

**PORTFOLIO COMMITTEE :  
INFRASTRUCTURE & PLANNING**

**Chairperson :**

**Executive Deputy Mayor,  
Cllr R Smith**

**Committee Members :**

**Cllrs K Brice, D Botha  
M Dyani & JJ Januarie**

**PORTEFEULJEKOMITEE :  
INFRASTRUKTUUR & BEPLANNING**

**Voorsitter :**

**Uitvoerende Onderburgemeester  
Rdl R Smith**

**Komiteelede :**

**Rdle K Brice, D Botha  
M Dyani & JJ Januarie**

**INFRASTRUCTURE & PLANNING PORTFOLIO COMMITTEE**  
**INFRASTRUKTUUR & BEPLANNING PORTEFEULJEKOMITEE**

**16 FEBRUARY 2016**

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Portfolio Committee : Infrastructure and Planning  
16 February 2016  
(Also the agenda for the Mayoral Committee Meeting : 24 February 2016)**

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**1.  
ERF 312, 78 CILLIERS STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL  
AREA : APPLICATION FOR DEPARTURE AND RELAXATION OF RESTRICTIVE  
TITLE DEED CONDITION : THE TRAUTMAN FAMILY TRUST**

**312 GFK (2973)**

**SW van der Merwe**

**(028) 313 8900**

**Hermanus Administration**

**5 January 2016**

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**1. Executive Summary**

To consider an application for departure and relaxation of a restrictive title deed condition received on 3 July 2015 from the owner of Erf 312, Franskraal, The Trautman Family Trust, in order to:

- relax the lateral building line from 2m to 0m to construct a garage and to accommodate an existing outbuilding; and
- relax the street building line from 4m to 0m to accommodate the existing carport.

The application also involves the relaxation of the 4,72m street- and 1,57m lateral building lines that applies in terms of the Title Deed to 0m.

A Locality Plan of the property concerned is attached as Annexure A. The Site Development Plan is attached as Annexure B, and 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- and Spatial Planning

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Promotion of tourism, economic and social development

**4. Delegated Authority**

Executive Mayor

**5. Legal Requirements**

- Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) (LUPO)

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- Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)

## **6. Background/Discussion/Evaluation/Conclusion**

### **Background**

Erf 312, Franskraal measures 881m<sup>2</sup> in extent. The property is developed with a dwelling house and associated outbuildings and a carport. The existing outbuilding is situated on the lateral property boundary, whilst the carport encroach the street boundary onto the road reserve. These aforementioned structures were constructed without the relevant approvals in terms of Town Planning and Building Control Legislation.

The current application seeks to legalise the aforementioned unauthorised additions, whilst the carport will be reduced in size in order to maintain the property boundary.

The Title Deed of the property imposes a 4,72m street building line and 1,57m lateral building line restriction. The application therefore also comprises the relaxation of restrictive title conditions.

In a letter dated 21 July 2015 the Provincial Government: Western Cape (PGWC) advised that from 1 July 2015 as a result of the enactment of the Spatial Planning Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA) and the Land Use Planning Act, 2014 (Act 3 of 2014) the PGWC can no longer dispose of applications for relaxation of restrictive title conditions since Municipalities are from the aforementioned date regarded as the administrator.

### **Discussion**

The application for departure was advertised in the prescribed manner. No objections were submitted. A letter of support has been submitted from the affected adjoining property owner, namely Erf 309, Franskraal (attached as Annexure E).

### **Evaluation**

The application property is situated on the corner of Rossouw- and Cilliers Streets. The encroachment of the street building line in terms of the Scheme Regulations with the carport is not regarded significant since the carport is constructed from shade cloth and is open on three (3) sides. The carport therefore complies with the requirements pertaining to carports and will not negatively impact on the visual amenity of the locality.

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The existing outbuilding, situated rear of the existing courtyard, is not visible from the road and is screened by the boundary wall of the adjoining property. As such the retention of the outbuilding will not detract from the character of the area or the residential amenity of the adjoining properties.

The proposed garage will be situated on the lateral boundary and will not encroach the street building line. The garage complies with the requirements for outbuildings situated on the property boundary, except from the fact that it will exceed the maximum length of 9m with 0,897m, which is not deemed to be significant. The natural ground level where the proposed garage will be situated is 300mm to 400mm lower than the ground level of the adjoining property. The proposed garage will not have a negative impact on the residential amenity of the adjoining property or the character of the area.

