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## PROPOSED DEPARTURES AND COUNCIL'S APPROVAL: ERF 25 SMITSWINKEL BAY

### 1. INTRODUCTION

The proposal is to re-develop the property with a new single-storey, single dwelling house (or cottage). The existing dwelling – which is in a relatively bad state of repair, will be demolished.



**Aerial image of the existing dwelling on Erf 25, facing the ocean**

This report is submitted in terms of Section 42(b) and (i) of the City of Cape Town Municipal Planning Amendment By-Law (“By-Law”): 2019 (as amended), as motivation for the following departures and Council’s approval in terms of the Development Management Scheme (DMS):

- i) Departure from Item 109(b) to permit the proposed dwelling house to be 1m, 13,765m, 1,3m and 6,945m, in lieu of 15m, from the south-west, north-west, north-east, and south-east boundaries, respectively.
- ii) Departure from Item 137 to permit zero (0) on-site parking bays in lieu of two (2) on-site parking bays.
- iii) Council’s approval in terms of Item 126 to permit a portion of the proposed ground floor to be raised 2,2m in height above the existing ground level (EGL) in lieu of 1,5m in height above the EGL permitted.

Member: THOMAS BRIAN BRÜMMER  
Registration Number: B. Sc M(TRP) Pr Planner A/281/1985  
Tommy Brümmer CC: Registration Number: CK 94/032549/23  
Vat Registration Number: 4900146830

\*Note: The property measures <20 ha and the applicable building lines are therefore 15m.

The following documents are attached to this report:

- Annexure A:** Company Resolution, Power of Attorney & CIPC registration of Company
- Annexure B:** Certified copy of the Title Deed T7366/2014
- Annexure C:** SG Diagram No. 429/1916 & General Plan
- Annexure D:** Conveyancer's Certificate as prepared by **Michelle Dommissie & Associates**
- Annexure E:** Proposed sketch plans as prepared by **Architecture Co-op**
- Annexure F:** Land Surveyor's ground survey by **Neil Zweig Land Surveyor**
- Annexure G:** Confirmatory letter from **Doug Jeffery Environmental Consultants**
- Annexure H:** List of applications
- Annexure I:** Application form

## 1. THE PROPERTY

### 1.1 Ownership and site particulars

Erf 25 Smitswinkel Bay is registered in the name of **Zolile (Pty) Ltd.** The site measures 495m<sup>2</sup> in extent, and is held by Deed of Transfer No. T7366/2014.

The existing cottage on Erf 25 was constructed using prefabricated materials around 1970 for weekend/holiday use. The building has an *ad hoc* form and with little or no architectural merit or structural integrity. The structural integrity is dubious and there is clear evidence of subsidence as the internal floor slopes around 200mm. The structure has been patched over the years with many different materials including timber and asbestos cladding, poles and rock foundations. It was also built without insulation or much consideration for the corrosive marine environment. Many of these materials are now at the end of their lifespan and the timber structure is rotten, beetle infested, while steel and fixings are rusted. Most windows can not be opened and have been screwed closed. New roof sheeting has been put on top of the old roof more recently, probably in the 1990's. It is clear that the existing structure has reached the end of its life (refer to the photograph below) and needs to be demolished.





Images of the existing, dilapidated nature of the cottage on Erf 25

The "General Plan S.85 of Camping Sites – Smits Winkel Bay" identifies the area containing these erven as the "portion of land granted to P. Hugo on 1 November 1832". The whole figure ABC – L is bounded by [the] Remainder, as indicated on the extract of the General Plan below.

# — GENERAL PLAN — S.85.

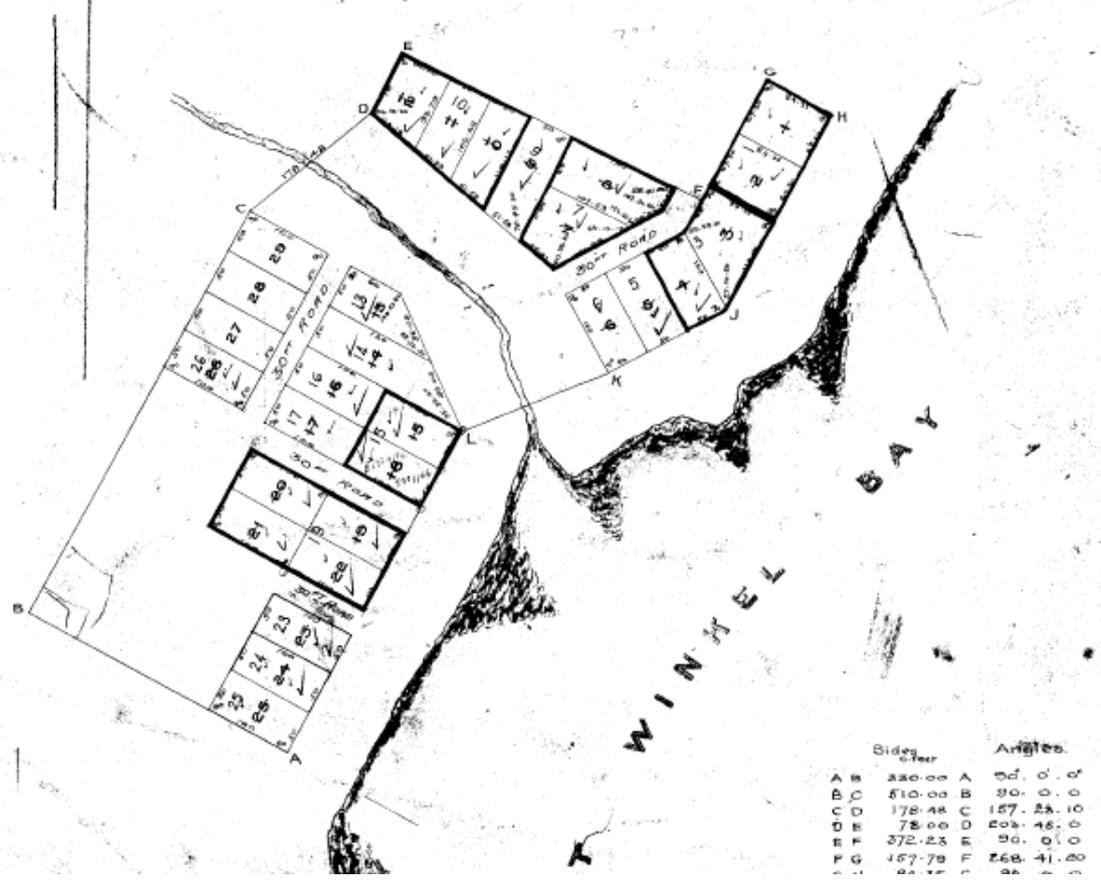
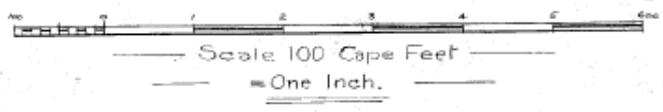
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## — CAMPING SITES —

