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ERF 67, 58 NAUDE STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE CONDITIONS, DEPARTURE, AMENDMENT OF CONDITIONS OF APPROVAL AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS ATLAS TOWN PLANNING ON BEHALF OF J & LJ GAMBO

67 GFK (4320/2023)

SW van der Merwe

17 August 2023

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

To consider an application received on 21 December 2022 from Messrs Atlas Town Planning on behalf of the owners of Erf 67, Franskraal in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- ❖ **removal of restrictive title conditions** in terms of Section 16(2)(f) of the By-law to remove condition C.20(d) applicable to Title Deed T30094/2020 to accommodate the as built dwelling;
- ❖ **departure** in terms of Section 16(2)(b) of the By-law to relax the street building line from 3m to 0m and the western lateral building line from 3m to 1,5m to accommodate the as built dwelling;
- ❖ **amendment of conditions of an existing approval** in terms of Section 16(2)(h) of the By-law to accommodate the as built dwelling, and
- ❖ **determination of an administrative penalty** in terms of Section 16(2)(q) of the By-law in respect of the unauthorised building work.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal (MPT)

3. BACKGROUND / SITE HISTORY

Erf 67, Franskraal is situated on the corner of Veal- and Naude Streets, Franskraal. The zoning is Business Zone 3: Local Business. The property measures 452m² in extent. The property is one of 4 Business Zone 3 erven that were set back 4,72m behind the adjoining single residential erven presumably to provide on-street parking.

The applicant obtained consent use approval on 13 April 2022 to accommodate a ground floor dwelling unit. The aforesaid approval included departure from the 3m western lateral building line to 1,5m and the north eastern street building line from 3m to 2,36m.

Building work commenced following receipt of approved building plans during 2022. However, due to a bona fide error with the incorrect setting out of the dwelling using the wrong erf beacon, the dwelling had been positioned $\pm 4,72\text{m}$ closer to Naude Street.

This is contrary to the approved building plan as well as the planning approval. The Building Control Department issued a Stop Notice on 28 November 2022 and building work stopped the same day.

The applicant appointed a professional town planner to apply to rectify the unauthorised building work.

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation for the application is summarised as follows:

- ❖ Erven 67, 68, 69 & 70, having been earmarked for commercial use during township establishment.
- ❖ The commercial erven have a $\pm 4,72\text{m}$ set back from the perimeter reserved for use as parking.
- ❖ The error in setting out the position of the dwelling came to affect when the north-western property beacon of Erf 67 was incorrectly mistaken with that of the north-eastern property beacon of Erf 66.
- ❖ The builder appears to be unaware of the setback between these two properties.
- ❖ The impact of these encroachments will be discussed in this report, but it is evident that this was a bonafide error with no malicious intent.
- ❖ The owners immediately instigated actions to rectify the contravention.
- ❖ It is further contested that the building works is not unlawful as due process was followed and building plans approved. The unlawful building work relates to the position of this building and those parts of the building already constructed and encroaching on the permissible development parameters. This area measures $43,90\text{m}^2$.
- ❖ The property is located in a residential suburb and the majority of the properties are developed for residential use.
- ❖ The land to the north is still undeveloped and is earmarked for community use.
- ❖ The bowling courts is also located diagonally across the road from Erf 67, Franskraal.
- ❖ The proposal to develop the property for residential use remains consistent with objectives of the Spatial Development Framework (SDF).
- ❖ The application does not trigger listed activities in terms of neither the National Environmental Management Act (Act 107/1998) nor the National Heritage Resources Act (Act 25 of 1999).
- ❖ The building was set out in the incorrect position, and this triggers additional building line encroachments, requires amendment of the previously approved site plan and the removal of a restrictive title deed conditions.
- ❖ The building was effectively shifted approximately $4,72\text{m}$ towards the street boundary at the same setback from the north-western boundary as before.
- ❖ It was motivated that the relaxation of the lateral building line to $1,5\text{m}$ will still be at a comfortable distance to allow for privacy to surrounding properties and the opinion is held that this will still be the case.
- ❖ The street boundary is therefore more or less in line with the 4m street building line of the adjacent residential erven.
- ❖ The northern views are towards the mountains and these properties do not have sea views as a result of the natural contours of the area. The opinion is therefore held that the revised position will not have any impact on the adjacent properties in terms of views and that the building is in fact setback at a similar distance from the street as the adjacent Erf 66, Franskraal.

Removal of Restrictive Title Deed Conditions

- a) The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity:
The said building line condition was likely imposed on all properties within the particular township establishment. In lieu of the fact that the erven earmarked for business use was already set back an additional 15 feet from the street and will now be developed for residential use, the opinion is held that the particular conditions holds little if any financial value to anyone other than the person wishing to build in this area. The development of this property will however increase the value of the property, and this will be beneficial for both the owners as well as residents in the area.
- b) The personal benefits which accrue to the holder of rights in terms of the restrictive condition:
The owners of this property will benefit from the use of the dwelling once constructed and them being able to occupy the structure. It should be noted that the dwelling was permitted before and the removal of the restrictive condition is as a result of the position of the building. The owners would not accrue any material benefit as a result of this other than the fact that it would save time and money to not demolish and commence with the project from the start.
- c) The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended:
The material benefit would be to improve the development potential of the property by being able to build in the particular building line area. The amendment of the particular title deed condition is not likely to have any other direct personal benefit.
- d) The social benefit of the restrictive condition remaining in place in its existing form:
As stated, the particular condition albeit seemingly imposed in favour of all persons within the township, does in fact hold little if any value to anyone other than the person(s) wishing to build within the said building line area. As such, the retention of the condition in the current form is not deemed to have any material social benefit.
- e) The social benefit of the removal, suspension or amendment of the restrictive condition:
The removal or retention of the particular condition is not likely to have any material impact for the reasons mentioned before.
- f) Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights:
It is not clear that the particular condition really benefits any particular party. An argument could be made that the 2,36m setback might benefit the owner of Erf 66, Franskraal insofar as this relates to potential views in a north-easterly direction, but this too is not significant. The opinion is held that the processes as per the Municipal Planning By-Law and Overstrand Zoning Scheme should be deemed sufficient to deal with a matter relating to building line relaxations.

Planning Principles

a) Spatial justice

The opinion is held that this is not relevant to the application at hand as the application deals with the development of a private residence. The development of a dwelling on the property in question was previously approved and this application merely deals with the position of the said structure on the property.

b) Spatial sustainability

The property is located within an established residential area and the use of the property was deemed to be compatible with the built environment. Development at this scale will not have a material impact on infrastructure, in fact the scale of development is unchanged from what was approved before. The planning permissions sought will have no environmental impact, will not result in urban sprawl nor loss of valuable agricultural land. Development on this property is viewed as maximising the potential of this scarce resource and hence will contribute to sustainable development.

c) Efficiency

The application will not result in any additional impact on infrastructure whilst the development of the property will maximise the potential of the land and this too will have added financial benefit.

d) Spatial resilience

Spatial resilience deals mostly with adaptive policy making and land use management systems to ensure sustainable livelihoods within communities. This is not relevant to this application.

e) Good administration

The said principle applies mainly to the processing of applications within the legislative frameworks by the various government spheres. It does however help the cause when applications are submitted that is technically sound as this helps with the processing thereof.

- ❖ The proposal to shift the dwelling slightly to the north will have no material impact on any of these planning principles with the possible exception being the provision of on-site parking.
- ❖ On-site parking for two vehicles is required and this is provided in a double garage. It is not foreseen that parking will be a concern or that vehicles will have to park in the adjacent streets.
- ❖ The opinion is held that the proposed development will not have any negative impact on surrounding properties and that all technical requirements can be met.
- ❖ The removal of the restrictive title deed condition will not have any negative impact on the vested rights of any member of the community.
- ❖ The proposal is deemed to be consistent with the relevant forward planning policy and objectives for the area. It is therefore trusted that this application will receive the necessary support.

Administrative penaltya) Nature, duration, gravity and extent of the contravention

A notice to seize construction was issued on the 28th of November 2022. This is the date when building works were stopped. The nature and extent of the contravention is as discussed above. As stated, the extent of the building which encroaches on the permissible development parameters measures as 43,90m². The gravity of the contravention can be assessed in more ways than one. From the owner's perspective, this was a bonafide error with no malicious intent. It is clear that they have been following due process and is now in this position as a result of the mistake made by the builder. Albeit that this happened on their watch, they too are suffering damages due to the costs to rectify the contravention and the escalation in building costs whilst this process is ongoing. The external impact of this transgression will be discussed in more detail, but it is believed that this too is negligible. The revised position of the building still conforms to the general built environment and does not impact on views etc.

b) The conduct of the person (allegedly) involved in the contravention

The property is owned by Jerome and Lorna Judy Gambo and to our knowledge neither has been found guilty of a contravention of the By-Law in the past. Their general conduct to date shows that they follow due process and first obtained the necessary approvals before they commenced with the building project. They have also acted immediately once they were made aware of the contravention of the By-Law.

c) A report by a quantity surveyor in matters of unauthorised building / construction

The extent of the contravention is very small and relates to unlawful building works of 43,90m². Below depicts a calculation of the value of the unauthorised building work based on the municipality's applied rates for construction in the area:

$$43,90m^2 \times R18026.50 = R791\ 363$$

The By-Law states that a penalty of not more than 100% of this value may be imposed. It should be stated that the building cost tariff used for this calculation is not deemed to be appropriate in this instance as the unlawful building work at the time that the works were stopped related to wet works only (foundations and brick laying up to nearly first storey level and includes mostly a garage and stoep area). Section 90(3) of the By-Law provides for an option to provide a report by a quantity surveyor. At this scale it wasn't deemed necessary to obtain a formal report, but a quantity surveyor was consulted and estimated that the realistic building cost rate for the wet works carried out to date would be in the region of +/- R 3 500/m², thus equating to roughly R150 000. The owners would still like to appeal to the municipality to be lenient when considering imposing a penalty in lieu of the facts mentioned before.

d) Whether the unauthorised conduct has stopped

The notice to seize with construction was issued on the 28th of November 2022 and no building work had taken place since. The owners are eager to address the contravention and to obtain approval for the amendment of the plans in order to proceed lawfully.

- e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning by-law

As stated, the owners have, to our knowledge, not previously contravened the current or previous planning By-Laws.

