



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Case ID 1500162079

**Erf 596, 12 Helderberg Close,
Valmary Park, Eversdale**

Development Management

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APPLICATION FOR SUBDIVISION AND REMOVAL OF RESTRICTIVE CONDITION:

ERF 596, DURBANVILLE

JULY 2026 - AMENDMENT



CLIENT:

APPLICANT:



terraplan

Town and Regional Planners
Stads- en Streekbeplanners

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1. INTRODUCTION

1.1 PREAMBLE

This planning document has been prepared with the goal to obtain relevant land use rights for erf 596, Durbanville, for a subdivision of the property. The purpose of this memorandum is to gather all the relevant information into one document for evaluation by the relevant authorities and to motivate the desirability of the proposal in terms of Section 42 of the City of Cape Town Municipal Planning Bylaw, 2023.

The required application form is uploaded.

1.2 APPLICATION

Application is made for the following in terms of the City of Cape Town Municipal Planning By-Law on erf 861, Durbanville:

1.2.1 **Subdivision:** Application is made for a subdivision of erf 596 into two portions in terms of Section 42(d) of the Municipal Planning By-Law, 2025, over erf 596, Valmary Park, Eversdale, Durbanville.

1.2.2 **Removal of Restrictive Title Condition:** A removal of restrictive title condition in terms of Section 42 (g) and township conditions per 42(j) of the Municipal Planning Bylaw, 2025, over erf 596, Valmary Park, Eversdale, Durbanville, for the removal of restrictive condition in Section 4(a), as set out in title deed number in order to subdivide the property, is required.

1.3 APPLICANT

Terraplan has been appointed by from on behalf of the registered owners of the property, to make application for the above. The necessary power of attorney is uploaded.

1.4 REGISTERED DETAIL

1.4.1 Title Deed

Table 1 reflects the current registered detail of erf 596, Durbanville.

TABLE 1: REGISTERED DETAIL				
ERF NO	REGISTERED DESCRIPTION	TITLE DEED NO	REGISTERED OWNER	EXTENT
596	Erf 596 is situated in the City of Cape Town, Cape Division, Province of the Western Cape			2142m ²

1.4.2 Conveyancer's Certificate

A registered conveyancer undertook an investigation of the property's title deed. There is one title deed condition that affect the subdivision as proposed.

The relevant title deed and conveyancer certificate are attached.

1.4.3 Surveyor General's Diagram

There are no constraints or servitudes indicated on the diagram which would impede the proposed subdivision.



FIGURE 1: GENERAL PLAN 1569/54

2. SITE & CONTEXTUAL ANALYSIS

2.1 LOCATION

Erf 596 is located on the corner of Magnolia Crescent and Helderberg Road, Durbanville.

The site is located near Legato Drive and 913m east of Durban Road, in Valmary Park.

The property is abutted by the following:

- North: Erf 595 containing a dwelling house
- East: Magnolia Crescent and residential erven.
- South: Helderberg Road and residential erven;
- West: Erf 597 containing a dwelling house.

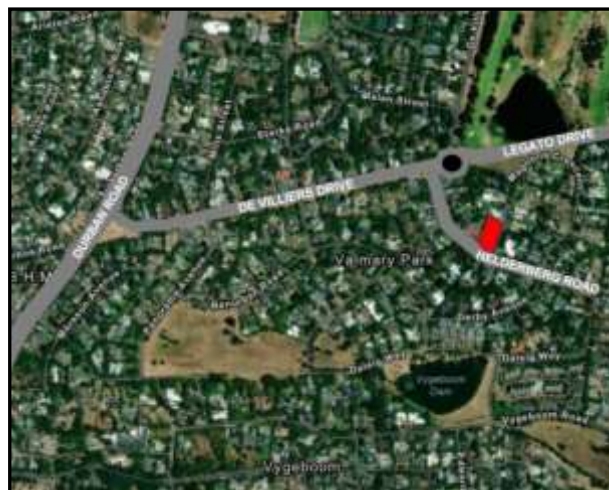


FIGURE 2: LOCATION OF PROPERTY

2.2 ZONING, LAND USE, & IMPROVEMENTS

2.2.1 Existing and Proposed Zoning

In terms of the Municipal Planning Bylaw, 2025, erf 596 is zoned Residential 1 and therefore no further rezoning is required.