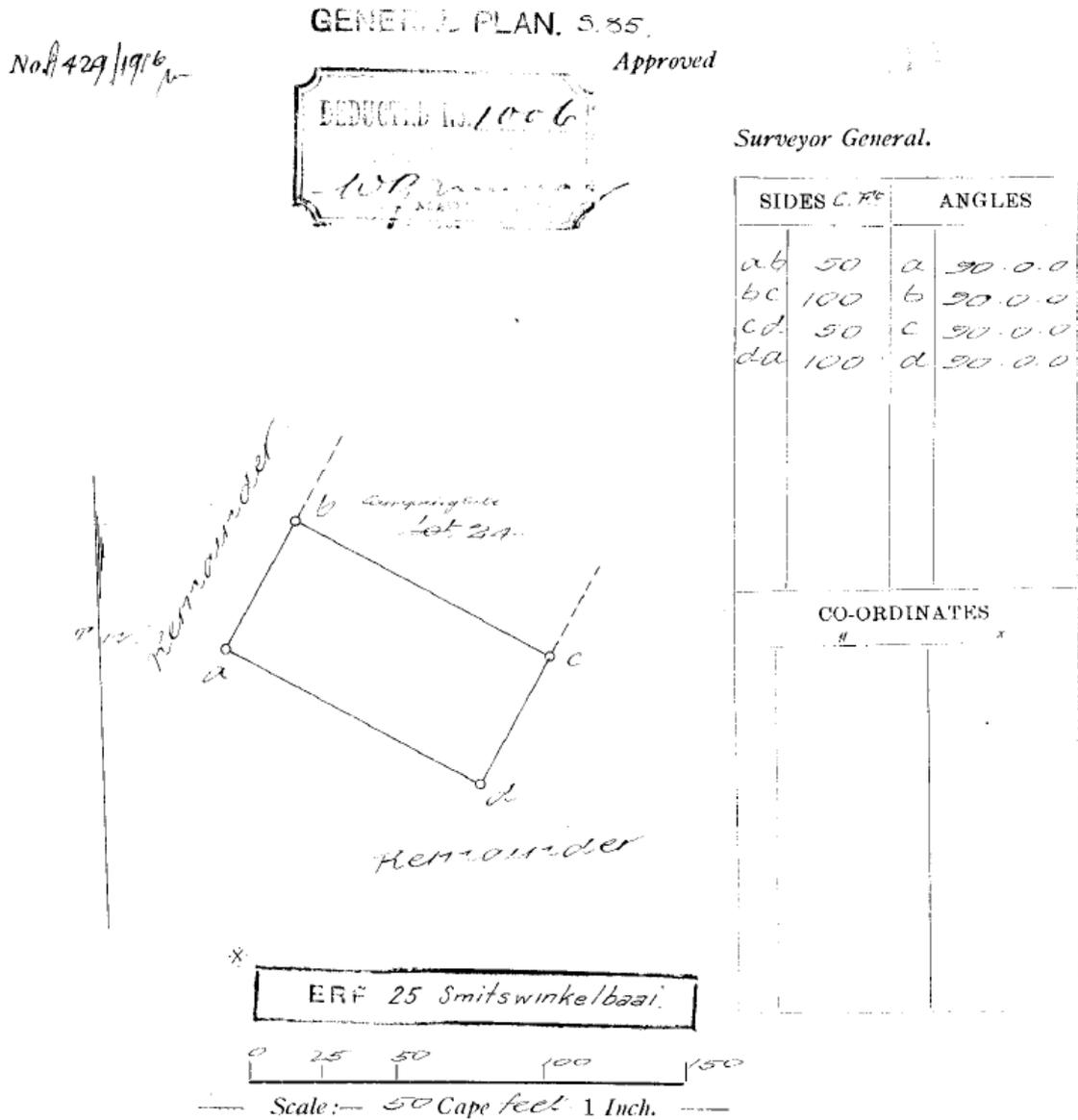
— Smits Winkel Bay, Cape Division. —

— Portion of land Granted to P. Hugo. —  
 1<sup>st</sup> Nov. 1832. Cape L. V. 426.