In view of the aforementioned, the owners would appeal to the municipality to be lenient when assessing the imposition of an administrative penalty. It is evident that, whilst the mistake was made under their watch, this is in fact a bonafide error with no malicious intent. It is clear that the owners are law abiding citizens and they have immediately acted to rectify the matter.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	21 April 2023	26 May 2023
Internal Departments	Yes	21 April 2023	26 May 2023
Ward councillor	Yes	21 April 2023	26 May 2023
Total letters of objection	Three (3) letters of objection One (1) letter of support		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly?			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			Yes
In case of application for removal, amendment or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies.			N/A

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Building Department	21/04/2023	No objection. The building plan application must comply with all applicable law including fire safety distances.
Fire Services	24/04/2023	No objection, subject to compliance with the provision of SANS-A:2016, 10400-T:2020 and the By-Law relating to community fire safety.
Engineering Services	19/05/2023	Attached as Annexure G.
Telkom	01/08/2023	Attached as Annexure H.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Three letters of objection were received from DF Cloete, owner of Erf 65, Franskraal, R van der Merwe, owner of Erf 62, Franskraal and DJ & H Rautenbach the owners of Erf 66 Franskraal.

One letter of support was received from Mr FH Foster, the owner of Erf 14, Franskraal.

Cognisance should be taken in the evaluation of the objections that Erf 67, Franskraal, like Erven 68 to 70 was initially set aside for business use. Erven 68 – 70 were since developed for residential use. These erven were setback approximately 4,72m further from the street than the adjoining single residential properties. In the case of the application property, the street boundary is set back 9,9m from the road surface from both Naude- and Veal Streets to allow for on-street parking. Considering that a 4m street building line applies in respect of single residential erven larger than 400m² (i.e all of the objectors' properties), a 0m building line is effectively the same given that Naude- and Veal Streets were built parallel to the respective residential boundaries. The application and objections should be viewed with this in mind.

The main grounds of objection are summarised as follows:

Objection 1

Parking – The objectors claim that the application will result in on-street parking and obstruction of the general flow of traffic.

Response from applicant

In view of the additional 4,72m applicable to the application property this will not be the case. Naude Street has a fairly wide road reserve with the actual blacktop approximately 5m from the residential erf boundaries. The proposed garage would thus still be setback approximately 9,5m from this blacktop. Erf 67, Franskraal is also a corner plot and additional parking can easily be provided elsewhere on the property. Two parking bays are required for a dwelling house. A double garage is proposed, and it is evident that there won't be any problem to provide adequate on-site parking.

Response from town planner

The applicant's comment is agreed with since on-site parking provision is made in accordance with the Overstrand Land Use Scheme. The proposal will not impact upon / or obstruct traffic flow given the setback between the road and the street boundary in excess 9,5m. The actual stop at the junction of Veal- and Naude Streets is more than 7m forward of the Naude Street boundary of the subject property.

Objection 2

Non-compliance with height restriction.

Response from applicant

The height restriction for this property (Local Business 3) is 8,5m above the base level / two storeys. The height restriction for single residential erven is 8m. The building is well within this height requirement and the statement in this respect is unfounded.

Response from town planner

The applicable height restriction relating to commercial use is 8,5m above base level. In case of the consent use approval for a dwelling unit the development parameters for General Residential Zone 1: Town Housing is applicable, which impose an 8m height restriction above base level.

The applicant will be required to submit a building plan for approval, which submission will have to demonstrate compliance with the 8m height restriction.

Objection 3

The contravention of the regulations is unfair towards law abiding residents.

Response from applicant

The unlawful building work was the result of a bonafide error when the position of the building was staked. This mistake has already had a significant financial impact for the owner and every attempt is being made to rectify this. The correct procedures are being followed in this respect.

Response from town planner

The incorrect setting out of the building was a bonafide mistake due to the incorrect erf beacon being used when setting out the dwelling prior to construction. The applicant adhered to the Stop Notice from Building Control and immediately ceased building work and submitted the required applications to rectify the contravention. Despite the history, the application is to be considered upon merit as per the application information in front of the decision maker.

Objection 4

Septic tank is constructed in the road reserve.

Response from applicant

The location of the septic tank is a building plan matter and the revised building plan / works must be done in accordance with approved plans.

Response from town planner

Septic tanks are not permitted. The location of the conservancy tank is a Building Control matter and will be evaluated during building plan submission stage. The applicant if the application is supported, will be required to relocate the conservancy tank within the property boundaries of Erf 67.

Objection 5**Quality of the building work is questioned by the objectors.**Response from applicant

This again refers to a Building Control matter. The building works were stopped when the transgressions came to light. There will no doubt be inspections of the building works once plans are approved, works again being commenced with and an occupation certificate will not be issued if the works weren't carried out in accordance with these plans.

Response from town planner

The applicant's comment is noted. The point of objection is not relevant to the consideration of the application.

Objection 6**Impact on the character of the area.**Response from applicant

The objectors claim that the building work in the position as proposed will have a negative impact on the character of the area and the value of their properties. The dwelling under construction in fact lines up with the dwellings of two of the objectors (Erven 62 & 66, Franskraal) and it is difficult to comprehend how this will have a negative impact on those or any other residential properties.

Response from town planner

The comment from the applicant is noted. The matter will further be addressed in the conditions of approval, should the recommendation be accepted.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

N/A

9. MUNICIPAL ASSESSMENT OF COMMENTS

N/A

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**10.1 Background**

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application can be motivated in terms of the principles in the following manner:

Spatial Justice

The proposal will not further perpetuate historic spatial imbalances being an existing erf.

Spatial sustainability

The application is located within the urban edge and will thus not lead to urban sprawl, impact sensitive or biodiversity rich areas or agricultural land.

Efficiency

The proposal will permit development of the property for residential purposes with access to services, thereby facilitating optimal use of the property.

Spatial Resilience

The proposal is consistent with the SDF that adhere to the principle of efficiency.

Good administration

The application followed the required planning procedures to ensure that land use activity is in line with municipal By-Laws and the public process has been followed.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Spatial Justice

Same as 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The proposal is consistent with the SDF and OMGMS.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal engineering services

No objections were raised by the Engineering Services Department.

10.7 Outcomes of investigations/applications i.t.o other legislation

The location of the new dwelling deviate from the approved building plans which was the result of the incorrect setting out using the wrong erf beacon, i.e. the north eastern boundary peg of Erf 66, not realising the relevant erf beacon of Erf 67 is set back a further 4,72m behind that of Erf 66.

10.8 Existing and proposed zoning comparisons and considerations

The application property is zoned for Business Zone 3 purposes with approved consent use for a dwelling unit on ground floor in accordance with the development parameters applicable to General Residential Zone 1: Town Housing imposing amongst others an 8m height restriction, 3m street- and lateral building lines.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The application requires the removal of Condition C. 20 (d) contained in Deed of Transfer T30094/2020. This condition stipulates that no building or structure may be erected closer than 2,36m of the street boundary. Section 39 of the Land Use Planning Act (Act 3 of 2014) requires that the decision taker must at least have regard to the following when assessing an application for removal, suspension or amendment of a restrictive title deed condition:

The financial or other value of the rights in terms of the restrictive conditions enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as he owner of a dominant tenement.

The building line condition was likely imposed on all properties within the particular township establishment. In lieu of the fact that the erven earmarked for business use was already set back an additional 4,72m from the street and will now be developed for residential use, the opinion is held that the particular conditions holds little if any financial value to anyone other than the person wishing to build in this area. The development of this property will however increase the value of the property, and this will be beneficial for both the owners as well as residents in the area.

The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal.

The only benefit to the personal seeking of the removal is that it will enable legalisation of the encroachments over building line. The owners would not accrue any material benefit as a result of this other than the fact that it would save time and money to not demolish and commence with the project from the start.

The social benefit of the restrictive condition remaining in place, and/or being removed / amended.

The social benefit of the condition to remain in place is that the character of the area will be retained. The removal of the restrictive condition regarding building lines will enable the property owners to retain the unauthorised development.

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights?

The application is for removal of the restrictive building line clauses in terms of the title deed. The no subdivision and coverage clause will remain.

12. THE DESIRABILITY OF THE PROPOSAL

Departure and amendment of conditions of an existing approval

The application property is situated within a node comprising four (4) Business Zone erven. Three of the four erven had been developed with dwelling houses in terms of the former Gansbaai Zoning Scheme Regulations with approved building plans.

The MPT granted approval in 2022 for a dwelling house on the subject property, which dwelling encroach the 3m lateral building line with 1,5m and the 3m street building line in the play area up to 2,36m from the property boundary. The front elevation of the dwelling was set back to be 4,475m from the street boundary of the property as per the approved building plans. The 2022 consent use approval for a dwelling house already considered desirability, impact upon the character of the area and vested rights of adjoining properties.

The building contractor used the incorrect boundary beacon of Erf 66, Franskraal not realising the relevant street boundary beacon for Erf 67, is set further back behind the street boundary of Erf 66. The implication is that the garage, and stoep on ground floor and the proposed first floor stoep, braai and bedroom encroach the street building line onto the street boundary adjacent Naude Street.

The application for departure and amendment of conditions of approval is not considered to adversely affect the character of the area for the following reasons:

- The dwelling complies with the height restriction and will be further evaluated with the as built building plan submission.
- The dwelling maintains a 9,9m set back from Naude Street.
- The street boundary of Erf 67 is set behind the street boundary of adjoining residential erven (Erf 66 and Erf 70 by 4,72m).
- The proposed departure onto the property boundary will result in the dwelling set 0,72m behind the 4m street building line of the adjacent residential erven (i.e. Erf 66 and Erf 70).

The proposed departure and amendment of the conditions of approval will not adversely impact upon vested rights of adjoining properties for the following reasons:

- ❖ No loss of sun / daylight would occur.
- ❖ The development will not adversely impact upon views of adjoining properties. In this regard it should be noted that the dwelling on Erf 66 (objector) has a secondary kitchen window facing the application property with primary windows facing north / east and west, not affected by the proposal.

Administrative penalty

a) Nature, duration, gravity and extent of the contravention

A notice to seize construction was issued on the 28th of November 2022. This is the date when building works were stopped. As stated, the extent of the building which encroaches on the permissible development parameters is measured as 43,90m². The contravention is considered a bonafide error with no malicious intent due to a mistake by the builder.

b) The conduct of the person (allegedly) involved in the contravention

The property is owned by Jerome and Lorna Judy Gambo and to our knowledge neither has been found guilty of a contravention of the By-Law in the past. Their general conduct to date shows that they follow due process and first obtained the necessary approvals before they commenced with the building project. They have also acted immediately once they were made aware of the contravention of the By-Law.

- c) A report by a quantity surveyor in matters of unauthorised building / construction
The extent of the contravention is very small and relates to unlawful building works of 43,90m². Below depicts a calculation of the value of the unauthorised building work based on the municipality's applied rates for construction in the area:

$$43,90\text{m}^2 \times \text{R}18026.50 = \text{R}791\,363$$

The By-Law states that a penalty of not more than 100% of this value may be imposed. According to the applicant the building cost tariff used for the calculation is not deemed to be appropriate in this instance as the unlawful building work at the time that the works were stopped related to wet works only (foundations and brick laying up to nearly first storey level and includes mostly a garage and stoep area). Section 90(3) of the By-Law provides for an option to provide a report by a quantity surveyor. The applicant consulted a quantity surveyor but did not provide a report. The cost for the wet works carried out to date is estimated in the region of +/- R 3 500/m², thus equating to roughly R150 000. The owners would still like to appeal to the municipality to be lenient when considering imposing a penalty in lieu of the facts mentioned before.