Pertaining to the relaxation of the restrictive Title Deed building lines, paragraph B (6) (a) of Title Deed T88420/95 states:

*“Hierdie erf is onderhewig aan die volgende voorwaardes met dien verstande dat indien die Administrateur na oorleg met die Dorpekommissie en die plaaslike owerheid dit raadsaam ag dat die beperking in enige sodanige voorwaarde te eniger tyd opgeskort of versag behoort te word, hy die nodige opskorting of versagting kan goedkeur onderworpe aan sodanige voorwaardes as wat hy oplê:*

- a) .....
- b) .....
- c) .....
- d) *Geen gebou of struktuur of enige gedeelte daarvan behalwe grensmure en heinings mag binne 1,72 meter van die straatlyn wat 'n grens van hierdie erf vorm opgerig word nie ook nie binne 3,15 meter van die agtergrens of 1,57 meter van die sygrens van 'n aangrensende erf nie, met dien verstande dat 'n buitegebou met die toestemming van die plaaslike owerheid op die voorgeskrewe ruimte langs die agtergrens opgerig mag word mits sodanige buitegebou nie 'n hoogte van 3,15 meter te bowe gaan nie, watter hoogte gemeet moet word van die vloer tot die ankerplaat en mits geen gedeelte daarvan vir bewoningsdoeleindes deur mense aangewend word nie.”*

It is thus clear that the Title Deed permits the administrator to grant a relaxation. The relaxation of the relevant restrictive title condition is supported as it would not adversely impact the safety and wellbeing of the local community. The adjoining affected property owners also provided written consent.

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**Conclusion**

That the application for departure and relaxation of restrictive title condition be supported as per the recommendation below.

**7. Financial Implications**

None

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

**Operational Services**

No objection subject to conditions (refer to Annexure D).

**Building Department**

*“No objection to the building line departure for shade carport and outbuildings.”*

**Fire Brigade**

*“No objection - application meets the requirements of the National Fire Protection Regulations SANS10400T:2011.”*

**Services Report**

Attached as Annexure F.

**10. Annexures**

- Annexure A: Locality Plan
- Annexure B: Site Development Plan
- Annexure C: Motivation Report
- Annexure D: Comment: Operational Services
- Annexure E: Letter of consent from adjacent property owner
- Annexure F: Services Report

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**RECOMMENDATION:**

1. that the application for relaxation of restrictive Title Deed conditions applicable to Erf 321, Franskraal in order to relax the 4,72m street building line and the 1,57m lateral building line contained in Title Deed T88420/1995, **be approved**;
2. that, in terms of the provisions of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for a departure from the relevant Zoning Scheme Regulations on Erf 321, Franskraal, to relax the 4m street building line to 0m and the 2m lateral building line to 0m to accommodate a carport and outbuilding and to construct a garage, **be approved**, subject to the following conditions:
  - (a) that this approval only has reference to the relaxation of the building lines as indicated on Plan No. 78/AK/15 sheets 1 to 4 of 4 dated 26 June 2015, as submitted with the application;
  - (b) that the conditions of Operational Services (Annexure E) and the Services Report (Annexure F), be complied with;
  - (c) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage;
  - (d) that this approval does not absolve the applicant from compliance with any other relevant legislation;
  - (e) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
  - (f) that the encroachment of the existing carport be rectified (demolished) as indicated on the Site Development Plan within sixty (60) days from the date of this decision.
3. that the applicant be notified of its right of appeal in terms of the Local Government : Municipal Systems Act, 2000 (Section 62) with regard to the above approval.