*Note. The whole figure ABC-L is bounded by remainder.*



The erf is described in the title deed as being "First transferred by Deed of Transfer Number T7761/1916 with Diagram relating thereto and held by Deed of Transfer Number T18608/1986". The SG diagram (429/1916) for the erf is indeed from 1916, with an extract thereof attached below.



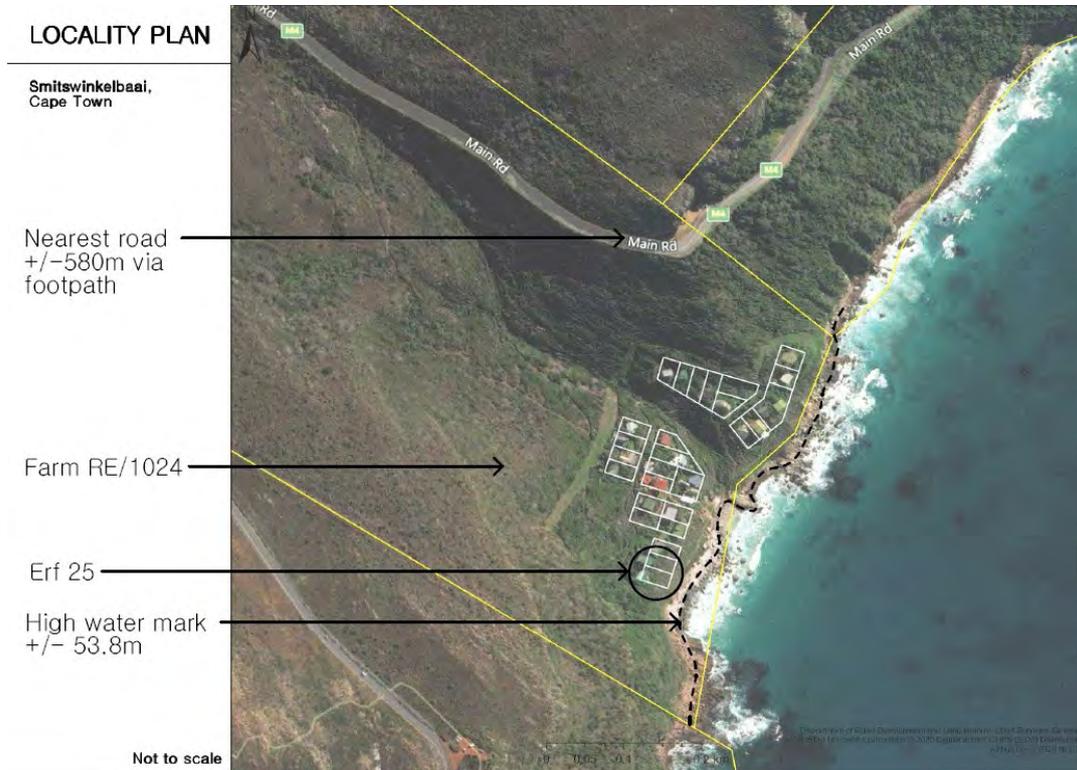
The erven in Smitswinkel Bay are rather peculiar as they form small "clusters" of between 3 and 6 erven each, and have no streets serving the properties. In other words, they are all landlocked, and residents/visitors must park in Main Road and walk down – none of the properties have any on-site parking. It stands to reason that all these erven do therefore not have street boundaries, but only common boundaries.

As mentioned above, the establishment of the erven appears to stem from an earlier (more informal, albeit surveyed) "campsite" which was then formalised into actual cadastral erven (the SG diagram and the title deed also refer to the "campsite"). The establishment of the Smitswinkel Bay erven with their cottages are also rather unusual with respect to access, given that there is no formalised, or registered, right of way access (even for pedestrians) over the surrounding Cape Farm No. 1024 (which is privately owned). It appears therefore that access to these properties takes place in an informal and long-established manner (there is no reference to any servitude rights of ways in the title deed or on the SG diagram, as confirmed by the conveyancer).



The area in which Smitswinkel Bay is situated is part of a World Heritage Site (as identified in the Southern District Plan), with the hamlet forming part of the “buffer zone”. This aspect will be addressed later in the report.

The **Aerial Photograph**, below, illustrates the urban context of the property in relation to the surrounding properties (all zoned Agricultural Zoning) and the Main Road.



The **Noting Sheet** as obtained from the Surveyor-General’s office, is attached below:



### 1.3 Title Deed and conveyancer's certificate

Erf 25 is described as “ERF 25 SMITSWINKEL BAY IN THE CITY OF CAPE TOWN, CAPE DIVISION, WESTERN CAPE PROVINCE; IN EXTENT 495 (FOUR HUNDRED NAD NINETY-FIVE) Square metres”.

The property is situated in the Township of Smitswinkel Bay.

A title deed search was conducted by Michelle Louise Dommissie from **Michelle Dommissie & Associates** who has certified that there are no restrictive title deed conditions affecting the proposed development.

