

**APPLICATION FOR AMENDMENT OF APPROVAL CONDITIONS:
ERVEN 65106 AND 68137, CAPE TOWN**

headland

town planners

TABLE OF CONTENTS

1.	INTRODUCTION	1
2.	PROPERTY DETAIL	2
3.	AMENDMENT PROPOSAL	3
3.1.	AMENDMENT OF APPROVAL CONDITIONS	3
3.2.	EXEMPTION FROM ADVERTISING REQUIREMENTS.....	4
4.	MOTIVATION AND DESIRABILITY.....	4
4.1.	COMPLIANCE WITH ANY APPLICABLE MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK (MPBL, SECTION 99 (1)(B))	4
4.1.1.	Municipal Spatial Development Framework	4
4.2.	SUBJECT TO SUBPARAGRAPH IN SECTION 99(1)(D)(II), 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 (MPBL SECTION 99(1)(D)(I)).....	4
4.3.	APPROVAL OF AN APPLICATION FOR A DEPARTURE TO ALTER THE DEVELOPMENT RULES RELATING TO PERMITTED FLOOR SPACE OR HEIGHT THAT DOES NOT EXCEED 10% OF THE MAXIMUM HEIGHT OR FLOOR SPACE OF THE EXISTING SUBZONE DOES NOT TRIGGER THE MINIMUM THRESHOLD REQUIREMENT (MPBL SECTION 99(1)(D)(II)).....	4
4.4.	COMPLIANCE WITH ANY APPLICABLE SPATIAL DEVELOPMENT FRAMEWORK (MPBL SECTION 99(2)(A))	4
4.5.	COMPLIANCE WITH RELEVANT CRITERIA CONTEMPLATED IN THE DEVELOPMENT MANAGEMENT SCHEME (MPBL SECTION 99(2)(B)).....	4
4.6.	COMPLIANCE WITH ANY APPLICABLE POLICY APPROVED BY THE CITY TO GUIDE DECISION MAKING (MPBL SECTION 99(2)(C)) ..	5
4.7.	IMPACT ON EXISTING RIGHTS (MPBL SECTION 99(2)(E)).....	5
4.8.	OTHER CONSIDERATIONS PRESCRIBED IN RELEVANT NATIONAL OR PROVINCIAL LEGISLATION (MPBL SECTION 99 (2) (G))	5
4.9.	EVALUATION OF DESIRABILITY (MPBL SECTION 99(3)).....	5
5.	CONCLUSION.....	6

LIST OF FIGURES

FIGURE 1: AERIAL PHOTO OF MAIN CAMPUS AND SATELLITE CAMPUS (SOURCE: CITY OF CAPE TOWN MAP VIEWER)	1
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LIST OF TABLES

TABLE 1: TABLE OF PROPERTY INFORMATION	2
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SUPPORTING DOCUMENTS UPLOADED ONTO D.A.M.S.

Company resolution (Erf 65106) and Trustees resolution (Erf 68137)
Powers of attorney – erven 65106 & 68137
Property diagrams – erven 65106 & 68137
Locality plan – erven 65106 & 68137
Trust deed
Title deeds – erven 65106 & 68137
Erf 65106 and 68137 approval (Case ID: 212276)
Erf 68137 approval (Case ID: 70326480)
Erf 68120 approval (Case ID: 70417192)
Completed land use application forms – erven 65106 & 68137
Parking plan - Erf 65106
Traffic assessment

APPLICATION FOR AMENDMENT OF APPROVAL CONDITIONS: ERVEN 65106 AND 68137, CAPE TOWN

1. INTRODUCTION

Erf 65106 houses the Cedar House High School main campus. Erven 68137 and 68120, which are situated within walking distance of the main campus, were secured as satellite campuses to accommodate the overflow of students from the main campus – see figure 1. In terms of the existing approvals, 208 students are permitted on erf 65106, 50 students on erf 68137 and 35 students on 68120 – thereby resulting in a total of 293 students permitted across all 3 campuses in terms of the approval conditions for each campus. The school currently accommodates 325 students at the high school and assuming that the quotas for the permitted students on the satellite campuses are filled, results in an excess of 32 students at the main campus (erf 65106) which is a contravention of Condition 4.1.2. In addition, the number of students being taught on erf 65106 is currently 240 whereas this was limited to 158, in terms of Condition 4.1.2 of the existing approval. These contraventions were subject to an administrative penalty process (Case ID: 70503216).