<b>RESPONSIBLE OFFICIAL :</b>	<b>SW VAN DER MERWE</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>9 MARCH 2016</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>9 MARCH 2016</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

**AGENDA of the  
Portfolio Committee: Infrastructure and Planning  
16 February 2016  
(Also the agenda for the Mayoral Committee Meeting: 24 February 2016)**

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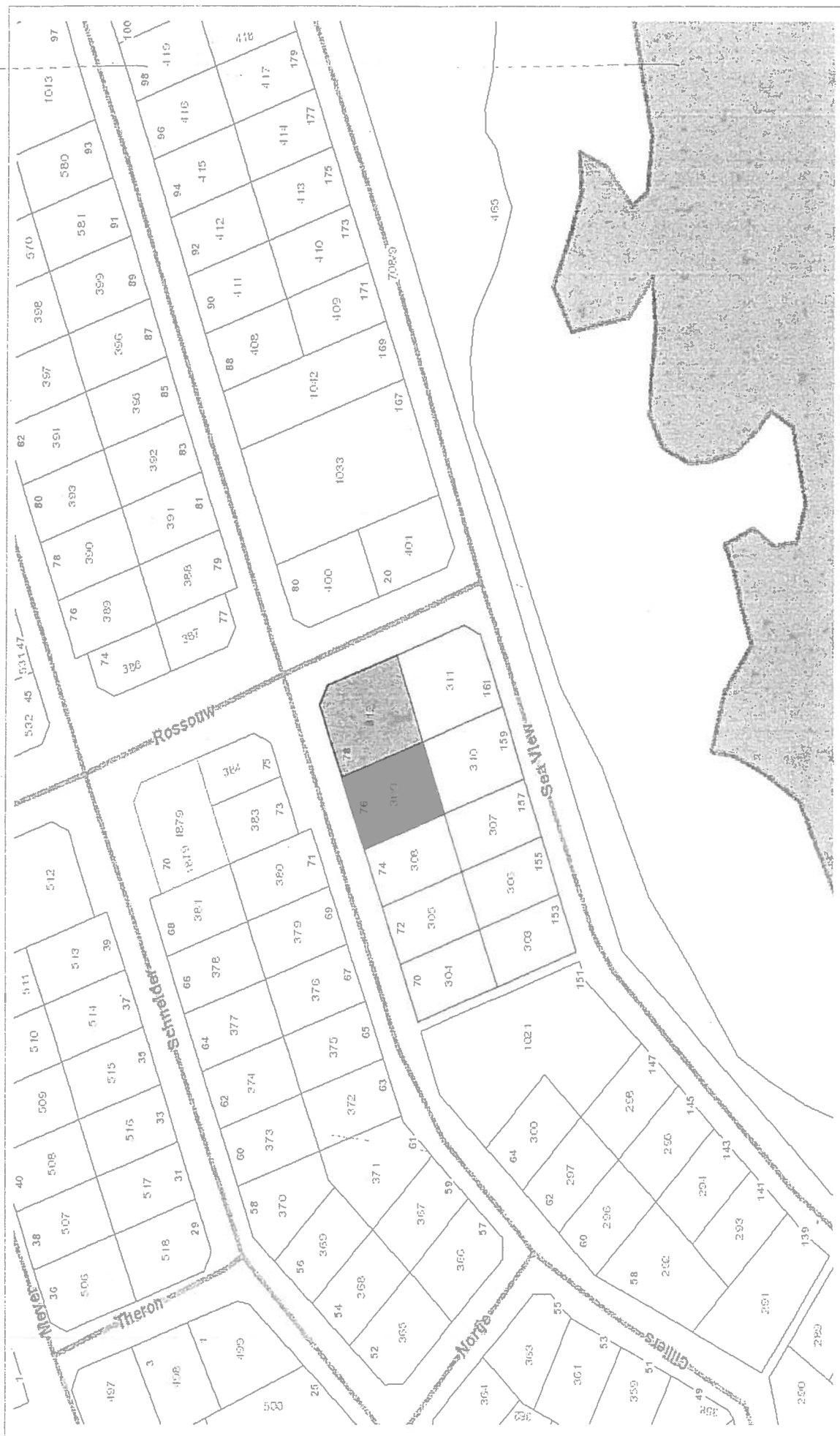
**1.  
ERF 312, 78 CILLIERS STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA  
: APPLICATION FOR DEPARTURE AND RELAXATION OF RESTRICTIVE TITLE  
DEED CONDITION : THE TRAUTMAN FAMILY TRUST**

**312 GFK (2973)  
SW van der Merwe (028) 313 8900 Hermanus Administration  
5 January 2016**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
16 FEBRUARY 2016, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

<b>RESPONSIBLE OFFICIAL :</b>	<b>SW VAN DER MERWE</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>9 MARCH 2016</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>9 MARCH 2016</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>



