

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 October 2015
(Also the agenda for the Mayoral Committee Meeting : 28 October 2015)**

15.

**ERF 213, 90 MARAIS STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA
: APPLICATION FOR RELAXATION OF RESTRICTIVE TITLE DEED CONDITION :
DT & JM WALLIS**

**Erf 213 GFK (2706)
SW van der Merwe
18 September 2015**

(028) 313 8900

Hermanus Administration

1. Executive Summary

To consider an application for relaxation of a restrictive title condition received on 23 September 2014 from the owners of Erf 213, Franskraal, DT & JM Wallis, in order to accommodate the existing carport, which carport encroaches the 4m street- and 2m lateral building line up to the respective property boundaries.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town- and Spatial Planning

3. Compliance with Strategic Priorities

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

4. Delegated Authority

Executive Mayor

5. Legal Requirements

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

6. Background/Discussion/Evaluation/Conclusion

Background

Erf 213, Franskraal measures 988m² in extent. The property is developed with a part double, part single storey dwelling house and a detached garage. The applicant constructed a carport without the necessary statutory approvals. The application comprises the retention of the carport, which carport encroach the 4,72m street- and 1,57m lateral Title Deed building lines up to the respective property boundaries.

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An application for departure of the applicable building lines in terms of the Zoning Scheme has already been approved by the Mayoral Committee on 28 May 2015. The application for relaxation of restrictive title conditions were recommended for approval by the Provincial Government: Western Cape (PGWC) and forwarded to the said department for finalisation.

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

Discussion

The affected adjoining property owners provided written consent letters in support of the application for the title relaxation (attached as Addendum DD).

Evaluation

The departure application has already been approved since the opinion is held that the additions do not detract from the character of the area or result in circumstances prejudicial to highways and traffic safety and is thus supported from a planning point of view.

Pertaining to the relaxation of the restrictive Title Deed building lines, paragraph C (20) of the Title Deed T13059/2005 states:

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

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

Conclusion

That the application for title relaxation be supported as per the recommendation below.

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7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

N/A

10. Annexures

- Addendum AA: Agenda of the Mayoral Committee dated 28 May 2015
 Addendum BB: Minutes of the Mayoral Committee Meeting dated 28 May 2015
 Addendum CC: Letter received from the Department of Environmental Affairs and Development Planning dated 21 July 2015
 Addendum DD: Letters of consent from adjacent property owners

RECOMMENDATION:

that the application for the relaxation of restrictive title condition contained in the Title Deed of Erf 213, Franskraal (T13059/2005); paragraph C (20) in order to retain the existing carport, which carport encroach the 4,72m street- and 1,57m lateral building lines up to the respective erf boundaries, **be approved**, subject thereto that this approval is only for the relaxation of the building lines as indicated on Plan No. 358-008-2013, which was submitted with the application.

RESPONSIBLE OFFICIAL :	SW VAN DER MERWE
TARGET DATE FOR IMPLEMENTATION :	11 NOVEMBER 2015
TARGET DATE TO INFORM APPLICANT :	11 NOVEMBER 2015
TARGET DATE TO INFORM OBJECTOR :	N/A

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

15.

**ERF 213, 90 MARAIS STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA :
APPLICATION FOR RELAXATION OF RESTRICTIVE TITLE DEED CONDITION : DT
& JM WALLIS**

**Erf 213 GFK (2706)
SW van der Merwe
18 September 2015**

(028) 313 8900

Hermanus Administration

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
20 OCTOBER 2015, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :	SW VAN DER MERWE
TARGET DATE FOR IMPLEMENTATION :	11 NOVEMBER 2015
TARGET DATE TO INFORM APPLICANT :	11 NOVEMBER 2015
TARGET DATE TO INFORM OBJECTOR :	N/A

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

4.

**ERF 213, 90 MARAIS STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL
AREA: APPLICATION FOR DEPARTURE AND RELAXATION OF RESTRICTIVE
TITLE DEED CONDITION : DT & JM WALLIS**

Erf 213 GFK (2706)

SW van der Merwe

13 April 2015

(028) 313 8900

Hermanus Administration

1. Executive Summary

To consider an application for departure and relaxation of a restrictive title deed condition received on 23 September 2014 from the owners of Erf 213, Franskraal, DT & JM Wallis, in order to accommodate the existing carport, which carport encroaches the 4m street- and 2m lateral building line up to the respective property boundaries.

