBERG DISTRICT PLAN.....	7
2.7.3	BLAAUWBERG ROAD LOCAL SPATIAL DEVELOPMENT FRAMEWORK.....	7
2.7.4	DENSIFICATION POLICY.....	8
2.7.5	TRANSIT ORIENTATED DEVELOPMENT STRATEGIC FRAMEWORK.....	8
2.7.6	URBAN DESIGN POLICY	8
2.8	SITE ANALYSIS	8
2.9	CHARACTER OF AREA AND BUILT FORM.	8
2.10	ACCESS PARKING	9
3	THE PROPOSED DEVELOPMENT.....	9
3.1.1	REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS	9
3.1.2	AMENDMENT OF CONDITIONS OF APPROVAL.....	9
3.1.3	CONSENT USE.....	9
3.1.4	ADDITIONAL CWC	10
4	ADJUDICATION OF THE PROPOSAL.....	10
4.1	MUNICIPAL PLANNING BY-LAW: CONSIDERATION CRITERIA IN TERMS OF SECTION 99.....	10
4.1.1	APPLICABLE SPATIAL DEVELOPMENT FRAMEWORK.....	10
4.2	APPLICABLE POLICY OR STRATEGY APPROVED BY THE CITY TO GUIDE DECISION MAKING.....	10
4.3	RELEVANT CRITERIA CONTEMPLATED IN THE DMS	12
4.3.1	PARKING AND ACCESS.....	12
4.3.2	COMPATIBILITY WITH SURROUNDING USES	12
4.3.3	IMPACT ON THE EXTERNAL ENGINEERING SERVICES	13
4.3.4	IMPACT ON SAFETY, HEALTH, AND WELLBEING OF THE SURROUNDING COMMUNITY	13
4.3.5	IMPACT ON HERITAGE	13
4.3.6	IMPACT ON THE BIOPHYSICAL ENVIRONMENT.....	13
4.3.7	TRAFFIC IMPACTS, PARKING, ACCESS, AND OTHER TRANSPORT RELATED CONSIDERATIONS	13
4.3.8	CONDITIONS THAT CAN MITIGATE AN ADVERSE IMPACT OF THE PROPOSED LAND USE.....	13
4.3.9	IMPACT ON EXISTING RIGHTS (OTHER THAN THE RIGHT TO BE PROTECTED AGAINST TRADE COMPETITION)	13

4.4	CONSIDERATION CRITERIA IN TERMS OF SPLUMA	13
4.4.1	SECTION 7 OF SPLUMA	14
4.4.2	SECTION 47(2) OF SPLUMA	14
4.4.3	SECTION 39(5) OF LUPA	15
5	CONCLUSION	16

Table 1:	Property information and application details	4
Figure 1	Locality Map	5
Figure 2	Zoning Map Extract	6
Figure 3	Extract from Cape Town MSDF	6
Figure 4	Extract from Blaauwberg District Plan (Sub District 3)	7
Figure 5	Extract from Blaauwberg Road Local Spatial Development Framework – Precinct 2	8
Figure 6	Extract of conversion of existing dwelling to a place of instruction	9

1 Introduction

1.1 Property and application details

Table 1: Property information and application details	
Property Description	Erf 3755, Table View
Property Address	80 Briza Road
Registered Owner	
Title Deed	
Title Deed conditions	None, that affect the proposal
Applicant	Urban Eye Planning and Development
Property Extent	Erf 3755 - 1004m ²
Current Zoning	Local Business 1
Overlay Zone	None
Current Land Use	Residential
Applicable Zoning Scheme	City of Cape Town Development Management Scheme (DMS)
Municipality	City of Cape Town (Blaauwberg District)
Sub-Council	1
Ward	107
Application Details	
Proposed Development	Conversion of existing office/dwelling into a place of instruction (ECD) for children from 16 months to 4 years (60 children)
Applications	• Application for Removal of Restrictive Title Deed condition B(i)(a)&(c) in terms of Section 42(g) of the Municipal Planning By Law, and • Application for Amendment of conditions of approval in terms of Section 42(j) of the Municipal Planning By Law, and • Application for consent use on Erf 3755 Table View in terms of section 42(i) of the Municipal Planning By Law, and • Application for a departure from the limitation of access and the position of such to allow for a second cwc that is 10m from the existing in terms of section 42(b) of the Municipal Planning By Law
Applicable Guidelines and Policy	
Subject to NHRA	No
Subject to NEMA	No
Any unauthorised land use or building work	No
Cape Town Spatial Development Framework	Yes, proposal is within urban inner core area as well as a development corridor
Blaauwberg District Plan	Yes, within the area earmarked for urban development
Blaauwberg Road Local Development Framework	Property is within the area earmarked for low density residential
Early Childhood Development Policy	In terms of the policy the proposal is regarded as a large-scale centre and is guided by the criteria as per section 5.4 of the policy