LIGGINGPLAN / LOCALITY PLAN  
Erf 312 Franskraal





23.614m Erfgrens

4m Skema boulyn

4.72m titelakte boulyn

**NOTAS :**

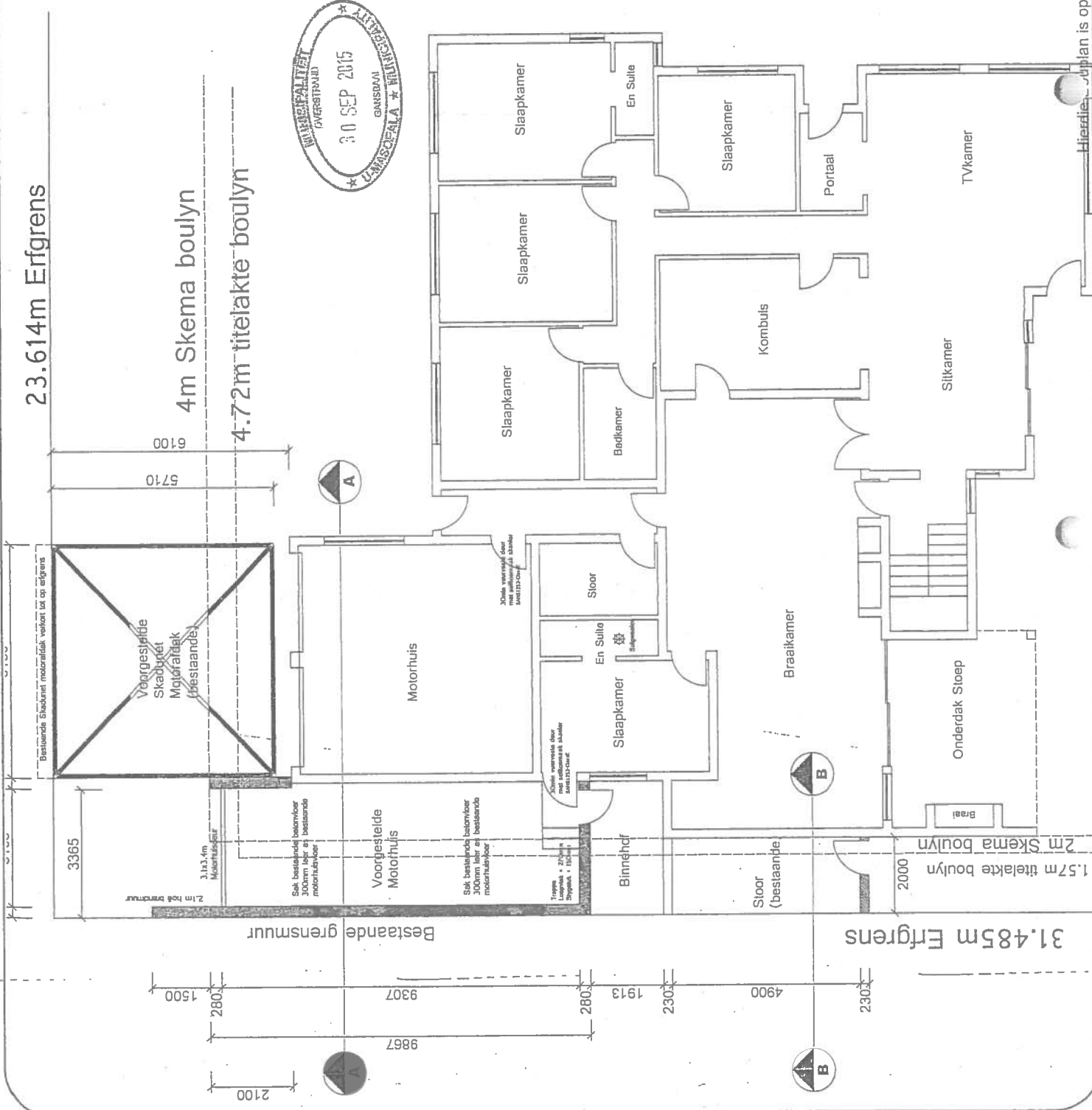
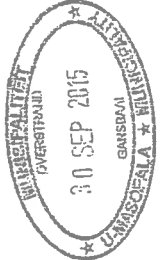
Alle verelstes van die plaaslike owerheid moet streng nagekom word.  
 Die kontrakteur is verantwoordelik om die munisipale regulasies na te kom en homself te vergewis met die prosedures van boubeheer.  
 Alle maties moet gekontroleer word voor enige bouwerk begin.  
 Maties aangedui op plan geniet voorrang oor maties geskaal vanaf plan.  
 Ingenieur moet in kennis gestel word voordat projek begin word.  
 Aangeslede Ingenieur MOET gebruik word vir projek.

