



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

Case ID 1500161443

Erf 5467, 13 Sprigg Road, Table View

Development Management

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ERF 5467 MILNERTON

Motivation Report For Removal of Restrictive Title Deed Condition & Departure

June 2026

CONTENTS

1.	THE APPLICATION.....	4
2.	INTRODUCTION AND BACKGROUND	4
3.	PROPERTY DETAIL	5
3.1	Locality, Accesibility & Surrounding Land Uses and Zonings	6
4.	DETAILS OF THE PROPOSAL	6
5.	REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS.....	6
5.1	Motivation for the Removal of Restrictive Title Deed Conditions	9
5.2	Section 39(5) Of Land Use Planning Act (LUPA).....	11
6.	MOTIVATION: CITY OF CAPE TOWN MUNICIPAL BY-LAW	13
7.	CONCLUSION.....	14

EXECUTIVE SUMMARY

Application is made in terms of Section 42(g) of the City of Cape Town Municipal Planning By-Law, 2025 for the removal of restrictive title deed conditions B.I.(b), (c) and (d) contained in Deed of Transfer No. _____ applicable to Erf 5467, Milnerton, and in terms of Section 42(b) of the same By-Law for a Permanent Departure to permit two carriageway crossings along a street boundary measuring approximately 23,6m in lieu of the minimum street boundary width of 30m prescribed by Section 140(2) of the Municipal Planning By-Law.

The purpose of the application is to enable the owner to exercise the full development rights associated with the property's current Residential 1 (R1) zoning, specifically to permit the construction of additional dwelling units on the property.

The restrictive title conditions were imposed when the Table View Township was approved around 1941 and were intended to regulate land use prior to the existence of modern planning legislation. These conditions are now outdated and have effectively been replaced by the City of Cape Town's Development Management Scheme and associated planning frameworks.

The proposal:

- Aligns with the development parameters of the R1 zoning and complies with the applicable provisions of the Development Management Scheme;
- Is compatible with the surrounding residential character and will not result in any adverse impacts in terms of traffic, infrastructure, environmental, heritage, or neighbourhood amenity;
- Supports the City's spatial planning objectives, including incremental densification, efficient land use, and housing diversification within an established urban area;
- Does not materially prejudice the rights or interests of surrounding property owners, as the conditions are general township establishment provisions and their removal will not result in the loss of any specific vested rights.
- Includes a minor departure to permit two carriageway crossings on a street boundary measuring approximately 23,6m, where the minimum street boundary width prescribed by the Municipal Planning By-Law is 30m.

In conclusion, the application is considered desirable, policy-aligned, and compliant with relevant planning legislation. The removal of the restrictive title conditions is therefore justified and it is respectfully recommended that the application be approved.

1. THE APPLICATION

Application is hereby made for:

- I. The **Removal of Restrictive Title Deed Conditions** B.I.(b), (c) & (d) as set out in Deed of Transfer Number in terms of Section 42(g) of the City of Cape Town Municipal Planning Amendment By-Law, 2025.
- II. A **Permanent Departure** in terms of Section 42(b) of the City of Cape Town Municipal Planning Amendment By-Law, 2025 to permit two carriage crossings along a street boundary of $\pm 23,6\text{m}$ in lieu of 30m.

Although the **application form is not a compulsory document** for submission, a copy is attached for ease of reference.

2. INTRODUCTION AND BACKGROUND

Erf 5467, Milnerton (hereafter referred to as “the property”) is situated at 13 Sprigg Road in the City of Cape Town’s Blaauwberg District. The property is currently zoned Residential 1: Conventional Housing (R1) in terms of the City of Cape Town Development Management Scheme. Building plans for the main dwelling was recently approved by the City of Cape Town.



Figure 1: Location of Erf 5467 along Sprigg Road

The owner wishes utilise his primary- and additional use rights and construct two additional dwellings for him and his family members on the property. There is however restrictive title deed condition which restrict the number of dwellings. In addition, the proposed site layout includes two carriageway crossings along the Sprigg Road street boundary. While the spacing between the crossings complies with the Municipal Planning By-Law, the street boundary width is less than the minimum width prescribed for two carriageway crossings and a Permanent Departure is therefore also required.

The owner of the property, _____ accordingly appointed I.C.@Plan Town Planners to submit the necessary application for the removal of restrictive title deed conditions. The power of attorney is submitted with this application.