It is noted that Erf 25 is entitled to the benefits under the terms of a servitude referred to in an endorsement from 1966 which reads as follows:

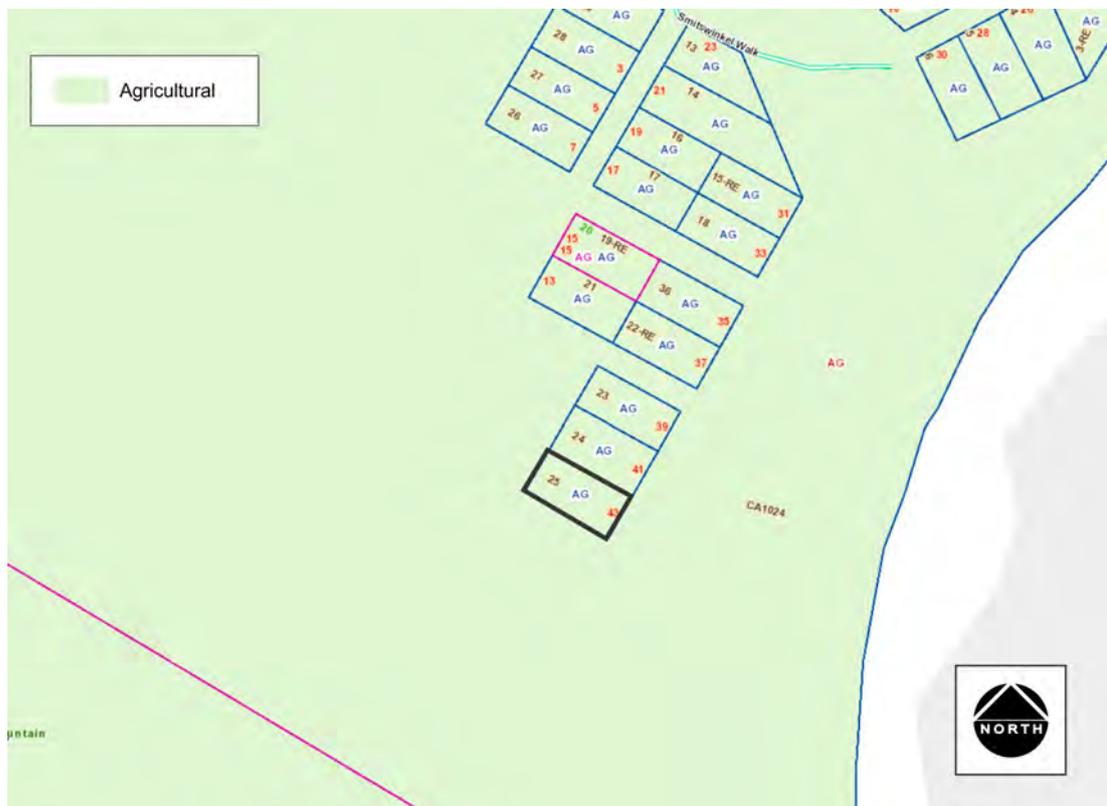
*“By Deed of Transfer 14551/1966 dated 22-7-1966 Camping Site No 25 [i.e. Erf 25] held hereunder has the benefit of conditions that no building or structures is to be erected within 12,59 metres of the south-eastern boundary (marked cd on dgm 1325/1916) of Camping Site No 24 nor may any wall or fence be erected on [sic] trees planted which will obscure the view of said Camping Site No 25.”*

In other words, there is no restriction in this regard over Erf 25.

## 2. ZONING

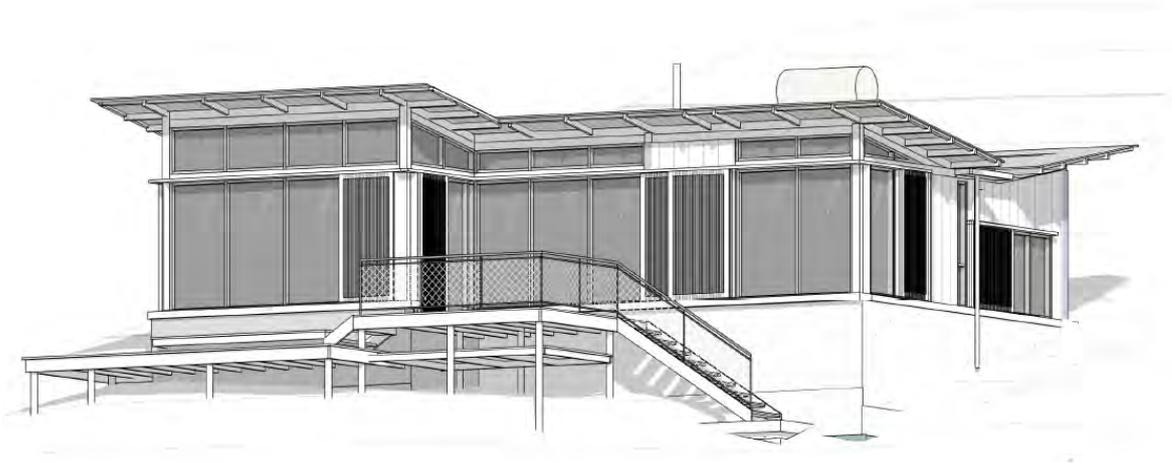
### 2.1 Base Zoning

The zoning of properties in Cape Town is controlled by the provisions of the DMS, being Schedule III of the By-Law. Below is an extract of the Council's **Zoning Map** that indicates that the property is zoned Agricultural Zoning.



### 3. DEVELOPMENT PROPOSAL

The proposal is to develop the property – which is currently improved with an old dwelling, with a new and modern single-storey dwelling house. The existing dilapidated structure will be demolished, and the new dwelling will predominantly be built in the same position and largely within the existing footprint.