Okkupasie Klas : H4 Woonenheid  
 Populasie : 4 persone per huis 24/7

Oppervlakte :	
Grondverdieping :	299.31m <sup>2</sup>
Motorhuise + Stoor :	50.61m <sup>2</sup>
Nuwe Motorhuis :	34.88m <sup>2</sup>
Eerste verdieping :	76.36m <sup>2</sup>
Motorafdak :	34.94m <sup>2</sup>
Totaal :	496.10m <sup>2</sup>
Erf :	881.00m <sup>2</sup>
Dekking :	47.64%

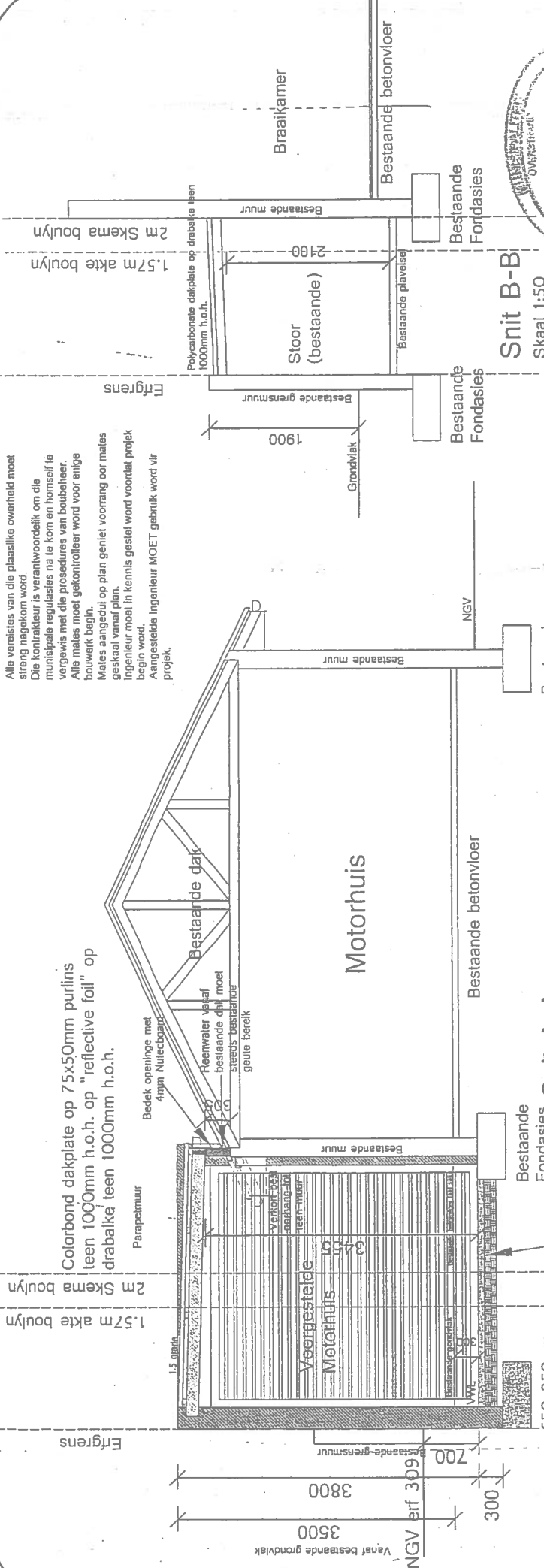
**Gerieke Argitektoniese Dienste**  
**Johan Gericke**  
 Erf Arch Draught (Pty) Ltd  
 Posbus 392, Gansbaai, 720  
 Tel/Faks : 028 364 1659 | Sel : 082 453 8654  
 jg@jgarchitects.co.za  
 LB van SAIT : S07023

