

Application Number: LU/13642

Our File Reference Number: Erf 3536, Stellenbosch

Your Reference Number: None Enquiries: Ulrich von Molendorff

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PER E-MAIL:

Sir / Madam

APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS & DEPARTURE ON ERF 3536, STELLENBOSCH

- 1. The above application refers.
- 2. The duly authorised decision maker has decided on the above application as follows:
 - 2.1 That the application in terms of Section 15(2)(f) of the Stellenbosch Municipal Land Use Planning Bylaw, promulgated by notice number 354/2015, dated 20 October 2015 for the removal of the restrictive title deed condition B.6.(a) as contained in deed of transfer number T. 17049 of 2021 on Erf 3536, Stellenbosch.

BE REFUSED in terms of Section 60 of the said Bylaw for the following reasons:

3. The reasons for the above decision are as follows:

- 3.1 Title deed restrictions constitutes property rights and when it is proposed and considered to have same removed, the application must be fully motivated and accompanied by a proposal which will enable all interested and affected parties to be able to fully comprehend and consider the possible impact that such removal may have.
- 3.2 The above condition has no impact on the proposed additions to the existing house.
- 3.3 The subject application contains no grounds or motivation for the proposed removal of the subject title restrictions.

- 4. That the following applications in terms of the Stellenbosch Municipal Land Use Planning By-Law, promulgated by notice number 354/2015, dated 20 October 2015, on Erf 1060, Stellenbosch:
 - 4.1 Removal of restrictive title deed conditions B.6.(b) (d) and C.1 as contained in deed of transfer number T. 17049 of 2021 in terms of Section 15(2)(f) of the said Bylaw in order to accommodate the proposed second dwelling unit and carports, the restrictions to be removed read as follows:
 - B.6.(b) it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;
 - (c) not more than one-third of the area thereof shall be built upon.
 - (d) no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 6,30 metres to the street line which forms a boundary of this ei, nor within 4,72 metres of the rear or 3,15 metres of the lateral boundary common to any adjoining erf, provided that in the full discretion of the local authority it may permit an outbuilding not exceeding 3,05 metres in height, measured from the floor to the wall plate, to be erected within the above prescribed rear space and within the above prescribed lateral space for a distance of 9,45 metres reckoned from the rear boundary.
 - C.1 Plans of dwelling houses and outbuildings to be erected on this erf and of alterations to any buildings already erected, including separate drainage and sewerage plans, elevations and specifications in duplicate, with an architect's or quantity surveyors estimate of cost of construction, must be submitted to the said Company and the Local Authority and the Company's written approval obtained before any such buildings or erections or structures are commenced by the owner of the erf. The approval of the aforesaid plans shall be subject to any conditions in regard thereto which the Company may wish to impose so as to ensure the harmonious and attractive development of the entire Township. The Company shall have the right to decide as to the suitability of any design and the elevation and location of any proposed building and of the soundness of the proposed construction. The Company, however, does not in any way whatsoever accept any legal responsibility arising directly or indirectly from plans which it approves, nor shall the Company make any charge for scrutinising such plans. In the event of the Company refusing to sanction a proposed erection in terms of the foregoing provisions, the owner shall have the right to refer the matter to the local authority whose decision shall be final.

- 4.2 A departure in terms of Section 15(2)(b) of the said By-Law to relax the street building line from 4m to 1,4m and 0m in order to accommodate the proposed additions to the existing structure and the proposed double garage respectively.
- 4.3 A departure in terms of Section 15(2)(b) of the said By-Law to relax the common building line from 2,5m to 1,38m (adjacent to Erf 3537) and to 1m (adjacent to a servitude) in order to accommodate the proposed additions to the existing structure.

BE APPROVED in terms of Section 60 of the said Bylaw.