1.2 Background

The property was purchased by the owner in 2018 and as an investment property to be rented out as an income generating property, which is the current use. The owner has however noticed that with the various development in the area and densification that there is a great need for additional places of instruction as there is a limited number of such facilities available.

The property itself has some history with an array of land use application that has been granted in the past that included the rezoning of property to allow for medical consulting rooms.

2 Development Informants

2.1 Locality

The property is located at 80 Briza Road, Table View, a medium density residential area in the Blaauwberg District. Surrounding suburbs include Parklands to the north, Flamingo Vlei to the South, Dunoon to the East and Blaauwberg Beach to the West (refer to **Figure 1**).

The Blaauwberg area and surrounds is well known for tourist given the proximity to the beach and various other tourist amenities in the area. The area also has various commercial nodes and centres in support of the vast residential areas.

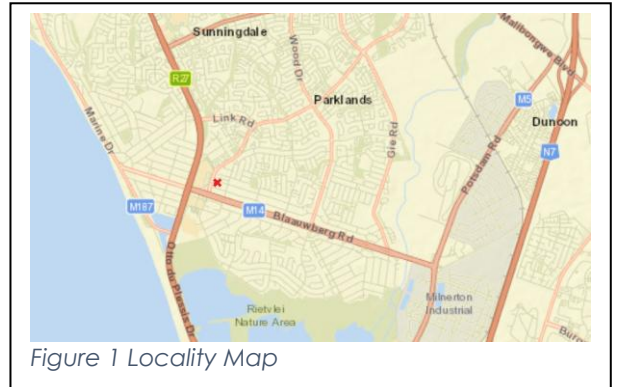


Figure 1 Locality Map

2.2 Local context and character analysis

The property is in a highly accessible area that is within walking distance to Blaauwberg Road an identified development corridor that improves access for pedestrians as well as for motor vehicle access. Various land uses are near the property that includes retail, social, medical and some education. The property is within walking distance to these supporting land uses as well as to the public transport.

The local area can be described as a conventional medium-density residential area that is currently in a state of transition as the area changes from single free standing single dwelling to higher density residential developments. The existing dwellings have large gardens and road verges. The built form is a typical response to the current zoning and developed accordingly, with various large scale and high-density developments currently being undertaken in the area, especially along Blaauwberg Road.

2.3 Site analysis

The property currently consists of dwelling house that requires some upgrades and maintenance due to it being vacant. The design of the dwelling is of a design and layout and a typical response to the uses with the associated parking provided by means of existing garages and typical urban form for such uses. The property is flat with no natural elements that limits the development of the property. Access to the properties is directly from Briza Road.

The adjacent property is also a place of instruction and has been in operation for some time without any issues or concerns. There are several other non-residential uses along Briza Road due to the easy accessibility of such. Thus, in an area ideal for non-residential uses of an appropriate scale given the location in relation to these other land uses and available public transport.

2.4 Title Deed conditions

The property is registered by means of title deed that has a number of restrictive title deed conditions that needs to be amended to allow for the proposed ECD, it should be noted that the title deed does allow for a medical practice (see **Annexure D**).

2.5 Zoning and Development Parameters

The subject property is currently Zoned Local Business LB1: Intermediate Business LB1 (see Fig 2). In terms of Item 50 of the DMS the subject property may be used for office, dwelling house, boarding house, utility service, flats, filming, electric vehicle charging stations, micro wind turbine, structure-mounted energy system and additional use rights as specified in paragraph 50(b). The building is limited to the building parameters as specified in item 51 of the DMS. A summary of this is provided in the Table below.

As is evident from table below as well as the site plan, the property is currently fully compliant and as per the approved plans and requires no departures.