FIGURE 3: CURRENT ZONINGS

2.2.2 Current Land Use

The property currently contains a substantial homestead, landscaped garden, driveway, shaded carport, swimming pool and palisade type walls and sliding entrance gate.



FIGURE 4: CURRENT LAND USE

2.3 CONTEXTUAL ANALYSIS

The street blocks immediately around the subject site contain mostly residential 1 zoned erven, sized around 1000 – 2500 m².

However, approximately 350m to the south on Derby Road is a group housing complex with erven between 450 and 690m², approximately 280m to the east on Vygeboom Road occurs erven between 200 and 500m², and approximately 1200m to the east on Hebron Road occurs erven around 400 and 450m².

Subdivision of this site into 2 will thus fit in with the context of the wider area.



FIGURE 5: SURROUNDING LAND USES

3. RELEVANT APPLICATIONS

3.1 SUBDIVISION

In terms of Section 42(d) of the MPBL, 2023, application is hereby made for the subdivision of the erf 596 into two portions, as shown on the proposed plan of subdivision, attached.

The areas are as follows:

- Portion 1: 1024m².
- Remainder of erf 596: 1118m² (dwelling house).

The purpose of this subdivision is thus to create two separate cadastrals. The two erven have more or less a similar size. See proposed subdivision plan as **Plan No 1003-2 REV 1** and Figure 6.

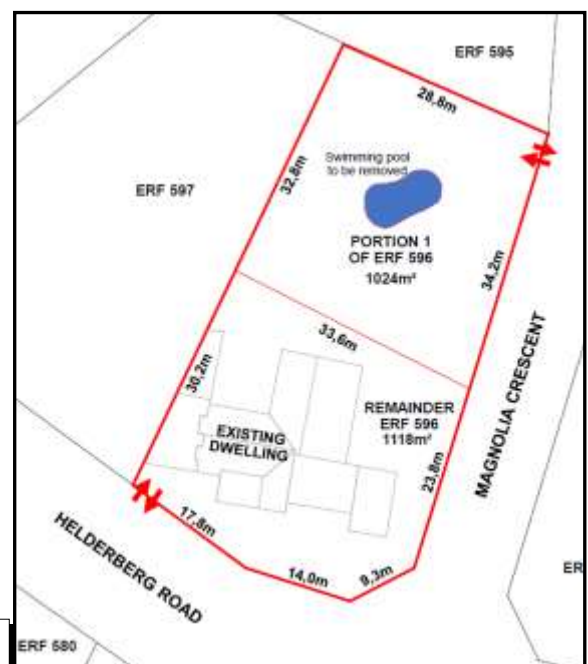


FIGURE 6: PROPOSED SUBDIVISION

The proposed subdivision is illustrated in Table 2.

TABLE 2 – SUBDIVISION ILLUSTRATIONS			
PORTION	SIZE	%	ZONING
Portion 1	1024m ²	47.34%	Residential 1 Zone
Remainder	1118m ²	52.66%	Residential 1 Zone
Total	2142m²	100%	

3.2 PROPOSED REMOVAL OF RESTRICTIVE TITLE CONDITION

A removal of restrictive title condition in terms of Section 42 (g) and township conditions per 42(j) of the Municipal Planning Bylaw, 2025, over erf 596, Valmary Park, Eversdale, Durbanville, for the removal of restrictive condition in Section 4(a), as set out in title deed number in order to subdivide the property, is required.

- **Removal of Restrictive Condition** of Condition 4(a) in Section 1 of the title deed number in order to subdivide the property into two portions.

The conditions to be removed read as follows:

- Condition 4(a): This erf shall not be subdivided.

As indicated in the conveyancer certificate and report, Condition 4(a) was imposed in terms of legislation namely Ordinance 33 of 1934 by a statutory body, namely the Administrator of the Cape in favour of the registered owner of any erf in the Valmary Park Township (Extension No. 1) on General Plan S.G. No.1560/54. (Copy of General Plan attached hereto).

