



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

Case ID 1500165164

Erf 865, 12 Oxford Street, Durbanville

Development Management

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11 August 2026

City of Cape Town Municipality
Transport and Urban Development
Authority
Development Management
P.O.Box 25
KRAAIFONTEIN
7569



Ms Anne Smit

**APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, REZON-
ING AND APPROVAL OF THE SITE DEVELOPMENT PLAN – ERF 865, DURBANVILLE**

The letter dated 27 June 2026 in the above regard have refers.

Further pre-consultation with Water & Sanitation as well as Environmental and Heritage Management took place. The comments are uploaded onto the case and incorporated into the proposal where applicable. The Site Development was further amended as per the comments in the letter and a landscaping plan prepared which too has been uploaded to the case.

The motivation report is herewith amended to address the aspects highlighted in the letter. It is confirmed that there is presently no active land use. The property was purchased with the intent to obtain the necessary land use rights and is presently being renovated in accordance with approved building plans. Application was recently made for approval of a temporary storage container to be used during construction and renovations.

The invoice for additional advertising fees was received and forwarded for payment. It is trusted that the application now meets the department's requirements. I would like to extend a friendly invitation to not hesitate in contacting me should there be any enquiries or should more information be required.

Your's truly

Koos Olivier
ATLAS TOWN PLANNING

Introduction

1.1 Background

The subject property is Erf 865, Durbanville located on the corner of Oxford and Hafele Streets in Durbanville. The property is located on the proverbial edge between the primary and secondary business districts in the town and the area is earmarked for mixed use intensification in future.

It is the intention to operate a telecommunications business within the existing footprint of the approved dwelling until such time when redevelopment is considered. The intended zoning category will accommodate the proposed business use, but will also allow for redevelopment as envisaged in the District Plan over the longer term. The title deed contains conditions imposed during township establishment restricting the use to residential and which therefore requires removal to accommodate a business use.

1.2 Brief and application

ATLAS Town Planning was requested to prepare a land use application for the rezoning of the property to an appropriate business zone to accommodate the proposed business use and the allow for future redevelopment. The particular application is restricted to the footprint of existing buildings and proposed temporary structures. The necessary power of attorney is attached to the application.

Application is herewith made:

- i) In terms of Sections 42(g) & (j) of the City of Cape Town Municipal Planning By-Law of 2015 for the removal of Conditions 3A(a), (b) and (d) contained in Deed of Transfer pertaining to the use of the property, coverage and building lines.
- ii) In terms of Section 42(a) of the City of Cape Town Municipal Planning By-Law of 2015 for the rezoning of Erf 865, Durbanville from Residential Zone 1 (R1) to General Business Zone 1 (GB1);
- iii) In terms of Section 42(i) of the City of Cape Town Municipal Planning By-Law of 2015 to permit parking within 10m of the street boundary (Item 60(k)(ii)) and for approval of the Site Development and Landscaping Plans.

Property Details

2.1 Property Description

This application has bearing on Erf 865, Durbanville, City of Cape Town Municipality, Division Cape, Western Cape Province. The property measures 1467m² and is registered in the name of _____ A copy of the title deed _____ was obtained and a conveyancer's certificate confirmed that conditions imposed during township establishment restricts the use of the property and requires removal for the rezoning to be considered.

2.2 Locality

Erf 865, Durbanville is located on the corner of Oxford and Hafele Streets in central Durbanville. The property is situated on the edge of the Central Business District. The area is identified as a Public Transport 1 Zone with reduced on-site parking requirements which supports the objective of higher intensity uses at this location. The property benefits from good visual exposure and a high level of accessibility.

2.3 Existing land use and zoning

Erf 865, Durbanville is zoned as Residential Zone 1 (R1) in terms of the City of Cape Town Development Management Scheme. The property accommodates the existing dwelling and are currently being renovated in accordance with approved building plans.

2.4 Physical characteristics

Erf 865, Durbanville measures 1467m² and accommodates a large dwelling to be converted for office use. The use will be contained within this dwelling and a redevelopment of the property is not envisaged for the near future. Access to the property is obtained via a single carriage way crossing off Oxford Street with ample space for on-site parking. A future exit onto Hafele Street is planned as this will allow reduce the traffic impacts along Oxford Street. Erf 865, Durbanville is fenced on all sides with established vegetation which will be retained. The general topography is flat and the property is connected to the existing municipal services network.

