



CITY OF CAPE TOWN  
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STAD KAAPSTAD

**Case ID 1500165674**

**Erf 130, 25 De La Fontaine Avenue,  
Monte Vista, Goodwood**

**Development Management**

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**CITY OF CAPE TOWN**  
**GOODWOOD, MONTE VISTA ERF 130**

**APPLICATION FOR DELETION OF A NUMBER OF  
RESTRICTIVE TITLE CONDITIONS AND A  
PERMANENT DEPARTURE**

**PLANNING AND MOTIVATION REPORT  
REVISED**

**CITY OF CAPE TOWN**  
**GOODWOOD, MONTE VISTA ERF 130**

**APPLICATION FOR DELETION OF A NUMBER OF  
RESTRICTIVE TITLE CONDITIONS AND A  
PERMANENT DEPARTURE**

Client:

Consultant: Pro-Konsort Town Planners, Bellville

Date: Revised June 2026

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## 1. **Background**

Pro-Konsort Town Planners of Bellville, Cape Town, had been assigned by the owners of Erf 130, Monte Vista, Goodwood, Cape Town, to apply with the City of Cape Town for the deletion of a number of restrictive Title conditions in the Title Deed of Erf 130, as well as for a Permanent Departure due to overstepping a street building line to allow the owners to construct a garage right up to the site boundary. A Power of Attorney to allow Pro-Konsort Town Planners to apply on the owners' behalf.

## 2. **Purpose of the application**

The owners of Erf 130, 25 De La Fontaine avenue, Monte Vista is in the process to extend their residential dwelling at abovementioned address by adding an additional new garage to the existing structure. The 5m wide garage is to be erected at the southern end of the property with the southern wall of the structure running along the southern boundary of the adjoining street boundary. As second entrance to the property will now be from Sluysken street, while the current access from De La Fontaine avenue will be retained. A second entrance to a single property is allowed in terms of Item 140(2)(b) of the Municipal Planning Bylaws subject to the erf boundary along the street is more than 30m and minimum width between the two entrance points be a minimum of 12m. The erf complies with both conditions. See Site Development Plan attach to this report.

The Title Deed of the property contains a number of restrictive conditions that need to be removed as they will be jeopardizing the approval of the building plans of the extension of the dwelling. The three clauses to be removed are set out in the Title Deed as follows:

- B(b)** That one dwelling together with such outbuildings as are ordinarily required to be used therewith, as 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 four comma seven two metres to the street line which forms a boundary for this erf. No such building or structure shall be situated within one comma five seven metres of the lateral boundary common to any adjoining erf.

See Conveyancer certificate as attached to this report.

The reasons for the removal of the three restrictive conditions are set out below:

The total coverage of the dwelling with the new addition of the proposed garage, covers a total area of 232m<sup>2</sup>, which amounts to a coverage of 38.05%, while the Title

Deed stipulates only a third of the site of 611m<sup>2</sup> be built upon, thus a removal of the clause is eminent.

Secondly, the Title Deed stipulates no building shall be erected nearer than 4,72m to the street boundary, while the proposed garage is designed right up to the street boundary along Sluysken street, thus encroaching the full distance set out in the Title Deed. The encroachment of the building line also triggers the requirement set out in Item 22 (f)(ii) of the DMS of the City stating the building line for a garage / carport / outbuilding be 1,5m from a street boundary subject to a maximum height of 3,5m, with the proposed height only 3,3m. However, Item 22(f)(ii)(cc) states this provision is subject to the horizontal dimension of 6.5m not being exceeded viewed from the street. The referred dimension is 7.23m, thus a 3.5m building line is still applicable. It is clear the new structure encroaches the full 3,5m and a Permanent Departure in terms of the Bylaws is therefore also required.

Thirdly, Clause B(b) is also to be deleted to allow the owner additional buildings in future at the site.

The purpose of the application is therefore to obtain approval from the City of Cape Town in terms of Section 42(g) of the Cape Town Municipal Planning Bylaws 2015, to delete the three conditions mentioned, as well as in terms of Section 42(b) of the same Bylaws of a Permanent Departure due to overstepping the 3,5m street building line as set out in the DMS of the City.

Finally, removal of restrictive conditions in terms of Section 42(j) of the Bylaws is also required.

### **3      PRE-APPLICATION CONSULTATION**

A Pre-Application meeting was conducted with Kajabo Ngendahimana on 24 June 2026. Minutes of the meeting is attached.