3. PROPERTY DETAIL

PROPERTY DESCRIPTION	Erf 5467, Milnerton
ADDRESS	13 Sprigg Road, Table View, Milnerton
EXTENT	1004m ²
TITLE DEED NO	
RESTRICTIVE TITLE CONDITIONS	Conditions B.l(b), (c)&(d)
REGISTERED OWNER	
APPLICANT	I.C.@Plan Town Planners
ZONING	Residential Zoning 1 (R1)

Table 1: Property information

3.1 Locality, Accessibility & Surrounding Land Uses and Zonings

The property is situated on the south-eastern side of Table View in the residential area directly north of the Table Bay Nature Reserve. The directly surrounding properties are predominantly zoned R1 with some General Residential pockets and Community uses integrated into the urban fabric. Blaauwberg Road forms a business strip/corridor to the north of the suburb and the commercial node formed around Boy de Goede Circle.



Figure 2: Extract from the City of Cape Town Zoning Map

4. DETAILS OF THE PROPOSAL

Council recently approved building plans for a main dwelling on Erf 5467, Milnerton. The owner now wishes to construct a second and third dwelling unit on the property for occupation by family members. As indicated on the attached site development plan, the second dwelling will have a floor area of approximately 259m², while the third dwelling will have a floor area of approximately 83m².

Sufficient on-site parking is provided in the form of two double garages and four open parking bays. The majority of the required parking is accommodated within a central parking court accessed via the primary carriageway crossing. The layout of this parking area has been designed to facilitate safe and efficient vehicular movement, including adequate turning space to enable vehicles to exit the property nose first.

Access to the development will be obtained via two separate carriageway crossings along the Sprigg Road street boundary. The primary carriageway crossing provides access to the main parking area serving the dwellings, while the second carriageway crossing, located adjacent to the common boundary with Erf 5466, provides access to an additional open parking bay.

The proposed carriageway crossings are located more than 12m apart and have been positioned to facilitate practical access to the various parking areas on the property while minimising vehicle conflict and ensuring the efficient functioning of the site.

Although the separation distance between the carriageway crossings complies with the requirements of Section 140(2) of the City of Cape Town Municipal Planning By-Law, 2025, the property's street boundary measures approximately 23,6m, which is less than the minimum street boundary width of 30m required to permit two carriageway crossings. A Permanent Departure is therefore required in this regard.

The proposal further deviates from the restrictive title deed conditions applicable to the property, which limit the number of dwelling houses permitted on the erf, restrict coverage to one-third of the property area, and impose a street building line restriction that prohibits any portion of a structure from encroaching into the prescribed setback area. In this instance, the proposed roof overhang encroaches into the title deed street building line.

The application is therefore aimed at enabling the owner to fully exercise the development rights associated with the property's Residential 1 (R1) zoning and to implement development that is otherwise permissible in terms of the City of Cape Town Development Management Scheme.

5. PERMANENT DEPARTURE: TWO CARRIAGEWAY CROSSINGS

Section 140(2) of the City of Cape Town Municipal Planning By-Law, 2025 regulates the provision of carriageway crossings. The proposed development proposes two carriageway crossings along the Sprigg Road street boundary. While the proposed crossings comply with the minimum separation requirement of 12m, the street boundary width of the property measures approximately 23,6m and therefore falls short of the minimum width of 30m prescribed for two crossings.

The departure is motivated as follows:

- The property has an extent of approximately 1004m² and accommodates a main dwelling together with two additional dwelling units. The proposed development requires practical and functional access arrangements to serve the various residential components of the property.
- The primary carriageway crossing provides access to the main parking area, which accommodates the majority of the required on-site parking and allows vehicles to manoeuvre within the property before exiting.
- The second carriageway crossing provides direct access to an additional open parking bay situated along the common boundary with Erf 5466. This access arrangement increases the functionality of the site by providing an independently accessible parking area which can be utilised by residents or visitors without placing additional pressure on the primary parking court.
- The additional access point may furthermore serve as a convenient service access for activities such as the temporary parking of trailers, the removal of garden refuse, maintenance activities, or similar ancillary residential purposes, thereby reducing interference with the primary access and parking area.
- By providing an independently accessible parking bay, the proposal also creates greater flexibility in the use of the main parking area and may assist in accommodating additional visitor parking associated with the dwellings.
- The proposed carriageway crossings are separated by more than 12m and therefore comply with the spacing requirement intended to promote safe and orderly vehicle movements along the public road.
- Sprigg Road functions as a local residential street and the proposed additional crossing is not expected to adversely affect traffic operations, road safety, pedestrian movement, engineering services, or the character of the area.
- The departure is minor in nature, with the street boundary measuring approximately 23,6m as opposed to the required 30m. The purpose of the By-Law provision, namely to prevent an excessive concentration of closely spaced access points and to ensure safe access arrangements, is nevertheless achieved.

