

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
19 May 2015
(Also the agenda for the Mayoral Committee Meeting : 28 May 2015)**

23. ERF 1064, 53 MEYER STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURE : JP VAN DER MERWE ON BEHALF OF THE BEKENDVLEI FAMILY TRUST

Erf 1064 GFK (2758)

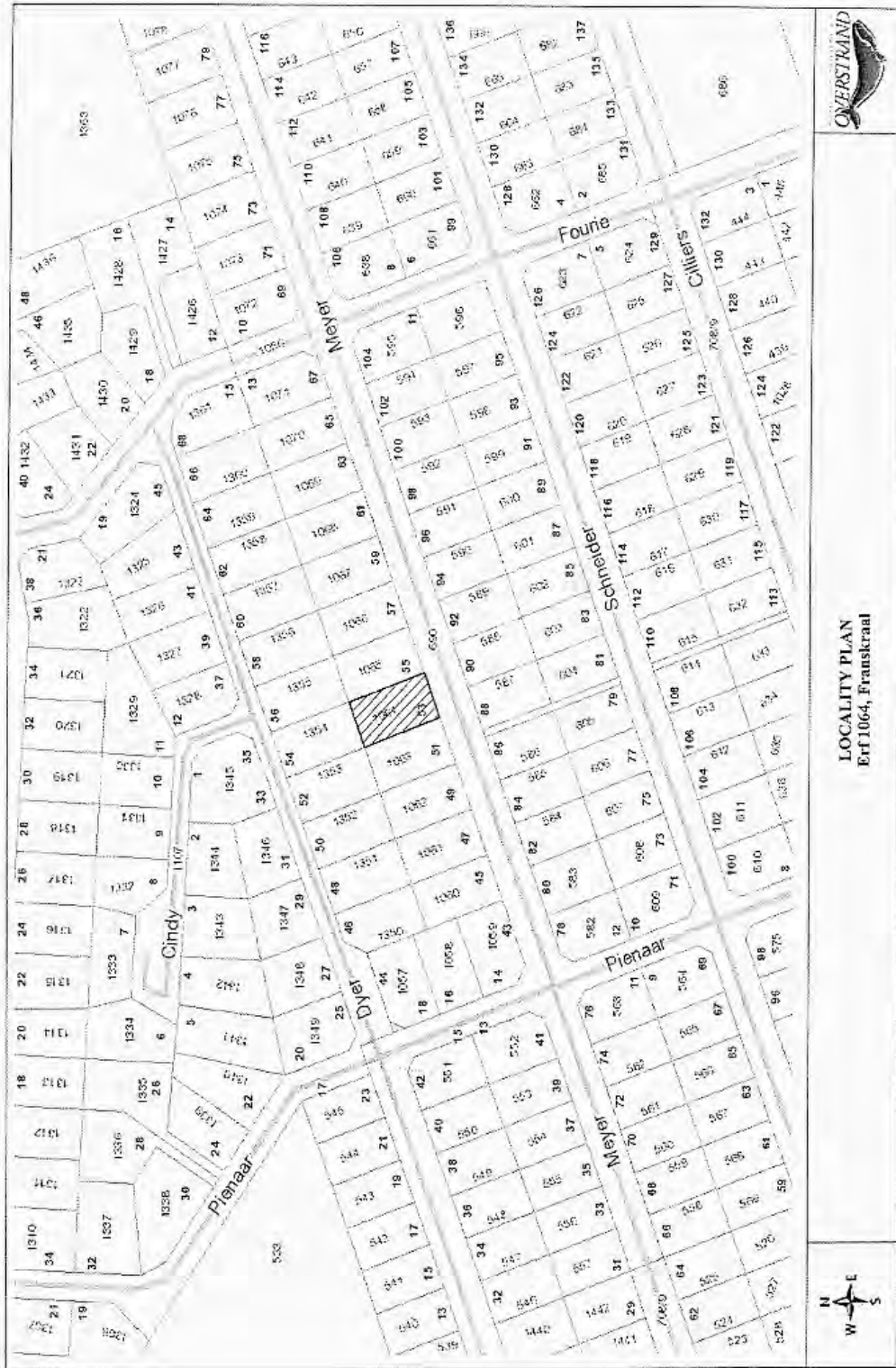
**SW van der Merwe
9 April 2015**

(028) 313 8900

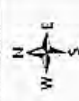
Hermanus Administration

RESOLVED :

