

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
22 March 2016
(Also the agenda for the Mayoral Committee Meeting : 30 March 2016)**

**8.
ERF 310, 159 SEAVIEW DRIVE, FRANSKRAAL : PROPOSED DEPARTURE :
W BASSON ON BEHALF OF THE G VAN VUUREN FAMILY TRUST**

310 FK (2564)

SW van der Merwe

(028) 313 8900

Hermanus Administration

27 January 2016

1. Executive Summary

To consider an application for departure and title relaxation received on 5 May 2014 from W Basson, on behalf of the owner of Erf 310, Franskraal, the G van Vuuren Family Trust, in order to construct a tandem garage, which garage encroaches the 2m lateral building line up to the lateral erf boundary. The application also involves the relaxation of the 1,57m Title Deed building line up to the erf boundary.

A Locality Plan is attached as Annexure A. The proposed Site Development Plan is attached as Annexure B and the Motivation Report 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)
Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)
(SPLUMA)

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6. Background/Discussion/Evaluation/Conclusion

Background

Erf 310 Franskraal measures 744m² in extent. The property is developed with a single storey dwelling with a single garage situated at lower ground level. The rear and side of the property contains amongst others several milkwood trees blocking views towards the sea from properties behind.

The applicant proposes to construct a tandem garage on the lateral property boundary measuring 15,5m long. Since the proposed garage exceeds 9m a departure application is applicable.

The application also involves the relaxation of the 1,57m lateral building line contained in the Title Deed. In a letter dated 22 July 2015 the 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 and is therefore the competent authority to decide on these matters. The affected adjoining property owners provided written letters of consent in support of the proposed title relaxation.

Discussion

Proposed Departure

Registered notices were served on interested and affected parties in the prescribed manner, including the Franskraal Ratepayers' Association pertaining to the application for departure from the Scheme Regulations. The Franskraal Ratepayers' Association submitted a letter of objection (refer to Annexure D) pertaining to the application for departure in terms of the Scheme Regulations, which could be summarised as follows:

- Object to the proposed double garage as spaces between properties should be kept open at all times allowing for through views
- Seafront properties have an obligation to the rest of the community to adhere to the building regulations, which the applicant has already transgressed

Town Planner's Comment

From the above it is clear that the Franskraal Ratepayers' Association submitted a general objection to the principle of lateral building line departures

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in order to preserve through views for properties behind, but failed to take site specific circumstances into consideration, namely:

- 1) the subject property contains dense milkwood trees to the side and rear already blocking views of properties to the rear;
- 2) the subject property slopes downwards towards the coast with the natural ground level of the area where the proposed garage is to be situated between 1m to 2m lower than the natural ground level of properties directly behind;
- 3) the proposed development comprises single storey additions;
- 4) most of the properties to the rear only have sea views from first floor level, and
- 5) the Zoning Scheme permits the construction of a garage up to 9m in length on the lateral property boundary, provided that the affected adjoining property owners provided written consent.

Having had regard to the context above, the proposed garage will not result in a further loss of views. It will in actual fact be an improvement as some of the existing vegetation, especially to the side of the existing dwelling will be removed. Given the fact that the ground level of the subject property is lower than adjoining properties behind and the fact that the affected property owners consented to the relaxation of the title deed building lines the proposal is not deemed to have an adverse impact upon through views, especially since the applicant would be able to construct a 9m long garage in the same position as a right. The additional 6,5m to total length of 15,5m given the aforementioned reasoning would not have a greater impact on adjoining properties, especially those at the rear of the subject property. For this reasons the opinion is held that a refusal on the basis of the objector's reasoning cannot be justified.

The applicant's comment is attached as Annexure E.

Proposed Title Relaxation

The affected adjoining property owners (Erven 309, 311 and 312, Franskraal provided written consent letters authorising to the proposed relaxation of restrictive title conditions.