The proposed departure is therefore considered reasonable, desirable, and consistent with sound planning principles. It will facilitate the efficient functioning of the property without giving rise to any material adverse impacts on the surrounding area or the public road network.

6. REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS

The owner wishes to exercise the R1 primary- and additional use rights in terms of the City of Cape Town Development Management Scheme (DMS) and construct a second- and third dwelling.

Although the proposed development complies with the development parameters applicable to R1, the implementation of these rights is currently constrained by restrictive title deed conditions contained in Deed of Transfer No.

To allow the implementation of these rights – which under normal circumstances would only require building plan approval – an application is required to remove the title deed conditions which restricts the number of units on the property, the coverage and building lines. Condition B.I (b), (c) and (d) contained in title deed reads as follow:

B. "SUBJECT FURTHER to the following conditions imposed by the Administrator of the Province of the Cape of Good Hope at the time the Table View Township was approved; the words and expressions used in the conditions having the meanings assigned to them in the annexure to the Township conditions and contained in Deed of Transfer No

I. As being in favour of the registered owner of any Erf in the Township and subject to amendment or alteration by the Administrator under the provisions of Section 18(3) of Ordinance 33 of 1934;

...

*(b) That **only one dwelling-house**, or, subject to the consent of the Local Authority, a special building be erected on this erf.*

*(c) That **not more than one-third of the area** of this erf be built upon.*

*(d) That no building or structure **or any portion thereof** except boundary walls and fences, shall be erected **nearer than 4,72 metres to the street line** which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf.*

6.1 Motivation for the Removal of Restrictive Title Deed Conditions

The restrictive title deed conditions originate from the historic township establishment conditions applicable to Table View and were carried forward in Deed of Transfer No. – imposed in the absence of formal planning legislation at the time. In the mid-20th century, land use within new township developments was

primarily governed by title deed conditions imposed by the Administrator under Ordinance 33 of 1934. These restrictions were a substitute for modern planning frameworks, setting out rudimentary development parameters such as the number of dwellings permitted per erf, building lines, etc.

Since then, the planning and regulatory environment has undergone significant transformation. The introduction of the Land Use Planning Act (Act 3 of 2014) and the City of Cape Town Municipal Planning By-Law, 2015 (as amended in 2025), has firmly established the City of Cape Town as the competent authority for regulating land use within its jurisdiction. These instruments offer a far more comprehensive, integrated, and flexible planning framework, taking into account contemporary planning principles such as sustainable development, spatial justice, and urban efficiency.

The restrictions limiting the property to only one dwelling and restricting coverage and building lines are therefore no longer aligned with the City's current land use policies and statutory planning instruments. The property falls within an established residential area and is currently zoned R1 in terms of the City's Development Management Scheme. Within this zone, a second- and third dwelling is listed as an additional use right, subject to compliance with prescribed development rules and consent processes, where applicable.

Furthermore, the proposal is consistent with the City of Cape Town Densification Policy, which promotes incremental and context-sensitive densification in appropriate residential areas. The introduction of second- and third dwelling units on the subject property supports this policy by optimizing existing infrastructure, increasing housing opportunities, and contributing to a more sustainable urban form without compromising the residential character or amenity of the neighbourhood.

In conclusion, the removal of restrictive conditions B.I.(b), (c) and (d) is both justified and necessary to bring the title deed in line with contemporary planning legislation and policy frameworks. It will enable appropriate, policy-compliant development while ensuring continued alignment with the residential character of the area. The City of Cape Town, as the statutory land use authority, has the legislative mandate and discretion to approve such removal in accordance with applicable laws and planning principles.