#### **3D-representation of the proposed dwelling, south-east elevation (sea facing)**

Renovations and upgrade of the existing structure was considered but on investigation it was found that this was not feasible. A timber deck was added in the last 10 years and the materials will be reused. The condition and that state of disrepair and neglect mean that the only option in upgrading to for its demolition. Where possible materials recovered during the disassembly will be integrated in the new structure or repurposed off site.

The total floor space of the proposed dwelling is 109m<sup>2</sup> and the maximum height of the roof above the EGL is 6,1m (the height of the building varies due to the sloping nature of the site, with all heights measured from the EGL). The proposed dwelling is therefore significantly small and lower than permitted in terms of the base zone (i.e. a maximum of 1500m<sup>2</sup> of floor space and heights of 9m to the wall plate and 11m to the top of roof, above the EGL).

Due to the slope of the erf the proposed dwelling will be slightly excavated into the slope on the erf (on the north-western, or mountain side) and, in order to create a level floor, filled above the EGL on the south-eastern side of the erf (i.e. the seaside).

The required building lines in terms of the Agricultural Zoning of the site are 15m (the property measures <20ha in extent). Since the erf only measures approximately 15,5m x 31,5m, it is clear that no development on the site is possible without obtaining building line departures. Given these onerous setbacks and the relatively small size of the erf the proposed dwelling encroaches the building lines and the following **departures** from Item 109(b) of the DMS are required\*:

- (a) To permit the proposed dwelling house to be 1m in lieu of 15m from the south-west common boundary,

- (b) To permit the proposed dwelling house to be 13,765m in lieu of 15m from the north-west common boundary,
- (c) To permit the proposed dwelling house to be 1,3m in lieu of 15m from the north-east common boundary, and
- (d) To permit the proposed dwelling house to be 6,945m in lieu of 15m from the south-east common boundary.

\*It is pointed out that the eaves (<1m wide) of the proposed dwelling's roof are closer to the common boundaries than the above-mentioned distances, as permitted by Item 121(1)(v) of the DMS. In other words, the eaves do not require, or are not part of, the departures.

Given that the erf is landlocked (there are no roads leading to these erven), it stands to reason that no on-site parking – as required in terms of the DMS, is possible either. A technical **departure** from Item 137 of the DMS to deviate from the minimum required number of parking bays is required:

- (e) To permit zero (0) parking bays on site in lieu of 2 parking bays required.

In order to compensate for the fall of the land, the north-eastern corner of the proposed dwelling will be raised approximately 2,2m above the EGL, and **Council's approval** in terms of Item 126(a) of the DMS is required as follows:

- (f) Council's approval to permit a portion of the proposed ground floor to be 2,2m in height above the EGL in lieu of 1,5m in height above the EGL permitted.

A full list of the applications is attached as **Annexure G**.

The sketch plans have been prepared by **Architecture Co-op** (refer to **Annexure E**).

<b>4</b>	<b>ADJUDICATION CRITERIA</b>
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#### **4.1 Development Management Scheme**

Motivation for the application is required in terms of Section 59 of the Western Cape Land Use Planning Act No. 3 of 2014 ('LUPA'), Section 7 of the Spatial Planning and Land Use Management Act No. 16 of 2013 ('SPLUMA') and Section 99 of the By-Law.

##### **4.1. Motivation in terms of LUPA and SPLUMA**

The proposal complies with Sections 7 of SPLUMA and 59 of LUPA in the following ways:

- The proposal is in line with the guidelines and recommendations set out in the Municipal Spatial Development Framework ("MSDF") and the Southern District Plan.
- The erven in Smitswinkel Bay are all zoned Agricultural Zone, and despite this zoning, none of them are being used for agricultural purposes. Instead they are used for normal residential purposes. The erven are, for all intents and purposes, Single Residential "zoned" properties. The proposed development would therefore not remove "prime, unique and high potential agricultural" land.

- Since the proposal is merely to replace an existing single dwelling house with a new one, there is no real increase in the number of dwelling units (or housing stock), and the main principles of the Densification Policy which promotes densification are therefore not really applicable. However, the proposed departures will enable the property to be developed with (at least) one dwelling house. Put differently, in the unlikely event that the departures are refused the property can not be developed at all and must remain vacant, and that would be in conflict with the Policy (in the event that the existing house is demolished).
- Therefore, the ability to develop the site (with setback departures) with at least one house – however modest in size, will help to create more compact cities by optimising the use of available land.
- By creating more compact cities it will help curb the costs to provide infrastructure for an ever-increasing and sprawling metro, the saving of such money can be utilised to improve the lives of the previously disadvantaged by acquiring and/or developing land for those communities where required. Eventually everyone will benefit in a direct or indirect way: the Council, developers and the ultimately the general public.
- It is noted that the erven in Smitswinkel Bay do not make use of municipal infrastructure, but instead use solar panels, soak-away drains, and rainwater, so there is no impact on Council services. The proposed dwelling will continue to do so and will use “green” (energy saving) elements such as solar panels and a solar geyser on the roof.
- The proposal represents a sensitive if modest form of sustainable, efficient and responsible land use development.