Evaluation

The existing dwelling mainly comprises a single storey structure situated towards the middle of the erf with a garage at lower ground floor level which mainly comprises an excavation below the natural ground level. The proposed additions will be situated on the same floor level as the main dwelling and comprises a single storey construction.

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Due to the fact that a garage of 9m in length is permitted on the lateral property boundary with consent from the neighbours the opinion is held that the proposed garage of 15,5m would not have a greater impact upon views, compared to a 9m garage. Given the dense screening towards the side rear of the subject property the proposed garage would be hardly visible from the rear. Should the applicant in future remove some or all of the natural vegetation (mainly comprising milkwood trees) views for properties from the rear would in actual fact improve drastically. Having had regard to the aforementioned site specific considerations and the fact that the proposal is designed with good quality materials matching the architecture of the original dwelling and single storey the opinion is held that the proposal would be an improvement from an aesthetic point of view and would not have an adverse impact on the visual amenity of the locality the character of the area or the residential amenities of adjoining property owners. In order to protect views from adjoining properties a condition is imposed to ensure that further first floor development should adhere to the applicable 2m lateral building line abutting Erf 311, Franskraal.

Pertaining to the relaxation of the restrictive Title Deed building lines, paragraph 20 of Title Deed T54261/2011 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 en enige sodanige voorwaarde te enige tyd opgeskort of versag behoort te word, hy die nodige opskorting of versaging kan goedkeur onderworpe aan sodanige voorwaardes as wat hy oplê.”

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, namely Erven 309, 311 & 312, Franskraal also provided written consent.

Conclusion

That the application be supported as per the recommendation below.

7. Financial Implications

None

8. Staff Implications

None

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9. Comments from other Departments, Divisions and Administrations

Building Control Department

No objection

Fire Department

Proposal is in compliance with Fire Safety Regulations

Environmental Department

The proposed garage if bigger than 50m² will trigger listed activities in terms of NEMA.

Operational Department

Comments attached as Annexure G

10. Annexures

- Annexure A: Locality Plan
- Annexure B: Site Development Plan
- Annexure C: Motivation report
- Annexure D: Letter of objection
- Annexure E: Applicants comment on objection
- Annexure F: Comment: Department of Environmental Affairs & Development Planning
- Annexure G: Comment: Senior Manager Operational Services

