

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
21 April 2015
(Also the agenda for the Mayoral Committee Meeting : 29 April 2015)**

15.

ERF 3075, 29 MOSSOP STREET, ONRUST RIVER, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITION AND RELAXATION : KH WINTER ON BEHALF OF MS PA CHILDS

3075 HON (2589)

H van der Stoep

16 March 2015

(028) 313 8900

Hermanus Administration

1. Executive Summary

An application has been received on 11 June 2014 from Mr. KH Winter on behalf of Ms. PA Childs for the removal of restrictive title deed conditions 6(a) and (b) in Title Deed T95404/2006 in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967) applicable to Erf 3075, Onrust River to enable the owner to erect a second dwelling ("granny flat") on the property.

The restrictive conditions read as follows:

Page 3 : Paragraph 6(a) and (b) :

(a) *"Hierdie erf mag alleenlik gebruik word vir die oprigting daarop van een woning of ander geboue vir die doeleindes wat die Administrateur van tyd tot tyd, na oorleg met die Dorpekommissie en die plaaslike owerheid, goedkeur, met dien verstande dat indien die erf in die gebied van 'n dorps – aanlegskema ingesluit is, die plaaslike owerheid enige ander geboue wat deur die skema toegelaat word, kan toelaat onderworpe aan die voorwaardes wat in die skema bepaal word."*

(b) *Geen gebou of struktuur of enige gedeelte daarvan behalwe grensmure en heinings, mag behalwe met die toestemming van die Administrateur nader as 4,72 meter van die straatboulyn wat 'n grens van hierdie erf uitmaak, asook nie binne 3,15 meter van die agtergrens of 1,57 meter van die sygrens gemeen aan enige aangrensende erf opgerig word nie met dien verstande dat met die toestemming van die plaaslike owerheid - ..."*

A Locality Plan of the property concerned is attached as Annexure A. The proposed Site Development Plan is attached as Annexure B, while the Motivation Report from the applicant in support of the application is attached as Annexure C.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town Planning

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3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Removal of Restrictions Act, 1967 (Act 84 of 1967)

6. Background/Discussion/Evaluation/Conclusion

Background

The application was advertised in the local newspaper and Government Gazette, and registered notices were sent to all surrounding affected property owners. One objection was received against the proposal.

The application was also circulated to all relevant municipal departments and no objections were received against the application.

Discussion

The objection received from H & M Olivier and can be summarized as follows:

- The construction of the second dwelling on the garage will have a direct impact on the privacy and sunlight of the objector. The entertainment area is directly beneath the proposed construction of the second dwelling.
- After consultation with the applicant, the objection was conditionally withdrawn subject to the following conditions:
 - The relaxation of the Title Deed Restriction of 3,15m be relaxed to the 2,0m Overstrand Municipality Zoning Scheme Regulations.
 - The window of the proposed second dwelling facing the objector's property be fitted with opaque glass bricks as per signed building plans.

Applicant's response to the objection received

The applicant agreed to the abovementioned conditions.

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Evaluation

The applicant has applied for a second dwelling, which in this case is restricted by the Title Deed of the erf. In terms of the Overstrand Municipality Zoning Scheme Regulations, a second dwelling is a primary right. The application for a second dwelling is not in contention; however the placement thereof on the original 0,9m building line will have a definitive impact on the objector. Due the fact that the proposed second dwelling will be located directly above the entertainment area of the objector, the privacy of the objector as well as his sunlight will be affected. It should also be mentioned that the activities of the neighbour's entertainment area will be a nuisance factor to the inhabitant of the second dwelling as it is directly beneath the proposed second dwelling.

The relaxation of the rear building line from the Title Restriction of 3,15m to the 2,0m Zoning Scheme Regulations does not pose a problem, since it is a standard building line on residential erven and is accepted by residents of the Overstrand.

Thus to ensure good neighbour relations the two parties has come to an amicable compromise.

Conclusion

That the removal of restrictive condition and the relaxation of the rear building line be recommended for approval by the Department of Environmental Affairs and Development Planning.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Building Department

"Supported – not in building line."

Local Heritage Committee

"Supported."