6.2 Section 39(5) Of Land Use Planning Act (LUPA)

The following comments for the removal of restrictive title conditions are given on Section 39(5) of LUPA:

- (a) **Impact on Financial Value:** The removal of the restrictive condition is anticipated to enhance the financial value of the property, as it will enable the owner to exercise additional land use rights granted under the current zoning (R1). The ability to erect second- and third dwellings expands the property's development potential and marketability, which translates into improved capital value. The proposal will therefore have a positive impact on the financial value, contributing to higher rates and taxes contributions to the City.
- (b) **Personal benefits which accrue to the holder of rights in terms of the restrictive conditions:** The restrictive conditions are framed as being in favour of the registered owners of erven within the township. However, these conditions originate from standard township establishment provisions and are general in nature, applying collectively rather than conferring specific, individually enforceable rights on identifiable third parties. In practice, such conditions function as broad development controls rather than personal servitudes, and their continued enforcement does not result in a direct or exclusive benefit to any particular property owner.
- (c) **The personal benefits which will accrue to the person seeking the removal of the restriction if it is removed:** The property owner will derive the legitimate benefit of being able to utilise the land to its full lawful potential in terms of applicable municipal planning legislation. This includes the right to develop a second- and third dwelling withing the regulatory framework as provided for in the Development Management Scheme. The benefit to the applicant is reasonable and proportionate within the context of the applicable zoning and planning framework.
- (d) **& (e) The social benefit of the restrictive conditions remaining in place or is removed:** The retention of the restriction offers limited or no social benefit in the current planning context. In contrast, the removal supports broader social goals such as efficient land use, incremental densification, and the provision of diverse housing opportunities, all of which are endorsed in the City of Cape Town's planning policies. The proposal contributes to more inclusive and adaptable urban growth, with minimal impact on the existing built environment or public infrastructure.
- (e) **Whether the removal will remove all rights enjoyed by the beneficiary:** Although the conditions are expressed to be in favour of other erf owners in the township, they do not confer exclusive or practically enforceable individual rights. The removal of the conditions will therefore not result in the loss of any

specific vested rights, but will rather align the title deed with the current statutory planning framework. The condition pertaining to the use of the property will remain.

6.3 SPATIAL PLANNING AND LAND USE MANAGEMENT ACT (SLUPA)

The application is additionally motivated in terms of the Spatial Planning and Land Use Management Act, 16 of 2013 (SPLUMA), specifically Section 47 relating to the removal of restrictive title deed conditions, as well as the development principles contained in Section 7 of the Act.

The removal of the restrictive title deed conditions will facilitate a land use and development form that is more aligned with the contemporary planning vision and development objectives applicable to the area. The proposal promotes the efficient and sustainable use of urban land and existing municipal infrastructure within an already established urban area.

The proposal is considered consistent with the SPLUMA development principles for the following reasons:

- a) **Spatial Justice** : The proposal does not exclude or prejudice any person or group and allows for the reasonable and equitable utilisation of privately owned urban land within an established residential area.
- b) **Spatial Sustainability**: The application supports the sustainable use of land by accommodating the proposed development within an existing built form and serviced urban area, thereby limiting urban sprawl and promoting efficient settlement patterns.
- c) **Efficiency**: The proposal makes use of existing engineering services, road infrastructure and social amenities already available within the area. The removal of the restrictive conditions will therefore enable a more efficient utilisation of the property without placing an unreasonable burden on municipal infrastructure.
- d) **Spatial Resilience**: The proposal contributes toward a diversified and adaptable urban environment by permitting land use that remains compatible with the surrounding residential character while responding to changing economic and land use needs.
- e) **Good Administration**: The application has followed the prescribed statutory procedures and provides sufficient information to enable proper assessment of the desirability and impacts of the proposal.

Furthermore, in terms of Section 47 of SPLUMA, the removal of the restrictive title conditions will not deprive any person of property rights as contemplated in Section 25 of the Constitution. The proposal will not negatively

impact on the reasonable use and enjoyment of surrounding properties, nor will it materially alter the residential character of the area.

The restrictive conditions were imposed under historical planning circumstances which pre-date the current municipal planning framework and development controls contained in the Municipal Planning By-Law and Development Management Scheme. The current planning framework and zoning controls are considered adequate to regulate development and protect surrounding property owners.