The abovementioned removal of restriction is deemed necessary and desirable in order to subdivide the erf, as set out in terms of **Section 39 (5) of LUPA and Section 47 of SPLUMA**. The following factors thus need to be considered when dealing with a removal of restrictive conditions. Our response is included next to the various factors:

Section 39(5) of LUPA:

- a) 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 to vest in the person as the owner of the dominant tenement

The condition in its current form holds no value for the surrounding properties as it restrains the inherent potential of the erf in terms of land use improvement. Removing the condition will result in the creation of an alternative residential opportunity, which will be a financial benefit to the owner. The general public will thus also be presented with a further alternative office accommodation option in this neighbourhood.

There would be insignificant effect on surrounding properties as land use control by the Municipal Planning Bylaw and forward planning document, have sufficient control over land use mechanisms. It must be noted similar restrictions have already been removed for most of the properties in the area where rezoning/re-development has taken place. Removal will allow a use that is consistent with the approved City Policy.

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

Currently the owners within the township have no real personal benefit due to the title restriction, it only limits subdivision options for them. The retaining of the restriction thus holds no personal benefits to these holders of rights as it withholds them from generating alternative income. Furthermore, land use control by the Municipal Planning Bylaw and forward planning document, have sufficient control over land use mechanisms.

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

As set out, the removal of restrictions will allow the owner to be utilize the erf more effectively and create an alternative residential option.

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

There will be no social benefit should the restriction stay in place, as the condition limits development on erven to their highest and best uses.

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

Additional residential options

will become available in the area which can be seen as a social benefit, in the form of more housing opportunities becoming available to the public.

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

Only condition 4(a) will be removed, i.e. all other restrictions and zoning parameters will remain.

The proposal will not remove any rights enjoyed by any beneficiary. The removal of the restriction relates to the subdivision of the land. As indicated, land use control via the DMS and forward planning documentation of the Municipality are sufficient to regulate land use control.

Section 47 of SPLUMA:

- a) If the removal, amendment or suspension will deprive any person of property as contemplated in Section 25 of the Constitution then you have due regard for the respective rights of all those affected, and to the public interest.

The proposal is in line with Section 25 of the Constitution and relevant Act.

The public interest and public rights are thus not affected, neither will it deprive any person of property as per Section 25 of the Constitution of the RSA, 1996. The surrounding owners and public rights are not affected by the proposal as the proposed additional erf is limited to the owner's property and falls within the erf boundaries.

The nature and scale of the proposed development is such that it is not regarded to have a detrimental impact on the properties within the area.

The removal of the restrictive condition presents economic and social benefits/opportunities in terms of further residential options in this vicinity.

- b) Notice of an application to remove, amend or suspend a restrictive condition which operates for the benefit of the State must be in writing and be given in the prescribed manner to the organ of state which is responsible for the administration of the law or the performance of the function to which condition relates.

In terms of Sections 42(1)(c) and 47 of SPLUMA, as set out above, the public interest, i.e. holder of the rights within the township will not detrimentally be affected as the removal of the specific condition should in fact enhance highest and best use and so create more economic opportunity.

The surrounding owners and public rights are not detrimentally affected by the proposal, see above.

The removal of restriction is not regarded as arbitrary, but in fact rationale as no vested rights would be affected (the site is located in an established mixed-use area). Improved rights would be allocated to the site aligning with the current trends and this area of Durbanville.

In summary: The purpose of restrictive conditions are enforced inter alia to regulate the use of land and to create a co-ordinated and harmonious layout for township development and to preserve the character of the neighbourhood for the benefit of all owners in the township.

In this regard some of the older title conditions were imposed in the time when townships were proclaimed when there were no zoning schemes, regulations or forward planning documentation.

The respective zoning schemes for municipalities have since been established and land use is now controlled by such.

There is thus no more reason why land use should be regulated through title restrictions.

There is thus no reason why this relevant condition cannot be removed.

3.3 ACCESS

The main house will still gain access from Helderberg Road, as shown in figure 4, while the new portion will obtain access from Magnolia Crescent, about 68m further north from Helderberg Road access.



FIGURE 7: ACCESS

4. DESIRABILITY

Forward planning in the area is mostly guided by the Northern District Plan and MSDF (2023). The implications of the recent Transit Orientated Development Strategic Framework (TOD) as well as the City's Densification Policy also need to be taken into consideration.