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10. Annexures

- Annexure A: Locality Plan
- Annexure B: Amended Site Development Plan
- Annexure C: Motivation Report
- Annexure D: Objection received
- Annexure E: Applicant's comment on the objection received
- Annexure F: Objector's conditions letter
- Annexure G: Comments: Eskom

RECOMMENDATION:

that the removal of restrictive title conditions Page 3, Paragraph 6(a) and the relaxation of 6(b) in Title Deed T95404/2006 in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967) applicable to Erf 3075, Onrus River, **be recommended for approval** by the Department of Environmental Affairs and Development Planning, subject to the following conditions :

- (a) that the development be restricted to drawing no. 1.0 dated March 2015 submitted with the application;
- (b) that the conditions stipulated by the objectors in their letter dated 10 March 2015, and agreed to by the Applicant, be complied with;
- (c) that all other development parameters, as prescribed in the relevant Zoning Scheme, be complied with;
- (d) that the approval does not absolve the applicant from compliance with any other relevant legislation and/or Title Deed conditions;
- (e) that stormwater be allowed to discharge through Erf 3075, Onrus River unobstructed; and
- (f) that compliance with Fire Safety Regulations is pre requisite-SANS 10400T:2011.

RESPONSIBLE OFFICIAL :	H VAN DER STOEP
TARGET DATE FOR IMPLEMENTATION :	13 MAY 2015
TARGET DATE TO INFORM APPLICANT :	13 MAY 2015
TARGET DATE TO INFORM OBJECTOR :	13 MAY 2015

MOTUATION

29 Mossop Street

Onrus River

7201

2014-06-04

Overberg Municipality

Building plans Division

Hermanus

Dear Sir/ Madam

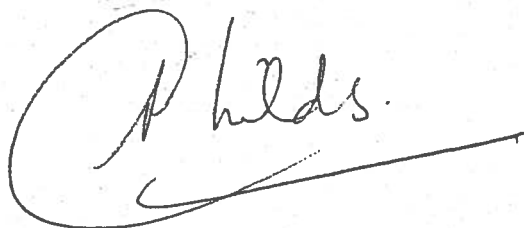
Re: ERF 3075

My husband died 2 years ago and I live at the above property alone. I would very much like my son and family to come live with me. This is for financial purposes as I am a pensioner, and another for safety as I am elderly woman.

I hereby wish to be a little independent, and to live in a second dwelling on this property in a form of a flat let.

I would appreciate a positive responds to this request, please.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P Childs', with a long horizontal flourish extending to the right.

Mrs Patricia Childs

397

27 NOV 2014

TP



30 Berg Street
Onrus River
7201

26 November 2014

TP- A Theart
(H Olivier)

Director: Integrated Environmental Management
Region 2
Private Bag x 9086
Cape Town
8000

Fax no. (021) 483 3098

Dear Sir/Madam

FILE NO:	EL3075-On
SCAN NO:	15
COLLABORATOR NO:	690486

RE: Application for Removal of Restrictive Title Deed
Condition: Erf 3075, Onrus River

The registered notice send to H and M. Olivier, the registered owners of Erf 3080, Onrus River, with regard to the above-mentioned application, has reference.

The application is for a Removal of Condition 6(a) in the Title Deed for Erf 3075, Onrus River, to enable the construction of a Second Dwelling on the property.

The writers of this letter do not have any objection to the Removal of the mentioned Title Deed Condition, but do have some concerns regarding the direct impact of the proposed Second Dwelling on our property.

The proposal is to construct a second dwelling on top of the existing garage, 2m from the rear and lateral boundary lines. The writers are the owners of Erf 3080, Onrus River, which is situated to the south and next to the rear boundary line with Erf 3075.

The dwelling on Erf 3080 was constructed approximately 5m from the common rear boundary with Erf 3075. The layout of the dwelling on Erf 3080 is also as such that two bedroom windows and the dining room sliding door face the common rear boundary. The entertainment area and swimming pool on Erf 3080 is also situated between the dwelling and the common rear boundary. The windows that are proposed in the south facing wall of the second dwelling on Erf 3075 will overlook the afore-mentioned windows and entertainment area on Erf 3080, and will have a detrimental impact on privacy on Erf 3080. Due to the proposed second dwellings close location and position to the north of Erf 3080, the double storey building will also impact on sunlight onto Erf 3080.

It is noted that the proposal is to set the second dwelling back to 2m from the rear boundary of the erf, which means compliance with the Overstrand Zoning Scheme

Regulations. However, the Title Deed of Erf 3075 also contains a restrictive condition 6(b), which stipulates a 3,15m rear building line applicable to the property. The proposed second dwelling also encroach this Title Deed building line. This Removal of Restriction application however does not address the 3,15m rear Title Deed building line.