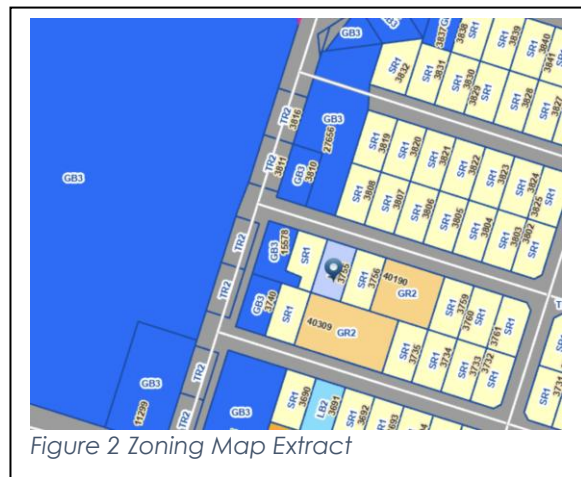


Figure 2 Zoning Map Extract

Development Management Scheme Parameters		Subject Property	Compliant
Land Unit Area (m²)	>1000 up to 2000m²	1004m²	
Maximum Floor factor	1m²	0.21	Yes
Coverage	n/a	21%	Yes
Maximum Height to Top of building	10m	6,5m	Yes
Street boundary building line	3,5m	7m	Yes
Common boundary building line	3,0m	• 1,67m Eastern Boundary • 13,77m Southern boundary • 5m Western boundary	Yes (as per approved plans)

2.6 Access and Parking

The properties fall within a PT2 area and therefore there is no requirement for parking for the existing dwelling. The property however does have a double garage setback more than 7m from the road verge and therefore can easily accommodated up to 4 cars parked of which 2 in tandem in front of the existing garage that exceeds the required parking for a single dwelling.

2.7 Legislative informants

2.7.1 Cape Town Spatial Development Framework

The property is in a medium density residential area developed around the Blaauwberg Road collector road and easy access to Blaauwberg Beach area. The area of Table View has an array of different housing typologies in the area that range from free standing single dwelling to multiple apartments. There is no dominant urban architecture evident in the area, however the area is currently in state of change to predominantly being apartments.

In terms of the **Municipal Spatial Development Framework (MSDF)** the property falls within an area that is identified as the urban inner core area (UIC) in terms of the spatial transformation categories (See map 4 of the MSDF 2023).

The property is a single residential property and therefore although residential the use of such is not in keeping with uses of the adjacent erven that have been develop with various non-residential uses as well as higher density residential such as flats, the proposed use of the property is therefore seen as complying with the vision and objectives of the MSDF as it will not undermine the character of the area.



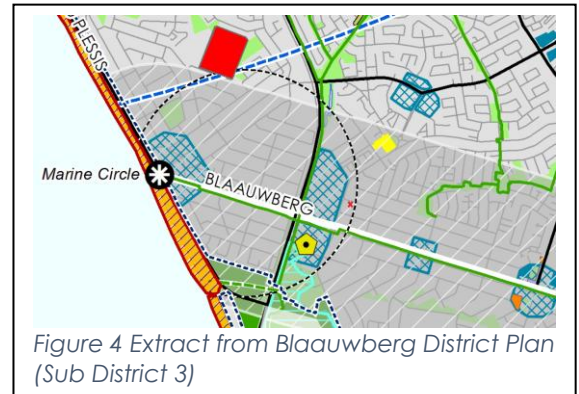
Figure 3 Extract from Cape Town MSDF

2.7.2 Blaauwberg District Plan

The **Blaauwberg District Plan** (Sub District 3: Greater Table View) is based on three main strategies namely:

- Plan for employment and improve access to economic opportunities.
- Manage urban growth and create a balance between urban development and environmental protection.
- Build an inclusive, integrated, and vibrant city.

In terms of the **Blaauwberg District Plan** the subject property is located within the higher/lower order routes and development corridor and within walking distance from Blaauwberg road, identified as an activity corridor (see Fig 3&4) and should be promoted by means of higher densities as well as mixed uses to support the public transport system. The subject property is near the BRT transport route and stops along Blaauwberg Road. The district plan is structured in such a way that it differentiates between greenfield and brownfield developments. The property falls within the area earmarked for urban development and within a higher order route and development corridor.