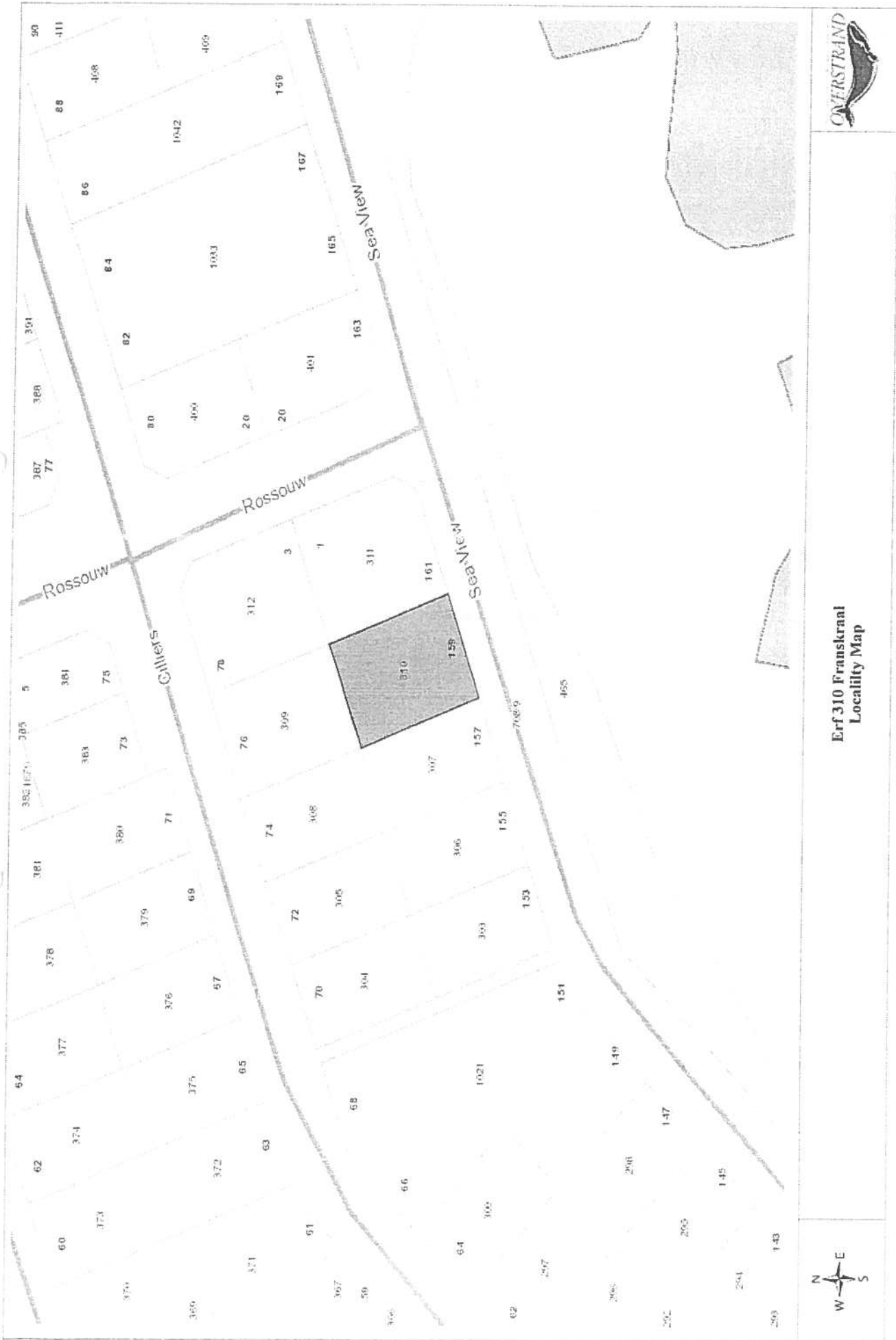
RECOMMENDATION:

1. that the application for the relaxation of restrictive title conditions contained in Title Deed T54261/2011 of Erf 310, Franskraal in order to relax the 1,57m lateral building line up to the erf boundary, **be approved;**
2. that the application for departure applicable to Erf 310, Franskraal in order to relax the 2m lateral building line to 0m in terms of the provisions of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), **be approved;**
3. that the approvals in paragraphs 1 and 2 above be subject to the following conditions:

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- (a) that this approval only has reference to the relaxation of the building lines as indicated on Plan Numbers W3300421 – W3300424 dated 29 April 2014 (attached as Annexure B) submitted with the application;
 - (b) 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;
 - (c) that all the conditions imposed by the Operational Department and the Department of Environmental Affairs and Development Planning, attached as Annexure F and G be adhered to;
 - (d) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (e) should the applicant in future wish to construct a first floor addition, such addition should adhere to the applicable 2m lateral building line adjoining Erf 311, Franskraal;
 - (f) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (g) that the boundary wall/garage wall be constructed with corrobriek facebrick and written approval for the detail (colour and specification) has to be obtained from the Stipp Family Trust, the owner of the adjoining Erf 311, Franskraal, prior to the submission of building plans; and
 - (h) that the pruning/removal of milkwood trees be subject to a permit from Department of Agriculture Fisheries and Forestry.
4. that the applicant be notified of their right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above conditions of approval.