#### **4.2 Adjudication criteria in terms of Section 99 of the By-Law**

Section 99 prescribes as follows:

- (1) *An application must be refused if the decision-maker is satisfied that it fails to comply with the following minimum threshold requirements –*
  - (a) *the application must comply with the requirements of this By-Law;*
  - (b) *the proposed land use must comply with or be consistent with the municipal spatial development framework, or if not, a deviation from the municipal spatial development framework must be permissible;*
  - (c) *the proposed land use must be desirable as contemplated in subsection (3); and*
  - (d) *in the case of an application for a departure to alter the development rules relating to permitted floor space or height, approval of the application would not have the effect of granting the property the development rules of the next subzone within a zone.*
  
- (2) *If an application is not refused under subsection (1), when deciding whether or not to approve the application, the decision maker must consider all relevant considerations including, where relevant, the following –*
  - (a) *any applicable spatial development framework;*
  - (b) *relevant criteria contemplated in the development management scheme;*
  - (c) *any applicable policy approved by the City to guide decision making;*
  - (d) *the extent of desirability of the proposed land use as contemplated in subsection (3);*
  - (e) *impact on existing rights (other than the right to be protected against trade competition);*
  - (f) *in an application for the consolidation of land unit –*
    - (i) *the scale and design of the development;*

- (ii) *the impact of the building massing;*
  - (iii) *the impact on surrounding properties; and*
  - (g) *other considerations prescribed in relevant national or provincial legislation.*
- (3) *The following considerations are relevant to the assessment under subsection 1(c) of whether, and under subsection (2)(d) of the extent to which, the proposed land use would be desirable –*
- (a) *socio-economic impact*
  - (b) *compatibility with surrounding uses;*
  - (c) *impact on the external engineering services;*
  - (d) *impact on safety, health and wellbeing of the surrounding community;*
  - (e) *impact on heritage*
  - (f) *impact on the biophysical environment;*
  - (g) *traffic impacts, parking, access and other transport related considerations; and*
  - (h) *whether the imposition of conditions can mitigate an adverse impact of the proposed land use;*

#### 4.2.1 Motivation in terms of Section 99(1) of the By-Law

The application complies with the following minimum threshold requirements:

- (a) The application complies with the **requirements of the By-Law** (the application is motivated in terms of the relevant adjudication criteria with all required documents submitted with the application).
- (b) The proposed land use is **consistent with the MSDF** and no deviation from it is required.
- (c) The proposed **land use is desirable** as contemplated in subsection (3); this will more comprehensively addressed below.
- (d) The application complies in this respect as the proposed departures have no bearing on the granting of rights of the “next subzone”.

#### 4.2.2 Motivation in terms of Section 99(2) of the By-Law

The application complies with the following relevant considerations:

- (a) Applicable Spatial Development Frameworks

The Western Cape Provincial Spatial Development Framework, the City of Cape Town’s Municipal Spatial Development Framework and the Southern District Plan are relevant to consider in motivating this application:

- Densification is listed as one of the objectives in the **PSDF** which recommends for the average gross residential density in urban settlements to be increased to 25 dwelling units per hectare (du/ha). Given the fact that the existing (old) single dwelling house will be replaced by another (new) single dwelling house, the proposed does not constitute any real form of densification (with respect to the number of dwelling units); however, the optimal use of the property in a sensitive manner is considered to be still consistent with the PSDF.

- The **MSDF** motivates for land use intensification based on transit-oriented development ('TOD'). This implies a greater mix of residential and non-residential land use (diversification) through the increased use of space, both vertically and horizontally (densification). Given the particular nature of the proposed development, plus its relatively isolated location where no public transport opportunities exist (with no direct vehicle access to the property) means that, in this instance, the proposal does not lend itself to be considered as "consistent" with the MSDF.

The property is situated in an area which is earmarked as a "Critical Natural Asset". Critical Natural Asset areas are areas that contribute significantly to the City's future resilience and/or have protection status in law. They include a number of protected natural environments and conservation areas outside the urban inner core or incremental growth areas. Smitswinkel Bay lies within and surrounded by this "natural asset". In this regard, the fact that the proposed dwelling will be within the cadastral boundaries of the erf and be predominantly within the footprint of the existing house, will ensure that there is no impact on the surrounding "critical natural asset" or its integrity, which will remain protected. No new footpath or road will be constructed.

It is noted that the desired land use outcome associated with this area is to "enhance and connect the critical natural asset that supports the city and regional environmental and ecology". It is believed that the proposed modest single storey, single dwelling house is highly sensitive to the surrounding natural environment and is thus consistent with the MSDF in this regard.

- The site falls in “Sub-District 5: Table Mountain National Park and Environs” of the **Southern District Plan** (see extract from the Plan below, with the position of site indicated):



Smitswinkel Bay is not part of the Table Mountain National Park in itself (TMNP) but is surrounded by the Park. However, the erf is situated in the identified Cape Peninsula Protected Natural Environment (CPPNE) and in the World Heritage Site (WHS), where it is earmarked as a “Buffer World Heritage Site” (and surrounded by the “Core World Heritage Site” area), the latter which was proclaimed in 2009. In terms of the Plan, this sub-district “...includes all-natural areas along the Peninsula Mountain Chain in the district from Mowbray southwards to Cape Point that is outside the urban edge. This includes the proclaimed TMNP, adjacent publicly and privately owned natural areas, as well as isolated agricultural areas such as along Plateau Road, and isolated minor settlements such as Millers Point and Smitswinkel Bay.”

The **vision** for this sub-district is to have “A proclaimed world heritage site, including a world class national park and similarly managed private or public conservation areas highly valued by Capetonians and visitors alike, and bordered by positive agriculture-nature or urban-nature interfaces”.