- d) Whether the unauthorised conduct has stopped
The notice to seize with construction was issued on the 28th of November 2022 and no building work had taken place since. The owners are eager to address the contravention and to obtain approval for the amendment of the plans to proceed lawfully.
- e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning by-law
As stated, the owners have to our knowledge not previously contravened the current or previous planning By-Laws.

The applicant motivates that the administrative penalty should be waived because the contravention is the result of a bona fide error with no malicious intent. The incorrect setting out of the dwelling is a matter to be resolved between the applicant, the professional land surveyor and builder. Apart from the referring to the incorrect setting out the applicant did not provide any substantive information to motivate why an administrative penalty should not be imposed, therefore the opinion that the applicant could not be exempted from the payment of an administrative penalty.

In accordance with the approved tariff structure the build cost amounts to R19 107/m² (Vat Inclusive) upon which a penalty of 5% should be imposed. The unauthorised additions comprise an incomplete structure (i.e. mostly wet work), therefore it is recommended that a 50% reduction be applied. The area of the encroachment amounts to 43,90m² and the penalty is therefore calculated as follows:

$$(\text{R}19107 \times 43,90\text{m}^2 \times 5\%) \times 50\% = \text{R} 20\,969,93 \text{ (Vat Inclusive)}$$

Considering the above the application is considered desirable and is supported as per the recommendation below, subject to the payment of an administrative penalty and compliance with conditions of approval.

13. RECOMMENDATION

1. that the objections/comments received be noted;
2. that the application for removal of restrictive title conditions in terms of Section 16(2)(f) of the By-law to remove condition C.20(d) applicable to Title Deed T30094/2020 to accommodate the as built dwelling on Erf 67, Franskraal, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application for departure in terms of Section 16(2)(b) of the By-Law to relax the street building line from 3m to 0m and the western lateral building line from 3m to 1,5m to accommodate the existing building, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. amendment of conditions of an existing approval in terms of Section 16(2)(h) of the By-law to accommodate the as built dwelling, **be approved** in terms of the provisions of Section 61 of the By-Law; and
5. that the application for the determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law for the unauthorised building work as stipulated, **not be exempted** from the payment of an administrative penalty in terms of Section 90(4) of the By-law;
6. that the above approvals be subject to the following conditions:
 - (a) that this approval is only for the development as indicated on the plan dated *February 2023*, as 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 an administrative penalty in terms of Section 90.(4) of the By-Law for the unauthorized structure that encroach the building lines for the amount of R20 969,93 (Vat inclusive) **be payable** within thirty (60) days of the decision;
 - (d) that all the conditions of Engineering Services and Telkom (attached as Annexures G and H), be complied with;
 - (e) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (f) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
 - (g) the conservancy tank in the road reserve should be reallocated onto Erf 67 prior to occupation of the property;
 - (h) that prior to the submission of building plans a contour plan be submitted by a professional land surveyor, determining the highest and lowest natural ground level point and base level in accordance with the Overstrand Land Use Scheme, 2020.

7. that the applicant and persons who commented be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2020 with regard to the above conditions of approval.

14. REASONS FOR RECOMMENDATION

- ❖ The application followed due process.
- ❖ The proposal will not detract from the character and amenity of the area.
- ❖ The proposal will not negatively impact on existing/vested rights of adjoining property owners.
- ❖ The proposal is consistent with the planning principles in terms of LUPA and SPLUMA.

15. ANNEXURES

- Annexure A: Locality Plan
 Annexure B: Motivation Report
 Annexure C: Site Development Plan
 Annexure D: Title Deed
 Annexure E: Objections/comment received
 Annexure F: Comment from applicant on objections/comments received
 Annexure G: Services Report
 Annexure H: Comment: Open Serve Services Report

SIGNATURES

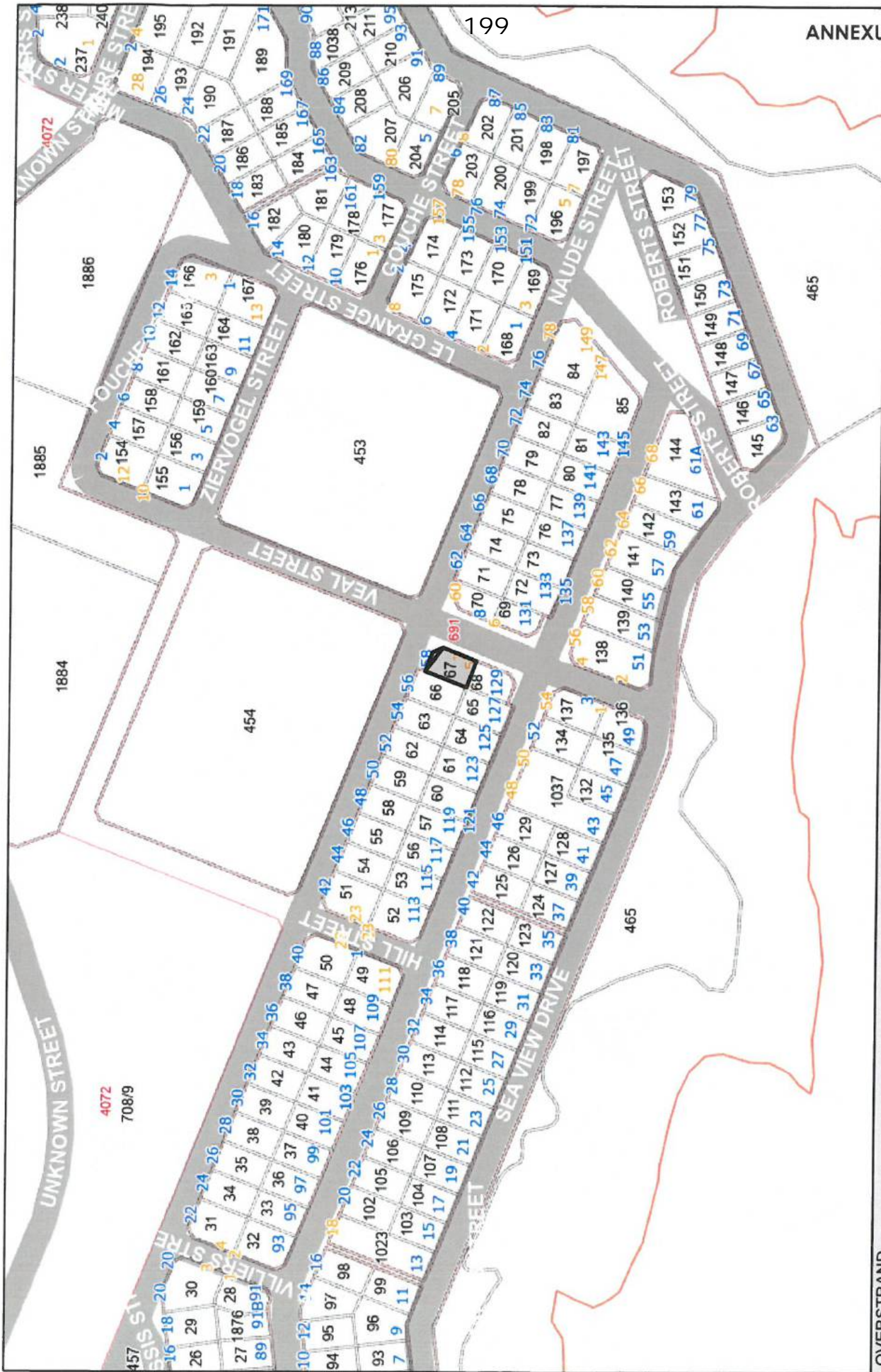
AUTHOR:

Name: **SW VAN DER MERWE**

SACPLAN Reg No: **A/1850/2014**

Signature: _____

Date: _____



Locality Map
Erf 67, 58 Naude street. Franskraal

24 February 2023

Overstrand Municipality
P.O.Box 20
HERMANUS
7200

<h1>ATLAS</h1>		
<h2>Town Planning</h2>		
<p>Koos Olivier : 083 446 0762 BTech T&RP (CPUT)</p>		
<ul style="list-style-type: none"> • Rezoning & Subdivisions • Land Use Departures 	<ul style="list-style-type: none"> • Consent Uses • Site Development Plans 	
<p>P.O.Box 380 KUIJLSRIVIER 7579</p>	<p>Tel : 021 801 7446 Fax : 086 668 5601 E-mail: koos@atlasplanning.co.za</p>	

Attention: Mr Schalk van der Merwe / Ms Alida Conradie

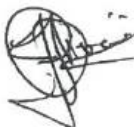
ADMINISTRATIVE PENALTY, REMOVAL OF RESTRICTIVE TITLE DEED CONDITON, AMENDMENT OF CONDITIONS AND REGULATION DEPARTURES – ERF 67, FRANSKRAAL

The application submitted and consequent communications with the owner, Mr Jerome Gambo in the above regard, have reference. As per the department's recommendation, the owners appointed Atlas Town Planning to act on their behalf. A power of attorney to this affect is attached herewith together with updated application forms.

Application and advertising fees in the amount of R21 002.00 has already been paid. The necessary supporting documentation has been submitted and as per the communications with the owner, the department is awaiting an updated motivation report that addresses the necessary planning principles. Please find attached herewith the report with a departure plan depicting the relevant encroachments and unauthorised building works. It is evident that the dwelling (as per the approved building plan) was constructed in an incorrect position nearer to the Naude Street boundary line.

It is trusted that the application will meet the department's requirements and that it will therefore enjoy the necessary support. I would like to extend a friendly invitation to not hesitate in contacting me should there be any enquiries or should more information be required.

Your's truly



Koos Olivier
ATLAS TOWN PLANNING

03 MAR 2023

Introduction

1.1 Background

The subject property is Erf 67, Franskraal. The property is one of four erven in the immediate area that was earmarked for commercial use during the initial township establishment. The area is viewed as a contemporary neighbourhood. Three of these erven (Erven 68, 69 & 70) has since been developed for residential use. Planning permission was also obtained during April 2022 to permit the construction of a dwelling on the subject property. Building plans were officially approved during June 2022 and construction was commenced with towards the back end of 2022.

It became apparent that the building was not constructed in the position as indicated on the approved building plan. The building was shifted +/- 4,5m closer to Naude Street and Overstrand Municipality issued a notice to seize building work on the 28th of November 2022. Building work was stopped on the same day and the owner has been trying to rectify the matter since. It is apparent where the mistake in the setting out the building came about. A 15 feet (approximately 4,572m) strip of land was set aside along the perimeter of the commercial erven, likely for parking purposes, and the incorrect property beacon was consequently used to set out the building.