RESPONSIBLE OFFICIAL :	SW VAN DER MERWE
TARGET DATE FOR IMPLEMENTATION :	13 APRIL 2016
TARGET DATE TO INFORM APPLICANT :	13 APRIL 2016
TARGET DATE TO INFORM OBJECTOR :	13 APRIL 2016



WILHELM MARTIN BASSON

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WILHELM MARTIN BASSON ARGITEK B.K. B. BOUK. (UPE) B. ARG. (UPE) ARG. (SA) L.R.A.
SACAP reg. No. 4926

Overstrand Munisipaliteit
Posbus 26
Gansbaai
7220

29 April 2014

In Sake: Erf 310- Seaview Rylaan, Franskraal. Oorskryding van bou-lyn

Met hierdie skrywe wens ons om aansoek te doen vir die oorskryding van die Noord-Oostelike sy-boulyn van Erf 310, soos op die meegaande tekening aangedui.

Dit sal 'n afwyking van die 1,57m boulyn van die akte behels, vir die bou van 'n motorhuis tot op die Erfgrens.

My klient het dan ook reeds die toestemming van die aangrensende Erf 311 se eienaar verkry vir sodanige oorskryding.

Die eienaar se groeiende gesin het dit genoodsaak dat hulle die huis wil vergroot om die familie te kan huisves. Dit het dan die beste gewerk om die huidige motorhuis en aangrensende stoorkamer as deel van die huis se Leef en Slaapkamers te vorm. Daar word dan voorgestel om 'n nuwe Braai-kamer aan te bou en die behoefte is dan vir 'n Motorhuis wat lank genoeg sal wees om 'n boot en 'n bakkie te kan huisves.

Aangesien die huis reeds op 1,57m van die Suid-Westelike grens is, is die Noord-Oostelike kant dan die enigste kant waarna daar kan uitgebrei word.

Die huis is regoorkant Seaview Rylaan van die see af en die uitsig is dus hier van groot belang, asook natuurlik die voertuig-toegang tot 'n motorhuis.

Dit is vir hierdie rede dat daar eerder 'n lang enkel motorhuis voorgestel word, as 'n dubbel motorhuis.

Ons vertrou dat hierdie motivering dan voldoende sal wees om hierdie aansoek gunstig te oorweeg vir die oorskryding van die bou-lyn.

Indien daar enige ekstra inligting benodig word, moet u asseblief nie huiwer om my so gou as wat dit vir u moontlik is te kontak nie.

Die Uwe



W. M. Basson

BASSON & BASSON ARCHITECTS : WORCESTER

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SACAP reg. No. 4926Overstrand Munisipaliteit
Stadsbeplannings Afdeling

23 Januarie 2015

Vir Aandag: Alida Calitz

In Sake: Erf 310- Seaview Rylaan, Franskraal. Oorskryding van Titel Akte bou-lyn

Met hierdie skrywe wens ons om aansoek te doen vir die oorskryding van die Noord-Oostelike Titel Akte sy-boulyn van Erf 310.

Ons doen aansoek in terme van die wet op Opheffing van hierdie beperking.

Die aansoek is vir die verslapping van Titel Akte nr. T 000054261/2011 en wel ten op sigte van Klousule 4.D vir die oorskryding van die 1,57m boulyn, vir die oprigting van 'n motorhuis. Sodanige motorhuis wens ons om tot op die Erfgrens op te rig, wat dan 'n oorskryding van 1,57m van hierdie boulyn gaan behels. (Sien ook die aangehegte Motivering vir oorskryding van die bou-lyn van 29 April 2014.)

Soos reeds met u kantoor bevestig, is daar ook Toestemming van al die betrokke eienaars van die aangrensende erwe verkry, asook die verslag van Omgewingsbeheer Konsultant.

Ons vertrou dat hierdie motivering voldoende sal wees om hierdie aansoek gunstig te oorweeg vir die oorskryding van hierdie Titel Akte bou-lyn.

Indien daar enige ekstra inligting benodig word, moet u asseblief nie huiwer om my so gou as wat dit vir u moontlik is te kontak nie.