One of the spatial development **objectives** is “...that of a unique urban national park, that balances conservation and scenic landscapes, in the declared Cape Floral Region World Heritage Site, with recreation and tourism activities, that is accessible and remains primarily open access, that restricts any built development only within identified visitor sites and use zones, and which is bordered by mutually supportive private and public conservation, recreation and tourism centred economy areas”.

In terms of the **supporting development guidelines** “The area south of Simons Town and Scarborough, which is entirely within the proclaimed World Heritage Site (WHS) as either WHS core or buffer, is within the proclaimed CPPNE, and is also entirely outside the urban edge line, should remain primarily as biodiversity area. This should be limited to conservation-related land uses and restoration of degraded areas. The only exceptions to this are the already existing low key and limited development areas such as Castle Rock and Smitswinkel Bay, the Millers Point tourism / recreational area (where in terms of the TMNP CDF certain low-key tourism & recreational activities may occur), as well as certain other areas where very limited low-key tourism activities may be appropriate, subject to stringent visual impact analysis such that the rural landscape is not unduly compromised” (underlining is our emphasis).

Given the existing developed nature – albeit on a modest scale, of the erven in Smitswinkel Bay, the fact that the “settlement” is specifically recognized in the Plan where low-key and limited development may take place, plus the very fact that the proposed cottage is indeed considered to be “low-key”, modest and sensitive to the surrounding natural environment with no impact on the CPPNE, the TMNP and the WHS, the proposal is considered to be consistent and in support of the principles of the District Plan, and should be supported.

- The isolated nature of the site where no public transport or even on-site parking is available, plus the relatively restrictive nature of the site and the sensitive nature of the surrounding area, means that - in this instance, the vision of the **TOD** (which calls for a more compact city with higher residential densities around public transport routes) is not really applicable and can not really be achieved. In other words, it is submitted that the TOD is not applicable in this instance.

(b) Relevant Criteria in the DMS

The application complies with relevant criteria contemplated in the DMS, i.e. the proposal is desirable when assessed in terms of the adjudication criteria set in out Section 99, as will be seen in more detail below.

(c) Applicable Policies Approved by the City

- **Densification Policy:** Given that the existing single dwelling house will be replaced by another single dwelling house there will be no nett increase in the number of dwellings, and there is thus no form of “densification” in the traditional sense of the word. However, the fact that the erf will be re-developed (after demolition) does mean that at least it won’t stand vacant, and therefore even this modest form of development will strive to support this Policy. For the most part however the Policy does not apply in this instance.
- The proposal is consistent with the **Urban Design Policy**, for example the proposed dwelling will “...*protect, value and enhance the natural environment, green open space systems and ecologically sensitive areas through sustainable design*” (Objective 8). It has already been pointed out that the proposed dwelling is considered sensitive by being relatively small and modest with respect to its size, scale, height and footprint. It also makes provision for natural energy (solar), while water off the mountain and a soak-away drain for sewerage will continued to be used.

(d) Desirability of the proposed use

The proposal is considered desirable as the proposed cottage will be largely in keeping with the scale and footprint of the existing dwelling, and it will be in character with the other dwellings (or cottages) on the surrounding erven in Smitswinkel Bay. The existing building lines (15m) are considered exceedingly onerous given the relatively small erf size, while the sloping gradient of the erf requires that a portion of the house be raised by more than 1,5m above the EGL in order to create a level ground floor. The proposal complies with all the other development rules of the DMS.

(e) Impact on Existing Rights

- The proposed departures and Council’s approval are considered desirable and it is not believed that they will have any impact on the surrounding property owners or on any existing rights.
- The current 15m building lines which apply to the Agricultural Zoned properties in Smitswinkel Bay are considered and accepted to be unnecessarily onerous. In fact, given the relatively small size and narrow nature of these erven, these building line restrictions render the development of the properties impossible (the properties are generally only 16m wide).

All the Smitwinkel Bay erven would be completely sterilized if the 15m building lines were applied. This is clearly not desirable or logical, especially given the

value of the land. The existing Agricultural Zoning is arguably not an appropriate zone for the properties in Smitswinkel Bay.

- As a result, sufficient motivation exists to depart from the 15m building lines. It is noted that every improved erf in Smitswinkel Bay has a dwelling within the permitted building lines.
- The proposal therefore respects the character of the suburban environment and all the other properties in this area.
- In this regard it is noted that the DMS permits, for SR1 zoned erven of this size (>350m<sup>2</sup> - 650m<sup>2</sup>), 0m common boundary setbacks for 60% of the total linear distance along all four common boundaries if the building measures 4m or less above the EGL. For the remaining 40% of this total linear distance the building must be set back 3m.

The proposed building predominantly is in accordance with the above-mentioned development rule, being largely lower than 4m above the EGL within 3m of the common boundaries (it is only a relatively small portion of the proposed dwelling – facing the sea, that exceeds a height of 4m above the EGL within 3m of the south-west and north-east common boundaries, due to the fall of the land).