- 5. The approval is subject to the following **conditions** imposed in terms of Section 66 of the said Bylaw:
 - 5.1 The approval only applies to the removal of restrictive title deed conditions and departure applications under consideration and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.
 - 5.2 The development must be undertaken generally in accordance with the site plan as referenced LA 001, 003, 004 & 1000 revision 1, LA 000 revision 11 and LA 002 revision 6 dated 24 November 2021 and drawn by Solvation Architects attached as **ANNEXURE C**.
 - 5.3 Carport/garage door may not encroach onto road reserve when opened as it will affect pedestrian movement.
 - 5.4 Building plans must be generally in accordance with the site plan & floor layout plan as referenced LA 001, 003, 004 & 1000 revision 1, LA 000 revision 11 and LA 002 revision 6 dated 24 November 2021 and drawn by Solvation Architects and attached as **ANNEXURE C.**
- 6. The **reasons** for the above decision are as follows:
 - 6.1 The subject property is covered by established trees on the boundary of the property thus additions on the street side will have minimum visual impact.
 - 6.2 The proposed removal of the restrictive title deed conditions will have no impact on the character of the area as it is in line with the current zoning and land uses found in this area.
 - 6.3 Departure for building lines will not have an impact on the streetscape as Lanzerac Street is wide and has wide sidewalks to minimise the impact of the proposed structures over the street building line.

- 7. You are hereby informed in terms of section 79(2) of the Stellenbosch Municipal Land Use Planning Bylaw, of your right to appeal the above decision to the Appeal Authority within 21 days from the date of notification of the above decision. <u>Please note</u> that no late appeals or an extension of time for the submission of appeals are permitted in terms of Section 80(1)(a) of the said By-Law.
- 8. Appeals must be submitted with the prescribed information to satisfy the requirements of Section 80(2) of the said By-law, failing which the appeal will be invalid in terms of Section 81(1)(b) of the said By-Law. The following prescribed information is accordingly required:
 - (a) The personal particulars of the Appellant, including:
 - (I) First names and surname;
 - (II) ID number;
 - (III) Company of Legal person's name (if applicable)
 - (IV) Physical Address;
 - (V) Contact details, including a Cell number and E-Mail address;
 - (b) Reference to this correspondence and the relevant property details on which the appeal is submitted.
 - (c) The grounds of the appeal which may include the following grounds:
 - (i) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);
 - (ii) grounds relating to the merits of the land development or land use application on which the appellant believes the authorised decision maker erred in coming to the conclusion it did.
 - (d) whether the appeal is lodged against the whole decision or a part of the decision:
 - (e) if the appeal is lodged against a part of the decision, a description of the part;
 - (f) if the appeal is lodged against a condition of approval, a description of the condition;
 - (g) the factual or legal findings that the appellant relies on;
 - (h) the relief sought by the appellant; and

- (i) any issue that the appellant wishes the Appeal Authority to consider in making its decision;
- (j) That the appeal includes the following declaration by the Appellant:
 - (i) The Appellant confirms that the information contained in the subject appeal and accompanied information and documentation is complete and correct
 - (ii) That the Appellant is aware that it is and offence in terms of Section 86(1)(d) of the said By-Law to supply particulars, information or answers in an appeal against a decision on an application, or in any documentation or representation related to an appeal, knowing it to be false, incorrect or misleading or not believing them to be correct.
- 9. Appeals must be addressed to the Municipal Manager and submitted to his/ her designated official by means of e-mail at the following address: landuse.appeals@stellenbosch.gov.za.
- 10. Any party (applicant or other) who lodges an appeal must pay the applicable appeal fee in terms of the approved municipal tariffs and submit the proof of payment together with the appeal. The LU Reference number on this correspondence, or the applicable Erf/ Farm Number must be used as the reference for the payment of the appeal fee.
- 11. The approved tariff structure and the banking details for the General Account can be accessed and viewed on the municipal website. For any enquiries the office can be contacted at <u>landuse.appeals@stellenbosch.gov.za</u>.
- 12. An applicant who lodges an appeal must also adhere to the following requirements stipulated in terms of section 80(3) to (7) of the said By-law:
 - (a) Simultaneously serve the appeal on any person who commented on the application concerned and any other person as the municipality may determine.
 - (b) The notice by the applicant must invite persons to comment on the appeal within 21 days from date of notification of the appeal.
 - (c) The notice must be served in accordance with section 35 of the said legislation and in accordance with the prescripts or such additional requirements as may be determined by the Municipality.
 - (d) Proof of serving the notification must be submitted to the Municipality at the above E-mail address within 14 days of serving the notification.
- 13. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.