Urban development is defined as:

"Buildings and infrastructure with a residential purpose as well as offices, shops, community facilities and other associated buildings, infrastructure, and public open space necessary to provide for proper functioning of urban areas and amenity and recreation. The term 'urban development' includes golf estates, vineyard estates with a residential component, equestrian estates with a residential component, rural living estates, eco-estates, gated communities and regional shopping centres. Urban development excludes noxious industry and generally excludes land for industrial purposes. However, service trades that generate a low impact on surrounding urban uses may be permissible if the nature and type of service trade is deemed to form an integral part of an area demarcated for urban development purposes."

Development corridor is defined as:

"Characterised by strip and/or nodal urban development along most sections of the route. This comprises (should/can comprise) medium to high intensity mixed use development in identified urban nodes, with primarily (or almost exclusively) medium to high residential development between these node areas. These roads are characterised by direct access and interrupted movement flows, especially at bus and taxi stops and traffic lights."

Therefore, the proposal for a development of an ECD is deemed appropriate taking into consideration the future development plan and vision for the area. The proposal also makes provision for limited parking and thus will support the public transport in the area. The proposal is therefore deemed to be compliant with the Blaauwberg District Plans objectives.

2.7.3 Blaauwberg Road Local Spatial Development Framework

The **Blaauwberg Road Local Spatial Development Framework** replaces the previous Management Strategy for Blaauwberg Road. The recently approved framework is an update and review of the previous policy and provides guidance for future developments in the area. The framework provides more detailed guidance on development within the study area. In terms of such the property falls within Precinct 2 that is identified to be within the district level node that could support a net density

of between 250 -400du/ha taking into account local conditions. The property is in area earmarked for medium intensity mixed use to support the growing higher density of between 250-450du/ha in the area as well as the envisaged urban form.

2.7.4 [Densification Policy](#)

The **Densification Policy** of the city as approved by Council on 29 February 2012 advises that a gross density of 25du/ha across the city should be aimed for over the next 20-30 years and higher thereafter. This is to be achieved by using the appropriate means of densification and intensification in appropriate locations and in the local context. The means of densification and intensification is also guided by the availability of infrastructure and available public transport.



Figure 5 Extract from Blaauwberg Road Local Spatial Development Framework – Precinct 2

Higher densities and intensified uses should be promoted in areas where there is adequate provision and access to public transport as this will strengthen its viability. Thus, in certain areas like along activity corridors and within development routes and corridors where public transport infrastructure is available or envisaged to be created, higher and intensified land uses should be promoted to ensure that these corridors and routes are sustainable. In this context the property falls within a current medium density urban environment with access to public transport readily available and therefore ideally located for densification and intensification. It is for these reasons that the proposal is deemed to be compliant with the densification policy.

2.7.5 [Transit Orientated Development Strategic Framework](#)

The **Transit Oriented Development Strategic Framework** aims to address spatial inequality, improve public transport affordability, and contain sprawl which is driven by the integration of sustainable public transport, strategic land use interventions and building on the principles of affordability, accessibility, efficiency, intensification, and densification in appropriate locations. These aspects need be considered in any proposed development.

2.7.6 [Urban Design Policy](#)

The **Urban Design Policy** has as its objective to introduce design elements in the planning application to aid and improve the public environment. The Policy is based on three principles aimed at creating a better environment to the benefit of the greater community. This is achieved by means of several objectives to create integrated and active street environments to the benefit of its users. The Urban Design Policy identifies several objectives, each with associated policy statements, which form the basis through which development application will be assessed.

2.8 [Site analysis](#)

The property currently has a main dwelling with a single cwc. The property is flat with no major natural elements that prohibits the use and development of the property. The property currently has a large pool behind the street boundary wall that is setback around 1,5m from the property boundary with a number of large trees on the property.

2.9 [Character of area and built form.](#)

The area can be described as a conventional medium density residential area with large dwellings in the area with wide streets and large private gardens with several higher density developments that have developed in the last few years in the area with a variety of non-residential uses in the area.