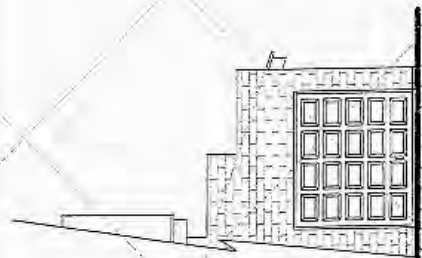
1. that the application for departure from the Scheme Regulations on Erf 1064, Franskraal in order to relax the eastern lateral building line from 2m to 0m and the western lateral building line from 2m to 1,37m, in terms of the provisions of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application, **be approved**, subject to the following conditions:
 - (a) that this approval only has reference to the relaxation of the building lines as indicated on plan no. BEK-FK -14/035 dated 13 June 2013;
 - (b) that building plans be submitted to the Building Department for approval;
 - (c) that all the conditions in the Service Report (attached as Annexure D), be complied with;
 - (d) that the gutter which encroach the eastern property boundary be removed and measures should be incorporated to accommodate rainwater from the roof on the application property;
 - (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.
2. that the applicant be notified of his 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.



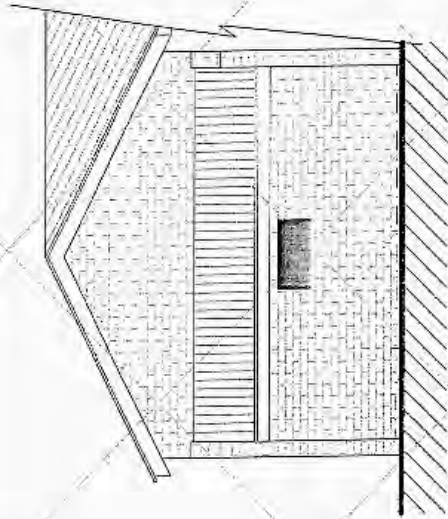
LOCALITY PLAN
Erf 1064, Franskraal



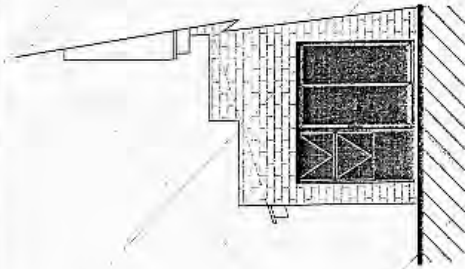
AS BUILD GARAGE ELEVATIONS 1, OR
BEKENDVLEI TRUST
ON ERF 1064
TE FRANSKRAAL



SOUTH ELEVATION
SCALE 1 : 100



EAST ELEVATION
SCALE 1 : 100



NORTH ELEVATION
SCALE 1 : 100



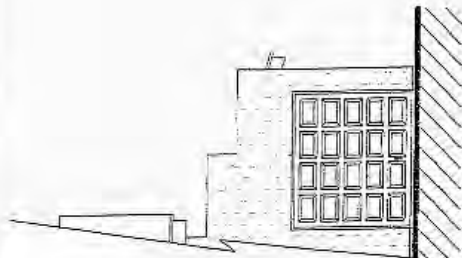
SOUTH- EAST ELEVATION
NOT TO SCALE



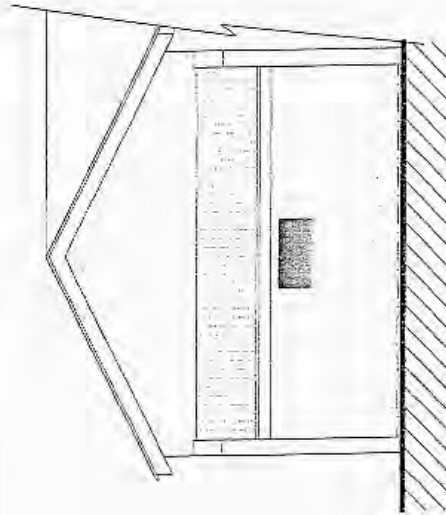
PERINSLOO
ARGITTEKTONIESE
ONTWERPKANTOOR

PERINSLOO
ARGITTEKTONIESE
ONTWERPKANTOOR
GANSBAAN 12
1017 CA AMSTERDAM
TEL: +31 (0) 20 688 1111
WWW.PEONLINE.NL

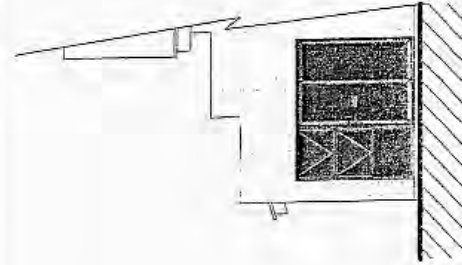
AS BUILT GARAGE ELEVATIONS FOR
BEKENDVLEI TRUST
ON ERF 1064
TE FRANSKRAAL



SOUTH ELEVATION
SCALE 1 : 100



EAST ELEVATION
SCALE 1 : 100



NORTH ELEVATION
SCALE 1 : 100



SOUTH- EAST ELEVATION
NOT TO SCALE



PRINSLOO
ARGITEKTONIESE
ONTWERPKANTOOR
SUID- OORL.
MARTIN PRINSLOO
A.S. NO. 1004
WED. 11 SEPTEMBER 1947
D. 08/01/2010. GANSBAM
PRINSLOO ARCHITECTS
PRINSLOO ARCHITECTS, S.S. 20

Plettenbergstraat 16,
 Weigemoed