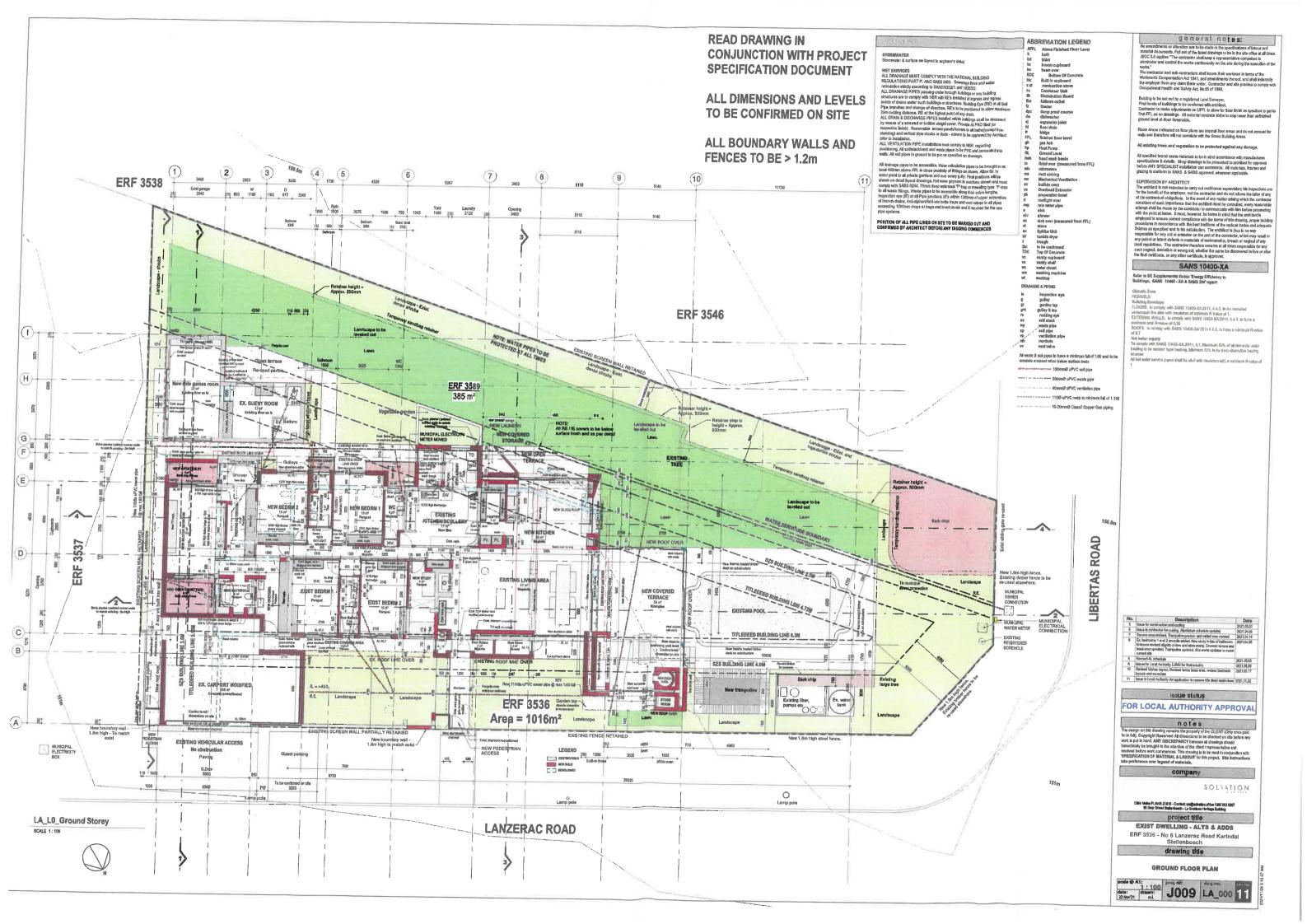
14. Kindly note the above decision in the case of any approval, is suspended, and may therefore not be acted on, until such time as the period for lodging appeals has lapsed, any appeal has been finalised and you've been advised accordingly.