Plan nagesien deur :	Datum :
JLS Gericke	
<b>Voorgestelde Aanbouing vir</b>	
Trautman Familie Trust (Mev P Trautman) te erf 312, Cilliers Straat 78, Franskraal.	
Tekening :	Grondverdieping
Projek No :	78/AK/15
Skaal :	Soos Getoon
Bladsy :	2 van 4
Datum :	26 Junie 2015



Hierdie plan is opgetrek volgens die standaard vif boutekeninge : SABS 0143





Alle verasies van die plaaslike owerheid moet streng nagekom word. Die kontrakteur is verantwoordelik om die munisipale regulasies na te kom en homself te vergewis met die prosedures van boubeheer. Alle maties moet gekontroleer word voor enige bouwerk begin. Maties aangedui op plan geniet voorrang oor maties geskaal vanaf plan. Ingenieur moet in kennis gestel word voordat projek begin word. Aangestelde Ingenieur MOET gebruik word vir projek.

**Snit B-B**  
Skaal 1:50

**Snit A-A**  
Skaal 1:50

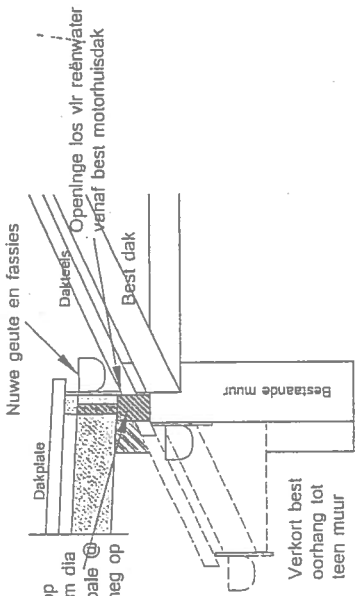
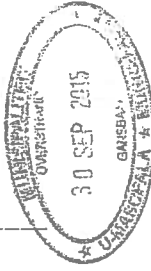
**Gerieke Argitektoniese Dienste**  
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 Tel/Fax: 026 381 1659 / 082 45918554  
 jg@access.co.za  
 LG van SAIT: S07023

Plan nagesien deur: JLS Gerieke Datum: \_\_\_\_\_

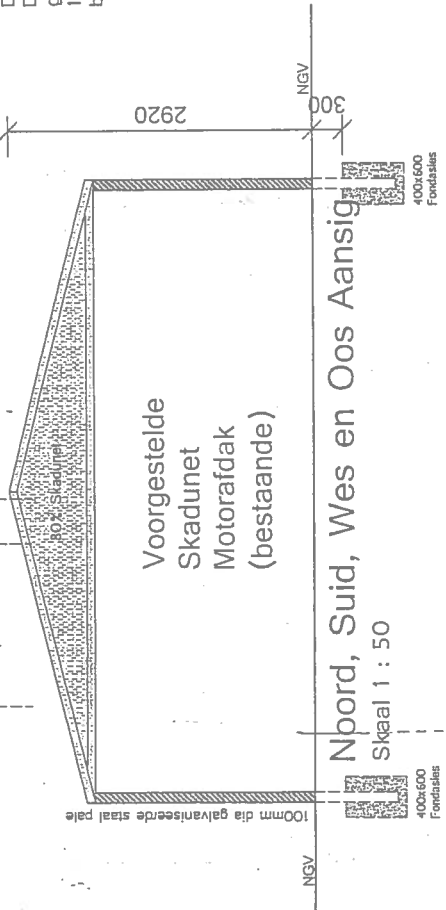
Voorgestelde Aanbouing vir Trautman Familie Trust (Mev P Trautman) te erf 312, Cilliers Straat 78, Franskraal

Tekening: Snitte en Detail

Projek No: 78/AK/15  
 Skaal: Soos Getoon  
 Bladsy: 4 van 4  
 Datum: 26 Junie 2015



**Detail Dak**  
Skaal 1:20



**Nbord, Suid, Wes en Oos Aansig**  
Skaal 1:50

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Hierdie Lupaan is opgetrek volgens die standaard vir boutekeninge: SABS 0143

26 Junie 2015

**ERF 312, FRANSKRAAL : AANSOEK OM AFWYKINGS en OORSKRYDINGS.**

Erf 312, Franskraal is vir enkel residensiële doeleindes gesoneer en 881m<sup>2</sup> groot. Die eiendom is ontwikkel met 'n woonhuis en gepaardgaande motorhuis.