The number of students grew sequentially over time resulting in the total number of students enrolled at the school exceeding the permitted total in the approval conditions and consequently, an excess number of learners being taught, above what is permitted, on erf 65106. In addition to the excess students, the parking provision does not conform to the approved SDP in terms of condition 4.2.5 which requires 50 parking bays, however, in terms of the Development Management Scheme, the parking is compliant.

Condition 3.1.2 limits the number of students that are permitted on erf 68137 to 50. Given that this is not an accurate reflection of the carrying capacity of this campus, part of this application includes the amendment of this condition. Note that the approved limitation has not been exceeded. The sole purpose of this amendment is to enhance the school's flexibility in utilising this satellite campus.

Since the administrative penalty process has been concluded, the purpose of this application is to amend Conditions 3.1.2, 4.1.2 & 4.2.5 of the existing approval.

Figure 1: Aerial photo of main campus and satellite campus (source: City of Cape Town Map Viewer)

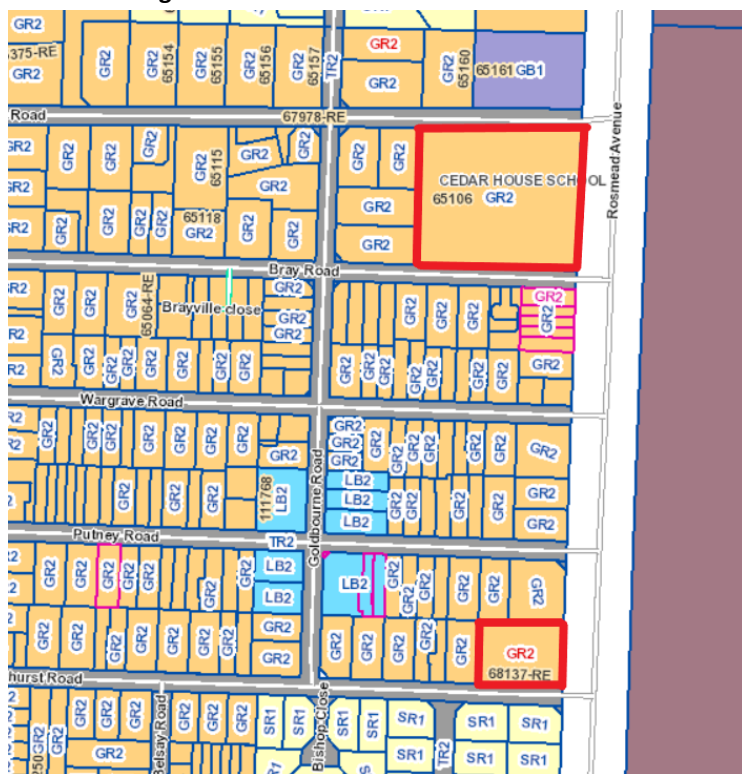
An **amendment application** is required in terms of **section 42(j) in terms of the City of Cape Town Municipal Planning By-law, 2015 (as amended)** for the amendment of Conditions 3.1.2, 4.1.2 and 4.2.5 of the existing approval dated 14/05/2014.

2. PROPERTY DETAIL

Table 1: Table of property information

Applicant	Headland Planners (Pty) Ltd	
Erf Numbers	Erf 65106, Kenilworth	Erf 68137, Kenilworth
Street Addresses	5 Ascot Road	162 Bathurst Road
Property Diagrams	282/1900	1132/1897
Property Extents	5630m ²	1 359m ²
Registered Owners	John Marshall Investments cc	The Cedar House School Trust