The removal of the restrictive conditions is therefore considered reasonable, desirable, and in the public interest, as it enables the optimal and sustainable utilisation of the property in a manner consistent with applicable spatial planning legislation and policy.

7. MOTIVATION: CITY OF CAPE TOWN MUNICIPAL BY-LAW

Section 99 of The City of Cape Town Municipal By-Law list criteria which should be considered when deciding on an application. These criteria are listed below and discussed in terms of the proposal:

- a) The application must comply with the requirements of the By-Law:** The application is submitted in terms of Section 42 (b) and Section 42(g) of the Municipal Planning By-Law. The proposal complies with the applicable provisions of the DMS, and the removal of the restrictive conditions will enable the lawful exercise of the property's existing development rights. Furthermore, the By-Law makes provision for permanent departures which is defined as the *"right to use land otherwise than in accordance with the development rules of the zoning applicable to the property."* The application is therefore consistent with the intent and requirements of the By-Law.
- b) The proposed land use should be consistent with the Municipal Spatial Development Framework for the area:** The proposal is consistent with the City of Cape Town Municipal Spatial Development Framework (MSDF), which identifies the area as part of the Urban Inner Core, where increased residential densities and more efficient utilisation of land are actively supported. The application promotes context-sensitive intensification within an established residential area and aligns with the objectives of the relevant District Plan. Furthermore, the proposal supports the City's Densification Policy by enabling additional dwelling units on a well-located property, thereby contributing to improved housing opportunities, efficient use of existing

infrastructure, and sustainable urban development, without compromising the character of the surrounding neighbourhood.

c) The following factors should be considered in establishing the **desirability** of the proposed land use:

- **Socio-Economic Impact:** The proposal will have a positive socio-economic impact by providing additional housing opportunities and supporting more efficient use of well-located urban land. Given the limited scale of the development, no material strain on municipal services is anticipated. Temporary job creation during the construction phase will have a positive socio-economical impact. Increase in the property's rates and taxes will further benefit the City financially.
- **Compatibility with surrounding uses:** The property is situated in an established residential area. The application proposes residential development which is compatible with the existing uses. The level of densification being provided is moderate in its spatial context and appropriate for the site.
- **Impact on external engineering services:** The addition of two residential units will have a minimal impact on the surrounding services. Development contributions will be payable to contribute to the upgrading of bulk services infrastructure in the area.
- **Impact on health, safety and wellbeing of the surrounding community:** Considering the scale and extent of the proposal, it is not regarded to have a detrimental impact on the existing rights of the surrounding community. It is therefore unlikely that the proposal will have any negative impact on the health, safety and wellbeing of the surrounding community.
- **Impact on Heritage:** The proposal does not trigger any approval in terms of heritage legislation. No heritage resources are affected, and the development remains consistent with the existing urban fabric.
- **Impact on the biophysical environment:** The property is located within an established urban area and does not contain features of significant environmental sensitivity. No adverse environmental impacts are anticipated.
- **Traffic impact, parking, access and other transport-related considerations:** The proposal will result in a limited increase in traffic generation associated with the addition of two dwelling units, which can be readily accommodated by the existing road network. Sufficient on-site parking is provided in the form of two double garages and open parking bays - seven parking bays are provided on site, exceeding the minimum parking requirement applicable to the development. Access to the property is obtained via two carriageway crossings along the Sprigg Road street boundary. The primary carriageway

crossing provides access to the main parking court serving the dwellings, while the second crossing provides direct access to an additional open parking bay. The carriageway crossings are separated by more than 12m and provide practical and functional access to the various parking areas on the property. Given the local residential nature of Sprigg Road and the limited scale of the development, no adverse traffic, access, parking or transport-related impacts are anticipated.

8. CONCLUSION

In light of the above, the proposed removal of restrictive title deed conditions B.I.(b), (c) and (d), together with the Permanent Departure to permit two carriageway crossings on a street boundary of approximately 23,6m, is considered justified, reasonable, and aligned with the applicable statutory and policy framework.

The proposal enables the appropriate utilisation of the property in accordance with its current zoning, supports context-sensitive densification within the Urban Inner Core, and does not give rise to any adverse impacts on surrounding properties, infrastructure, or the environment. The application is therefore regarded as desirable and compliant with the City of Cape Town Municipal Planning By-Law, and it is respectfully requested that Council grant approval thereof.