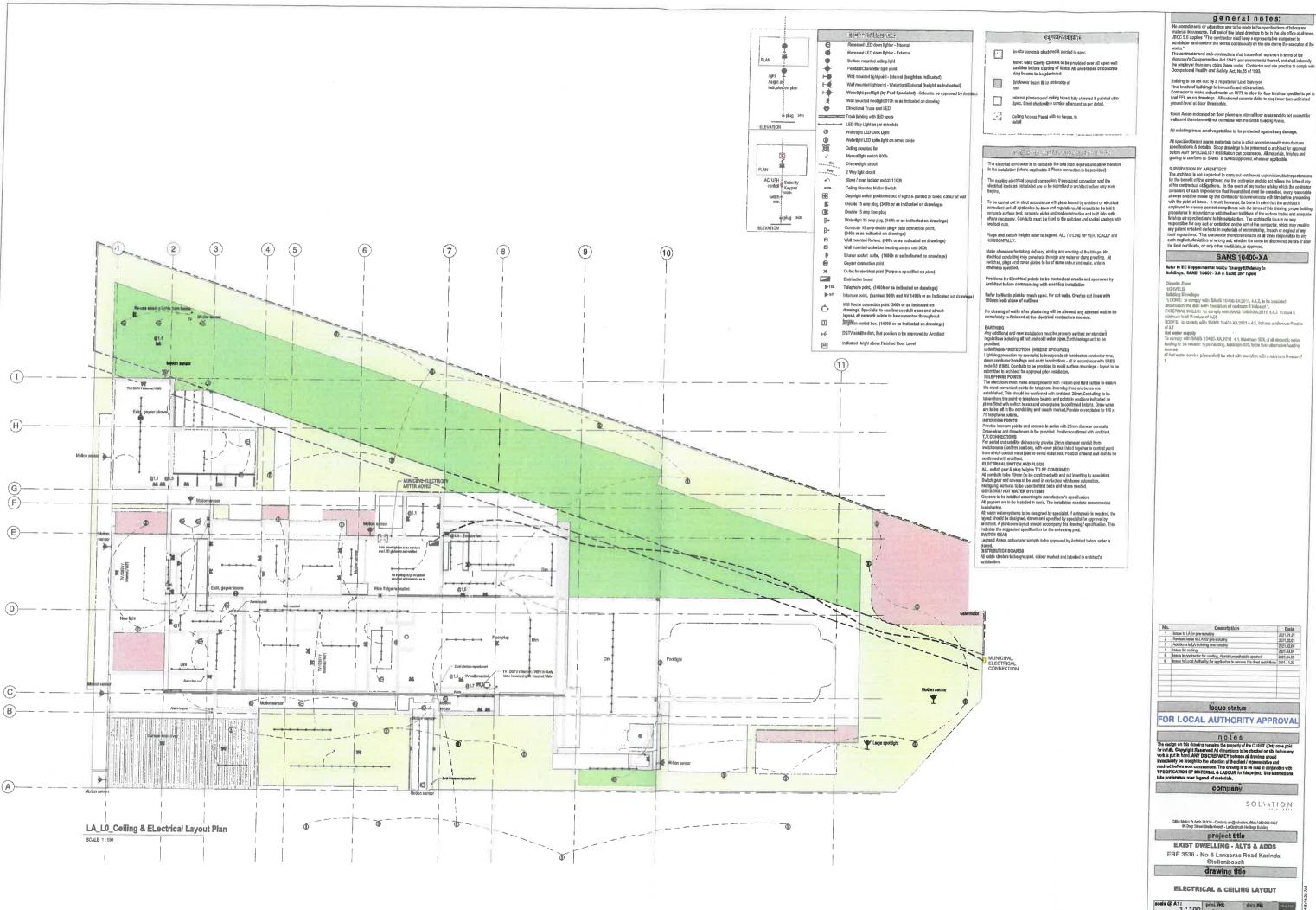
Yours faithfully

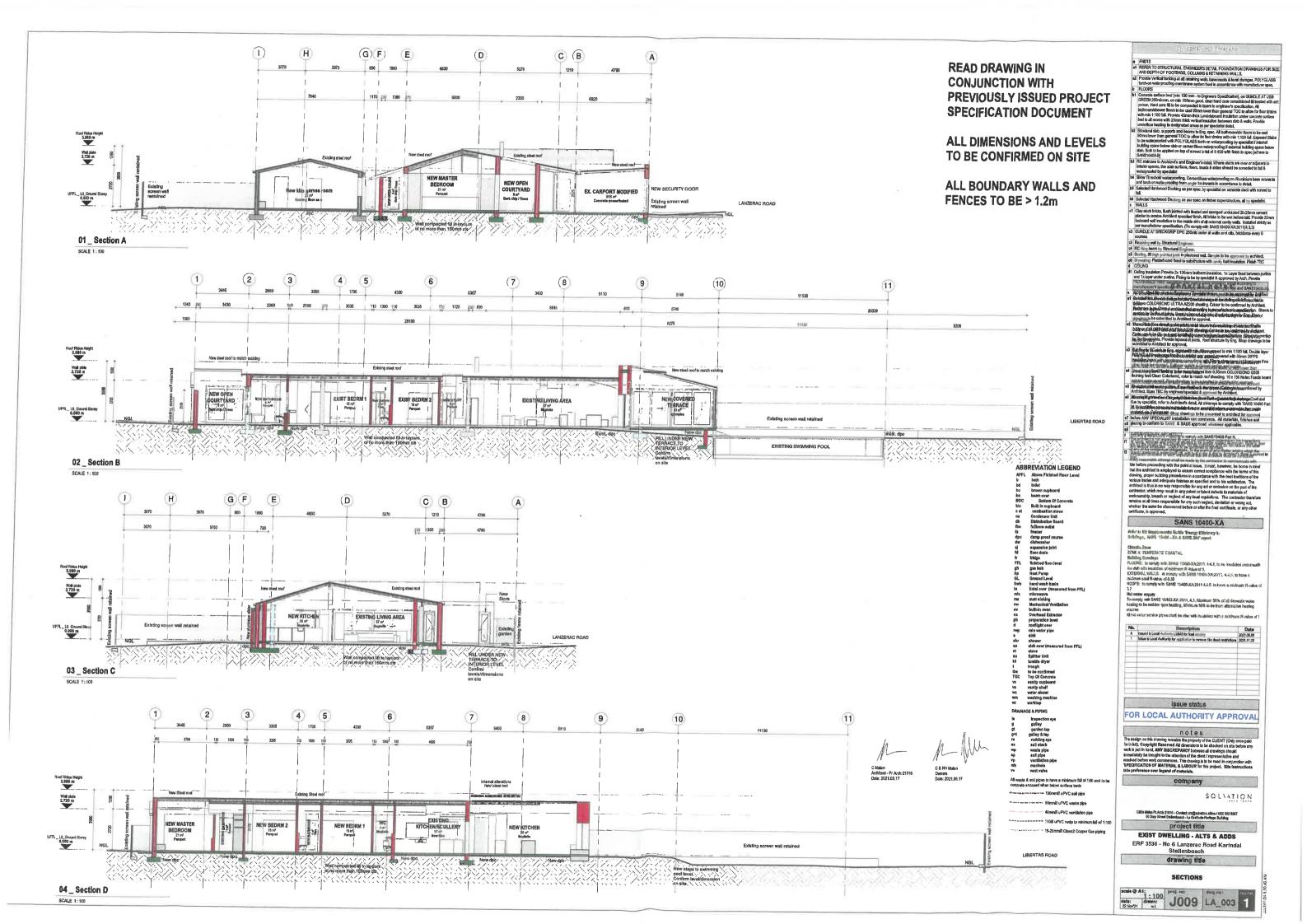
FOR: DIRECTOR PLANNING AND ECONOMIC DEVELOPMENT

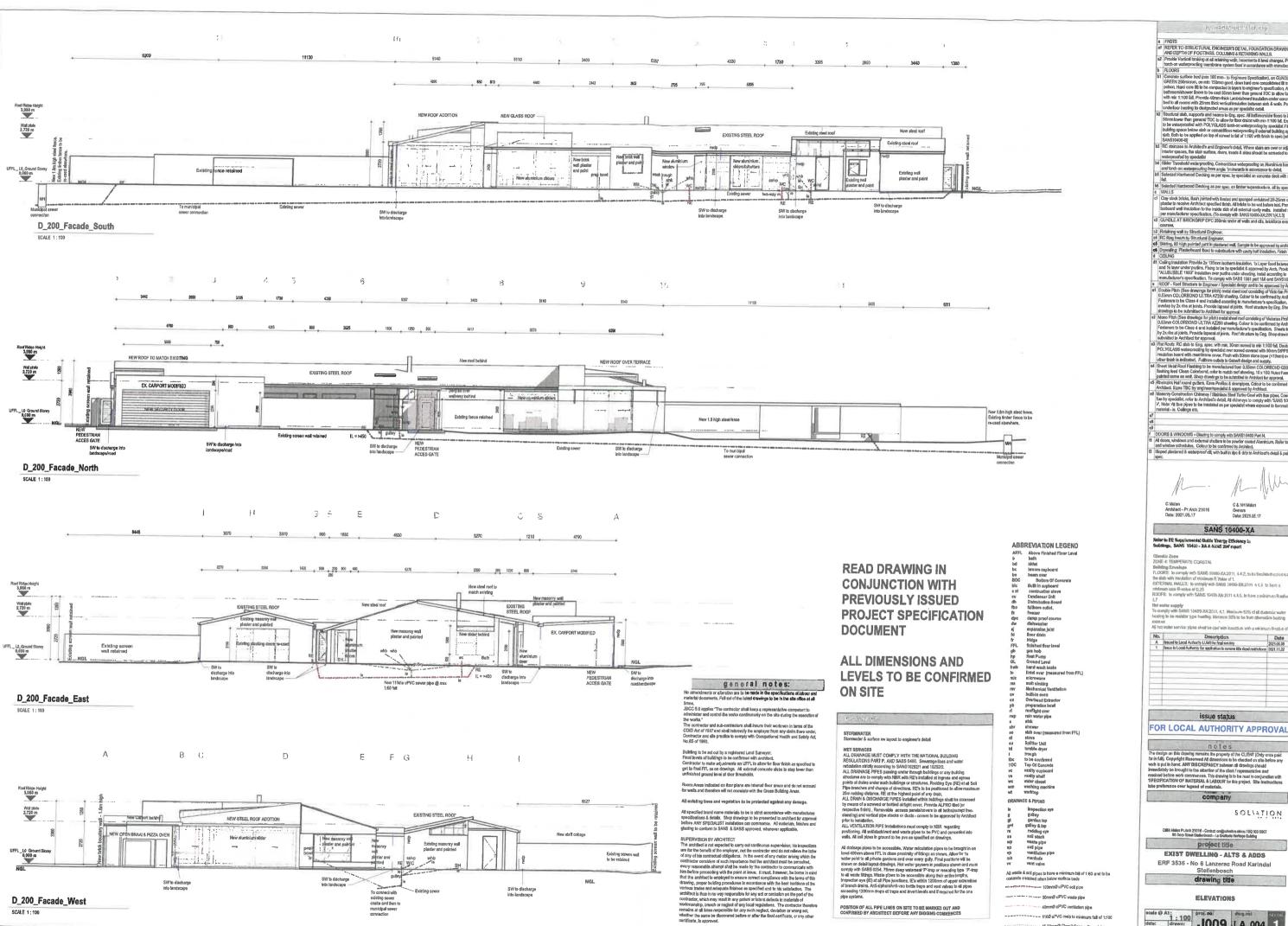
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Annexure C: Building Plan









D_200_Facade_West

SCALE 1:100

 I FINDTS

of REFER TO STRUCTURAL ENGINEER'S DETAIL FOUNDATION DRAWINGS FOR SIZE AND DEPTH OF FOOTINGS, COLLIBINS A RETAINING WALLS.

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1 All doors, windows and external shutters to be powder coaled Aluminium. Refer to door All doors, windows and external shutters to be powder coaled Aluminium. Refer to door and window schedules. Colour to be confirmed by Architect.

Sloped plastered & waterproof cit, with built in dpc & drip to Architect's detail & painted by Nation to FE Supplemental Suite Yeargy Efficiency); Substrage, SANS 16400 - NA & SANS 264 report Climatic Zopes
ZONE 4: TEMPERATE CDASTAL
Beilding Ermelope
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the slick with installation of minimum R Value of 1.
EXTERNAL VALLES: to comply with SANS 10460-VA.2011 4-5 to being c
intrinsum total Revoke of 0.35 nfritmen sees R-value or 0.25 RDOPS: to comply with SAIsS 10400-XA:2011 4.4.5. to have a relative in R-value of