The following paragraphs indicate that the proposed subdivision is suitable and desirable:

4.1 ECONOMIC GROWTH STRATEGY (EGS)

The intention of this strategy is to support a framework to make Cape Town a globally competitive opportunity city. To support this five Competitive Strategies are proposed as follows:

- 4.1.1 Building and globally competitive city through institutional and regulatory changes.
- 4.1.2 Providing the right basic services, transport and ICT infrastructure.
- 4.1.3 Utilizing work and skills programmes to promote growth that is inclusive.
- 4.1.4 Leveraging trade and sector development functions to maximum advantage.
- 4.1.5 Ensuring that growth is environmentally sustainable in the long run.

In the above regard it is believed the additional DC's generated by this development can be invested into additional infrastructure for the area and ensure better service delivery. It would also offer an alternative housing alternative for the housing market.

4.2 SOCIAL DEVELOPMENT STRATEGY (2013)(SDS)

The above strategy focusses on addressing poverty, in-equality and social skills and also provide for the involvement of people in their own development. The following objectives are highlighted:

- Maximize income generating opportunities for people who are excluded or at risk of exclusion.
- Build and promote safe households and communities.
- Support the most vulnerable through enhancing access to infrastructure and services.
- Promote and foster social integration.
- Mobilize resources for social development.

The proposed subdivision of erf 596 aligns with the above objectives namely the maximising of income generating opportunities for the owner and making better use of existing infrastructure and creating further accommodation options.

4.3 INTEGRATED DEVELOPMENT PLAN (2022-2025)(IDP)

The IDP (Integrated Development Plan) vision for City of Cape Town is a City of Hope for all, a prosperous, inclusive and healthy city where people can see their hopes of a better future, for themselves, their children and their community become a reality.

The IDP identified certain focus areas and priorities for the metro, resting on 3 foundations.

Safety, economic growth, basic services, housing, public space, environment and amenities, and trans-port, is resting on these foundations:

- A resilient city.
- A more spatially integrated and inclusive city.
- A capable and collaborative city government.

The subdivision of erf 596 underpins the economic growth, public space and amenities focus areas and the foundation of a more spatially integrated and inclusive city in that the proposed office would add to economic alternatives and add to further employment options, in the area.

4.4 NORTHERN DISTRICT PLAN (2023)



The Northern District Plan (NDP) supports incremental densification in this area and the report does encourage second and third dwellings as a form of densification. Furthermore, several smaller erven have already been allowed in the area, as set out above.

The subdivision is thus merely to create a separate cadastral entity, similar to other erf sizes in the area. The proposal could therefore be endorsed in terms of the Northern District Plan.

FIGURE 8 – NORTHERN DISTRICT PLAN

4.5 MSDF (2023)

The intention of the above framework is to focus on areas within Cape Town where spatial transformation is most achievable. As per Map 5D, the Consolidate Spatial Plan concept (See figure 9) the erf is located within an area identified for incremental growth and consolidation area. The investment premise in these areas, are not as great as for areas within the identified urban core. There are limited grant and incentives available for developments within these areas.

Specifically, it is noted the focus in this zone is the maintenance, upgrading and incremental growth, in support of spatial transformation, in the City. The proposed development is in line with the following policy statements of the MSDF:

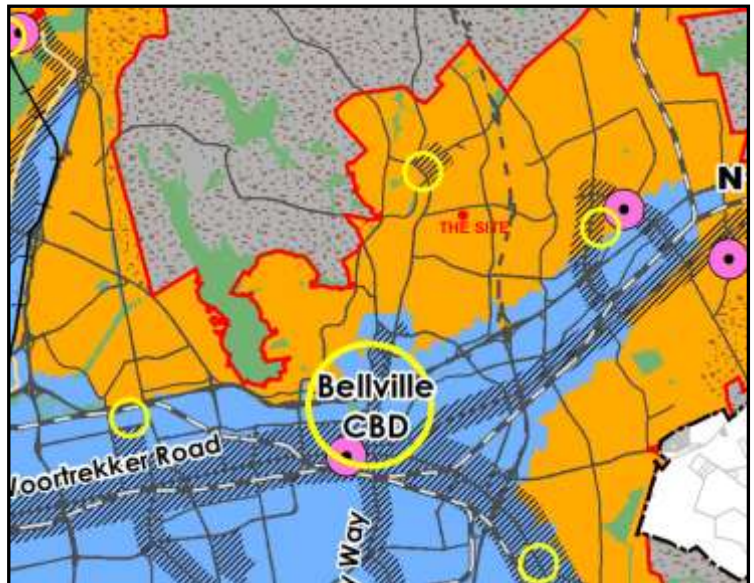


FIGURE 9 – CONSOLIDATED SPATIAL PLAN CONCEPT (5D)

P9 – Plan for incremental land use intensification and diversification.

Intensification of the current single residential use is proposed in the form of an addition erf being created. The proposal is thus deemed to be in line with Policy P9 of the MSDF.

4.6 TRANSIT ORIENTATED DEVELOPMENT STRATEGIC FRAMEWORK (2017) (TOD)

Transit Orientated Development (TOD) is about changing, developing, and stimulating the built form of the city in such a way that the movement patterns of people and goods are optimised to create urban efficiencies and enable social equality and economic development. The concept of Trans Orientated Development of Cities (TOD) has become an essential component of South African Cities' growth and development strategies. It can be seen as a particular approach to, and

outcome of city building/development, focused on public transport access and mobility. The important criteria for TOD are higher density, mixed land use in close proximity to public transport.

New planning proposals need to adhere to the principles of this document. In this regard the additional land unit created, adheres to the principle of this document, as follows.

- The development proposes densification and intensification of land use.
- The site is located close to the Durbanville CBD, where taxi routes exist.
- The site is only subdivided into 2 portions thus only one additional family will be established.

4.7 DENSIFICATION POLICY (2012) (DP)

The City of Cape Town Densification Policy provides a guideline for appropriate densification for various areas, and so helps to ensure efficient use of services and infrastructure, a viable transport system and to protect and enhance the natural and built environment.

Paragraph 4.7 and Table 2 provides a guideline for areas and associated densification. One of the spatial location criteria and density parameters, is incremental densification, which is encouraged on a city wide basis, as well as spatial structuring elements, where proximity to parks and amenity areas calls for higher densities than surrounding densities. The primary objective of incremental densification is to allow densification, without substantially departing/detracting from the overall general built form and character of the area.

In terms of Annexure 2 of the Policy assessment guidelines for incremental densification, various tools or mechanisms are listed which can be considered:

TABLE 2 : DENSIFICATION POLICY	
Attached dwelling units often seem like one dwelling.	Not relevant in this instance as no new structures are proposed at this stage.
It is advantageous for new buildings to be modest in height and size and roughly to conform with the character and built form of the nearby locality.	Only an additional structure on the new erf, would prevail. Any new building will have to comply to the scheme height requirements.
Internal departures (e.g. relaxation of building lines) related to new buildings within the property being developed may be necessary to facilitate small scale incremental densification and an attractive built form. Applications for internal departures will be favourably considered.	No departures are proposed at this stage.
Vehicular access to the new units created should be minimised and should ideally be shared (e.g. a single access point).	The one current access point is to be utilized, as well as an additional one Magnolia Crescent.
On the road frontage side, first-floor windows should overlook public road space.	No new building is to be constructed at this stage, only later on the new erf.
The proposal should not create any unacceptable privacy problems for neighbours on its lateral boundaries – impact on abutting rights is an important consideration.	Abutting rights are not affected as no buildings proposed at this stage. Any new building plan in the new portion will have to be comply to laid down building line parameters.
Substantial and appropriate soft landscaping on the public edges (to obscure the impact of the additional units further) may be required to reduce the visual impact on the character of the area.	Substantial mature trees exist already, effectively screening the new erf from Magnolia Crescent.
On-site parking proposals situated on the street frontage of properties should be carefully considered to prevent a perception of overcrowding as a result of the new/additional units being created.	Parking is not relevant at this stage.
Corner sites have advantages in reducing the visual impacts of densification.	Noted.
This form of densification does not necessarily require the sub-division of a property, but can be treated as a type of section-al-title scheme.	In this instance the subdivision of the property will be more economical to the owner.
A change in zoning is often not required.	The zoning of the affected property will remain the same.

