



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

Case ID 1500150562

**Erf 935, 40 Cornwall Street,
Gordon's Bay**

Development Management

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MOTIVATION REPORT FOR THE REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION AND PERMANENT DEPARTURES

ERF 935, GORDON'S BAY

1. INTRODUCTION

This application is submitted in respect of Erf 935, Gordon's Bay, situated at 40 Cornwall Road and zoned Residential Zone 1 (SR1) in terms of the City of Cape Town Development Management Scheme. The property is held under Title Deed The application seeks to regularise existing structures on the property, namely an existing garage and carport that have been constructed along the street boundary. The application further seeks to regularise an existing vehicle access arrangement serving the property. The property is developed with a dwelling house and associated residential structures and is located within an established residential neighbourhood characterised by detached single residential dwellings and associated outbuildings.

The application has arisen following the identification of discrepancies between the approved building plans and the actual development on site. Historical records indicate that the garage has existed in its current position for many years, while the carport has similarly been established for a considerable period. The current property owners became aware of the non-compliances following their acquisition of the property and are now seeking to regularise the existing development through the appropriate statutory processes.

2. LAND USE APPLICATIONS

The following applications are submitted in terms of Section 42 of the City of Cape Town Municipal Planning By-Law, 2015:

2.1 Removal of Restrictive Title Deed Condition (Section 42(h))

Removal of Condition B(4) contained in Title Deed which reads:

"That no building shall be erected within 3,15 metres of any street line which forms a boundary of the erf."

The removal of the condition is required to permit the continued existence and regularisation of the existing garage and carport situated at 0,0m from the street boundary.

2.2 Permanent Departure (Section 42(b))

To permit the street building line applicable to the property to be relaxed from 1,5m to 0,0m to allow for the regularisation of the existing garage and existing carport situated on the street boundary.

2.3 Permanent Departure (Section 42(b))

To permit a carriageway crossing width of 9,5m in lieu of the maximum permitted width of 8,0m.

3. PROPERTY DESCRIPTION AND SURROUNDING CONTEXT

Erf 935 measures approximately 488m² and is situated within an established residential area of Gordon's Bay. The area is characterised by conventional single residential development in terms of the SR1 zoning, with dwelling houses, garages, carports and ancillary residential structures forming the predominant land use pattern. The property is fully serviced by municipal engineering infrastructure and enjoys direct access from Cornwall Road.

The development pattern within Gordon's Bay reflects a mature suburb where many properties have been improved and expanded over time to meet evolving residential needs. Garages, carports and widened access points are common features within the surrounding area and contribute to the functional use of residential properties. The existing structures that are the subject of this application form part of this established residential character and do not introduce a use or built form that is foreign to the area.

4. TITLE DEED CONDITION ASSESSMENT

The restrictive title deed condition was imposed during the establishment of Gordon's Bay Extension No. 1 and reflects planning controls that were applicable at the time of township establishment. The purpose of the condition was to secure a building setback from street boundaries and to maintain a degree of separation between buildings and public streets.

While the historical rationale for the condition remains acknowledged, modern planning controls contained within the Development Management Scheme now provide a comprehensive and contemporary regulatory framework governing setbacks, street building lines and built form. The DMS specifically provides mechanisms through which garages and carports may approach or encroach prescribed building lines subject to planning consideration and approval. The retention of the restrictive title deed condition therefore duplicates planning controls that are already addressed through the zoning scheme and unnecessarily restricts the reasonable use and regularisation of the property.

The removal of the condition will not compromise any broader public interest. The proposal affects only the positioning of an existing garage and carport and does not alter the permitted use of the property, increase residential density, intensify development rights or create an undesirable precedent. The application will merely align the title deed restrictions with the contemporary planning framework applicable to the property.

5. SPATIAL PLANNING AND POLICY ASSESSMENT

5.1 SPLUMA Development Principles

Spatial Justice

The proposal promotes equitable access to development rights by allowing the property owner to regularise long-standing residential structures that are consistent with the character of the area. The application does not prejudice neighbouring properties or restrict the rights of surrounding landowners.

Spatial Sustainability

The proposal represents the optimal use of an existing residential property within the existing urban footprint. No expansion of municipal infrastructure networks is required, and the development makes efficient use of already serviced urban land.

Efficiency

The regularisation of existing structures promotes administrative and planning efficiency by aligning the property's legal status with its physical development. The proposal avoids unnecessary demolition of functional structures that have existed for many years.

Spatial Resilience

The application enables the continued use and adaptation of an established residential property in response to changing household requirements while maintaining compatibility with the surrounding urban environment.

Good Administration

The application seeks to rectify historical discrepancies and provide certainty regarding the planning status of the property, thereby supporting sound planning administration and regulatory compliance.

5.2 Municipal Spatial Development Framework

The Municipal Spatial Development Framework encourages the efficient utilisation of existing urban land and infrastructure. The proposal does not alter the residential use of the property, nor does it result in urban sprawl or inefficient land use patterns. Rather, it represents the regularisation of existing development within a fully developed urban area and is therefore consistent with the broad objectives of the MSDF.