Die Uwe



W. M. Basson

TP A THEUNS (Sudmore) Annexure D 171

Alida Calitz - Application for departure 159 Sea View Drive Franskraal



From: Theuns Roodman <sheerbliss80@gmail.com>
To: <alida@overstrand.gov.za>
Date: 2015/03/20 03:56 PM
Subject: Application for departure 159 Sea View Drive Franskraal

The above, Erf 310 Franskraal(2564) refers and in the words of Stephen Muller, the Director of Infrastructure and Planning, recently at a public meeting, that the spaces between properties at seafront should be kept open in order to allow view through at all times. In the light of that we object to the proposed double garage on the boundary. The dwelling has an existing garage on the other side.

The seafront properties we feel have an obligation to the rest of the Community to adhere to Building Regulation and he has already in their own words transgressed that.

Kind Regards

Chairman
Franskraal Ratepayers and Residents Society

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THEUNS & DIANE ROODMAN
"SHEER BLISS"
80 SCHNEIDER STREET
FRANSKRAAL, 7220
082 927 2170
028-3880188

FILE NO:	EL 310-PK
SCAN NO:	41
COLLABORATOR NO:	767654

2015/03/23

24 MAR 2015

Ctestuur op
15/4/2019**Adri Enurie**

To: sheerbliss80@gmail.com
Subject: AANSOEK VIR AFWYKING: ERF 310 FRANSKRAAL, LA MOETTE, SEAVIEWLAAN 159
Attachments: Scanned from a Xerox Multifunction Device.pdf

Geagte Mnr Roodman,

U e-pos gedateer 20 Maart 2015 aan Alida Calitz van die Overstrand Munisipaliteit, is deur die Munisipaliteit aan ons gestuur, met die aanbeveling dat ons direk met u die aangeleentheid moet bespreek. 'n Afskrif van hul skrywe soos gerig aan my argitek, Mnr W Basson word dan ook hierby aangeheg.

Ons het voor die aanvang van die proses om goedkeuring te verkry vir die beoogde aanbouing, eers gesprekke gevoer met die aangrensende en omliggende bure en juis die wense van die agterste eiendomme in Cilliersstraat in ag geneem met die beplanning van die beoogde bouwerk. Hulle was dan juis ten gunste van die aanbouing op dieselfde vlak, aangesien 'n dubbelverdieping aanbouing hul see uitsig sou bederf. Die ander feite wat ek graag ter oorweging vir u wil voorlê is die volgende:

1. Die betrokke woning het slegs 2 en 'n half slaapkamers in die woongedeelte en kan ek weens die feit dat my kinders groter word, nie behoorlik my 3 kinders en ouma en oupa wat soms wil kom kuier, akkommodeer nie.
2. Die voorgestelde plan maak dus voorsiening dat die bestaande motorhuis omgeskakel word in 'n slaapkamer, en die huis dan verleng word na die oostekant ten einde 'n enkel "tandem" motorhuis en braaikamer in daardie area te akkommodeer.
3. Die estetiese voorkoms van die huis en ineen skakeling met die bure se wonings sal baie beter wees as die tans onooglike "vibracrete" heining aan die suid-oostekant.

4. Die aangrensende buurman aan die oostekant ondersteun die aansoek, aangesien dit sy sekuriteit en blootstelling aan weersomstandighede sal verbeter.
5. Die agterste eienaars in Cillierstraat ondersteun die aansoek aangesien dit nie hul uitsig sal wegneem soos wat 'n dubbelverdieping gebou sou doen nie.
6. Die nodige omgewingsimpakstudie is gedoen om terugsetlyne te bepaal en juis te verseker dat die beoogde aanbouings die minimum impak op visuele en omgewingsfaktore sal hê.
7. Die persone wat direk daardeur geraak kan word, die Munisipaliteit asook die breër gemeenskap sal eerder bevoordeel word deur 'n enkelvlak, esteties aanvaarbare aanbouing, as byvoorbeeld 'n dubbelverdieping gedroeg soos wat in baie gevalle reeds ongelukkig op Franskraal voorkom.