The proposal resorts under small scale densification of a site, and therefore is in line in terms of the small scale incremental densification policy of the City.

5. DESIRABILITY

When assessing the merits of our application, Section 99 of the MPBL needs to be considered. The following considerations are relevant in terms of the listed items.

5.1 SOCIO-ECONOMIC IMPACT

Social impact refers to economic changes i.e. what impact would the proposed development have on the existing community, as well as what associated economic improvement would occur.

The proposed subdivision will allow for limited densification of the site and area in line with spatial planning policies of the area and is therefore viewed as a development that will promote the City of Cape Town's vision of densification within the urban edge. It will provide an infill housing opportunity that will utilize existing services. It will increase the City's rates base without further capital expenditure to the City.

5.2 SCALE OF CAPITAL INVESTMENT

There would be no implications on scale of capital investment as no new development is envisaged.

5.3 COMPATIBILITY WITH SURROUNDING PROPERTIES AND EXISTING USER RIGHTS

The subject property is located in a residential area with abutting properties zoned or utilized for residential purposes.

There will be no effect on the current streetscape or any effect on existing user rights. Should a further dwelling be proposed, there would still be limited impact on adjoining properties or the streetscape in view of the fact that the site edges are lined with mature trees in particular on the Magnolia Crescent boundary.

5.4 IMPACT ON EXTERNAL ENGINEERING SERVICES

Only one additional service connection would be required which should not impact on existing services.

5.5 IMPACT ON SAFETY, HEALTH AND WELLBEING OF THE COMMUNITY

Investment in the area by means of the subdivision approval will contribute to the upgrading of this area and promote investor confidence and as such will have a positive impact on the safety, health and wellbeing of the surrounding community.

5.6 IMPACT ON HERITAGE ASPECTS

There are no known historical elements on the site and the site does not fall into a heritage zone. No trees on the site will be affected, i.e. removed.

The proposal will thus have no adverse heritage impact.

5.7 IMPACT ON BIOPHYSICAL ENVIRONMENT

In view of the site's position in a built-up area, no natural habitat or ecological areas are affected.

This aspect is thus not relevant.

5.8 TRAFFIC IMPACT, PARKING, ACCESS, ETC.

Only one more access point is proposed (the existing second access) which should not result in any traffic congestion, while suitable space for parking on-site. Should any additional dwellings later be proposed, the onsite parking have to be taken into consideration.

6. SPLUMA, 2013

In terms of the Spatial Planning and Land Use Management Act, 2013, the following should be noted.

Section 42(i)(c)

The following should be considered.

- i. *The public interest.* In this regard a further dwelling unit will be introduced but the minor densification will not affect the public interest.

- ii. *The constitutional transformation imperatives and the related duties of the state.* This is not relevant in this instance.
- iii. *The facts and circumstances relevant to the application.* See the motivation and facts set out earlier in this report.
- iv. *The respective rights and obligations of all those affected.* The one additional dwelling is not deemed significant and will not affect anyone.
- v. *The start and impact on engineering services, social infrastructure and open space requirement.* Again, only one additional dwelling will have insignificant impact on existing civil services, current infrastructures or open space requirements.
- vi. *Any factors that may be prescribed, including timeframes for decisions.* The application was submitted under the City LUMS department and will follow due process and timeframes.

7. PRE-SUBMISSION MEETING

The proposal was circulated to the City planners by means of a feasibility consultation on 26 November 2025. Response on feedback is uploaded as proof of pre-consultation meeting.

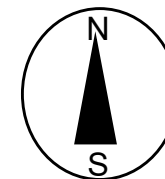
8. CONCLUSION

In view of the above motivation, the proposed application over erf 596, Durbanville, to allow the subdivision of the existing property into two and the removal of title condition, is regarded as desirable and the application is thus submitted for your earliest processing and approval.