The owner would either have to demolish the works carried out to date or apply to have this rectified. The latter entails amongst others applying for an administrative penalty and subsequent planning permissions. In this particular instance, the title deed of the subject property contains a condition pertaining to a street building line which is relevant to this application.

1.2 Brief and application

ATLAS Town Planning was requested to assist with the applications to address the unlawful building work on the property and to obtain the necessary planning approval to proceed with the construction of the dwelling in the particular position.

Application is herewith made:

- i) In terms of Section 16(2)(q) of the Overstrand Municipal Planning By-Law of 2015 for the determination of an administrative penalty pertaining to unlawful building work on Erf 67, Franskraal;

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- ii) In terms of 16(2)(f) of the Overstrand Municipal Planning By-Law of 2015 for the removal of Condition C.20(d) in Deed of Transfer T30094/2020 in order to permit the construction of a building closer than 2,36m from the street boundary;
- iii) In terms of 16(2)(h) of the Overstrand Municipal Planning By-Law of 2015 for the amendment of the approval granted (letter dated 13 April 2022) insofar as this approval restricts the development of the property as per the approved Site Development Plan at the time;
- iv) In terms of Section 16(2)(b) of the same By-Law for permanent departures from zoning scheme namely:
 - a) Relaxation of the street building line from 3m to 0m
 - b) Relaxation of the western lateral building line from 3m to 1,5m

Property Details

2.1 Property Description

This application has bearing on Erf 67, Franskraal, Overstrand Municipality, Division Caledon, Western Cape Province. The property measures 452m² and is registered in the names of *Jerome & Lorna Judy Gambo*. The property is held in Deed of Transfer T30094/2020 and it is evident that Condition C.20 (d) requires removal for the development proposal to be considered.

2.2 Locality

The subject property is located on the corner of Naude and Veal Streets, Franskraal. Franskraal is a sea side town located in the Overstrand area approximately 2 hours drive from Cape Town. Erf 67, Franskraal is located in a contemporary neighbourhood, diagonally across the road from the bowling courts and less than 200m from the sea.

2.3 Existing land use and zoning

Erf 67, Franskraal is zoned as Business Zone 3: Local Business (B3) in terms of the Overstrand Zoning Scheme Regulations. Whilst the primary use in this zone is shops, a consent was granted during 2022 to allow the construction of a dwelling on ground floor level. In lieu of the property being developed for residential use, the pa-

parameters pertaining to Town Housing in the said zoning scheme is deemed to be applicable to this property. The dwelling is partially constructed and construction was halted as a result of the notice served on the owners at the end of November 2022.

2.4 Physical characteristics

The subject property is located just north of a small crest sloping away from the ocean in a northerly direction. The site slopes approximately 3m over a distance of 27m. It should be noted that the slope is away from the ocean, with the current position of the building having less impact on views than before. The erf was partially cleared in preparation for construction. There are no physical constraints restricting the development of this property.

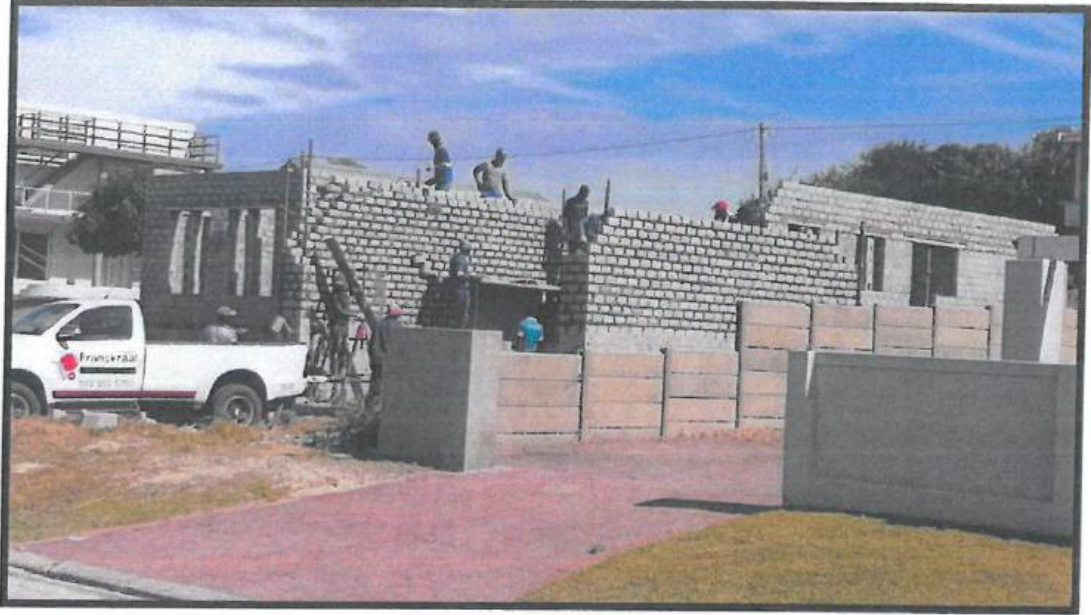
2.5 Unauthorised building works

As stated earlier in this report, consent was granted for the development of a dwelling on this property in accordance with an approved site development plan and a building plan was subsequently approved. The construction of this dwelling per say is therefore not unlawful, but the building was constructed in the incorrect position.

Erven 67, 68, 69 & 70, Franskraal are located adjacent to Veal Street between Marais and Naude Streets. Having been earmarked for commercial use during township establishment, a 15 feet (+/- 4,572m) strip was created along the perimeter. This was a common planning principle at the time as this area was generally reserved for use as parking. The error in setting out the position of the dwelling came to affect when the north-western property beacon of Erf 67 was incorrectly mistaken with that of the north-eastern property beacon of Erf 66. The builder appear to have been unaware of the setback between these two properties.

As a result of the above, the dwelling encroaches on building lines, both in terms of the Overstrand Zoning Scheme Regulations and the street building line as per the title deed. A departure plan was prepared indicating the extent of these encroachments. The plan shows the encroachment on both storeys with the area encroaching on building lines measuring 43,90m² per storey. As is evident from the below picture taken when the construction was stopped, the building has not reached first storey level yet and the unlawful building work is thus deemed to be an area measuring 43,90m².

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Picture 1: Dwelling under construction as viewed from Naude Street

The impact of these encroachments will be discussed further in this report, but it is evident that this was a bonafide error with no malicious intent. The owners immediately instigated actions to rectify the contravention. It is further contested that the building works in itself is not unlawful as due process was followed and building plans approved. The unlawful building work relates to the position of this building and those parts of the building already constructed and encroaching on the permissible development parameters. This area measures 43,90m².

In terms of the By-Law, the following information should be provided to assess the gravity of penalties to be imposed, if any:

a) Nature, duration, gravity and extent of the contravention

A notice to seize construction was issued on the 28th of November 2022. This is the date when building works were stopped. The nature and extent of the contravention is as discussed above. As stated, the extent of the building which encroaches on the permissible development parameters is measured as 43,90m². The gravity of the contravention can be assessed in more ways than one. From the owners perspective, this was a bonafide error with no malicious intent. It is clear that they have been following due process and is now in this position as a result of the mistake made by the builder. Albeit that this happened on their watch, they too are suffering damages due to the costs to rectify the contravention and the escalation in building costs whilst this process is ongoing. The external impact of this transgression will be discussed

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in more detail, but it is believed that this too is negligible. The revised position of the building still conforms to the general built environment and does not impact on views etc. The below picture shows the garage under construction to be set back more or less at the same distance from the street, albeit that it will be on a 0m building line on this particular property.



Picture 2: Garage under construction at similar setback as the adjacent dwelling

b) The conduct of the person (allegedly) involved in the contravention

The property is owned by Jerome and Lorna Judy Gambo and to our knowledge neither has been found guilty of a contravention of the By-Law in the past. Their general conduct to date shows that they follow due process and first obtained the necessary approvals before they commenced with the building project. They have also acted immediately once they were made aware of the contravention of the By-Law.

c) A report by a quantity surveyor in matters of unauthorised building / construction

The extent of the contravention is very small and relates to unlawful building works of 43,90m². Below depicts a calculation of the value of the unauthorised building work based on the municipality's applied rates for construction in the area:

$$43,90\text{m}^2 \times \text{R}18026.50 = \text{R}791\ 363$$

The By-Law states that a penalty of not more than 100% of this value may be imposed. It should be stated that the building cost tariff used for this calculation is not deemed to be appropriate in this instance as the unlawful building work at the time that the works were stopped related to wet works only (foundations and brick laying up to nearly first storey level and includes mostly a garage and stoep area). Section 90(3) of the By-Law provides for an option to provide a report by a quantity surveyor. At this scale it wasn't deemed necessary to obtain a formal report, but a quantity surveyor was consulted and estimated that the realistic building cost rate for the wet works carried out to date would be in the region of +/- R 3 500/m², thus equating to roughly R150 000. The owners would still like to appeal to the municipality to be lenient when considering imposing a penalty in lieu of the facts mentioned before.

d) Whether the unauthorised conduct has stopped

The notice to seize with construction was issued on the 28th of November 2022 and no building work had taken place since. The owners are eager to address the contravention and to obtain approval for the amendment of the plans in order to proceed lawfully.

e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning by-law

As stated, the owners have to our knowledge not previously contravened the current or previous planning By-Laws.

In view of the aforementioned, the owners would appeal to the municipality to be lenient when assessing the imposition of an administrative penalty. It is evident that, whilst the mistake was made under their watch, this is in fact a bonafide error with no malicious intent. It is clear that the owners are law abiding citizens and they have immediately acted to rectify the matter.

Planning context

3.1 Surrounding land uses

The subject property is located in residential suburb and the majority of the properties are developed for residential use. The land to the north is still undeveloped and is earmarked for community use. The bowling courts is also located diagonally across

the road from Erf 67, Franskraal. The nearest shops / restaurants are located in Rossouw Street, at least a kilometre to the west of the subject property.

3.2 Existing forward planning and policy frameworks

The Overstrand Spatial Development Framework is applicable to this area. The scale and nature of this application will have limited impact on this forward planning document with the objective being to preserve the neighbourhood character and residential amenity. The proposal to develop the property for residential use remains consistent with objectives of the SDF, as was confirmed in the letter of Overstrand Municipality dated 13 April 2022. The said proposal also included relaxations of the same building lines and hence it is clear that the same principles will apply in this instance.

3.3 Legal aspects

Land Use applications are dealt with in accordance with the Land Use Planning Act (Act 3 of 2014), the Spatial Planning and Land Use Management Act of 2013 and consequent Municipal Planning By-Laws. Application is made in terms of Sections 16(2)(b), (f), (h) and (q) of the Overstrand Municipal Planning By-Law of 2015.