 BELLVILLE
 7530
 16 November 2014

Overstrand Munisipaliteit
 Posbus 26
 GANSBAAI
 7220

Heil die Leser

**RE: MOTIVERINGSBRIEF VIR OORSKRYDING VAN BOULYNE BY
 ERF 1064, FRANSKRAAL**

Hiermee doen ek, J.P. van der Merwe aansoek namens Bekendvlei Trust om die oorskryding van die sy-boulyne van bogenoemde erf 1064.

Daar was 'n plan ingedien in 1999 vir die huis. Dit is goedgekeur, maar by die bou daarvan is die posisie van die huis verander weens die melkhoutbome op die erf. Die huis het geskuif tot op die erf se sy-grens met erf 1065. Hierdie is gedoen met die mede wete en goedkeuring van die destydse bou-inspekteur. Hy het die fondasies goedgekeur en was ook by die finale inspeksie, aangesien die bouersdeposito terugbetaal is. Dis 'n motorhuis en dis die enigste plek waar ek my voertuig veilig kan stoor. Die vensters op die erf-grens sal toegebou word en dus sal geen inbreuk gemaak word op die privaatheid van die bure nie.

Verder doen ek aansoek vir oorskryding van die ander sy-boulyn. Daar is 'n bestaande wendy huis in 2006 opgerig 620 mm vanaf die sy erf-grens met erf 1063 oor die 2 m sy-boulyn. Die eienaar was nie op daardie stadium daarvan bewus dat dit nodig was om 'n wendy huis op 'n bouplan aan te bring nie. Dit word gebruik vir die stoor van tuingereedskap. Die wendy huis het geen vensters aan die erf-grens se kant nie en dus sal daar geen inbreuk gemaak word op die privaatheid van die bure nie.

Beide hierdie geboue is alreeds jare daar en ons is eers onlangs daarvan bewus gemaak dat ons moet aansoek doen vir boulyn-oorskryding. Nie een van ons bure het daarvoor gekla nie en daar is geen negatiewe effek op die omgewing nie.

Ek hoop dat u hierdie aansoek gunstig sal oorweeg.

Vriendelike groete.

Die uwe,


 J.P. VAN DER MERWE

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR DEPARTURE: ERF 1064 FRANSKRAAL**

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

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
3. that stormwater be allowed to discharge through Erf 1064, Franskraal, unobstructed;
4. that no on-street parking be allowed.



DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

25/2/2015

DATE

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
19 Mei 2015
(Also the agenda for the Mayoral Committee Meeting : 28 Mei 2015)**

**2.
HERMANUS, A PORTION OF ERF 243, MAIN ROAD: LEASE OF MUNICIPAL
PROPERTY TO LEAF PROPERTY TRUST FUND FOR OUTDOOR SEATING**

7/2/3/1

M Erasmus
25 March 2015

(028) 316-3724

Hermanus Administration

1. Executive Summary

To obtain approval to enter into a lease agreement with Leaf Property Trust Fund on behalf of Simply Asia in respect of municipal property, being a portion of Erf 243, Main Road, Hermanus ($\pm 18\text{m}^2$ in extent), for the placement of tables and chairs for outdoor seating and restaurant purposes.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning;
Property Administration

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Administration of Immovable Property Policy of the Overstrand Municipality (2014)

6. Background/Discussion/Conclusion

Background

Leaf Property Trust Fund, the owner of Erf 848, Hermanus applied on behalf of Simply Asia (who is a tenant of Leaf Property Trust Fund) for a lease agreement to place outdoor restaurant seating on a portion of Municipal property being Erf 243, Main Road, Hermanus ($\pm 18\text{m}^2$ in extent) adjoining the restaurant.

The locality and layout of the proposed lease area is indicated on a locality plan attached per Annexure A.

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Discussion

Although paragraph 64.5 of the Administration of Immovable Property Policy as amended and approved by Council on 23 September 2014 stipulates that the Municipality may allow the use of municipal land for outdoor seating provided inter alia that the application be dealt with as a formal lease agreement the application from Leaf Property Trust Fund was received in February 2014 before the amendment of the policy. The application process for an encroachment agreement was followed as the Administration of Immovable Property Policy of 2009 stipulated that an encroachment application be followed according to paragraph 53(5) of the mentioned policy.

The application was thus advertised as an encroachment application since the policy was not yet approved by Council by the time of submitting the advertisement to the local newspaper.

A lease agreement will however be entered into with Leaf Property Trust Fund as provided for by the amended policy. The terms of conditions stipulated in an encroachment agreement will also be included in a lease agreement. The lease agreement will however be more comprehensive and descriptive than the standard encroachment agreement.

Paragraph 20.1 of the Administration of Immovable Property Policy makes provision for the direct lease of municipal property as discussed more in detail below under 6.1.1 Compliance.

The initial application was for an area of 30m². After careful consideration, various discussions and site visits it was decided to amend the proposed lease area in order to provide adequate space for pedestrians and especially those in wheelchairs. The size was thus reduced to 18m² and the locality of the proposed lease area was amended to provide sufficient space for pedestrians.

Conclusion

With reference to the above discussion it is recommended that the lease agreement with Leaf Property Trust Fund be approved for a period of 9 (NINE) years and 11 (ELEVEN) months commencing on 1 May 2015.

The approved lease amount for the 2014/2015 financial year is R21.93 (TWENTY ONE RAND AND NINETY THREE CENTS) (VAT excluded) per square meter per month. Since they will be leasing 18m² the lease amount per month will be R394.74 (THREE HUNDRED AND NINETY FOUR RAND AND SEVENTY FOUR CENTS) (VAT excluded).

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The mentioned lease amount shall escalate annually on the 1st of July as approved in the Overstrand Municipality's Tariffs for the specific financial year in terms of the Municipality's Administration of Immovable Property Policy, as amended from time to time.

6.1 Application process in terms of the Administration of Immovable Property Policy of the Overstrand Municipality of 2014:

6.1.1 Compliance

The following conditions of the Administration of Immovable Property Policy of the Overstrand Municipality apply:

(1) Paragraph 20.1: "The Municipality may grant a long term lease of municipal immovable property with a value less than R10 million only after:

- a) The accounting officer has approved the lease in principle;
- b) In the case of a direct lease, the proposed lease was advertised in terms of paragraph 10.1 and 10.2 above to invite the local community and other interested parties to submit comments or representations; and
- c) The municipal council has approved that the right may be granted."

The Municipal Manager gave in principle decision for the lease of the property on 27 February 2015. The encroachment was advertised in the Hermanus Times on 2 October 2014.

(2) Paragraph 25: "In cases where a rental amount has been approved in the annual budget of the Municipality for certain types of leases, the approved amount will be used for purposes of determining the rental amount."