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100mm@ uPVC soil pipe

50mmØ uPVC waste pipe 40mm@ uPVC ventilation pipe

- 15-20mm@ Class2 Copper Gas piping

ELEVATIONS acale @ A1: 1:100 ---- 1100 uPVC rwdp to minimum fall of 1:100

pro no: day no: date: drawn: J009 LA_004 1

SOLIATION

SANS 10400-XA

AS but water service pipes shall be clad with inscriber with a minimum Swedum of

issue status

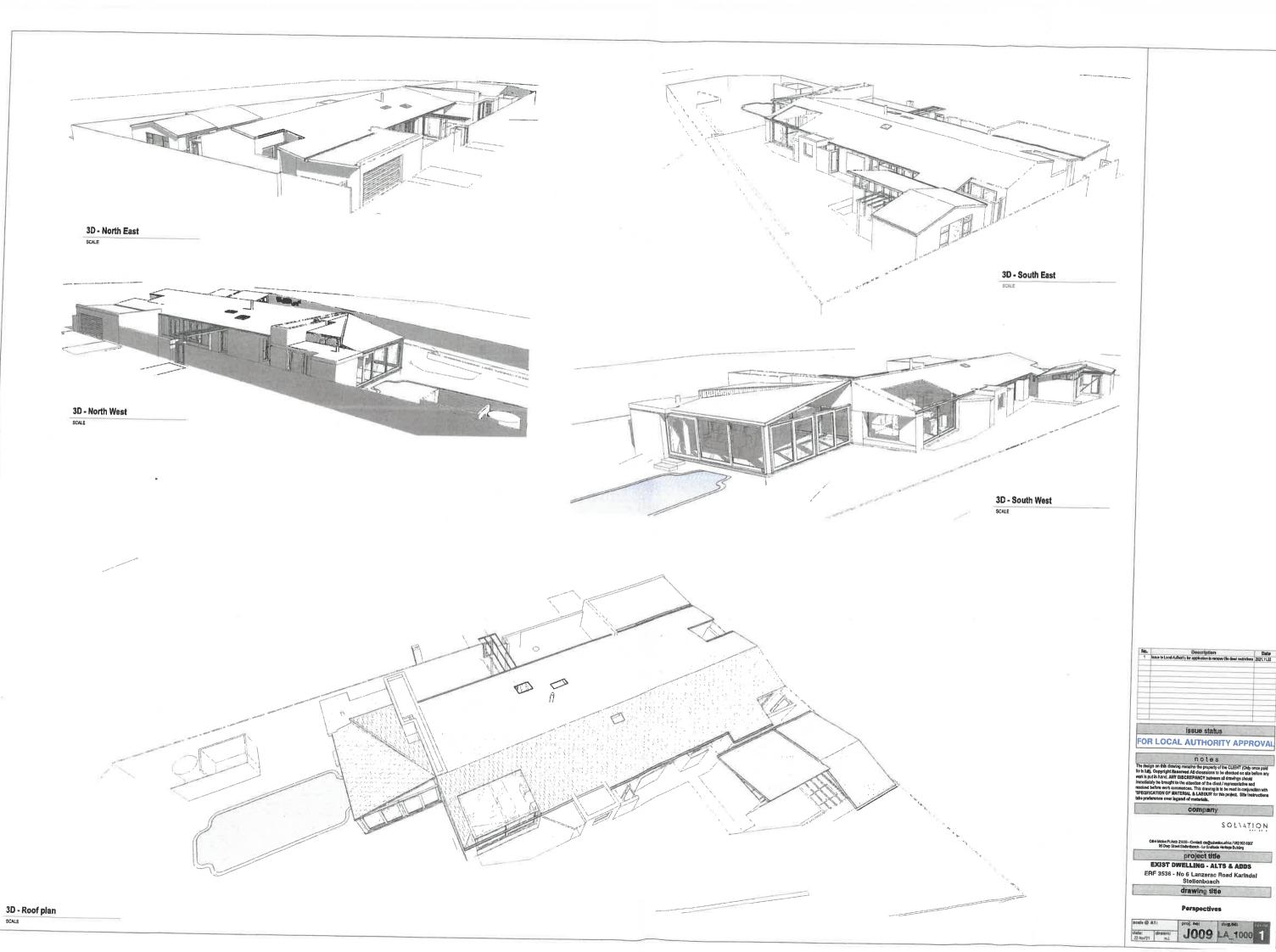
notes

project title

EXIST DWELLING - ALTS & ADDS

ERF 3536 - No 6 Lanzerac Road Karindai

drawing title



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