The application does not trigger listed activities in terms of neither the National Environmental Management Act (Act 107/1998) nor the National Heritage Resources Act (Act 25 of 1999).

4. Development Proposal

Approval was granted for the construction of a double storey residential dwelling on Erf 67, Franskraal. The aforementioned approval included a consent use to permit the construction of a dwelling on ground floor level on a property zoned for business use as well as building line departures. The application for consideration relates to the same dwelling and coverage, floor factor and height remains unchanged. The building was set out in the incorrect position and this triggers additional building line encroachments, requires amendment of the previously approved site plan and the removal of a restrictive title deed condition.

The building line relaxations sought is for the dwelling to be set back at 1,5m in lieu of 3m w.r.t the north-western lateral building line and 0m in lieu of 3m required for the

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street building line. The building was effectively shifted approximately 4,5m towards the street boundary at the same setback from the north-western boundary as before. It was motivated that the relaxation of the lateral building line to 1,5m will still be at a comfortable distance to allow for privacy to surrounding properties and the opinion is held that this will still be the case.

With regards to the street building line encroachment - it was discussed earlier in this report and illustrated in the pictures of the dwelling under construction, that the building is in fact positioned at a similar setback from Naude Street as the adjacent dwelling. This is due to the fact that the erven was previously earmarked for business use with an additional set back of 15 feet from the actual road as opposed to the conventional residential erven. The street boundary is therefore more or less in line with the street building line of the adjacent erf. The northern views are towards the mountains and these properties do not have sea views as a result of the natural contours of the area. The opinion is therefore held that the revised position will not have any impact on the adjacent properties in terms of views and that the building is in fact setback at a similar distance from the street as the adjacent Erf 66, Franskraal.

4.1 Title Deed Conditions

The application to amend the site plan requires the removal of Condition C. 20 (d) contained in Deed of Transfer T30094/2020. This condition stipulates that no building or structure may be erected closer than 2,36m of the street boundary. Section 39 of the Land Use Planning Act (Act 3 of 2014) requires that the decision taker must at least have regard to the following when assessing an application for removal, suspension or amendment of a restrictive title deed condition:

(a) The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity

The said building line condition was likely imposed on all properties within the particular township establishment. In lieu of the fact that the erven earmarked for business use was already set back an additional 15 feet from the street and will now be developed for residential use, the opinion is held that the particular conditions holds little if any financial value to anyone other than the person wishing to build in this area. The development of this property will however increase the value of the property and this will be beneficial for both the owners as well as residents in the area.

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- (b) The personal benefits which accrue to the holder of rights in terms of the restrictive condition;
 The owners of this property will benefit from the use of the dwelling once constructed and them being able to occupy the structure. It should be noted that the dwelling was permitted before and the removal of the restrictive condition is as a result of the position of the building. The owners would not accrue any material benefit as a result of this other than the fact that it would save time and money to not demolish and commence with the project from the start.
- (c) The personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended
 The material benefit would be to improve the development potential of the property by being able to build in the particular building line area. The amendment of the particular title deed condition is not likely to have any other direct personal benefit.
- (d) The social benefit of the restrictive condition remaining in place in its existing form
 As stated, the particular condition albeit seemingly imposed in favour of all persons within the township, does in fact hold little if any value to anyone other than the person(s) wishing to build within the said building line area. As such, the retention of the condition in the current form is not deemed to have any material social benefit.
- (e) The social benefit of the removal, suspension or amendment of the restrictive condition
 The removal or retention of the particular condition is not likely to have any material impact for the reasons mentioned before.
- (f) Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.
 It is not clear that the particular condition really benefits any particular party. An argument could be made that the 2,36m setback might benefit the owner of Erf 66, Franskraal insofar as this relates to potential views in a north-easterly direction, but this too is not significant. The opinion is held that the processes as per the Municipal

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Planning By-Law and Overstrand Zoning Scheme should be deemed sufficient to deal with a matters relating to building line relaxations.

4.3 Basic planning principles

The Spatial Planning and Land Use Management Act (Act 16 of 2013) stipulates that the following basic development principles must be considered when dealing with spatial planning, land development and land use management:

a) Spatial justice

The opinion is held that this is not relevant to the application at hand as the application deals with the development of a private residence. The development of a dwelling on the property in question was previously approved and this application merely deals with the position of the said structure on the property.

b) Spatial sustainability

The property is located within an established residential area and the use of the property was deemed to be compatible with the built environment. Development at this scale will not have a material impact on infrastructure, in fact the scale of development is unchanged from what was approved before. The planning permissions sought will have no environmental impact, will not result in urban sprawl nor loss of valuable agricultural land. Development on this property is viewed as maximising the potential of this scarce resource and hence will contribute to sustainable development.

c) Efficiency

The application will not result in any additional impact on infrastructure whilst the development of the property will maximise the potential of the land and this too will have added financial benefit.

d) Spatial resilience

Spatial resilience deals mostly with adaptive policy making and land use management systems to ensure sustainable livelihoods within communities. This is not relevant to this application.

e) Good administration

The said principle applies mainly to the processing of applications within the legislative frameworks by the various government spheres. It does however help

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the cause when applications are submitted that is technically sound as this helps with the processing thereof.

Other basic planning principles includes socio-economic impacts, the safety health and wellbeing of the surrounding community, consistency w.r.t surrounding land uses, traffic and parking related aspects, impacts on engineering services as well as environmental and heritage impacts.

The proposal to shift the dwelling slightly to the north will have no material impact on any of these planning principles with the possible exception being the provision of on-site parking. On-site parking for two vehicles is required and this is provided in a double garage. It is not foreseen that parking will be a concern or that vehicles will have to park in the adjacent streets. Being a corner stand, the possibility even exists to consider a second carriage way crossing in Veal Street in future as many residents owns boats and other vehicles that may require safe storage.

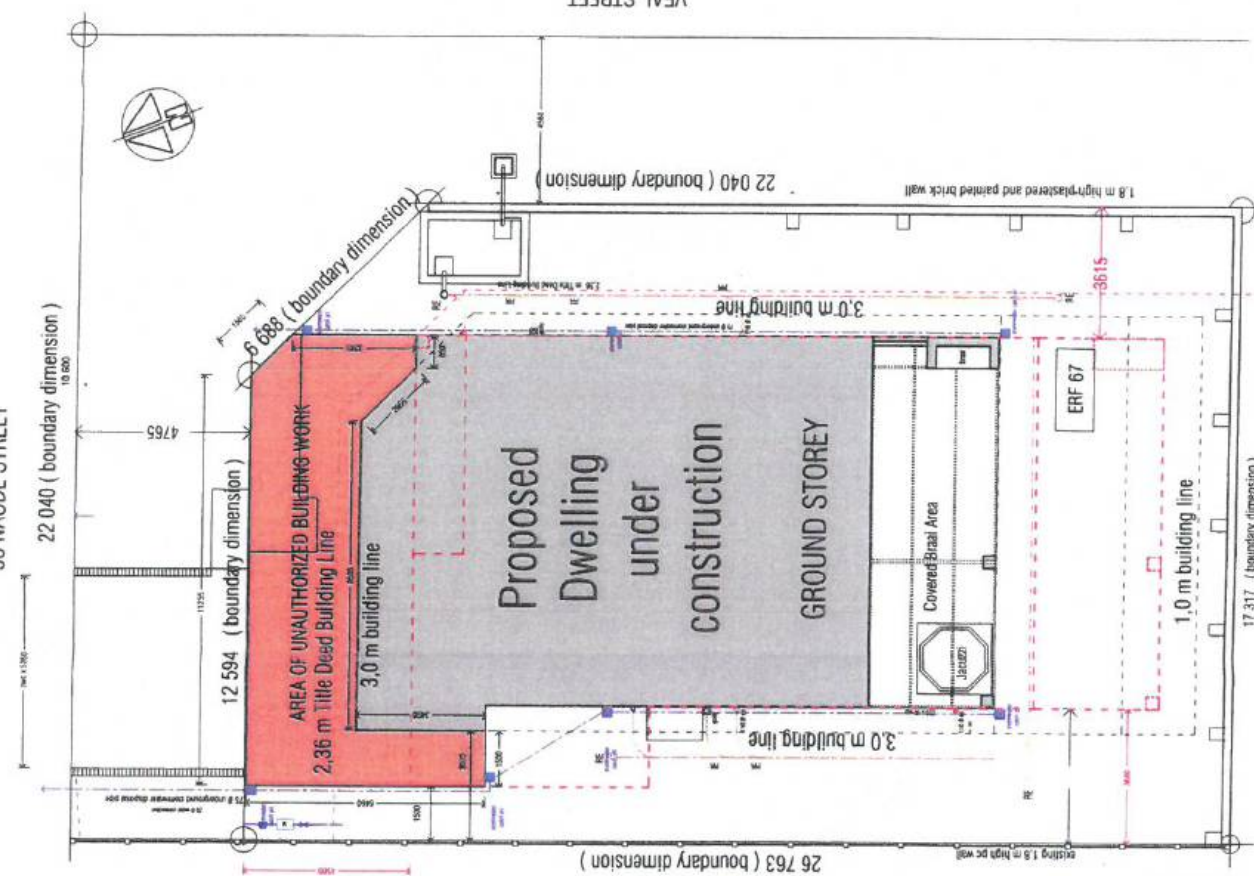
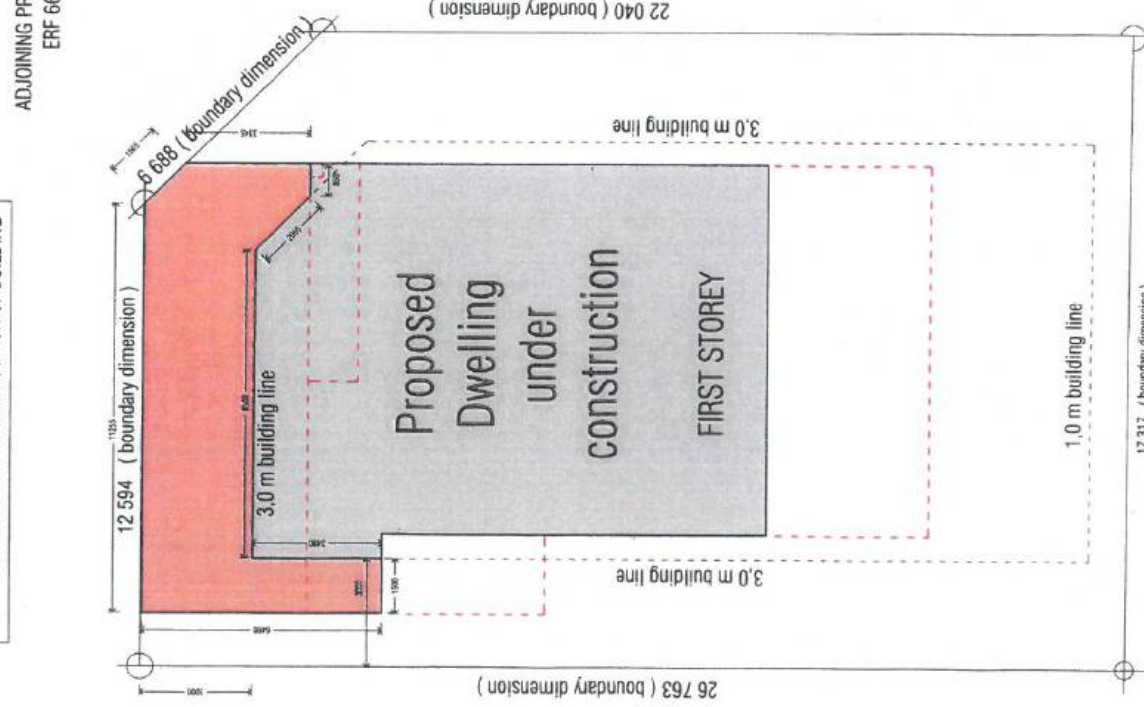
5. Conclusion

The opinion is held that the proposed development will not have any negative impact on surrounding properties and that all technical requirements can be met. The removal of the restrictive title deed condition will not have any negative impact on the vested rights of any member of the community. The proposal is deemed to be consistent with the relevant forward planning policy and objectives for the area. It is therefore trusted that this application will receive the necessary support.