Hiermee word aansoek vir die volgende gedoen (sien uitlegplanne):

**Motivering vir voorgestelde Motorhuis asook bestaande stoor wat die toepaslike westelike syboullyn oorskry asook bestaande skadunet motorafdak wat die toepaslike noordelike straatboullyn oorskry.**

Die voorgestelde motorhuis en bestaande stoor oorskry die westelike skema 2m syboullyn met 2.00m (10.72m<sup>2</sup> - stoor) en (19.73m<sup>2</sup> - motorhuis). Die bestaande skadunet motorafdak oorskry die 4m skema straatboullyn met 4.00m (24.52m<sup>2</sup>).

Skadunet motorafdak en stoor – my oorlede man het die skadunet motorafdak opgerig vroeër jare om ekstra beskermende parkering te skep vir ons kinders of gaste wat kom kuier of om ons voertuie te kan was in skadu. Ons almal weet hoe gevaarlik die son in die somer kan wees. Vir ons was genoem dat geen plan nodig was vir die tipe skadunet afdakke nie omrede dit slegs 'n tydelike struktuur is.

Die stoor langs die woning het hy ook opgerig om sy hout en tuin gereedskap en ander items te kan stoor teen beskerming. Omrede die stoor se dak net so hoog is soos die grensmuur het hy nie gedink dit sal die buurman pla nie. Dit was maar basies net 'n dak wat hy opgesit het.

Ek is ook in die proses om die woning te verkoop en dus moet ek als nou in orde kry. Ek het die nuwe eienaars ingelig dat ek die stoor wil verwyder omrede dit my oorlede man se idee was indien hy eendag sou verkoop wat als sou opgelos het. Die nuwe eienaar het my ingelig dat hy die stoor graag wil behou vir sy tuin toersutting ens.

Die bou inspekteur was hier om inspeksie te doen en hy het my ook ingelig oor al die foute.

Voorgestelde motorhuis – volgens die nuwe eienaar is sy behoefte nog 'n motorhuis wat langer as standard lengte moet wees vir die stoor van sy boot asook die groter as normale motorhuisdeur om sy boot in te kan stoot. Terselfdetyd wil hy ook toegang vanaf voorgestelde motorhuis na woning bekom en dus word die motorhuis tot net agter die bestaande deur gebou. Omrede ons reeds moet aansoek doen vir die bestaande strukture wat die boulyne oorskry was genoem/oooreengekom dat die voorgestelde motorhuis ook die aansoek moet vergesel om die proses vinniger te maak.

**Motivering vir voorgestelde Motorhuis wat die voorgeskrewe 9m buitegebou beperking van erfgrenslengte oorskry.**

Soos hierbo genoem is die nuwe eienaar se behoefte 'n nuwe ekstra lang motorhuis wat die 9m beperking oorskry. Omrede hy ook die bestaande stoor wil behou word die beperking met 6:227m reeds oorskry. Dus kan u sien dat die beperking nie gehoorsaam word nie en word ek genoodsaak om aansoek te doen.

**Titelverslapping**

In terme van die wet op opheffing van beperkende titelvoorwaardes word aansoek gedoen om die 1.57m westelike syboullyn en 4.72m noordelike straatboullyn, soos voorgeskryf in die titelaktevoorwaardes, te oorskry met 1.57m en 4.72m onderskeidelik deur die voorgestelde motorhuis, bestaande stoor en bestaande skadunet motorafdak. Aansoek om titelverslapping is vir dieselfde redes soos hierbo genoem.

**Slotsom.**

Voldoende parkering kan op die eiendom voorsien word.

Die aansoeke hierbo sal na mening nie 'n negatiewe impak op die karakter van die omgewing of die bestaande regte van die omliggende grondeienaars inhou nie, aangesien die struktuur esteties sal inpas by bestaande woning en die residensiële area en omrede die skadunet motorafdak al 'n geruime tyd bestaan en vir niemand al gesteur het nie. Die buurman van erf 309 het ook 'n motorafdak wat grens aan my erf.

Die omliggende grondeienaar het skriftelik aangedui dat hul geen beswaar teen die voorstelle het nie.

Geen verkeers-sigimpak sal voorkom nie aangesien die skadunet motorafdak fisies 5.350m ver van die rand van die pad is en die feit dat daar nie 'n stopteken aan my kant van die pad voorkom nie. Dit is slegs aaneenvloeiende verkeer.