Dit wil voorkom uit u epos asof u nie bewus was van al die feite en spesifiek dat die enigste persone wat moontlik 'n uitsig oor ons eiendom kan geniet, die aansoek ondersteun nie. Dit wil ook voorkom asof u nie die voordeel gehad het van die vorige motiverings en planne en die feit dat die bestaande motorhuis in 'n slaapkamer omskep word om voorsiening te maak vir my gesin se behoeftes nie. Die dubbel motorhuis gaan in effek 'n enkel motorhuis deur hê, maar slegs 'n "tandem" motorhuis wees sodat 'n boot en motor uit sig en vir sekuriteitsdoeleindes onder dak parkeer kan word.

Ek is vanaf my geboorte in 1965 bevoorreg gewees om in ons familiehuis te Cillierstraat 133 op Franskraal vakansie te hou, en het as klein seuntjie soggens die koerant by tannie Brindeau gaan

haal op die stoep van die betrokke woning Seaviewlaan 159. Ek het die betrokke woning meer om funksionele redes as andersins gekoop en wil nie bydra tot bouwerk of praktyke wat die unieke karakter van Franskraal sou skend nie. Juis om hierdie rede is daar met oorwoë beplanning en na gesprekke met omliggende eienaars besluit om die bouwerk op die voorgestelde manier aan te pak. In die omstandighede sal ek dit waardeer indien u bereid sou wees om die beswaar van 20 Maart 2015 terug te trek.

Ek verneem graag van u

Vriendelik, die uwe
GERRIT VAN VUUREN



JOUBERT VAN VUUREN ING. / INC.

Voortrekkerstraat 84 / 84 Voortrekker Street

Posbus 79 / P O Box 79

CERES

6835

Tel: 023 3123152

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Directorate: Land Management (Region 2)



(S. M. M. M.)
I le Roux
B. Kondokster

REFERENCE: 16/3/1/6/2/E2/9/2093/14
ENQUIRIES: RONDINE ISAACS
DATE OF ISSUE: 2014-06-05

Mr G van Rensburg
PO Box 79
CERES
6835

FILE NO:	EL 310 FK
	17/12/13
SCAN NO:	22
COLLABORATOR NO:	628923

Tel: (023) 312 3152
Fax: (023) 312 3083

Dear Sir

THE ADOPTION OF AN AD-HOC DEVELOPMENT SETBACK LINE IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS OF 2010 FOR THE PROPOSED ADDITIONS TO AN EXISTING DWELLING ON ERF NO. 310, FRANSKRAAL.

1. The Checklist for the adoption/definition of an ad hoc development setback line dated 28 April 2014, as received by this Department on 6 May 2014 and the Department's acknowledgement letter dated 22 May 2014, refer.
2. Your attention is drawn to the listed activities in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA") Environmental Impact Assessment ("EIA") Regulations, 2010 as defined in Government Notice ("GN") No. R. 544, R. 545 and R. 546 of 18 June 2010.
3. Based on the information that you submitted to this Department, it is hereby confirmed that the proposed project falls within the ambit of the following listed activities:

Activity 16 of GN No. R. 544, i.e.

"Construction or earth moving activities in the sea, an estuary, or within the littoral active zone or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever is the greater, in respect of -

- (i) fixed or floating jetties and slipways;
- (ii) tidal pools;
- (iii) embankments;
- (iv) rock revetments or stabilising structures including stabilising walls;
- (v) buildings of 50 square metres or more; or
- (vi) infrastructure covering 50 square metres or more -

but excluding

- (a) if such construction or earth moving activities will occur behind a development setback line; or

- (b) where such construction or earth moving activities will occur within existing ports or harbours and the construction or earth moving activities will not increase the development footprint or throughput capacity of the port or harbour;
- (c) where such construction or earth moving activities is undertaken for purposes of maintenance of the facilities mentioned in (i)-(vi) above; or
- (d) where such construction or earth moving activities is related to the construction of a port or harbour, in which case activity 24 of Notice 545 of 2010 applies";

Activity 18 of GN No. R. 544, i.e.