Planning context

3.1 Surrounding land uses

Erf 865, Durbanville is located directly adjacent to Durbanville Central Business District in what was then known as Durbanville Extension 1. The particular township extension comprised of 30 single residential erven. The CBD extended over the years and this property now forms part of what is classified as the Secondary CBD. The below figure depicts the zonings of surrounding properties, confirming the presence of and ever-changing character towards a mix of higher intensity uses.

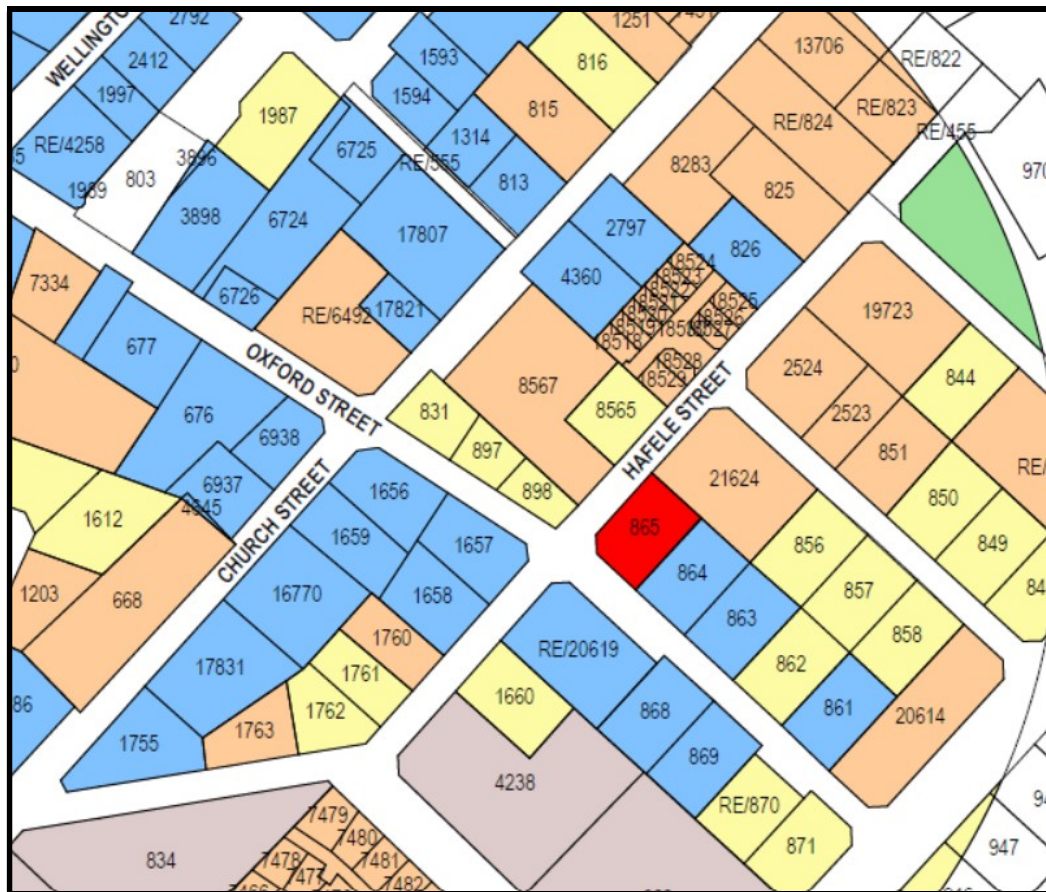


Figure 1: Surrounding zonings / uses

3.2 Existing forward planning and policy frameworks

There are various policy frameworks applicable to this application, but the most relevant are the Spatial Development Framework (2023) and the Northern District Plan. These policies are generally aligned with the broader objectives of the Integrated Development Plan.