Dit sal waardeer word indien my aansoek gunstig oorweeg sal word.

Die Uwe



*Munisipaliteit – U-Masipala – Municipality*  
**OVERSTRAND**

**INTERNAL MEMORANDUM**

<b>Aandag / For Attention:</b>	Town Planning department: S. van der Merwe	<b>Van / From:</b>	J. de Villiers
<b>Afskrif / Copy:</b>	15/3/10/1	<b>Datum / Date:</b>	11 November 2015

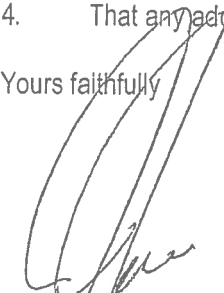
**RE: APPLICATION FOR DEPARTURE (BUILDING LINES) ON ERF 312, FRANSKRAAL**

The request for comment from the Department: Operations (Gansbaai) dated 3 November 2015 with regard to the abovementioned proposal refers.

The Department: Operations (Gansbaai) has no objection to the application for departure with regard to building lines on Erf 312, Franskraal as indicated in the application, subject to the following conditions:

1. That the applicant must comply with all statutory requirements that may be applicable to the undertaking of the proposed development on Erf 312, Franskraal.
2. That the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage.
3. That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Directorate: Operations.
4. That any additional and / or extended vehicle entrances will be for the owner's account.

Yours faithfully

  
 \_\_\_\_\_  
**J. de Villiers Pr. Eng.**  
 Senior Manager: Operations  
 Gansbaai

## MUNISIPALITEIT OVERSTRAND MUNICIPALITY

Die eienaar van onderstaande erf beoog om uitbreidings aan sy woonhuis te doen/woonhuis op te rig/grensmure op te rig wat die boulyne oorskry (soos per bygaande plan). Die instemming/kommentaar van die aanliggende erfeienaars word vereis.

BESONDERHEDE VAN EIENAAR(S) WAT AANSOEK DOEN VIR VERSLAPPING VAN BOULYNE			
ERF NO	312		
STRAATADRES	Cilliers Straat 78, Franskraal		
NAAM EN VAN	Petro Trautman		
TEL NO	082 336 1570		
POSADRES	Cilliers Straat 78		
	Franskraal		
		POSKODE	7220

BESONDERHEDE VAN AANSOEK (voltooi waar van toepassing)			
VERSLAPPING VAN:	MERK (√)	BOULYN VOLGENS TITELAKTE/SKEMAREGULASIES:	VERSLAPPING TOT:
SYBOULYN	√	1.57m en 2.00m	0.00m
AGTERBOULYN			m
STRAATBOULYN	√	4.72m en 4.00m	0.00m
OPRIGTING VAN GRENSMUUR			

BESONDERHEDE VAN EIENAAR(S) VAN OMLIGGENDE ERF			
ERF NO	309		
STRAATADRES	Cilliers Straat 76, Franskraal		
NAAM EN VAN			
TEL NO			
POSADRES			
		POSKODE	

**NB: INSTEMMING TOT VERSLAPPING IS ONVOLLEDIG INDIEN NIE VERGESEL VAN TERREINPLAN WAT ONDERTEKEN IS DEUR EIENAAR(S) VAN AANLIGGENDE ERF NIE.**

Hiermee stem ek/ons in tot die bogenoemde verslapping.

~~Ek/ons gee toestemming tot die betreding van my/ons erf vir die uitvoering van 'n oorskryding/oprigting van grensmuur.~~

  
 \_\_\_\_\_  
 HANDTEKENING/E

  
 \_\_\_\_\_  
 DATUM

OPMERKINGS/VOORWAARDES \_\_\_\_\_

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**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR DEPARTURE: ERF 312, FRANSKRAAL (2973)**

Electricity : In order  
Water : In order  
Sewer : In order  
Stormwater : In order  
Roads and traffic : In order

**Conditions:**

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
3. that stormwater be allowed to discharge through Erf 312, Franskraal, unobstructed;
4. that any additional and / or extended vehicle entrances will be for the owner's account;
5. that no on-street parking be allowed.

  
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**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

10/12/2015  
\_\_\_\_\_  
DATE