The writers are willing to support a relaxation of the 3,15m rear Title Deed building line, but subject to certain conditions ensuring limited loss of sunlight onto Erf 3080, and also ensuring some privacy on Erf 3080, Onrus River. The conditions are as follows:

- That no windows be placed in the south facing wall(facing Erf 3080, Onrus River) of the new proposed building, and
- That the wall plate heights are limited to approximately 5,1m from the finished ground floor level and the roof height of the proposed building is limited to approximately 6.1m from the average natural ground level to the top of the roof, as indicated on the west and east elevations of the building plan submitted with this application. (It is to be noted that there is a discrepancy on the building plan between the heights on the west and east elevations and the north and south elevations where the roof shown to be much higher, hence this condition)

The writers again want to reiterate that we do not want to stop the proposed construction of the second dwelling unit, but merely want to ensure that our interests are also protected.

Yours Faithfully



Hendrik Olivier



Monica Olivier

(Owners Erf 3080, Onrus River)

CC: Municipal Manager, Overstrand Municipality

TR A Theart
(H Olivier)

Untitled



KARL WINTER /JENWIN DESIGNS.
P.O.BOX 219 ONRUS RIVER 7201.

you ref 3075 hon[2589]

2015/01/28.

Mrs.H.van der Stoep. BY HAND

Dear Mad

Referring to the above my apologies for the delay.
I took our meeting on the 2014/12/30 in your office with Mr
Olivier to be my response.

I would like to confirm our discus-
sion wherein it was agreed that we have complide with the
eight restriction requested by Mr Olivier as on sketch shown
and that he would grand us the glass brick [window]facing
his property as long as the height from floor to cill be
1m700mm and that the window height be 600mm and length 1m400.
this will be stricly complide to.
A application for the boundary encroachment to be relaxed
from 900mm to 2m will be handed in in the next few days.
we thank Mr Olivier for his agreement to this issue.

YOURS FAIHFULLY


KARL WINTER.

FILE NO:	EL 3075-01
SCAN NO:	01
COLLABORATOR NO:	709395

400

TP - A - Theart

(Holivier)



Hand m Olivier
30 Berg Street
Cnrust River
7201

10 March 2015

Town Planning
Overstrand Municipality
16 Patterson Road
Hermans
7200

FILE NO:	EL 3075 On
SCAN NO:	
COLLABORATOR NO:	763495

Dear Sir / Madam.


Re. Erf 3075 , Cnrust River: Application
for Removal of Restrictive Title Deed
Restriction and Relaxation of Building Line

My letter to your office dated 26/11/2014
has reference

After consultation with the applicant's
architect, Mr K. Winter, it is our decision
to allow the placement of opaque class
bricks in the wall facing the northern
property boundary of our property,
as depicted on the attached plans.

Yours faithfully


Henk Olivier


Manica Olivier ✓

11 MAR 2015

12 MAR 2015



TR- A Theart
(H Olivier)

The Municipal Manager
OVERSTRAND MUNICIPALITY
P.O. Box 20
HERMANUS
7200

Date:
20.11.2014

Enquiries:
Shaun Swanepoel
Tel 021 980-3913
Fax 086 660 0941

Attention: Henk Olivier

Dear Sir/Madame

**ERF 3075, 29 MOSSOP STREET, ONRUSTRIVER, OVERSTRAND AND MUNICIPAL AREA:
PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITION: KH WINTER ON
BEHALF OF PA CHILDS.
OUR REF: 02118/14**

I refer to your application received 14 November 2014

Eskom has no objection to the abovementioned application, provided the following conditions are adhered to:

1. Should it be necessary to move or support any of Eskom's services, at least 3 month's notice in writing is required and cost will be entirely for the account of the Developer / Applicant.
2. Eskom's right on the property will not be affected.

Please contact us should you require further information.

Yours sincerely

Shaun Swanepoel
LAND DEVELOPMENT (BRACKENFELL)