3.1.4 Additional CWC

To provide for additional parking although no parking is required a second cwc is sought to make ease of access to such possible. Due to the fact that the street front of the property is less than 30m wide such is not permitted as of right. Therefore, an application for a departure from Item 140(1)(a) and (b) in order to allow for a second cwc that is 12m from the existing cwc but limited to 4,5m wide to provide access to the proposed parking bays P3 to P5 that is the dedicated drop an go embayment.

4 Adjudication of the proposal

4.1 Municipal Planning By-Law: Consideration criteria in terms of Section 99

4.1.1 Applicable spatial development framework

The property is within the area identified as an inner urban core in terms of the Spatial Transformation categories of the 2023 framework. The proposal is for an intensified land use by means of a consent use within an existing urban environment close to public transport and supporting land uses. Therefore, the proposal is seen as complying with the vision and objectives of the MSDF for the following reasons:

- Land use intensification to ensure incremental densification within the UIC
- Development allows for incremental intensification in an appropriate location.
- Development will improve access to economic opportunities.
- Development will assist in creating an integrated vibrant urban area by supporting the surrounding residential areas that is constantly densifying as promoted by the framework.
- In line with the citywide target of increasing intensity and density where engineering services are adequate.
- The proposal will assist in creating supportive land uses to the growing population of the area.

The **Blaauwberg District Plan** has several objectives and criteria to be used in the evaluation of an application to achieve the goals of the strategy. Not all the aims and objectives are applicable to the application at hand, however the principle of this plan is being achieved by the proposal as it will not undermine the implementation of the plan to create inclusive, sustainable urban environments while promoting the conservation of the natural environment and by promoting higher density and mixed-use developments in appropriate locations while containing urban sprawl.

The approval of the proposal will support the principle of appropriate incremental intensification/densification while in keeping within the existing urban form and character. It is therefore evident from the above that the proposed development is compliant with the District Plan and therefore will be an advantage for the area taking into consideration the future development plan and vision for the area and aid in the implementation of the strategy.

The proposal will not have a negative impact on the spatial vision as the proposed consent use is within the area regarded as the district node and higher density and intensity area and a supporting land use in a changing urban environment that will require more similar developments to support the natural urban development process along the corridor. Therefore, the application at hand complies with the objective regarding the creation of sustainable and safe living environment in support of the existing infrastructure and services inclusive of public transport.

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

The **Transit Oriented Development Strategic Framework** aims to address spatial inequality, improve public transport affordability, and contain sprawl which is driven by the integration of sustainable public transport and strategic land use interventions and building on the principles of affordability, accessibility, efficiency, intensification, and densification in appropriate locations. This proposal is seen as being in line with these principles as it will provide for additional supportive land uses with limited parking but still enough to accommodate the daily function of the centre without undermining the

public transport in the area. Therefore, supporting the public transport in the area as it within walking distance from Blaauwberg road and the MYCITI services as well as commercial centres.

The result could be that pedestrian and public transport usage could be increased and therefore in support of the vision of the TOD strategy. The proposed will not undermine the TOD strategy as the parking provided is deemed minimal and practical for the use while not undermining the MyCiti bus service, nor will the built form affect the implementation of the TOD strategy.

The **Cape Town Densification Policy** is a mechanism to achieve the goals and objectives of the various spatial plans and strategies. The policy advises on appropriate urban forms and desirable locations to achieve the goals of the MSDP and the District Plan. The proposed development is deemed to be an incremental intensification in support of the densification in the area.

The proposal will be in keeping with the overall urban fabric and will not impact on the privacy of the adjacent properties given the fact that the changes required for the proposed use is within the existing envelope of the dwelling and therefore will have no impact on the adjacent properties in terms of privacy etc. The proposal will not have a negative impact on the character of the area or surrounding property owners' rights, thereby complying with the Densification Policy requirement for contextual appropriate densification/intensification and thus policy compliant.

The **Economic Growth Strategy** of the City aims to stimulate economic growth. The proposed development to allow for a ECD is compliant with the strategy as it will create employment within the construction industry during the internal changes as well as long-term employment opportunities due to the staff needed for the centre while also supporting the additional needs of the area that is currently in a state of transition without having a negative impact on the character and urban form of the area.

The **Social Development Strategy** will be adhered to as the proposal will create an addition supportive land use in an increasing densifying area within an existing urban environment and expand on the current social facilities supporting the overall urban environment while providing access to public transport and other facilities and uses thus creating a more integrated and sustainable urban environment.