A lease amount of R21.93 (TWENTY ONE RAND AND NINETY THREE CENTS) (VAT Excluded) per square meter per month is approved for the use of Municipal land for outdoor seating adjoining a restaurant. The tariff is approved for the 2014/2015 financial year under tariff code S34G.

(3) Paragraph 36: "All costs pertaining to a transaction, e.g. survey, advertisements, valuation, relocation or provision of services where necessary, shall be borne by the Lessee. The Municipality may, however, waive its right to claim all or any portion of the costs. Where necessary a deposit to cover the costs may be required."

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The applicant paid the costs relating to the advertisement. No survey or valuation was done and therefore no costs were incurred.

- (4) Paragraph 40: “Rental, except where it is decided otherwise by the Municipality shall escalate annually by a percentage fixed in accordance with the prevailing consumer price index (all items).”**

As the lease amount is based on a tariff approved in the annual budget the lease amount will annually escalate as approved in the annual budget of the specific year.

- (5) Paragraph 47: “Subject to paragraph 46 above, immovable property let by the Municipality shall be inspected at least once a year by the Municipality to ensure compliance with the terms and conditions of the agreement of sale or lease.”**

The property will be inspected by the Property Administration Department at least once a year.

It is further confirmed that the other Conditions of Lease as stipulated in paragraph 27 - 42 will be included in the lease agreement with Leaf Property Trust Fund.

6.1.2 Advertisement/Notification

An advertisement for the use of a portion of Erf 243, Main Road, Hermanus, was placed in the Hermanus Times on 2 October 2014 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

7. Financial Implications

The Municipality stands to gain a lease in the amount of R394.74 (THREE HUNDRED AND NINETY FOUR RAND AND SEVENTY FOUR CENTS) (VAT excluded) per month until June 2015, where after the lease amount will escalate according to the approved budget of the specific financial year. All expenses pertaining to the proposed lease will be borne by the applicant.

The cost of R3,326.40 for the required advertisement was paid from Vote Number 1010220344 and has already been recovered from the applicant.

8. Staff Implications

None

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9. Comments from other Departments, Divisions and Administrations

Senior Manager: Expenditure and Assets, Mr. J Vorster - (028) 313 8046

There is no objection as the application complies with the Administration of Immoveable Property Policy.

Building Inspector: Jonty Abrahams – (028) 313 8944

A clear pathway of 1,5 meters between the building and the seating should be maintained at all times. No seating will be allowed on the pathway leading to the main road. This will mean that seating will only be accommodated on the raised paved area in front of Simply Asia.

Senior Town Planner: H van der Stoep – (028) 313 8900

There is no objection to the encroachment, however it should not impede on pedestrian and paraplegic flow.

10. Annexures

Annexure A: Locality Plan

RECOMMENDATION:

1. that the lease of Municipal Property, being a portion of Erf 243, Main Road, Hermanus ($\pm 18\text{m}^2$ in extent) to Leaf Property Trust Fund for the purpose of placing tables and chairs for restaurant purposes at the rental amount of R394.74 (THREE HUNDRED AND NINETY FOUR RAND AND SEVENTY FOUR CENTS) (VAT excluded) per month for a period of 9 (NINE) years and 11 (ELEVEN) months as from 1 May 2015 in terms of the Administration of Immoveable Property Policy of the Overstrand Municipality, **be approved;** and
2. that the rental amount mentioned in 1 above annually escalate in accordance with approved tariff as set out in the approved annual budget for each specific year.

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	26 JUNE 2015
TARGET DATE TO INFORM APPLICANT :	9 MAY 2015
TARGET DATE TO INFORM OBJECTOR :	N/A

204a

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Portfolio Committee : Infrastructure & Planning
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2.

**HERMANUS, A PORTION OF ERF 243, MAIN ROAD: LEASE OF MUNICIPAL
PROPERTY TO LEAF PROPERTY TRUST FUND FOR OUTDOOR SEATING**

7/2/3/1

**M Erasmus
25 March 2015**

(028) 316-3724

Hermanus Administration

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
19 MAY 2015, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :	M ERASMUS
TARGET DATE FOR IMPLEMENTATION :	26 JUNE 2015
TARGET DATE TO INFORM APPLICANT :	9 MAY 2015
TARGET DATE TO INFORM OBJECTOR :	N/A