5.3 Development Management Scheme

The property is zoned Single Residential Zone 1. The proposed development remains consistent with the purpose and intent of the zoning.

The application does not seek additional dwelling units, increased density or changes in land use. The proposal relates solely to the regularisation of existing residential structures and a vehicle access arrangement. The development therefore remains compatible with the objectives of the SR1 zone, namely the accommodation of low-density residential living.

6. DESIRABILITY ASSESSMENT IN TERMS OF SECTION 99 OF THE MPBL

Compatibility with the Surrounding Area

The garage and carport are ancillary residential structures commonly associated with dwelling houses and are entirely compatible with the established residential character of Gordon's Bay. The development does not introduce any commercial, industrial or other non-residential activity.

The built form is consistent with development that is commonly encountered within residential neighbourhoods and does not detract from the visual character of the area.

Impact on Neighbouring Properties

The structures that are the subject of this application have existed for an extended period. The available information indicates that the garage has existed in substantially its current position since at least 2007 and that the carport has similarly existed for a number of years.

There is no evidence to suggest that the structures have resulted in material adverse impacts on neighbouring property owners. Given their longstanding presence, any visual, privacy or streetscape impacts would already

have manifested if they were of concern. The structures remain subordinate to the primary dwelling and do not create unreasonable overlooking, overshadowing or loss of amenity.

Streetscape and Urban Design

Although the structures are located on the street boundary, they are architecturally integrated with the existing dwelling and remain compatible with the character of the streetscape. Similar garage and carport arrangements occur elsewhere within established residential areas where topography, erf configuration and practical parking requirements have influenced building placement.

The proposal does not create an unacceptable visual intrusion and will not detract from the overall appearance of Cornwall Road.

Need and Desirability

The removal of the restrictive title deed condition is necessary to eliminate duplication between historical private-law restrictions and the contemporary public-law planning framework administered by the City of Cape Town. The Development Management Scheme now provides comprehensive mechanisms for regulating building setbacks, urban design and streetscape character through departures where appropriate. Retention of the restrictive condition serves little independent planning purpose while unnecessarily restricting the lawful regularisation of long-established residential structures.

Traffic, Access and Parking

The departure relating to the carriageway crossing width seeks to regularise an existing access arrangement measuring 9,5m. The widened crossing improves vehicular manoeuvrability and facilitates safe access to the garage and covered parking areas on site.

Importantly, the proposal does not result in additional dwelling units or land use intensification and will therefore not generate additional traffic. The property continues to accommodate all parking requirements on site, thereby reducing the likelihood of parking pressure on the public road reserve.

Impact on Municipal Services

The proposal will not place any additional burden on municipal services. Water, sewer, electricity and stormwater infrastructure already serve the property, and no increase in demand is anticipated as a result of the application.

Heritage and Environmental Considerations

The proposal involves the regularisation of existing structures within an established residential property. No significant heritage resources are affected, and no environmentally sensitive areas are impacted.

The application does not result in a material increase in site coverage beyond that already established on the property and consequently has negligible environmental implications.

Public Interest

The application serves the public interest by facilitating compliance with planning legislation, improving certainty regarding development rights and ensuring that the property's legal status accurately reflects the development that exists on the ground. The approval of the application would not prejudice the rights of the public or neighbouring property owners.

7. CONCLUSION

The proposed removal of Title Deed Condition B(4), together with the permanent departures to permit a 0,0m street building line and a 9,5m carriageway crossing, is considered desirable.

The application facilitates the regularisation of long-established residential structures, aligns the property's title deed restrictions with contemporary planning controls, supports the efficient use of urban land and maintains compatibility with the surrounding residential character. The proposal does not result in adverse impacts on neighbouring properties, municipal infrastructure, traffic operations, environmental resources or the broader public interest.

Furthermore, the application is consistent with the development principles contained in SPLUMA, the objectives of the Municipal Spatial Development Framework, and the intent of the City of Cape Town Development Management Scheme.

It is therefore respectfully submitted that sufficient planning grounds exist to support the removal of the restrictive title deed condition and the approval of the associated permanent departures in respect of Erf 935, Gordon's Bay.

Kind regards

A handwritten signature in black ink, appearing to read 'JPJ van Tonder', is written over a horizontal dotted line.

JPJ van Tonder

GORDONS BAY ALLOTMENT AREA.

T.P.

302 SHT. 1 (C.D.R.)

S.G. N° 3121/1940

GENERAL PLAN 302^{LD}

APPROVED

THE FIGURE A.B.C.D.E. REPRESENTS THE TOWNSHIP OF

SURVEYOR - GENERAL
6-11-1942.

GORDONS BAY (EXTENSION N° 1) (C.D.R.)