The **Urban Design Policy** has as its objective to introduce design elements in the planning application and is based on three principles that aim at creating a better environment to the benefit of the greater community. This is achieved by means of several objectives to create integrated and safer living environments to the benefit of its users. Due to the nature of the application and that the only major change is the relocation of the street boundary wall the impact of the proposal on the overall urban form will be limited but beneficial as additional landscaping will be provided along the street verge to soften the area as well as clearly define the public and private realms without hard barriers being created.

The **Early Childhood Development Policy** has as its objective to advise on assessment criteria for ECD, the policy distinguishes between small scale and large scale ECD based on the number of learners. In terms of such the proposal is for a large scale as it is for more than 34 children and needs to be assessed in terms of the criteria of such. The assessment criteria are listed and evaluated in the table below.

Criteria	Assessment	Compliant
Location	The proposal is next to an existing ECD, close to public transport and along a main collector route and therefore adheres to the assessment criteria of a large scale ECD	Yes
Access	The access to the property will not obstruct or cause unsafe traffic movement and is proposed in a safe manner for both pedestrian and vehicles due to the additional cwc being proposed	Yes
Parking and Traffic	As the property is within a PT2 area no parking is required however adequate parking is provided for the facility for staff as visitors. The provision of a drop off facility is not possible but also not mandatory and the addition 3 bays	Yes

	for such is deemed sufficient given the number of children	
Scale and Extent	The number of children is to be limited to 60, based on the criteria a total floor area of 90m ² of indoor area is need and the proposal makes provision for 110 indoor area. The policy requires a total of 120m ² outdoor area and the proposal make provision for more than 300m ² outdoor play area. The fact that at least 20 of the learners will be between 16 months and 2 years more than enough outdoor area is provided.	Yes
Operational Management	The owner of the property will be the manager of the facility as required and is a qualified teacher and will be supported by qualified teachers and staff to provide a facility that has the interest of the learners at heart.	Yes
Noise and security	The new proposed boundary wall and security measures will ensure the safety of the learners, the outdoor play area will be developed with the appropriate play equipment and areas for the age groups that will include under cover areas and limited to certain times of the day as per the daily and weekly planner.	Yes
Hours of operation	The policy recommends that operational hours be limited, the proposal is for the centre to start at 7:00 Monday to Friday and close at 17:30 and not open on weekends that is well within the times provided for in the policy	Yes

4.3 [Relevant criteria contemplated in the DMS](#)

4.3.1 [Parking and Access](#)

The property falls within a PT2 parking area and therefore no parking is required. However, the proposal is to create 5 parking bays and two tandem bays in front of the existing garage and a second cwc to provide for access to the 3 additional parking bays proposed that included a dedicated drop and go. The current access to the property is to remain and the addition cwc to be created is purely for the access to these parking bays the width of the second cwc will be limited to 4,5m. There is no reason to believe that the parking provided will have any impact on traffic in the area given the location and limited number of parking bays provided with the proposed development and the nature of such.

4.3.2 [Compatibility with surrounding uses](#)

The locational criteria as well as the role this area plays in the bigger spatial integration of the area, it is favourable to allow for intensified uses. The application at hand will not result in a built form that is out of character in the area nor out of scale as no additions are proposed, only internal changes. The fact that it will be in keeping with the scale and extent as the adjacent properties and the proposed development is regarded as a supportive land use within development corridor, while being within walking distance from other supportive uses and the current increase of density in the area makes it ideally located for such.

The consent use proposed does not allow for a land uses not deemed compatible with residential areas as such is permitted as an additional use right however at a smaller scale, the increase in the number of learners is the reason for the application. The proposed 60 learners will not require any additions or result in a height or scale of a building that will not be with the residential in nature of the area. This property will always be under pressure for higher intensity uses given its location in relation to the corridor and higher order uses and the current zoning.

4.3.3 Impact on the external engineering services

The property is in an already built-up area and there is no indication that the proposal to allow for the proposed use will impact negatively on services such as water and sewerage given the nature of such and the fact the property is in an area where the city is constantly upgrading services to accommodate the intensified and densification of the area adjacent to Blaauwberg road.