Current zoning: General Residential 2



Title Deeds	T99893/1998	T62696/2011
Title Deed Conditions	No	
Servitudes	N/A	
Current Land Use	Place of Instruction	
Previous Approvals	<p>Yes:</p> <p>1) Consent use for place of instruction approved in 1998.</p> <p>2) Departures and consent approved 14/05/2014. Application Number: 212276</p> <p>3) Administrative penalty for unauthorised additions to the building. Resolved on 08/01/2019 - Case ID: 70422935</p> <p>4) Administrative penalty for contravention of approval conditions. Resolved on 2 November 2020 – Case ID: 70503216</p>	<p>Yes:</p> <p>1) Departures and consent approved 14/05/2014. Application Number: 212276</p> <p>2) Consent use and departures approved on 14 August 2017 - Case ID: 70326480</p>
Any Unauthorised Land Use/ Structures	No	
Special / Conservation Area	No	
Subject to SAHRA/PHRA	No	

3. AMENDMENT PROPOSAL

3.1. Amendment of Approval Conditions

In order to accommodate the increase in students currently enrolled at the Cedar House High School main campus (erf 65106), Conditions 4.1.2 and 4.2.5 of the approval dated 14/05/2014 (Case ID: 212276) are to be amended. In addition, Condition 3.1.2 which specifies the number of students permitted on the satellite campus (erf 68137) is also being amended, as follows: (~~strike through~~ = delete and underline = add):

Condition 3.1.2 *"The maximum number of learners on Remainder Erf 68137 shall not exceed ~~50~~ 83 at any one time."*

The student limitation on erf 68137 (situated at 162 Bathurst Road) is being amended because it is not a true reflection of the maximum carrying capacity of this satellite campus. Erf 68137 currently has 4 classrooms which can together accommodate a maximum of 87 students. Note that an approval is in place for extensions to this campus to accommodate 5 additional classrooms (Case ID: 70326480), however these extensions have not been constructed. It is therefore proposed that the condition be amended as above. It is acknowledged that the number of students on erf 68137 may never reach 83 at any given time. This amendment arises from the need for more flexible use of classroom spaces. The reality of timetabling across multiple campuses is that, at any given time, some classrooms are full, some are partially full, and some are empty. The existing approval limits the campus to approximately 13 students per class which is clearly an uneconomic and unworkable restriction, given that the students cannot be packaged into pre-ordained group sizes. The school admission count can be restricted; however, the school requires flexibility regarding the use of spaces and accommodation of students across the satellite campuses where capacity on these campuses exists.

Condition 4.1.2 *"The maximum number of learners being taught at any one time on erf 65106 shall not exceed ~~158~~ 325. The maximum number of learners on erf 65106 at any one time shall not exceed ~~208~~ 325."*

There are 16 classrooms on the main campus. Given that it is difficult to quantify the number of students being taught on the main campus due to potential adjustments as a result of venue and/or subject re-scheduling from one school term to the next, it is proposed that the first part of the condition be amended to accommodate 325 learners being taught at any given time. The reality is that 325 learners will never be taught at any one time on erf 65106 due to students being diluted to the teaching facilities on the satellite campuses. The purpose of amending the condition in this way is to accommodate instances in which venues are adjusted or instances in which the satellite campus student quotas are not filled to their maximum permitted number. In scenarios where the satellite campus student quotas are not full, these students could be learning at the main campus.

The total number of students enrolled at Cedar House High School outgrew the approval conditions, and the operators have attempted to purchase additional properties as additional teaching facilities in order to accommodate the growth in student numbers. The proposed amendment to the second part of the condition is deemed sufficient given that the school intends to limit the total number of students at 325. The Cedar House School Trust has acquired an additional property adjacent to the main campus (erf 65105) and an application is currently underway to secure the schooling rights on this property (Case ID: 70488309). Erf 65105 is proposed to accommodate 40 of the existing students which would further alleviate the strain on the main campus. The additional teaching facilities over the 3 satellite campuses provide adequate facilities for the increased number of students.

Condition 4.2.5 *"Parking for a minimum of ~~50~~ 28 vehicles shall be provided on Erf 65106."*

Erf 65106 is situated in a PT1 zone which requires 1 bay per classroom and office, plus a stop & drop facility. The capacity for a stop and drop facility is to be provided at a rate of 1 bay per 20 learners. The DMS stipulates that if a facility cannot be accommodated on street, provision must be made to accommodate the equivalent number of bays required for this facility off-street.

The main campus currently contains 16 classrooms, 3 offices and 6 staff work rooms bringing the total to 25 which necessitates a parking requirement of 25 bays.