IDP	The plan contains three spatial strategies, one of which is to plan for employment and to improve access to economic opportunities. The proposed change of use from residential to office use will stimulate economic growth. Small, Medium and Micro Enterprises plays a very important role in the economy as a whole and opportunities for growth in this sector should be encouraged. The application is deemed to be aligned with of the objectives of the IDP.
MSDF	The Cape Town Metropolitan Spatial Development Framework, 2023 (MSDF) promotes appropriate land use intensification and densification across the City within the key areas to streamline land use intensification in appropriate locations. The property falls within the Urban Inner Core (UIC) area and therefore intensification of properties within this area would be encouraged. The property is situated within the Secondary CBD of Durbanville and surrounded by a range of land uses. The intensification of the property is consistent with the MSDF.
Northern District Plan	The Northern District Plan applies to this region and the subject property is located in "Sub-district 1: Tygervally / Durban Road Road corridor. The property is located in the Secondary CBD and the following extract is particularly relevant: <i>"Secondary CBD area (SCBD)</i> <i>The function of the SCBD is to be supportive of the core area while also acting as a transition area between the CBD and the lower density residential neighbourhoods. The focus should therefore be higher density residential with office and ancillary retail only in order not to undermine/erode the Core CBD of its function. Offices within the footprint of existing dwellings can be considered (where specified) prior to redevelopment but the principles per the Durbanville Urban Design Framework relating to the creation of a positive streetscape will still apply."</i> The proposal is restricted to the footprint of the existing dwelling and is hence deemed to be consistent with the objectives of the District Plan.

Economic Growth Strategy	The EGS is a policy aimed at addressing the economic growth challenges faced and to proactively prepare strategies to deal with this in order to ensure meaningful and sustainable growth across various sectors, businesses and on an individual level. This particular use is deemed to be consistent with the policy as it ensures that growth is environmentally sustainable in the long term. The community in the area will be provided with more opportunities to access business activities within a well located and established urban area.
Social Development Strategy	The SDS is a policy with the focus on social development and the improvement of the quality of life of all peoples but in particular those living in poverty. Approval of this application will result in employment opportunities and with more people employed, many of the social problems and issues regarding dysfunctional communities and social development in general will be addressed. The application is thus also believed to be aligned with the objectives of this policy.
Durbanville CBD Urban Design Framework	The Framework contains extensive guidelines dealing with in particular building massing and bulk, perimeter-block development, architectural composition, new building design, landscaping and treatment of new development within the historic village environment. The application for consideration is limited to the conversion of the existing dwelling to office use as provided for in the District Plan. The policy is therefore mainly directed to future redevelopment which is not proposed at this stage. The dwelling will be retained with no additional bulk or external structural alterations, existing boundary walling will be retained and parking accommodated on the existing property. The framework's more prescriptive building-form provisions are principally intended to regulate future development. The current application will have minimal impact on the built form of the area and the opinion is held that it will not have an adverse impact on the objectives of the framework. Any redevelopment in future must have due regard for the objectives of the framework.
Transit-Orientated	The subject property is located within an identified Public Transport 1 (PT1) Zone and whilst there is currently not sufficient

Development Policy	public transport available in the area, it is imperative to plan for this in future. The objectives of the (TOD) are to promote a compact, well connected, efficient and resilient urban form and movement system that enhances socio-economic efficiency and equality throughout the city. Approval of this application is not deemed to be inconsistent with the objectives of this policy.
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3.3 Legal aspects

Land Use applications are dealt with in accordance with the Land Use Planning Act (Act 3 of 2014), the Spatial Planning and Land Use Management Act of 2013 and consequent Municipal Planning By-Laws. Application is made in terms of Sections 42 (a), (g), (j) & (i) of the City of Cape Town Municipal Planning By-Law of 2015.

The land is earmarked for urban development. This application does not trigger any listed activities in terms of the National Environmental Management Act (Act 107/1998). The dwelling is older than 60 years but not graded. The application for consideration involves minor internal alterations and after consultation with the municipality's Heritage Department, it was advised that a Section 34 permit must be submitted to Heritage Western Cape. The said department is not required to comment on this and the architect will address this when attending to formal building plans.

Development Proposal

The objective of this application is to obtain the relevant land use rights to permit a business use within the footprint of the approved dwelling on this property. It is envisaged that the property might be redeveloped in future and the intended zoning category will allow for this as per the requirements of the District Plan. It should be noted that any future applications would still be subject to Site Development Plan approval.

Erf 865, Durbanville is located on the corner of two prominent streets in the area. Being a corner stand, the property enjoys good visual exposure. Access to the property will be off Oxford Street, approximately 25m from the intersection with Hafele

Street. The parking layout allows for good on-site reticulation with an additional egress to be provided in Hafele Street.

The existing building footprint is measured at 319m² with a proposed Gross Leasable Area of 256m². The proposed business is an engineering business involved with the design and installation of amongst others fibre installations. The functions are predominantly administrative by nature, but certain high value items will be kept on site in temporary storage containers to be dispatched when needed. The business operates during standard business hours. The dwelling will be converted to allow for a reception area, boardroom, ablution facilities and the majority of the building comprising of individual and an open plan office set-up. The nature of the business is that staff generally rotate depending on the projects that they are involved with.