**APPLICATION FOR
SUBDIVISION AND REMOVAL
OF TITLE RESTRICTIVE
CONDITION:
ERF 596, DURBANVILLE**

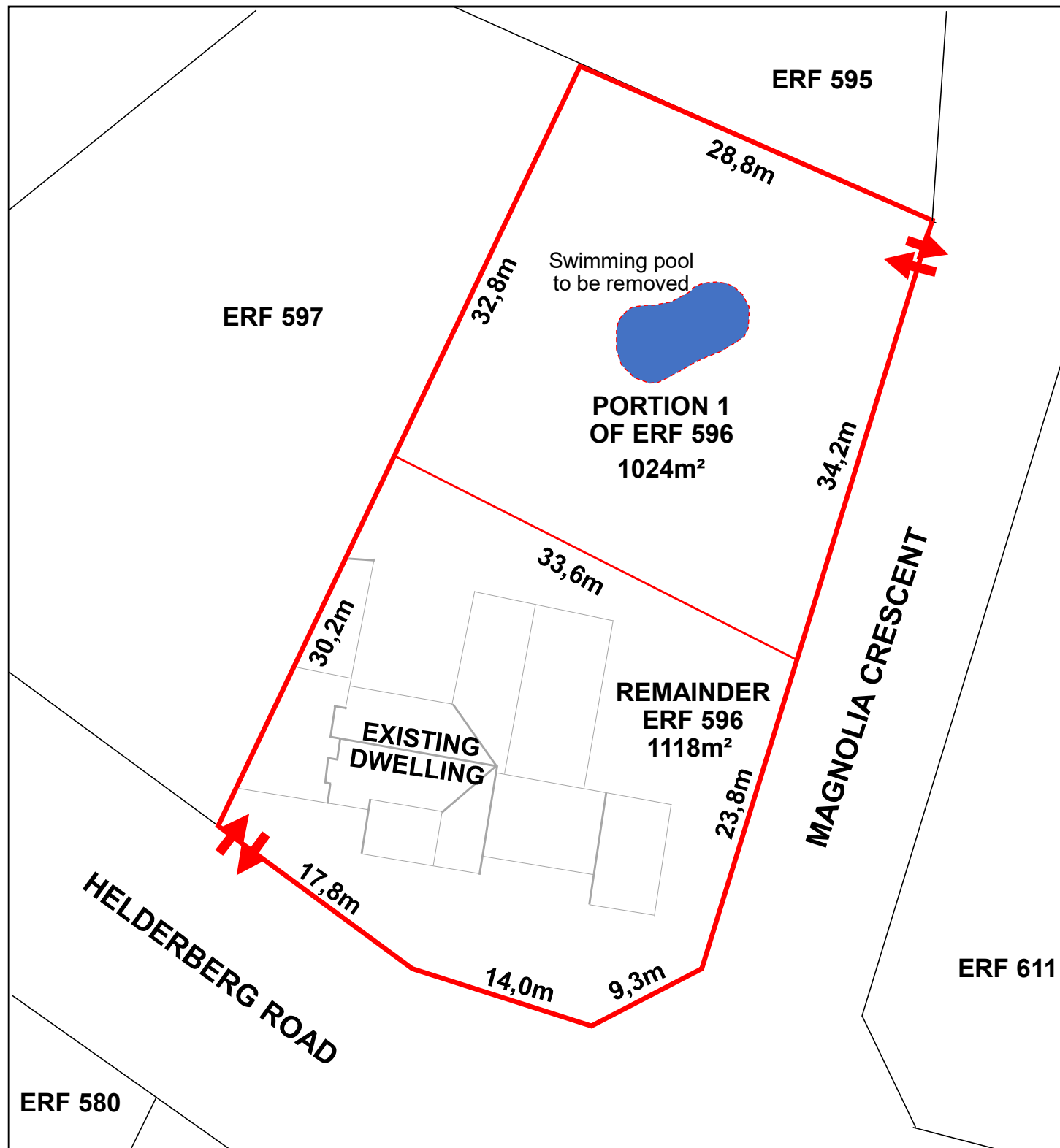
PORTION	Zoning	EXTENT
Portion 1/596	Res 1	1024m ²
Rem erf 296	Res 1	1118m ²
TOTAL EXTENT		2142m²