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LEGEND

- AREA ENCRoACHING BUILDING LINES
- BUILDING UNDER CONSTRUCTION
- OUTLINE OF APPROVED POSITION OF BUILDING



AREAS ENCRoACHING BUILDING LINES

GROUND STOREY : 43,90 m²
 FIRST STOREY : 43,90 m²
 TOTAL : 87,80 m²

03 MAR 2023

DEPARTURE PLAN FOR UNAUTHORIZED BUILDING WORK ON ERF 67
 58 NAUDE STREET
 FRANKRAALSTRAND
 OVERSTRAND MUNICIPALITY

OWNER : J & L J GAMBO
 SCALE : 1 : 100
 DATE : FEBRUARY 2023

SITE PLAN 1 : 200

ANNEXURE 2. TITLE DEED

157

Kestler De Jager Inc./Ing.
171 Vasco Boulevard
Goodwood
7450

Prepared by me

[Signature]
CONVEYANCER
JANNEKE VICTOR
LPC 83700

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 250 000,00	R. 539,00
Reason for exemption	Category Exemption	Exemption No. SecReg Ad/Proc

26-10-2020
MAGISTRAL

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

FLORIS ALBERTUS HANEKOM

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

LANA GEAN ETHERINGTON
Identity Number 690413 0243 00 9
Unmarried

which said Power of Attorney was signed at GOODWOOD on 26 August 2020

R

And the appearer declared that he/her said principal had, on 13 August 2020, truly and legally said by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

JEROME GAMBO

Identity Number 670623 5427 08 1

and

LORNA JUDY GAMBO

Identity Number 710413 0238 08 6

Married in community of property to each other

their Heirs, Executors, Administrators or Assigns, in full and free property

ERF 67 FRANSKRAALSTRAND, situate in the Overstrand Municipality, Division Caledon, Western Cape Province

IN EXTENT 452 (FOUR HUNDRED AND FIFTY TWO) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T 12801/1953 with Diagram Number 1788/1951 relating thereto and held by Deed of Transfer Number T9533/2019.

- A. SUBJECT to the conditions referred to in Deed of Transfer Number T5544/1941.
- B. ENTITLED to the benefits of the servitude referred to in the endorsement dated 18 August 1951 in Certificate of Township Title Number T14397/1951, as follows:

"Kragtens Notariële Akte van Servituut Nummer 478/1951 gedateer 3 Maart 1951 is die eiendom hierin beskrywe geregtig op sekere servituut met betrekking tot waterregte, waterleiding, opgaarddamme en uitweringwerke geleë op die eiendomme gehou onder transfer nommer T5546 gedateer 13 Junie 1941 en soos aangedui op Servituutkaart 3241/1950 aan gesegde Notariële Akte geheg, tesame met sekere voorwaardes soos meer breedvoerig sal blyk uit Akte en Kaart, 'n kopie waarvan hieraan geheg is."

- C. SUBJECT to the following additional conditions imposed by the Administrator of the Cape Province with the approval of the establishment of the township, under the provisions of Ordinance Number 33 of 1934, and contained in the said Deed of Transfer Number T12801/1953.

17. Enige woorde en uitdrukkinge wat in die volgende voorwaardes gebesig word, het dieselfde betekenis as wat daaraan geheg word by die regulasies afgekondig by die Provinsiale Kennisgewing Nummer 401 van 17 Oktober 1935 en in die Memorandum wat genoemde regulasies vergesel het.

18. Die eienaar van hierdie erf is verplig om sonder betaling van vergoeding toe te laat dat rioolwater en dreinerings insluitende reënwater van enige ander erf of erwe oor hierdie erf gevoer word indien dit deur die plaaslike owerheid nodig geag word, en wat op die wyse en ligging wat van tyd tot

tyd redelikerwys versis word. Dit sal die reg op toegang en te alle redelike tye tot die eiendom in met die doel om riele. Mangate, vore, waterleidings en ander werke behorende daartoe te bou, onderhou, verander, verwyder of inspekteer.

19. Die eienaar van hierdie erf is verplig om sonder vergoeding die materiaal te ontvang of enige uitgrawings op die erf toe te laat wat nodig mag wees om die gebruik van die volle wydte van die straat toe te laat en 'n veilig en behoorlik skuinste aan sy wei te voorsien weens verakli tussen die hoogte van die straat soos finale aangelê en die erf teney hy verkies om steunmure te bou tot bevrediging van die plaaslike owerheid en binne 'n tydperk wat genoemde owerheid bepaal.

20. Hierdie erf is onderhewig aan die volgende voorwaardes met dien verstande dat indien die Administrateur na oorleg met die Dorpskommissie en die plaaslike owerheid dit raadsaam ags dat die beperking en enige sodanige voorwaarde te eniger tyd opgeskort of versag behoort te word, hy die nodige opskorting of versagting kan goedkeur onderworpe aan sodanige voorwaardes wat hy optê:

- (a) dit mag nie onderverdeel word nie
- (b)
- (c) op nie meer as tuse-derdes van die oppervlakte daarvan mag gebou word nie.
- (d) geen gebou of struktuur of enige gedeelte daarvan behalwe grensmure, heininge, verandas of balkonne mag binne 2,36 meter van die straatlyn wat 'n grens van hierdie erf vorm oppeng word nie.

D. SUBJECT also to the conditions to which Franskraalstrand (Proprietary) Limited, the owner of the Township, with the approval of the said Administrator, for the benefit of themselves as owner of the remaining erven in the Township and the reciprocal benefit to all owners of erven therein, and in the said Deed of Transfer Number T12801/1953, namely:

"Dat geen gebou op hierdie erf oppeng sal word tensy die planne daarvan deur die Maatskappy goedgekeur is."

WHEREFORE the said Appearer, renouncing all rights and title which the said

LANA GEAR ETHERINGTON, Unmarried

heretofore had to the premises, did in consequence also acknowledge her to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

JEROME GAMEO and LORNA JUDY GAMEO, Married as aforesaid

their Heirs, Executors, Administrators or Assigns, now are and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights,

and finally acknowledging the purchase price to be the sum of R250 000,00 (TWO HUNDRED AND FIFTY THOUSAND RAND).

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 05 OCTOBER 2020

[Handwritten signature]

In my presence

[Handwritten signature]

REGISTRAR OF DEEDS

8.
[Handwritten initials]

Alida ConradieTP-A Theart
(S vld Merwe)

From:
Sent: Tuesday, 23 May 2023 10:27
To: Alida Conradie
Subject: Erf 67 te Naudéstr 58, Franskraal.



Dagsê Alida

Baie dankie vir die geleentheid om kommentaar te lewer:

1. Ons woon op Erf 14 te Du Plessistraat 4 Franskraal, ongeveer 600m Noordwes vanaf Erf 67. Daar is dus hoegenaam geen manier dat ons deur die beplande gebou geaffekteer sal word nie.
2. Ek stap dikwels by die boupersel verby en het die bouery sien vorder oor tyd. Die bouery is nou reeds geruime tyd gestaak wat opsigself 'n baie groot straf is deurdat bouksoste intussen styg, terwyl die eiendom ook nie benut kan word nie. Die verdere heffing van 'n administratiewe boete is dus mynses insiens 'n bitter pil om te sluk.
3. Enige besoek aan die terrein sal bevestig dat die gebou se plasing op die Erf 67 in ooreenstemming is met ander woonhuise in beide Naudéstraat en Vealstraat. Daar is voldoende afstand na die gebou vanaf beide strate.
4. Die oorspronklike bedoeling om 'n sake-ontwikkeling op die erf te skep, het uiteraar nie gerealiseer nie omrede daar nie voldoende aanvraag in die omgewing is vir diesulke gebruike nie (verwys ook na 'n mislukte poging op h/v Ross- en Loopstrate). Die voorheen beplande parkeervakke langs die strate is derhalwe ook oorbodig en kan die huis geplaas word soortgelyk as ander woonerwe in die omgewing.
5. Die ontwikkeling van 'n woonhuis eerder as 'n sakepersel in die nabyheid van ander woonhuise behoort daardie eienaars baie gelukkig te maak, veral gedagtig aan die uitskakeling van eksterne verkeer, en in besonder afleweringsoertoë.
6. Die blote feit dat die bouinspekteur nie tydens die bou-inspeksie van die fundamente waargeneem het dat die gebou verkeerd uitgesit is deur die bouer nie, laat verdere ruimte vir 'n toegewing aan die eenaar/bouer. Ons maak almal foute van tyd tot tyd!
7. Die spoedige goedkeur van die hersiene bouplanne word aanbeveel sodat die bouwerk ook spoedig voltooi kan word tot voordeel van almal direk rondom die erf.

Vriendelike groete

FH (Eric) Foster Pr Eng, M Eng (Civil)

FILE NO.	Erf 67-GFK
SCAN NO.	
COLLABORATOR NO.	1860039

23 MAY 2023



TP - A Theart
(Suid merke)

DHF Cloete
Erf 65
Maraisstraat 127
Franskraal
Gansbaai
7220

25 Mei 2023

Overstrand Munisipaliteit
Stadsbeplanning
Patersonstraat 16
Hermanus
7200

BESWAAR TEEN AANSOEK: ERF 67, NAUDÉ STRAAT 58, FRANSKRAAL, OVERSTRAND MUNISIPALE AREA : AANSOEK OM OPHEFFING VAN BEPERKENDE TITEL-AKTEVOORWAARDES, AFWYKING, WYSIGING VAN GOEDKEURINGSVOORWAARDES, EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: J & LJ GAMBO

Ek verwys na bogenoemde aansoek en teken hiermee amptelik beswaar aan daarteen.