The below table depicts the proposed development parameters:

Site Area	1467m ²	
GLA proposed	256m ² office 54m ² storage	
<u>General Business 1 (GB1)</u>	<u>Permitted / Required</u>	<u>Provided</u>
Floor factor	1,5	0.22
Coverage	100%	21.7%
Max Height	12,5m	Single storey / +/- 5m
Building lines: Street	0m	No encroachment
Building lines: Common	0m	No encroachment
Parking	8 bays	17 bays

The particular title deed includes the following conditions imposed by the Administrator (refer Paragraph 3A(a), (b) & (d) on Page 2) which directly impacts on the future development of this property.

3. **SUBJECT FURTHER** to the following special conditions contained and imposed in Deed of Transfer No.1800 dated 18th February, 1944:-

A. As being in favour of the registered owner of any erf in the Township and subject to alteration or modification by the Administrator by virtue of Section 18(3) of the Ordinance No.33 of 1934, namely:-

(a) That this erf be used for residential purposes only.

(b) That only one dwelling house with such outbuildings as are ordinarily required to be used therewith be erected on this erf.

(d) That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 20 feet to the street line which forms a boundary of this erf. No such building or structure shall be situated within five feet of the lateral boundary common to any adjoining erf.

It is evident that condition 3A(a) & (b) restricts the use to residential only whilst condition (d) further restricts coverage and prescribes specific building lines. These development parameters were imposed taking into consideration the intended residential use at the time. The conversion of the use to business requires removal of these conditions. It is the intention to continue with the current use in accordance with the provisions of the DMS and these development rules are applied throughout the City. The Municipal Planning By-Law contains sufficient mechanisms to deal with land use management and these conditions are viewed as a duplication thereof.

Section 39 of the Land Use Planning Act (Act 3 of 2014) requires that the decision taker must at least have regard to the following when assessing an application for removal, suspension or amendment of a restrictive title deed condition:

- (a) The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity

The said conditions were imposed on all properties within the particular township establishment. The conditions were imposed to protect the integrity of area at a time when planning legislation was lacking. The character of the area was transformed and the area is now considered to be part of the secondary business node. The opinion is held that the particular conditions hold little if any financial value to anyone other than the person wishing to develop the properties. Rezoning will increase the value of the property and this will be beneficial for all owners of property in the area.

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

The conditions were imposed in favour of the residents within the particular township. As such, the removal of these conditions is not likely to accrue any personal benefits to anyone other than an owner of property in this township wishing to have these conditions removed. In such instance, the particular land owner will benefit as it will allow the use of the property for business use with increased development potential. The owner would thus be able to use this property similar to other business zoned properties in immediate area in keeping with the forward planning objectives for the area.

- (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 material benefit would be to allow the operation of a business from this premises. The amendment of the particular title deed conditions is not likely to have any other direct personal benefit.

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

As stated, the particular conditions, albeit imposed in favour of all persons within the township, does in fact hold little if any value to anyone other than the person(s) wishing to develop or use a particular property in the said township. The DMS will still be used as guide to protect the general integrity of the area. As such, the retention of the condition in the current form is not deemed to have any material social benefit.

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

The removal or retention of the particular condition is not likely to have any material impact for the reasons mentioned before. The area is earmarked for future redevelopment and this have bearing and deemed to benefit all owners of property within this township.

- (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 owners of property within the said township are the holders of these rights and it currently permits only residential use. Whilst the removal of these conditions are required to permit non-residential uses, the opinion is held that the processes as per the Municipal Planning By-Law and Development Management Scheme should be deemed sufficient to ensure adequate land use management in future and to protect their interests. The future use of properties is guided by the Spatial Development Framework and applications assessed accordingly.

4.2 Basic planning principles

The Spatial Planning and Land Use Management Act (Act 16 of 2013) stipulates that the following basic development principles must be considered when dealing with spatial planning, land development and land use management:

- a) Spatial justice

The opinion is held that the land use intensification is appropriate at this location and that it will improve access to commercial opportunities in a what is referred to as the Secondary CBD.