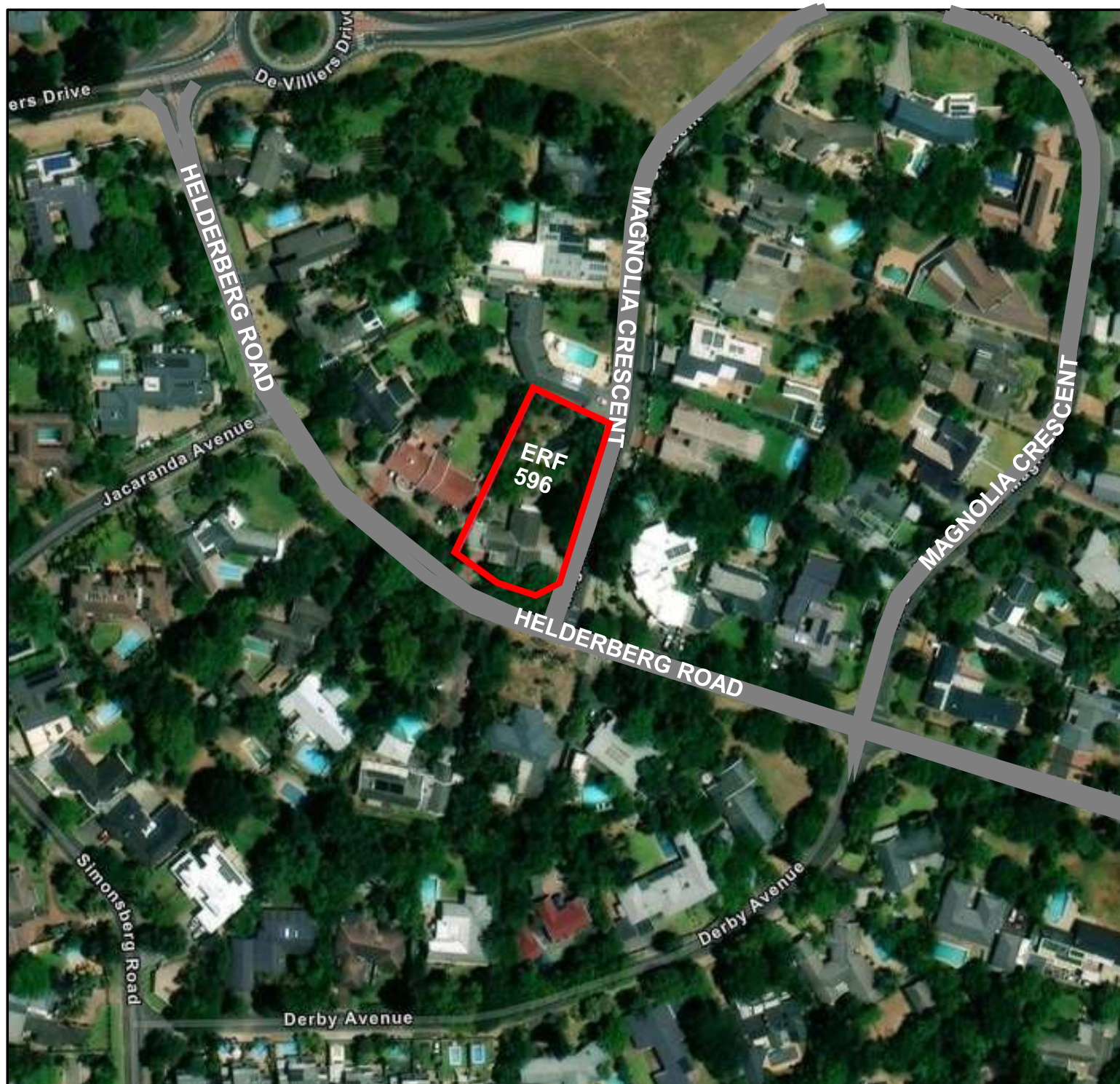
**SUBDIVISION PLAN
PLAN NO: 1003-2 REV 1
DATE: 02 June 2026**



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**Town and Regional Planners
Stads- en Streekbeplanners**





**APPLICATION FOR
SUBDIVISION AND REMOVAL
OF TITLE RESTRICTIVE
CONDITION:
ERF 596, DURBANVILLE**

CONTEXT PLAN

PLAN NO: 1003-1

DATE: 10 APRIL 2026



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Town and Regional Planners
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