"The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from:

- (i) a watercourse;
- (ii) the sea;
- (iii) the seashore;
- (iv) the littoral active zone, an estuary or a distance of 100 metres inland of the high-water mark of the sea or an estuary, whichever distance is the greater.

but excluding where such infilling, depositing, dredging, excavation, removal or moving;

- (a) is for maintenance purposes undertaken in accordance with a management plan agreed to by the relevant environmental authority; or
- (b) occurs behind the development setback line";

Activity 45 of GN No. R. 544, i.e.

"The expansion of facilities in the sea, an estuary, or within the littoral active zone or a distance of 100 meters inland of the high-water mark of the sea or an estuary, whichever is the greater, for –

- (i) fixed or floating jetties and slipways;
- (ii) tidal pools;
- (iii) embankments;
- (iv) rock revetments or stabilising structures including stabilising walls;
- (v) buildings by more than 50 square metres;
- (vi) infrastructure by more than 50 square metres;
- (vii) facilities associated with the arrival and departure of vessels and the handling of cargo;
- (viii) piers;
- (ix) inter-and sub-tidal structures for entrapment of sand;
- (x) breakwater structures;
- (xi) coastal marinas;
- (xii) coastal harbours or ports;
- (xiii) structures for draining parts of the sea or estuary;
- (xiv) tunnels; or
- (xv) underwater channels –

where such expansion will result in an increase in the development footprint of such facilities

but excluding where such expansion occurs:

- (a) behind a development setback line; or
- (b) within existing ports or harbours where there will be no increase in the development footprint or throughput capacity of the port or harbour".

4. A Public Participation Process that complies with the minimum requirements for public participation was conducted. The PPP entailed the following:

- 4.1 Notices were posted by mail to the directly abutting neighbours on 11 February 2014 and the Overstrand Municipality was also offered an opportunity to comment on the proposal.
- 4.2 Written comment was obtained from the Overstrand Municipality on 12 May 2014.
- 4.3 No comments were received from the adjacent neighbours. The Department is satisfied that the Public Participation Process that was followed met the minimum legal requirements.
5. In terms of the NEMA EIA Amendment Regulations of 2010, the "development setback" is "a setback line as defined or adopted by the competent authority and where none has been defined or adopted, it will be assumed that no setback line applies".
- * → 6. With regards to Paragraph 5, please note that the competent authority hereby adopts the southern erf boundary (sea-facing boundary) as the development setback line for Erf No. 310, Franskraal. The setback line is set for the purposes of extending the existing residential dwelling by constructing a garage and recreational room with a braai area and outside open veranda.
7. With regards to the development setback line specified above, please note the following:
 - 7.1 The development setback line is adopted in terms of the NEMA EIA Amendment Regulations of 2010 and only relate to the construction activities mentioned in paragraph 6, the listed activities mentioned above, the determination of whether an environmental authorisation is required for the listed activities mentioned above and to the determination of whether or not an environmental authorisation in terms of NEMA is required before undertaking the listed activities;
 - 7.2 The development setback line is not adopted in terms of the National Environmental Management Act: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008), National Water Act, 1998 (Act No. 36 of 1998) or any other legislation, and notwithstanding the location of the development setback line, any other statutory requirements that may be applicable to the undertaking of the development must be adhered to;
 - 7.3 The development setback line does not imply that the area inland of the setback line will not be exposed to risks arising from dynamic processes, including the risk of flooding or erosion; and
 - 7.4 The fact that development will be undertaken inland of the development setback line does not absolve you from the general "duty of care" set out in Section 28(1) of the NEMA. The section states that "Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment." (Note: When interpreting their "duty of care" responsibility, cognisance must be taken of the principles of sustainability as contained in Section 2 of the NEMA).
 - 7.5 Considering that the listed activities will be undertaken behind the abovementioned development setback line, an environmental authorisation in terms of the NEMA will not be required.
8. It is hereby reiterated that the development setback line only relates to the listed activities mentioned above. If the proposed project is amended in such a way that any other listed

activities become applicable, an environmental authorisation must be obtained in terms of the NEMA EIA Amendment Regulations of 2010. It remains the responsibility of the proponent to determine the applicable listed activities and to obtain the required environmental authorisation.