### **4.      PROPERTY DETAILS**

The subject property is located at the intersection of De La Fontaine avenue and Sluysken street, Monte Vista, Goodwood. See Locality plan attached. The property is registered in terms of Title Deed no. \_\_\_\_\_ in the names of \_\_\_\_\_

The site is 611m<sup>2</sup> in extent and is zoned R1 in terms of the Zoning Scheme of the City of Cape Town. All the surrounding erven are similarly zoned. See Title Deed attached.

### **5.      MOTIVATION FOR THE DELETION OF TITLE DEED CONDITIONS SET OUT IN TITLE DEED**

## 5.1 **GENERAL REMARKS:**

The conditions to be deleted are set out in par. 2 of this document, which can be summarized as allowing more than one building at the property, permitting a coverage of a maximum of 33.3% of the site area, as well as a street building line requirement of 4.72.m.

The applicant's assumption is that these three restrictive conditions were imposed in the Title Deed in order to ensure that Monte Vista as a middle-higher income suburb not being over-densified via limiting the building footprint at each property, thus securing the openness of the suburb. It would also secure privacy of each household with 66% of each site undeveloped, entertaining ample space for landscaping and recreational purpose while allowing a certain standard of lifestyle for residents of the area. This also goes for enforcing a certain street building line distance to further secure privacy for the occupants of the property.

The impact of this encroachment could hardly be of a negative nature as the garage wall along the boundary line contains no windows and facing a public street, thus privacy infringement from that perspective is not an issue. Secondly, the building on the boundary is only 3.3m high, and it could not be argued it takes away sun and light from any adjacent property to Erf 130, as well as not spoiling views or casting shadows as a public street being the neighbouring land use. The proposed garage structure that will be wedged in between the main house and the street, could also be regarded as a buffer between the house and a public street which contains its own list of pollutive elements such as noise, litter, safety etc.

A building line space is usually a vacant open area without any real purpose other than creating some privacy between two neighbouring properties (in this case a street as a next-door neighbouring). By utilizing this unused space without compromising privacy, does allow the owner to maximize the development potential of his / her property and adding further value to his / her investment. A further argument in favour of allowing a property owner in this area of Monte Vista to overstep the minimum building line distance the Title Deed requires on a street boundary, is that numerous properties in the area reveal garage structures at street boundaries, which indicates this is a trend that had already been set in the suburb and seems an acceptable practice.

Maintaining the character of Monte Vista by enforcing certain conditions stipulated in the Title Deed as assumed by the applicant, is clearly not the norm any longer. External factors such as economic pressures, new housing and spatial policies of the City, optimizing a property's development potential etc have changed the character of the suburb over time. Adding a new garage up to the street boundary, is part of the transformation process that any urban area experiences in South-Africa.

Finally, removing the Clause restricting the owner to only one building is to allow a second or third dwelling.

## **5.2 MOTIVATION OF THE DELETION OF CONDITIONS IN THE RELEVANT TITLE DEED IN TERMS OF SECTION 39(5) OF LUPA (ACT 3 OF 2014), AS WELL AS SECTION 47 OF SPLUMA (ACT 16/2013)**

Over and above motivating the deletion in terms of the abovementioned legislation, it should be noted the restrictive conditions described in Par. 2 are so-called governmental conditions and should also be removed in terms of Section 42(j) of the Bylaws which provides for conditions in respect of an existing approval granted in terms of the Bylaws.

The main focus of the motivation will be whether removal of any of the conditions will deprive any people of their own property rights, the Public interest and affecting their well-being.

In terms of the LUPA and SPLUMA Acts, motivation is as follows:

**(a) The financial or other value of the rights in terms of the Restrictive Conditions enjoyed by a person**

The value of the rights in terms of the restrictive conditions to be deleted, is zero as it were imposed most probably for the benefit of the community as a whole.

**(b) Personal benefits which accrue to the holder of the rights**

No personal benefits for the holder of the rights exist, as the imposer had most probably in mind a homogenic development of the suburb, with all the residents benefitting.

**(c) Personal benefits which will accrue to the person seeking the removal**

The restrictive conditions to be deleted prevent the owner currently to utilize his property to its maximum potential. Removal will add value to the property and allow it to be developed to its maximum potential.

**(d) Social benefits if the restrictive conditions remaining in place**

There can be no social benefits contained in the conditions to be deleted as the benefits focus only on one property with only the owner gaining from it. The conditions were most likely an attempt to preserve the quality of the specific property and indirectly creating socially a better living environment which could benefit the surrounding area at that time, but are incompatible with present standards, norms and Spatial objectives of the City.