In the application for additional classrooms on erf 68137 (first satellite campus), there was a shortfall of 2 bays, and it was motivated that these could be accommodated at the main campus (erf 65106). In light of this, the parking requirement on the main campus increases to 27 bays. Similarly, the approval on erf 68120 situated at 152 Rosmead Avenue (the second satellite campus) included a parking departure. The shortfall was 1 parking bay, and it was

motivated that this bay could be accommodated on the main campus (erf 65106). In light of this, the final parking requirement on the main campus is 28 bays.

The main campus accommodates 33 parking bays which satisfies the requirement for parking on the site, as well as the shortfall of parking on the satellite campuses.

The stop and drop is accommodated on Ascot Road during peak drop off and collection times. During these periods, the school security guards prohibit parking adjacent to the Ascot Road Cedar House vehicle and pedestrian entrances. In this way, parents and guardians are able to stop temporarily in these sections of Ascot Road to drop off and collect their children.

With regards to erf 68137, the proposed amendment to the approval condition intends to increase the student limitation on the property. Since the parking requirement is measured in terms of the number of classrooms and offices on the property and that no additional classrooms and offices are proposed on the site, no parking is required as a result of amending condition 3.1.2.

3.2. Exemption from Advertising Requirements

A waiver from public advertising is motivated for in terms of Section 79 (5) of the MPBL which makes provision for exempting an application from a public notification process if the application does not materially and adversely affect the rights of the public.

This application intends to align the land use approval with the actual number of students presently enrolled and being taught on erf 65106 and permit the accommodation of more students on erf 68137 since adequate capacity exists. This application will not result in any differences in impact on the public to what is currently experienced and will not materially impact the surrounding property owners or the general public in any way.

4. MOTIVATION AND DESIRABILITY

4.1. Compliance with any applicable municipal spatial development framework (MPBL, section 99 (1)(b))

4.1.1. Municipal Spatial Development Framework

Complies – The land use rights are already in place.

4.2. Subject to subparagraph in Section 99(1)(d)(ii), 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 (MPBL section 99(1)(d)(i))

Not applicable – No departures being applied for.

4.3. Approval of an application for a departure to alter the development rules relating to permitted floor space or height that does not exceed 10% of the maximum height or floor space of the existing subzone does not trigger the minimum threshold requirement (MPBL section 99(1)(d)(ii))

Not applicable – No departures being applied for.

4.4. Compliance with any applicable spatial development framework (MPBL section 99(2)(a))

Complies – The land use rights are already in place.

4.5. Compliance with relevant criteria contemplated in the development management scheme (MPBL section 99(2)(b))

Compliant – the application has been submitted in terms of the requirements and standards of the Municipal Planning By-law (as amended).

4.6. Compliance with any applicable policy approved by the City to guide decision making (MPBL section 99(2)(c))

Compliant - The schooling rights are already in place.

4.7. Impact on Existing Rights (MPBL section 99(2)(e))

The amendment of conditions on erf 65106 (the main high school campus) will not result in any adverse impacts on existing rights because it does not result in increased rights in terms of use or structure in relation to the current reality on the ground. The number of students enrolled at the main campus on erf 65106 has exceeded the limitation in the approval over the last 5 years and this application is a means of rectifying the student numbers permitted on the site. Further to this, the amendment of the student limitation for erf 68137 will only serve to accommodate fluid changes to student numbers as the subject venues per grade, which vary in student counts, change. It is very unlikely that the proposed quota will ever be filled entirely. This application will not impact existing rights in any way.

4.8. Other Considerations Prescribed in Relevant National or Provincial Legislation (MPBL section 99 (2) (g))

4.8.1 Compliance with Development Principles in SPLUMA and LUPA

Not applicable – land use rights already approved.

4.9. Evaluation of Desirability (MPBL section 99(3))

Socio-economic impact (99 (3) (a)): Positive – in that it will permit the main campus (erf 65106) to lawfully accommodate the increased student numbers and provide flexibility in the number of students that can be accommodated on the satellite campus (erf 68137) that matches the capacity of this campus.

Compatibility with surrounding land uses (99 (3) (d)): Not applicable – The land use rights are already in place and the school has been operational for many years.