9. Please note that Interested and Affected Parties must be informed of the decision and be informed that they may lodge an appeal in terms of the provisions contained in Chapter 7 of the NEMA EIA Amendment Regulations, 2010.

An appellant must –

- 9.1 submit a Notice of Intention to Appeal to the Minister, within 20 (twenty) calendar days of the date of the decision;
- 9.2 submit the appeal within 30 (thirty) calendar days after the lapsing of the 20 (twenty) calendar days contemplated in Regulation 60(1), for the submission of the Notice of Intention to Appeal; and
- 9.3 within 10 (ten) calendar days of having lodged the Notice of Intention to Appeal, provide each person and Organ of State registered as an Interested and Affected Party in respect of the application, or the applicant, with –
- 9.3.1 a copy of the Notice of Intention to Appeal form; and
- 9.3.2 a notice indicating where and for what period the appeal submission will be made available for inspection by such person, Organ of State, or applicant, on the day of lodging it with the Minister, and that a responding statement may be made on the appeal within 30 (thirty) calendar days from the date the appeal submission was lodged with the Minister.

- 9.4 All Notice of Intention to Appeal and Appeal forms must be submitted by means of one of the following methods:

By post: Western Cape Ministry of Local Government, Environmental Affairs and Development Planning
Private Bag X9186
CAPE TOWN
8000

By facsimile: (021) 483 4174; or

By hand: Attention: Mr J. de Villiers
Room 809
8th Floor Utilitas Building, 1 Dorp Street, Cape Town, 8001

- 9.5 A prescribed Notice of Intention to Appeal form and Appeal form as well as assistance regarding the appeal processes are obtainable from the office of the Minister at: Tel. (021) 483 3721, E-mail iaap.deVilliers@westerncape.gov.za or URL <http://www.westerncape.gov.za/eadp>.

10. Please note that it is an offence, in terms of Section 24F of the NEMA to commence with a listed activity without an environmental authorisation from the competent authority. Any person convicted of an offence in terms of Section 24F of the NEMA is liable for a fine not exceeding R5 000 000 or to imprisonment for a period not exceeding 10 years, or to both such fine and such imprisonment.

11. This Department will not be held liable for any loss or damage to property or person as a consequence of any development within the development setback area as adopted by the competent authority.

12. This Department reserves the right to revise or withdraw its comments or request further information from you based on any new or revised information received.

Yours faithfully



ZAAHIR TOEFY
DIRECTOR: LAND MANAGEMENT: REGION 2

CC: (1) Mr Charel Bruwer Jnr (EnviroAfrica)
(2) Ms Penelope Aplon (Overstrand Municipality)

Fax: (086) 513 2141
Fax: (028) 313 2093

Munisipaliteit – U-Masipala – Municipality

OVERSTRAND

INTERNAL MEMORANDUM

Aandag / For Attention:	Town Planning department: S. van der Merwe	Van / From:	J. de Villiers
Verwysing / Reference:	15/3/10/1	Datum / Date:	23 June 2015

RE: APPLICATION FOR DEPARTURE (BUILDING LINES) ON ERF 310, FRANSKRAAL

The request for comment from the Department: Operations (Gansbaai) dated 27 February 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 310, Franskraal as indicated in the application, subject to the following conditions:

1. The applicant must comply with all statutory requirements that may be applicable to the undertaking of the proposed development on Erf 310, Franskraal.

Yours faithfully



J. de Villiers Pr. Eng.
 Senior Manager: Operations
 Gansbaai