- b) Spatial sustainability

The property is located within an established urban area. Promoting development within a built-up urban area reduces pressure for development on valuable agricultural land. The intensification of development on such land effectively reduces urban sprawl and results in a better use of land in key areas.

c) Efficiency

The application will result in limited additional impact on infrastructure whilst the development of the property will maximise the potential of the land and this too will have added financial benefit.

d) Spatial resilience

The use of the land for office purposes is aligned with the objectives for the Secondary CBD, the purpose being to support the primary CBD, and will continue to provide opportunities for smaller business uses to be established here.

e) Good administration

The said principle applies mainly to the processing of applications within the legislative frameworks by the various government spheres. Due process is being followed.

4.3 Decision taking criteria in terms of Municipal Planning By-law

Section 99 of the City of Cape Town Municipal Planning By-Law stipulates further decision taking criteria for land use applications. These include socio-economic impacts, the safety health and wellbeing of the surrounding community, consistency w.r.t surrounding land uses, traffic and parking related aspects, impacts on engineering services as well as environmental and heritage impacts.

4.3.1 Socio - Economic Impact

It is important that there is a balance between the social and economic benefits resulting from this application. The District Plan stipulates that business uses should not be allowed to creep into the residential areas. The subject property is however located in an area of transition and earmarked for mixed use intensification. It is beneficial to strengthen existing commercial nodes and to create opportunities for commercial in closer proximity to existing residential areas. Approval of this application will therefore have a positive socio-economic impact.

4.3.2 Compatibility with surrounding land uses

The proposal entails the conversion of the existing dwelling to a permanent business use. The property is located in the Secondary CBD and mixed-use intensification is

supported / recommended. The policy provides for office uses within the footprint of existing residential buildings. The proposal is therefore aligned with the planning objectives for the area and deemed to be compatible with surrounding land uses. It was illustrated earlier in the report that the property is located directly adjacent to the Central Business District and that an array of higher intensity land uses is located in the immediately surrounding area. Office uses are viewed as “clean” business uses and with ample developed parking available on-site, this use is not deemed to have a material impact on the surrounding area. The converted dwelling and use of the property is completely in line with the permissible development parameters of the intended zoning scheme and the proposal will not have any negative impact on surrounding land uses. The proposal is further limited to the existing structures with no exterior changes being proposed and thus no material impact on the existing built form.

4.3.3 Impact on external engineering services

The impact is existing and the structures existing. An increased demand is not foreseen. No problems are therefore foreseen with bulk water and reticulation, sewer reticulation, storm water and electricity services. The Water and Sanitation department has indicated that a midblock sewer was installed along the northeastern boundary and no structures are being proposed over this service.

4.3.4 Impact on safety, health and well-being of surrounding community

The application relates to a change of use and confined to the footprint of the existing dwelling. Approval of this application will not have any negative impact on the safety, health or general well-being of the surrounding community.

4.3.5 Impact on heritage

The structures are existing and the use will be contained in the existing structures. The building is older than 60 years and not graded. It was advised that an application be submitted to Heritage Western Cape for internal alterations which does not require input from the municipality’s Heritage Branch. No problems are foreseen in this regard.

4.3.6 Impact on the biophysical environment

The subject property is located in a built-up area. The property is fully developed with the proposed use to be contained in existing structures. A stormwater manage-

ment strategy was done to ensure that stormwater run-off will be managed with the provision of more on-site parking. The application will not have any impact on the biophysical environment.

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

The proposed rezoning of the property entails the use thereof for offices. The property is located within a Public Transport 1 (PT1) zone and as such reduced on-site parking requirements applies. On-site parking at a rate of 4 bays / 100m² GLA is required for offices in a standard area, but a PT1 area requires the provision of 2,5 bays / 100m². The GLA is calculated at 256m² with an additional +/-50m² for storage. As such 8 on-site bays are required. The existing development provides for at least 17 on-site parkings.

The on-site site reticulation involves access off Oxford Street at +/- 25m from the intersection with Hafele Street with an additional egress on Hafele Street. The property is fenced, but the existing access gate will remain open during normal business hours to avoid congestion in the street. All vehicles will enter and exit the property in forward motion. No problems are foreseen in terms of access or parking.