The application will also be circulated to the various internal departments to provide input into the services capacity, and a development contribution levies and even upgrades may also be required to assist the city in upgrading and expanding of basic services in the city, and if needed such upgrades will have to be undertaken. Therefore, it is not foreseen that the proposal will have a negative impact on the services capacity in the area.

4.3.4 Impact on safety, health, and wellbeing of the surrounding community

The application to allow for an intensified land use will not have a negative impact on the safety and security in the area. In fact, the security will be increased given the nature of the centre as it will be an active land use during the day that will increase the active and passive surveillance due to the nature of such in the residential area as opposed to the current single dwelling usage.

4.3.5 Impact on heritage

The existing dwelling is not older than 60 years nor within a Heritage Protection Area and therefore does not have any heritage significance. It is on this basis that it is not envisaged that the proposal will have a negative impact on heritage.

4.3.6 Impact on the biophysical environment

None, as the property is located within an existing urban environment and no activities are proposed that requires Environmental authorisation in terms of NEMA.

4.3.7 Traffic impacts, parking, access, and other transport related considerations

The proposal does not affect any of the street setbacks and the limited number of parking bays and the carefully considered placement of the addition cwc it is not foreseen that it will obstruct any views or create any traffic congestion. As the property is within a PT2 area no parking is required and the amount of parking provided is limited, therefore not foreseen that the proposal will have any negative impact on traffic in the area.

4.3.8 Conditions that can mitigate an adverse impact of the proposed land use.

None required.

4.3.9 Impact on existing rights (other than the right to be protected against trade competition)

Given the legal planning requirements as stated and the assessment above, the proposal is for a sensitive intensification and the optimal use of the property while effectively making use of existing council services with no impact on the existing rights of surrounding property owners. It is essential that this proposal and required planning applications be seen in the context of the area, the various policies and the property's existing rights. It is therefore considered that this proposal will have a positive impact on the area and the surrounding property owners.

4.4 Consideration criteria in terms of SPLUMA

In terms of Section 99 of the Municipal Planning By-law the city must also have regard to Section 7 of the Spatial Planning and Land Use Management Act (SPLUMA) when considering applications.

4.4.1 Section 7 of SPLUMA

4.4.1.1 *The principle of spatial justice*

The proposal to allow for a higher intensity use will not impede or negatively impact on the principles of spatial justice nor would it result in the arbitrary removal of ownership of land. The proposal would allow for the better utilisation of the property as well as make provision for a development that is accessible to more people. The proposal is deemed to be compliant with the MSDP as well as the district plan and will not undermine the implementation of these plans and adheres to the broad vision and objectives contained within them.

4.4.1.2 *The principle of spatial sustainability*

The application will not have a negative impact on any environmental sensitive areas/programmes or initiatives. The application could indirectly protect valuable agricultural land by allowing for the optimal use and intensifying of land within the existing urban footprint as opposed to urban sprawl and would aid in limiting any negative impact on future generations due to the limitation of urban sprawl. The result would be a better functioning and sustainable urban area. The proposal will only allow for an intensified land use being undertaken in a manner that will not detract from the current character of the area or undermine the functioning of the area.

4.4.1.3 *The principle of efficiency*

The application would result in the more efficient use of existing resources thus a more efficient utilisation of available services, resources, and land than the current limitations on use and building restrictions. The result could be that a better integrated living environment is created given the nature of the proposed use in support of the ever-changing urban area in favour of the increase in inhabitants within the corridor and in support of the surrounding business and public transport etc to the benefit of the neighbourhood. The proposal will allow for the creation of a development within walking distance from public transport without changing the character of the area as it will be in keeping with development pattern and scale and uses permitted by the zoning of the property and managed by the DMS.

4.4.1.4 *The principle of resilience*

The application will allow the creation of a development that can be more resilient to external factors as well as changes as access to supporting land uses is closer including public transport that will increasingly be needed in the future without changing the character of the area as it will still be residential.

4.4.1.5 *The principle of good administration*

The application is motivated and compiled by assessing for compliance with the various policies of the city that will be subject to a formal public participation process and therefore adheres to the development principles of good and fair governance as required by SPLUMA and LUPA

4.4.2 Section 47(2) of SPLUMA

The amendment of the restrictive title deed conditions will not amount to arbitrary deprivation of property as set out in section 25 of the Constitution as the amendment relates to permitted uses and building parameters and not ownership. The amendment will allow for the provision of basic services and the upgrading of such in a manner that will not detract from the current character of the area.