FILE NO:	EL 3075-0n
SCAN NO:	30
COLLABORATOR NO:	688776

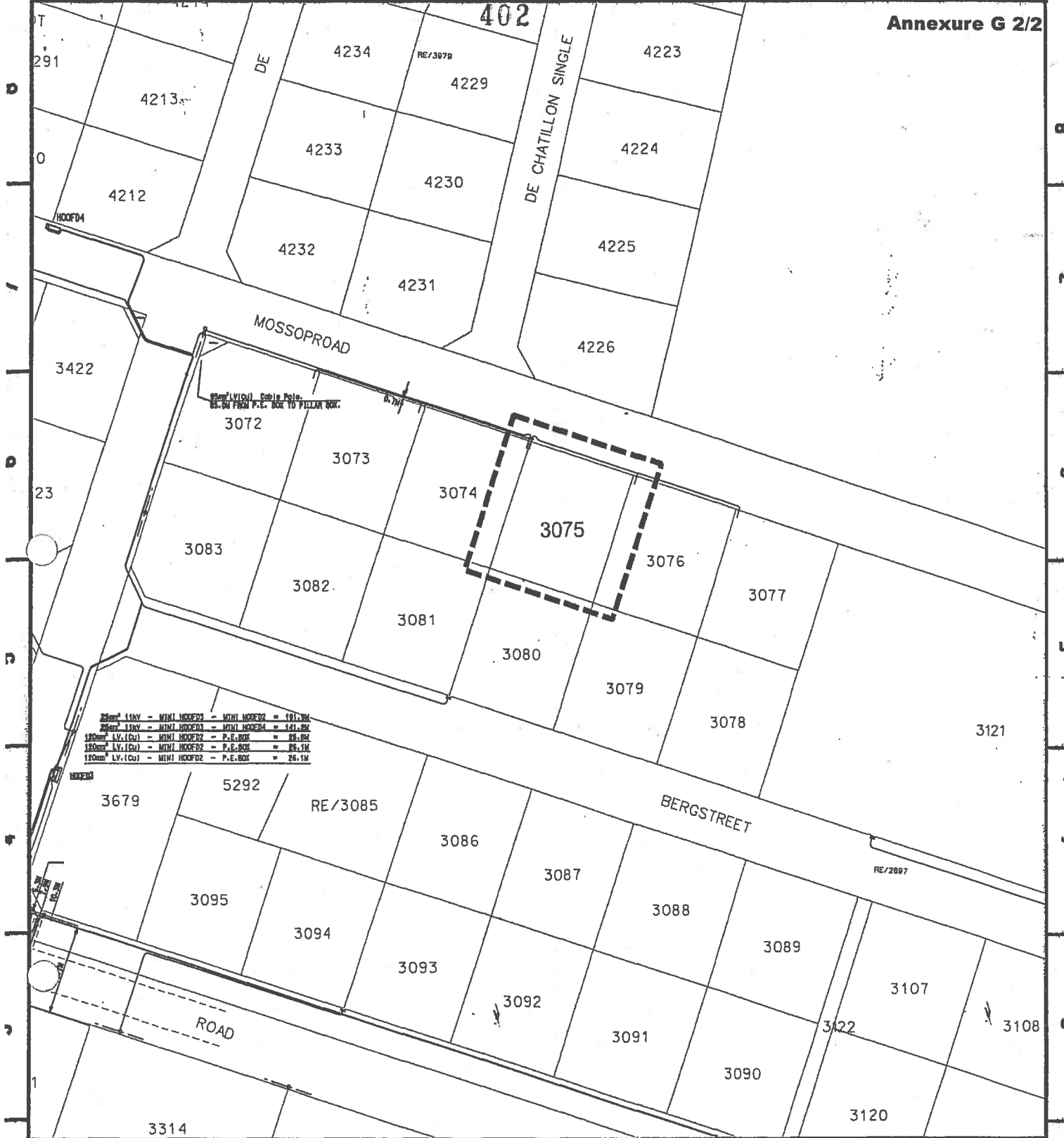
CU Distribution Division - Western Region [Land Development]
Western Region
Eskom Road Brackenfell 7560 PO Box 222 Brackenfell 7561 SA
Tel +27 86 003 7566 www.eskom.co.za

Eskom Holdings SOC Limited Reg No 2002/015527/06



25 NOV 2014

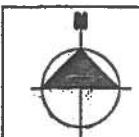
402



From LV(Cu) Cable Pole:
 25m² LV(Cu) - MINI HOOFD2 - MINI HOOFD2 = 101.2M
 25m² LV(Cu) - MINI HOOFD3 - MINI HOOFD4 = 141.8M
 150m² LV(Cu) - MINI HOOFD2 - P.E. BOX = 86.8M
 150m² LV(Cu) - MINI HOOFD2 - P.E. BOX = 86.1M
 150m² LV(Cu) - MINI HOOFD2 - P.E. BOX = 26.1M

LEGEND

- CADASTRAL BOUNDARY
- - - AREA OF INTEREST
- ESKOM LV U/G CABLE
- ESKOM MV U/G CABLE
- - - ESKOM LV O/H LINE



SCALE 1:750

THIS DRAWING IS THE PROPERTY OF ESKOM

LAND DEVELOPMENT SECTION

TEL 021-980 3129 FAX 021-980 3053

REV	REVISION DESCRIPTION	BY	CHKD	AUTH	DATE

Eskom
Distribution

CALEDON CNC
ERF 3075, MOSSOP STREET
ONRUSRIVER
PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITION
OVERSTRAND MUNICIPALITY
WAYLEAVE REQUEST

02118/14

SET	SHEET	REVISION

AUTH: _____

DATE: _____

CHKD: _____

DATE: _____

DRAWN: OJP/MBANI

DATE: 17-11-2014