Ek en die omliggende grondeienaars is almal westgehoorsaam en het ons persele binne die raamwerk van die munisipale regulasies en bouregulasies ontwikkel. Dit is duidelik dat dit nie hier die geval was nie. Nou wil die rolspelers dit toesmeer deur bogenoemde aansoek in te dien.

Daar moet eerder intensief ondersoek ingestel word na die hele ontwikkeling aangesien daar talle konstruksie foute is met die halfvoltooide gebou.

My besware teen die goedkeuring van die aansoek is:

1. Parkering: Daar is nie voorsiening gemaak vir parkering nie. Gaste/besoekers se voertuie moet dus in die straat parkeer. Hierdie belemmer weer die motoris se sig en hou ook 'n gevaar in vir voetgangers. Franskraal is 'n gesogte vakansiebestemming en gedurende seisoentye is daar baie voetgangers/fietryers met kinders en honde wat gaan stap/ry. Nodeloos om te sê is daar ook jaagduiwels wat dink dat Franskraal geen verkeersreëls het nie.

Voorts bring die trappe in die motorhuis mee dat daar 'n beperking is ten opsigte van parkering vir voertuie. Daar is slegs parkering vir een voertuig binne die motorhuis.

FILE NO. Erf 67-GFK
SCAN NO.
COLLABORATOR NO.
1861275

26 MAY 2023

2. Hoogtebeperking: Omdat die fondasie hoër is as wat dit moet wees, oorkstry die woning die hoogtebeperking. Dit veroorsaak dat omliggende eienaars se reg tot privaatheid geskend word.
3. Dit is ook onregverdig teenoor die omliggende woonhuise, veral die posisies van die drie omliggende huise vanaf grense vergelyk word. Al die gehoorsame grondeienaars het die munisipale reëls en regulasies gehoorsaam.
4. Daar word ook reeds verkeersprobleme ondervind met voertuie wat die stopstraat te h/v Naudé en Vealstraat verontagsaam. Met hierdie aansoek van 0% tot op die grens, gaan dit die sig van motoriste belemmer en gaan dit ongelukke, dalk noodlottige gevolge vir mede padgebruikers/voegangers/kinders en honde inhou.
5. Die huidige septiese tenk is op die sypaadjie gebou en is tans slegs toegegooi toe bouwerk verlede jaar gestaak is. Soos reeds genoem in paragraaf 1, stel dit voetgangers in gevaar.
6. Voorts word die bouwerk en bouers in twyfel getrek aangesien dit duidelik dat die bouers onbevoeg is met al die foute op die halfgeboude huis.
7. Daar moet volledige ondersoek ingestel word en die eienaar, nes al die ander gehoorsame grondeienaars, moet maar by die bouvoorskrifte en regulasies hou. Sou hierdie aansoek toegestaan word, sal dit al die knoeiwerk onder die mat invee.
8. Die oostelike muur is 'n gevaar situasie, aangesien 'n fondasie ontbreek.

In die lig van bogenoemde kan die aansoek nie ondersteun word nie en teken ek amptelik beswaar aan teen die aansoek.

Die uwe

D Cloete
Erf 65, Maraisstraat, Franskraal



TP-D. head 220
(S. udwband)

FILE NO.	85 67 ✓
	Franskraal
SCAN NO.	VDM
COLLABORATOR NO.	1862478

R van der Merwe
Erf 62
Naudéstraat 52
Franskraal
Gansbaai
7220

23 Mei 2023

Overstrand Munisipaliteit
Stadsbeplanning
Patersonstraat 16
Hermanus
7200

BESWAAR TEEN AANSOEK: ERF 67, NAUDÉ STRAAT 58, FRANSKRAAL, OVERSTRAND MUNISIPALE AREA : AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES, AFWYKING, WYSIGING VAN GOEDKEURINGSVOORWAARDES, EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: J & LJ GAMBO

Ek verwys na bogenoemde en moet uit die staanspoor uitwys dat ek die bestaande halfgeboude struktuur, vanaf aanvang van die konstruksie dophou, en vermoedelik oorskry dit Naudéstraat erfrens met enkele millimeters.

My besware teen die goedkeuring van die aansoek is:

1. Al drie bestaande omliggende woonhuise is streng opgerig ooreenkomstig alle voorskrifte, soveel so dat een van die huise se drie trappe vanaf die stoep gesloop moes word omdat dit die boulyn oorskry het.
2. Geen voorsiening gemaak word vir parkering op die perseel nie en gevolglik moet besoekers se voertuie in die straat parkeer. Die aantal trappe binne die motorhuis beperk ook die parkering van net een voertuig binne.
3. Die hoogtebeperking, hoewel nie van so 'n belang, sal moontlik ook oorskry word.
4. Die karakter van die omgewing sal wel geskend word veral as na die posisies van die drie omliggende huise vanaf grense, vergelyk word. Dit is ook onbillik teenoor die eienaars van daardie eiendomme, wie moontlik ook beter beplanning sou wou doen, as die munisipaliteit ten tyde van goedkeuring van hul bouplanne nie so regied en beperkend ten opsigte van boulyne was nie.

Indien hierdie aansoek goedgekeur word, word aangedring dat die munisipaliteit die betrokke regulasies wat boulyne bepaal sodanig wysig dat verslappings wel toelaatbaar is, onderhewig aan sekere prosesse.

Hierdie teenstrydige bouwerk is die gevolg dat die eienaar 'n totaal onbevoegde kontrakteur aangestel het. Die toestand is verder vererger deurdat munisipale amptenary dit so goedgekeur het, en nou wil jul boetes hef vir jul eie foute. Huidig is 'n halfgeboude riooltenk binne die straat reserwe gebou en toegegooi toe bouwerk gestaak is.

Die huidige struktuur voldoen reeds nie aan bouvoorskrifte nie, die oostelike muur is nie op fondasie/mure gebou nie $\pm 2/3$ daarvan is op die vloerblad gebou, wat reeds 'n gevaar skep vir verdere bouwerk. Daar is ook vele ander geknoei met bouwerke wat die eienaar sal moet laat ondersoek.

Die uwe

R van der Merwe
Erf 62, Naudé Street, Franskraal

TP. n. Aheak 222
(S. ud n. n. n. n.)



FILE NO. <u>EF 67</u>
<u>Franskraal</u>
SCAN NO. <u>Raut</u>
COLLABORATOR NO. <u>1862458</u>

DJ & H Rautenbach
Erf 66
Naudéstraat 56
Franskraal
Gansbaai
7220

25 Mei 2023

Overstrand Munisipaliteit
Stadsbeplanning
Patersonstraat 16
Hermanus
7200

BESWAAR TEEN AANSOEK: ERF 67, NAUDÉ STRAAT 58, FRANSKRAAL, OVERSTRAND MUNISIPALE AREA : AANSOEK OM OPHEFFING VAN BEPERKENDE TITEL-AKTEVOORWAARDES, AFWYKING, WYSIGING VAN GOEDKEURINGSVOORWAARDES, EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: J & LJ GAMBO

Hiermee wens ons amptelik beswaar aan te teken teenoor bogenoemde aansoek.

Ons het reeds ook tevore teen die ontwikkeling beswaar aangeteken, maar daar het dadels van gekom. Nou blyk dit dat die rolspelers die baie foute met boetes en hierdie aansoek wil toesmeer.

Boetes en hierdie aansoek gaan nie die probleem van konstruksie foute/knoeiwerk en die onveiligheid van die halfgeboude struktuur oplos nie.

Daar sal dringend ondersoek moet ingestel word ten opsigte van die volgende konstruksie foute/knoeiery:

1. of die bouers wel bevoeg was;
2. die fondasie van die struktuur;
3. die gebou staan voor reeds 1,3 hoër;
4. geen fondasie op die suidelike grens van die "covered" braaiarea;
5. die oostelike muur staan slegs op 'n vloerblad met geen fondasie;
6. agv die hoogte oorskryding moes die trappe in die motorhuis aangebring word. Die bouer het die muur aan die trappe se kant by voor by die motorhuis deur verder toegebou. Die motorhuisdeur is nou so klein dat daar onmoontlik twee voertuie geparkeer kan word.

29 MAY 2023

7. Die 0% boulyn skep 'n gevaarsituasie vir padgebruikers. Franskraal is 'n baie gewilde vakansiebestemming en daar is altyd voetgangers, fietsryers en kinders wat Naudéstraat gebruik om af te stap see toe. Die septiese tenk is op die sypaadjie gebou. Waar moet die voetgangers en kinders stap?
8. Verkeersprobleme word reeds ondervind met motoriste wat die stopstraat op h/v Veal en Naudéstraat verontagsaam. Die aansoek van 'n 0% boulyn gaan die sig belemmer en noodlottige gevolge inhou vir mede padgebruikers.
9. Ons reg tot privaatheid word erg geskend. Die halfgeboude struktuur is direk in stryd is met wetlike- of beperkings en voorwaardes wat deur die regulasies en riglyne oor stadsbeplanning, sonering, boubeperkings en dies meer neergelê word.
10. Die gebou maak inbreuk op die karakter van die omgewing en die aansoek skep 'n onregmatige verwagtinge by die eienaars. Voorts is die struktuur ook baie onveilig oor die fondasie knoeiery.

Dit dien ook gemeld te word dat 'n amptelike klagte by NHBRC ingedien gaan word.

In die lig van bogenoemde kan die aansoek nie ondersteun word nie en teken ons amptelik beswaar aan teen die aansoek.

Die uwe

DJ & H Rautenbach
Erf 66, Naudéstraat, Franskraal

TP-17/Heart 224
(S. van der Merwe)

9 June 2023

Overstrand Municipality
P.O.Box 20
HERMANUS
7200



ATLAS
Town Planning



Koos Olivier : 083 446 0762
BTech T&RP (CPUT)

- Rezoning & Subdivisions
- Land Use Departures
- Consent Uses
- Site Development Plans

P.O.Box 390
KUILSRIVIER
7579

Tel : 021 801 7446
Fax : 086 668 5601
E-mail: koos@atlasplanning.co.za

Attention: Mr Schalk van der Merwe / Ms Alida Conradie

ADMINISTRATIVE PENALTY, REMOVAL OF RESTRICTIVE TITLE DEED CONDITON, AMENDMENT OF CONDITIONS AND REGULATION DEPARTURES – ERF 67, FRANSKRAAL

The department's correspondence dated 1 June 2023 has reference. The application was duly advertised and more than 400 notices were served to registered owners of properties within the Franskraal area. Comments were received from:

- * FH Foster
- * DHF Cloete
- * R van der Merwe
- * DJ & H Rautenbach

FILE NO. EF 67
Franskraal

SCAN NO.
[]

COLLABORATOR NO.
1869189

Mr Foster supports the application and recommends that the matter be finalised in order to proceed with the construction of the dwelling. This positive comments are welcomed and it is clear that Mr Foster has an understanding of the nature of this application. The other parties object to this application and these objections will be listed below and dealt with accordingly. These objections are very similar which suggests that there has been some consultation amongst them whilst it is questioned whether there is good understanding for what is being applied for.