**(e) Social benefits of Removal of the Restrictive conditions**

Deletion of the conditions allow the developer to extent the existing dwelling to provide for additional covered parking space.

(f) **Whether the removal will remove all rights enjoyed by the beneficiaries or only some rights**

Removal will only be applied on rights bestowed on a single property. All other rights / conditions are still being retained.

**5.3 MOTIVATION OF THE DELETION IN TERMS OF SPLUMA SECTION 42(1)(C)**

Removal of Restrictive Title Conditions in terms of this section should take into account:

- (i) The public interest
- (ii) Constitutional transformation imperatives and related duties of the state
- (iii) Facts and circumstances relevant to the application
- (iv) Respective rights and obligations of all those affected
- (v) The state and impact of engineering services, social infrastructure and open space requirements
- (vi) Any factors that may be prescribed, including time-frames for making decisions

One fails to see how the conditions to be removed that only one dwelling allowed at the site with only 33% being built upon and one building line restriction would have any major affect on the public interest. It could also hardly be argued it impacts negatively on the rights and obligations of surrounding property owners. Constructing a garage building with a height of 3.2m at the street boundary without obstructing any sight distance for any neighbours should be of no concern to the public. It will have no impact on engineering and social infrastructure or open space requirements. It will also not effect any constitutional transformation imperatives of the State.

**5.4 MOTIVATION OF THE DELETION IN TERMS OF SECTION 48(4) OF THE MUNICIPAL PLANNING BYLAWS**

Under this section, the deletion can be motivated as follows:

(a) **Whether the result would better align with the Development Management Scheme**

The purpose of the DMS of the City of Cape Town is to regulate land use, zoning and spatial development by guiding physical growth, protects the environment and addresses historical spatial development by balancing economic needs with community well-being.

The applicant is of opinion that the motivation set out in the following section in terms of Section 99 of the Bylaws, fully adheres to requirement stipulated in abovementioned par. (a).

(b) Align with criteria set out in Section 99: See above

(c) Section 42(1)(c) and Section 47 of SPLUMA has been dealt with earlier in this report

6. **MOTIVATION OF THE APPLICATION IN TERMS OF SECTION 99(3) OF THE MUNICIPAL PLANNING BYLAWS**

The building line encroachment at stake is due to a proposed garage building overstepping the street building line for a R1-zoned erf of between 350m<sup>2</sup> and 650m<sup>2</sup>. The overstepping is from 3.5m to 0.0m. This is due to the horizontal view as stated in Par. 2 being exceeding the 6.5m street view limitation, thus the full building line is applicable.

- **Socio-economic impact**

The proposed extension of the dwelling at Erf 130 Monte Vista by adding a new garage, will create a number of job opportunities during the construction phase, pending the positive outcome of this application. It should be noted that in terms of the effect on the street scape that the proposed new building on the boundary with a blank wall facing the street will have, the applicant has instructed that a plaster band, similar to the one to the top of the boundary wall along the street, is introduced in the design of the garage façade above the plaster band to a different shade to entertain a more pleasant visual impact of the garage wall from a street perspective.

- **Compatibility with surrounding uses**

Driving through Monte Vista reveals numerous properties in the area entertaining garages right up to erf boundaries which we presume was done within the Bylaws. The application is therefore not creating a new precedent with its proposed garage along Sluysken street.

- **Impact on engineering services**

The proposal will have no impact on the existing services network of the City of Cape Town, as it does not create additional accommodation space.

- **Impact on safety, health and wellbeing**

The application will have no impact on the property rights of neighbouring properties. The proposed garage will be 12.5m away from the nearest neighbouring property at the opposite side of Sluysken street. The existing bedroom window at the main house that overlooks Sluysken street, was retained with the garage design, to ensure a view of the street, creating passive surveillance on the street.

- **Impact on heritage**

No heritage elements are involved.

- **Impact on the biophysical environment**

Only one shrub needs to be removed while a clump of trees on and off site will be retained and partly shield the garage structure from the street. The impact of the proposal is therefore minimal.

- **Traffic impact and parking**

The proposal requires a new approach from Sluysken street to the property. The garage is located in such a position that sufficient maneuvering space is available that vehicles can still approach the street in a forward driving mode.

**CONCLUSION:**

The proposed deletion of some Title Deed conditions, as well as a Permanent Departure for overstepping a street building line at Erf 130 Monte Vista, should basically have no negative impact with its surrounding built environment, as argued above.

Against this background, we trust the City will consider the application in a positive light.

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**PRO-KONSORT TOWN PLANNERS**

**BELLVILLE**

**JUNE 2026**

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