- The implication of the above is that, in the event that the property was zoned SR1 (in accordance with its land use) – as it should be, the proposed departures would have been less in number and also far less onerous. In fact, for all intents and purposes, these properties are theoretically “single residential” properties and should be zoned Single Residential Zoning SR1; the Agricultural Zoning is considered to be an “anomaly” as the erven are not used for agricultural purposes at all.
- It will be noticed that the bulk of the proposed dwelling is situated on the EGL, and is even excavated into the slope of the land – (refer to the south-west and north-west elevations). Given that the erf slopes from the south-west towards the north-east, the proposed ground floor of the north-eastern side of the property is raised by more than 1,5m above the EGL (refer to the south-east and north-east elevations) and requires Council’s approval. The raising is required in order to ensure one level throughout the cottage which is considered practical and desirable (introducing stairs inside the cottage to comply with the DMS in this regard would require more space, and which would have resulted in a larger cottage).

The proposed raising is further considered desirable for the following reasons:

- ❖ The proposed dwelling is predominantly in the same position as that of the existing dwelling.
- ❖ There are no properties behind (i.e. on the mountainside of) Erf 25.
- ❖ The dwelling on the abutting Erf 24 is situated to the north of Erf 25 and given its position in relation to the proposed dwelling, there will not be any material impact on views from the former property towards the ocean as can be seen on the aerial photo below:



- ❖ The proposed raising is considered to be relatively minor being only approximately 700mm.
- ❖ Given the above, it is not considered to have any material impact on any existing rights.

(f) Consolidation

Not applicable.

(g) Relevant National or Provincial Legislation

The applications comply with all other National and Provincial legislation.

**4.2.3 Motivation in terms of Section 99(3) of the By-Law**

The application complies with the following relevant considerations:

(a) Socio-economic Impact

The proposed departures will ensure that the property can be re-developed with a new house, which is an efficient utilisation of the land. The construction of a new dwelling will have a positive impact on the provision of employment opportunities e.g. during the construction phase, but also post-construction e.g. by employing a domestic worker. The investment will contribute to the general economy of the City and the Western Cape.

The replacement of the existing outdated and dilapidated structure with a modern, new building will have positive social impacts on the personal life of the land owner.

(b) Compatibility with Surrounding Uses

As indicated earlier in this report, the proposed cottage will be fully in character with the surrounding land use and built environment where all the other existing dwellings are all relatively modest (i.e. small) and low-key with respect to scale, footprint and height.

Given the sensitive design and the scale, height and extent of the proposed building it considered to be fully compatible with the surrounding uses.

(c) Impact on External Engineering Services

It is not expected that there will be any impact on existing services as these erven are self-sufficient and do not make use of Council's infrastructure. The proposed development will make use of solar power of electricity, a soak-away system for sewerage, and rainwater for drinking water (as currently). Nevertheless, the application will be circulated to the relevant service branches for comment.

(d) Impact on Safety, Health & Wellbeing of the Surrounding Community

There will be no negative impact on the safety, health and wellbeing of the surrounding community.

The re-development of the property with a new and modern dwelling house is considered desirable as the much-improved aesthetic appearance of the proposed dwelling will have a positive visual impact.

(e) Impact on Heritage

The vacant property is not situated in a Heritage Protection Overlay Zone and the existing cottage is not older than 60 years, and accordingly there is no impact on heritage.

(f) Impact on the Biophysical Environment

It is not believed that there will be any negative impact on the biophysical environment of the area, given that the existing use of natural energy and resources for electricity, water and sewerage will be continued to be used as part of the new development. The proposal is sensitive, low-key and respectful to the surrounding natural environment. No trees will be removed and no new footpaths will be constructed as part of the development, while the minimum amount of excavation will take place (largely within the existing footprint).

(g) Traffic, Parking and Access

Given the rather unique circumstances of the property (and Smitswinkel Bay in general) there will be no impact on traffic (there is no vehicular access to the erven). The existing single dwelling will merely be replaced by a new single dwelling, and there will thus be no increase in the amount of traffic.

(h) Imposition of Conditions and Mitigation of Adverse Impacts

The Council is empowered to impose conditions of approval; however, given the nature of the proposal it is not considered necessary for any conditions to be imposed in this instance.

<b>4 CONCLUSION</b>
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The sensitive nature and compatibility of the proposal with the surrounding urban and natural environment have been clearly demonstrated. The proposal is considered to be highly reasonable, modest and desirable given that the existing old cottage (which is in a bad state of repair) will be replaced with a new and modern single-storey cottage.

The proposed departures are considered desirable given the excessive building lines (15m) which apply to the site, and which would prohibit any development on the property if not granted. These onerous building lines stem from the Agricultural Zoning which also does not relate to the existing land use, which is for single residential purposes.

Since there is no vehicular access to the site from Main Road, there is no possibility of providing on-site parking, and the proposed parking departure is therefore considered desirable and highly technical in nature. The non-provision of on-site parking is consistent with all the other properties in Smitswinkel Bay.

The proposed raising of a portion of the ground floor is considered immaterial, relatively minor and desirable, and will not have any impact on the surrounding built or natural environment or neighbours.

In short, the proposal is considered desirable and will not impact on existing rights.

There will be no impact on the Cape Peninsula Protected Natural Environment, the Table Mountain National Park or the World Heritage Site.

It also complies with a number of approved pieces of legislation e.g. the Municipal Spatial Development Framework, the Southern District Plan and the Urban Design Policy. Accordingly, the proposal should be approved.

Lastly, it is also demonstrated that the proposal satisfies the various adjudication criteria as contained in the Spatial Planning and Land Use Management Act (SPLUMA), the Land Use Planning Act (LUPA), and the Municipal Planning Amendment By-Law, and as such, the application should be **approved** from this point of view.

**TOMMY BRUMMER TOWN PLANNERS**  
**June 2020**