4.4.3 Section 39(5) of LUPA

- (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 the dominant tenement.*

The conditions to be amended relate to the use of the property and building line setback on the property. These conditions were typical of its time as such was imposed as a means of guiding and controlling development in the area to ensure that the properties are used and developed in a manner that is in keeping with the area. The nature of cities and neighbourhoods is that it is in constant state of change as means and methods of development etc changes over time. The current proposal is not to amend the condition to allow for open ended use and parameters but to accommodate a use deemed compatible with a residential area in adherence to the parameters of the DMS in the area that it is needed as the area develops with higher density and intensified land uses as a supportive land use.

With the amendment these conditions will allow for the creation of an ECD that may increase the property value slightly as it will allow for additional land uses needed in the area that may lead to a better/optimal utilisation of the properties. It could be argued that should the limitations of the use and parameters remain it could have a negative impact on the value of the property and will prohibit the full potential of the area to be utilised and that the conditions if retained is counterproductive to the vision of provincial and municipal planning policies including the DMS.

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

The conditions were imposed prior to any zoning scheme being applicable and was utilised to manage the land use and the built form with possible personal benefit such as noise and other uses not associated with residential uses and an urban environment to protect the character of the area. The conditions to be amended is to allow for the creation of an ECD to the benefit of the surrounding property owners and in keeping with the current urban form and character and none of the owners in the township will gain anything if such amendment is not granted. The amendment will allow for an additional land use only to the benefit of all the properties in the area and not only the owner as it will increase access to a basic supportive land use in the area and will be limited to what is permitted and defined in terms of the Development Management Scheme. The amendment will not create any uncertainty as to what is permitted on the property in terms of use and built form as such will be limited to what is being applied for with the current application.

- (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 amendment of the restrictive conditions will allow the owner to operate an ECD on the property to generate an income and a slight increase in value of the property. The long term benefit would be to provide access to supportive land uses available to all the surrounding property owners.

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

There is no social benefit for these conditions to remain as these conditions will only ensure that the historical development pattern and scale of limiting the properties to a single use with limited access to supportive land uses is retained and may have a negative impact of stagnation and an underutilisation of a very valuable resource in a growing city namely well located land.

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

The amendment of the restriction will allow for the creation of an ECD on the property without changing the character of the area and increase access to basic supportive land uses to the benefit of all the properties in the area allowing for an intensified/optimal use due to the access to the supportive land use creating a better integrated and sustainable living.

- (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 amendment of the restrictions will remove all of the beneficiaries rights on the newly created erf but provide them with access to supportive land uses in a growing and developing area.

5 Conclusion

It has been demonstrated in the motivation that the proposed conversion of the existing dwelling/office into a place of instruction (ECD) is deemed to be consistent with the City's spatial development frameworks, land use policies and in keeping with residential character of the area. The following is emphasised in conclusion:

1. The application complies with the requirements of Section 99(1) and 99(2) of the MPBL
2. It has been shown that the proposal is desirable as per the criteria as stated in Section 7 and 47(2) of SPLUMA and Section 39(5) (a-e) of LUPA;
3. The proposal complies with the Cape Town Municipal Spatial Development Framework as it is located within the urban inner core area (UIC).
4. Proposal is compliant with the Blaauwberg District plan in terms of intensity and in support of public transport and creating an intergated and sustainable urban environment.
5. Proposal is compliant with the Urban Design Policy as the proposed use could result in a safer urban environment for the general public due to the added active and passive surveillance during the day.
6. Proposal is compliant with the TOD stratgey as it is with walking distance from public transport in order to aid in the creation of a sustainable public transport system in the area.
7. The proposed consent use does not change the current streetscape of the area and poses no risk to the surrounding property owners in terms of health and safety.
8. The proposed consent use is in keeping with the overall charcater, scale and use of the surrounding properties.
9. The proposed consent use will not impact negatively on the rights of the surrounding property owners.
10. Land use intensification is considered appropriate in certain areas, including the area concerned.

For reasons above, Urban Eye Planning and Development does not foresee any reason the application should not be supported and approved.

John M Smit
Pr A1458/2011
Director: Urban Eye Planning and Development