Impact on external engineering services (99 (3) (e)): Not applicable – development rights already approved.

Impact on safety, health and wellbeing of the surrounding community (99 (3) (f)): There will be no difference in impact on the wellbeing of the surrounding community to what is currently experienced given that the schooling rights are already in place.

Impact on heritage (99 (3) (g)): Not applicable – A heritage assessment / application is not required. Erf 65106 is larger than 5000m², however the proposal does not trigger an application to Heritage Western Cape (HWC) due to the fact that the trigger refers to the specific area in which a proposed development / activity / change is taking place, and not the full extent of the site. This was determined in the High Court Ruling on the Anson Square development (Observatory Cape Town) of Bryer v Heritage Western Cape where Point 41 states:

“While the provisions of s 38(1)(c), distinguish, on the face of it, in the first instance between sites based on the number of erven involved, it is my view that to accept this as the end of the matter would be wrong. Instead, taking all of the above into account, it is my view that ‘site’ must be interpreted to mean an area of ground where the development or other activity is in fact taking place, where that particular area of ground exceeds 5 000m² in extent.”

The only change to the site is the amendment of the parking layout from the previous plan approved by Heritage Western Cape. The location of the parking has changed, however fewer parking bays are being proposed than what was approved previously. No changes are being proposed to the built structures on the site, therefore, a heritage assessment / application is not required.

Impact on biophysical environment (99 (3) (h)): Not applicable – the site is already developed.

Traffic impacts, parking, access and other transport related considerations (99 (3) (i)): A traffic assessment was conducted for both erven 65105 and 68137. The report has found that the peak traffic operations in the early PM peak period has some, but limited and manageable impact on the local streets in the immediate vicinity of the main campus on Erf 65106. It was recommended that the following measures be implemented to better manage operations, and mitigate the traffic impact:

- It is proposed that the current informal circulation system of school traffic along Ascot Road (westbound), and Bray Road (eastbound) be maintained and emphasised within the school community. It is proposed to be supplemented by a “no entry” sign with a time restriction at the corner of Ascot Road and Goldbourne Road, between 14h15 & 15h00 during the week, to prevent motorists from driving down Ascot Road towards Rosmead Avenue at these times. An example of such a sign is given below. It is considered that the sign will be of limited disbenefit to general road users, who if unfamiliar with the area, would likely prefer to be prevented from driving into highly trafficked road section that is bound to inconvenience them.
- The second measure is for a no stopping (red line) to be painted from the bellmouth of Rosmead Avenue along Ascot Road, replacing the yellow line. This will discourage vehicles stopping along this section at any time, and assist in keeping the west end of Ascot Road clear, preventing queued vehicles backing up into Rosmead Avenue.

The assessment concluded that there is no traffic impact on the functioning of the satellite campus on Erf 68137.

Erf 65106 contains a pedestrian gate as well as a two-way vehicle access Ascot Road. The vehicle access on Bray Road is used mostly to allow vehicles that park close to this access, to exit the site. All other vehicles utilise the Ascot Road access. The Bray Road vehicle access is also used to facilitate student movement to and from the main campus to the satellite campuses.

The parking requirement for the number of classrooms and offices on site, as well as in accommodating the shortfall of parking on the satellite campuses (erf 68137 and 68120) translates to 28 bays. 33 parking bays are currently provided thereby satisfying this requirement.

5. CONCLUSION

The place of instruction use has been secured on erf 65106 for years, however the student and parking limitations in the land use approval dated 14/05/2014 were exceeded. The school operators attempted to deal with the student growth by acquiring additional properties to operate as satellite campuses (erf 68137, erf 68120). An additional site, erf 65105, situated adjacent to the main campus is currently in process of obtaining the relevant schooling rights, as well.

An administrative penalty process took place for the contraventions on erf 65106, and this amendment application seeks to adjust the student and parking requirements to reflect the current circumstances at the main campus (erf 65106). The application does not result in an increase in rights and is more of an administrative step in regularising the student and parking count on the main campus.

Finally, the adjustment of the student limit on the satellite campus (erf 68137) is a means of providing the school with a degree of flexibility in the allocation of subjects and grades to various venues. It is motivated that the student limitation on this campus should match the venue capacity available.