It is again emphasised that Erf 67, Franskraal, like erven 68 to 70 were initially set aside for business use. Erven 68 – 70 were since developed for residential use. These erven were setback approximately 4,5m further from the street to generally allow for street parking. Considering that a 4m street building line applies i.r.o Single Residential erven larger than 400m² (i.e all of the objectors' properties), a 0m building line is effectively the same given that Naude and Veal Streets were built parallel to the respective residential boundaries. The application and objections should be viewed with this in mind.

13 JUN 2023

TP

Objection 1: Parking

The objector's claim that the application will result in street parking / obstruction of the general flow of traffic. In view of the additional 4,5m reserve, this will not be the case. Naude Street has a fairly wide reserve with the actual blacktop approximately 5m from the residential erf boundaries. The proposed garage would thus still be setback approximately 9,5m from this blacktop. Erf 67, Franskraal is also a corner plot and additional parking can easily be provided elsewhere on the property. Two parking bays are required for a dwelling house. A double garage is proposed and it is evident that there won't be any problem to provide adequate on-site parking.

Objection 2: Height restriction possibly not being adhered to

The height restriction for this property (Local Business 3) is 8,5m above the base level / two storeys. The height restriction for Single Residential erven is 8m. The building is well within this height requirement and the statement in this respect is unfounded.

Objection 3: The contravention of the regulations is unfair towards law abiding residents.

It was stated that the unlawful building work was the result of a bonafide error when the position of the building was staked. This mistake has already had a significant financial impact for the owner and every attempt is being made to rectify this. The correct procedures are being followed in this respect.

Objection 4: Septic tank built in road reserve

This is a building plan matter and the revised building plan / works must be done in accordance with approved plans.

Objection 5: Quality of the building work

This again refers to a building control matter. The building works were stopped when the transgressions came to light. There will no doubt be inspections of the building works once plans are approved, works again being commenced with and an occupation certificate will not be issued if the works weren't carried out in accordance with these plans.

Objection 6: General character of the area

The objectors claim that the building work in the position as proposed will have a negative impact on the character of the area and the value of their properties. The dwelling under construction in fact lines up with the dwellings of two of the objectors (Erven 62 & 66, Franskraal) and it is difficult to comprehend how this will have a negative impact on those or any other residential properties.

Conclusion:

It is unfortunate that the mistake with the setting out of the building weren't detected earlier. Fortunately though, the impact of this error is in fact very little given the situation with the cadastral configuration of the surrounding erven in relation to the surrounding roads. The opinion is held that the approvals sought will in fact have little if any impact on the surrounding community. The owner has been trying to correct this error and has already suffered significant damages as a result hereof. We appeal to the municipality to assess this application on the merits presented and to respectfully dismiss the objections. It is trusted that the application meets the department's requirements and that it will therefore enjoy the necessary support.

Your's truly



Koos Olivier
ATLAS TOWN PLANNING

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED
CONDITIONS, DEPARTURE, AMENDMENT OF CONDITIONS OF
APPROVAL & DETERMINATION OF AN ADMINISTRATIVE PENALTY:
ERF 67, FRANSKRAAL**

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

Conditions:

1. that the existing water connection to- and sewer conservancy tank to Erf 67 shall be used to service Erf 67;
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 developer's cost;
3. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
4. that the on-site parking facilities are provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services;
5. that any additional and / or extended vehicle entrances will be for the developer's account;
6. that stormwater be allowed to discharge through Erf 67, Franskraal, unobstructed.

p.p. R. Hendriks
DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

19/05/2023
DATE



TP- A /theairk
(S. ud w/one)



Linton Grange Microwave
501 Cape Road, Linton Grange
Linton Grange, Gqeberha 6025
P.O. Box 1142, Gqeberha 6000

Our reference: **WWIP_WFKS2511_23**
Your reference: **ERF67 - Naude St - Franskraal**
Enquiries: Sizwe Nyengane
Cell: 081 598 3045
Email: SizweN@openserve.co.za

FILE NO.	2F67 franskraal
SCAN NO.	
COLLABORATOR NO.	1893734

1 August 2023

OVERSTRAAND MUNICIPALITY
ATTENTION: KOOS OLIVIER

RE: ERF 67, 58 NAUDE STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE AND DEPARTURE: MESSRS ATLAS TOWN PLANNING (PTY) LTD ON BEHALD OF JEROME & LORNA JUDY GAMBO.

Dear Sir/Madam

SERVICES ARE AFFECTED

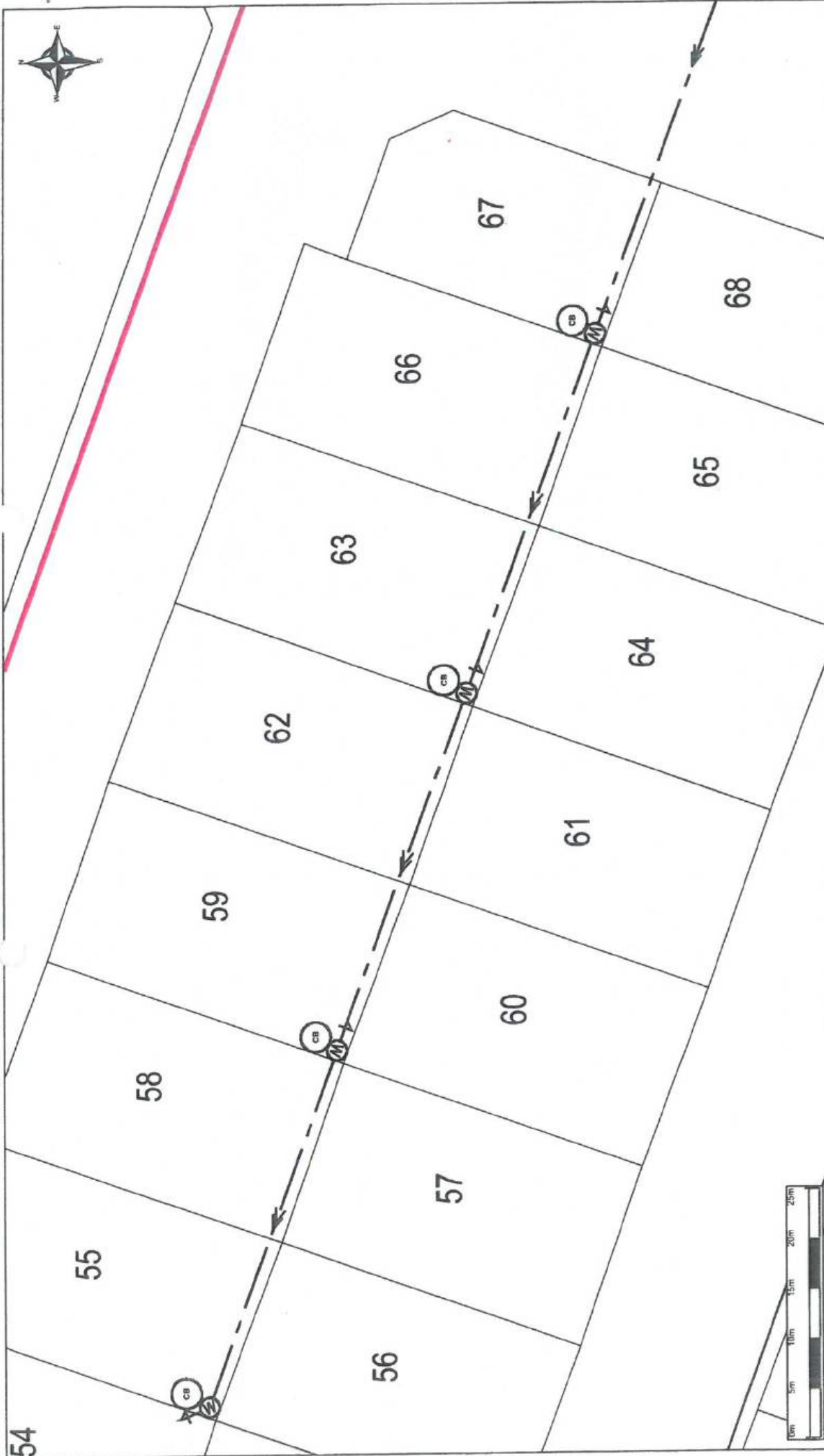
Your proposal as depicted on the attached drawing has been examined and the following are applicable:

- Openserve services **are affected**. (Optical Fibre will be indicated in pink).
- The existing and proposed underground/overhead plant has been indicated on the attached plan, as requested. Telkom cables are normally buried at a depth of 600mm.
- Although the positions of the Openserve services are shown as accurately as possible, these positions must be regarded as approximate only.
- Please contact and inform our representative Melt van As before commencing with any civil works. Telephone number 0218521717/0813637873 Email: MeltVA@openserve.co.za.
- This approval has a validity period of 12 months. If your proposed services are not installed before the 12 months period has expired, a new approval must be obtained from this Company.
- Any deviation from the original proposal should be brought to my notice prior to any undertaking. Please do not hesitate to contact me if you have any queries concerning the above.

Yours sincerely,

Sizwe Nyengane

.....On Behalf of Selwyn Bowers (Operations Manager – Wayleaves)



Legend

	Existing Manhole		Existing PJB		Existing DLC		Existing Indoor DP		Existing Pole		Planned Overhead Route		Conduit Terminus (Virtual Element)
	Planned Manhole		Planned PJB		Planned DLC		Planned Indoor DP		Planned Pole		To Be Recovered Overhead Route		
	To Be Recovered Manhole		To Be Recovered PJB		To Be Recovered DLC		To Be Recovered SDC		To Be Recovered Pole		Existing Underground Route		
	Existing Jointing Pit		Existing SDC		Existing Pillar Joint		Existing DP		Strut		Planned Underground Route		
	Planned Jointing Pit		Planned SDC		Planned Pillar Joint		Planned DP		Stay		To Be Recovered Underground Route		Scale: 1:541 Date: 01/06/2023
	To Be Recovered Jointing Pit		To Be Recovered SDC		To Be Recovered Pillar Joint		To Be Recovered DP		Access Point (Virtual Element)		Existing Overhead Route		Created By: Nyengas1