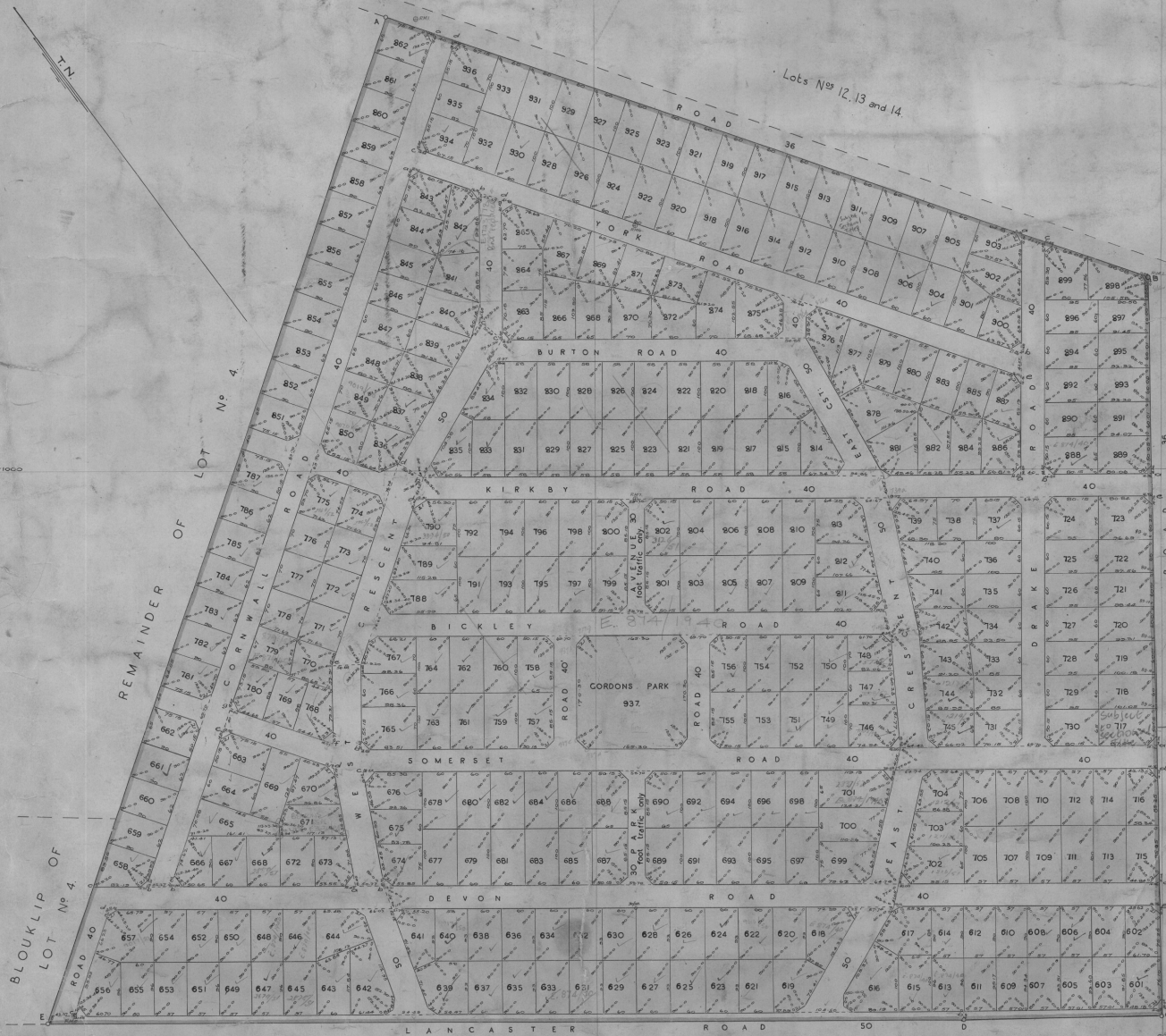
IN EXTENT 30.3281 MORGEN COMPRISING 336 ERVEN NUMBERED 601 TO 936 AND PARK N° 937 AND
STREETS, BEING ERF N° 600 GORDONS BAY. SITUATE AT GORDONS BAY, DIVISION OF
STELLENBOSCH, PROVINCE OF CAPE OF GOOD HOPE.

VIDE- DIAGRAM S.G. N° 1734/1921 ANNEXED TO DEED OF TRANSFER N° 7470 DATED 8.8.1921 I.F.O. A. DOBSON. (1921-124-7470) (New Erf 600)
Gordon Bay Municipality

SCALE 1:1000.

THE BEACONS OF EACH ERF REPRESENTED ON THIS PLAN
ARE IN ACCORDANCE WITH REGULATION AND HAVE BEEN
PLACED UNDER MY PERSONAL SUPERVISION.
SURVEYED IN JUNE 1940 BY US

LAND SURVEYORS



Numbering File: 53241/27
Noting Plan: AH-204/152
Degree Sheets: AH-204 AH-205
Gordons Bay Erf Schedule AH-208

ORIGINAL DIAGRAM 1731/1921.
SURVEY RECORDS E874/1940
FILE 53241/27
PLAN G35 & DEG. SHT. AH-204
TRACING N° 2841