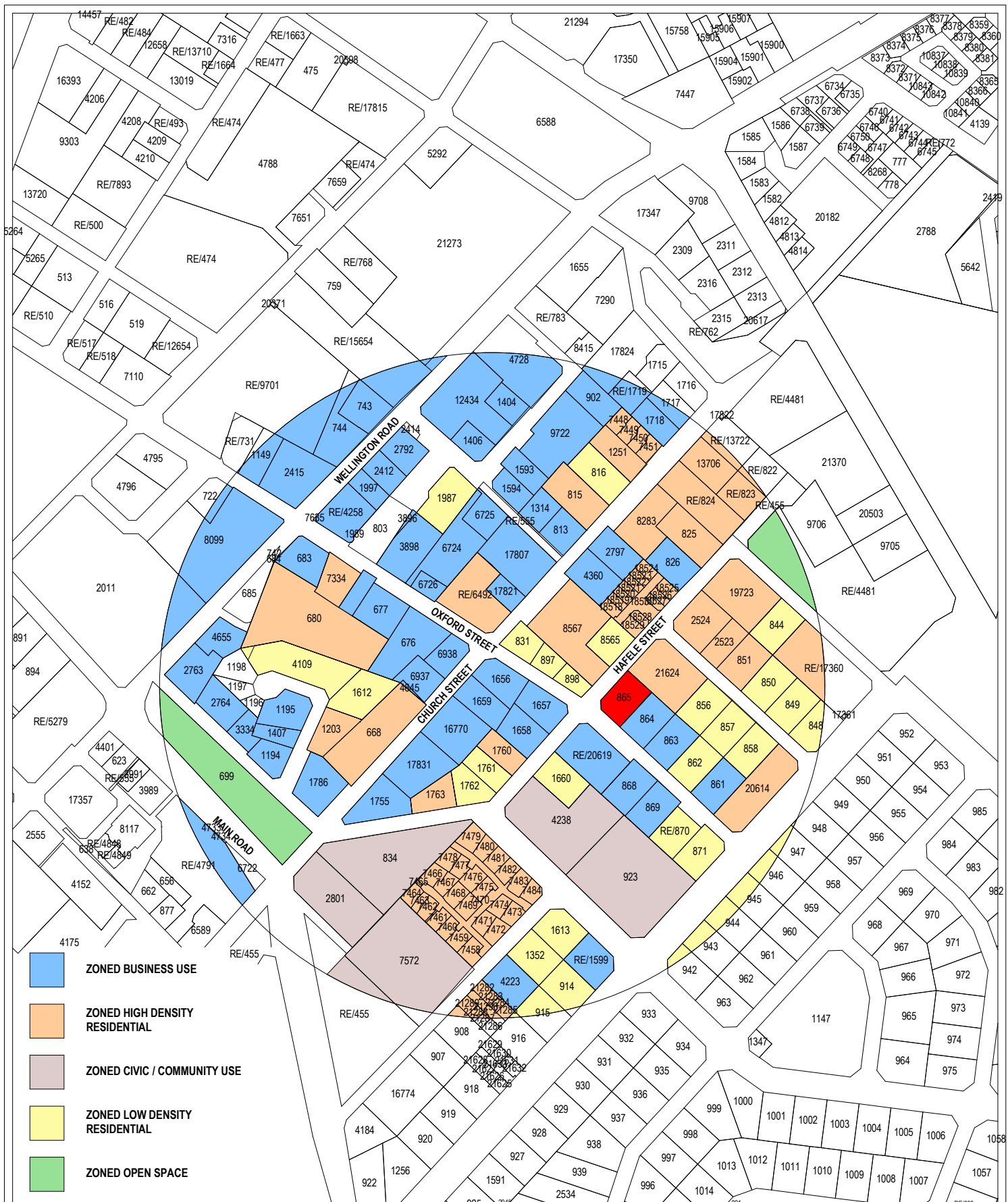
The property is located adjacent to the Central Business District and the use in this location supports the general principals of the municipality's Transit Orientated Development Strategy (TOD).

4.3.8 Mitigating measures

The criteria stipulated in Section 99 of the Municipal Planning By-Law also deals with the voluntary imposition of conditions which may help to mitigate the potential adverse impact of a proposed development or land use application. The owner will be willing to accept any reasonable conditions of approval.

5. Conclusion

The proposal to establish a commercial use on Erf 865, Durbanville aligned with the forward planning objectives for the area and adheres to the technical requirements for an application of this nature. It is also evident that the restrictive title deed conditions are no longer relevant for this area as it was imposed at a time when the area was still earmarked for low density residential use. It is trusted that the application will receive the necessary support.



PLAN:

LOCALITY / ZONING

DATE:

MAY 2026

CLIENT:

ERF 865, DURBANVILLE

N.T.S.

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