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

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town Planning

3. Compliance with Strategic Priorities

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

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)
- Removal of Restrictions Act, 1967 (Act 84 of 1967)

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

6. Background/Discussion/Evaluation/Conclusion

Background

Erf 213, Franskraal measures 988m² in extent. The property is developed with a part double, part single storey dwelling house and a detached garage. The applicant constructed a carport without the necessary statutory approvals. The application comprises the retention of the carport, which carport encroaches the street- and lateral building lines up to the respective property boundaries.

The Title Deed of the property imposes a 4,72m street- and 1,57m lateral building line restriction. The application therefore also comprises the relaxation of restrictive title conditions with regard to the garage extension and existing carport.

Discussion

The application was advertised in the prescribed manner. Mr Roodman, on behalf of The Franskraal Ratepayers' Association objected to the retention of the proposal (refer to Annexure D). The objection is based on the following grounds, namely:

“We cannot be seen to set precedents when considering these kind of excursions over the normal building limits. The Council should also see that the illegal structure is pulled down.”

In terms of Section 36 of the Land Use Planning Ordinance, each planning application should be considered on the basis of its planning merit, i.e desirability and impact on vested rights of adjoining properties. The creation of a precedent is thus not considered to be a planning consideration, sufficient to justify refusal of planning permission. Furthermore the Zoning Scheme Regulations also contain criteria for carports that encroach building lines. The proposal will therefore be considered in terms of the aforementioned criteria.

The applicant's response is attached as Annexure E.

Evaluation

The application property is situated south of Marais Street abutting a Public Open Space erf, Erf 456, Franskraal. The carport measures 7,4m wide and 3,2m high (from natural ground level). The carport abuts the aforementioned Public Open Space erf and is set back at least 5,5m from the road surface.

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Section 16.1.1(c) of the Zoning Scheme Regulations provides that Council may relax the street building line in the case of a carport subject to compliance with Section 16.1.2(b) which states the following, namely:

A carport may be erected on the street boundary provided that:

- (i) The width of such carport shall not exceed 6,5m;
- (ii) The roof of the carport shall be supported by metal or timber post or brick, concrete or masonry pillars;
- (iii) The carport shall not be enclosed on any side except by:
 - a boundary fence or wall;
 - wall which forms the external wall of a building; or
 - security or automated gate.
 the height of such carport measured from the natural ground level to the highest point of the structure over the building line may not exceed 3,0 m, but the height may increase at a 40° angle away from such boundary(roof); and
- (iv) The edges of the roof sheeting must be trimmed with a fascia board not less than 150 mm in width.

The carport, the subject of the current application measures 7,4m wide and encroach the maximum width applicable to carports with 0,9m and the 3m height restriction with 0,2m. The carport abuts the Public Open Space erf, is open on three sides and set back from the road. The opinion is thus held that the retention of the carport would not adversely impact on the vested rights of adjoining residential properties provided that the carport remains open on the sides. The subject property is developed with a single garage and a single carport to the side of the garage. It could be argued that the carport is reasonably connected to the primary use of the property for single residential purposes. The carport is designed with high quality materials and would not detract from the character the area or result in circumstances prejudicial to highways and traffic safety and is thus supported from a planning point of view.

The relaxation of the restrictive title conditions is supported from a planning point of view as the affected adjoining property owners provided letters of support.

Conclusion

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

7. Financial Implications

None

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19 May 2015
(Also the agenda for the Mayoral Committee Meeting : 28 May 2015)**

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Building Department

"No objection."

Fire Brigade

"In terms of National Building Regulations SANS 10400T: 2011 – A carport may not be enclosed on more than two sides."

10. Annexures

- Annexure A: Locality Plan
- Annexure B: Site Development Plan
- Annexure C: Motivation Report
- Annexure D: Objection
- Annexure E: Applicants' comment on objection
- Annexure F: Comment: Fire Brigade

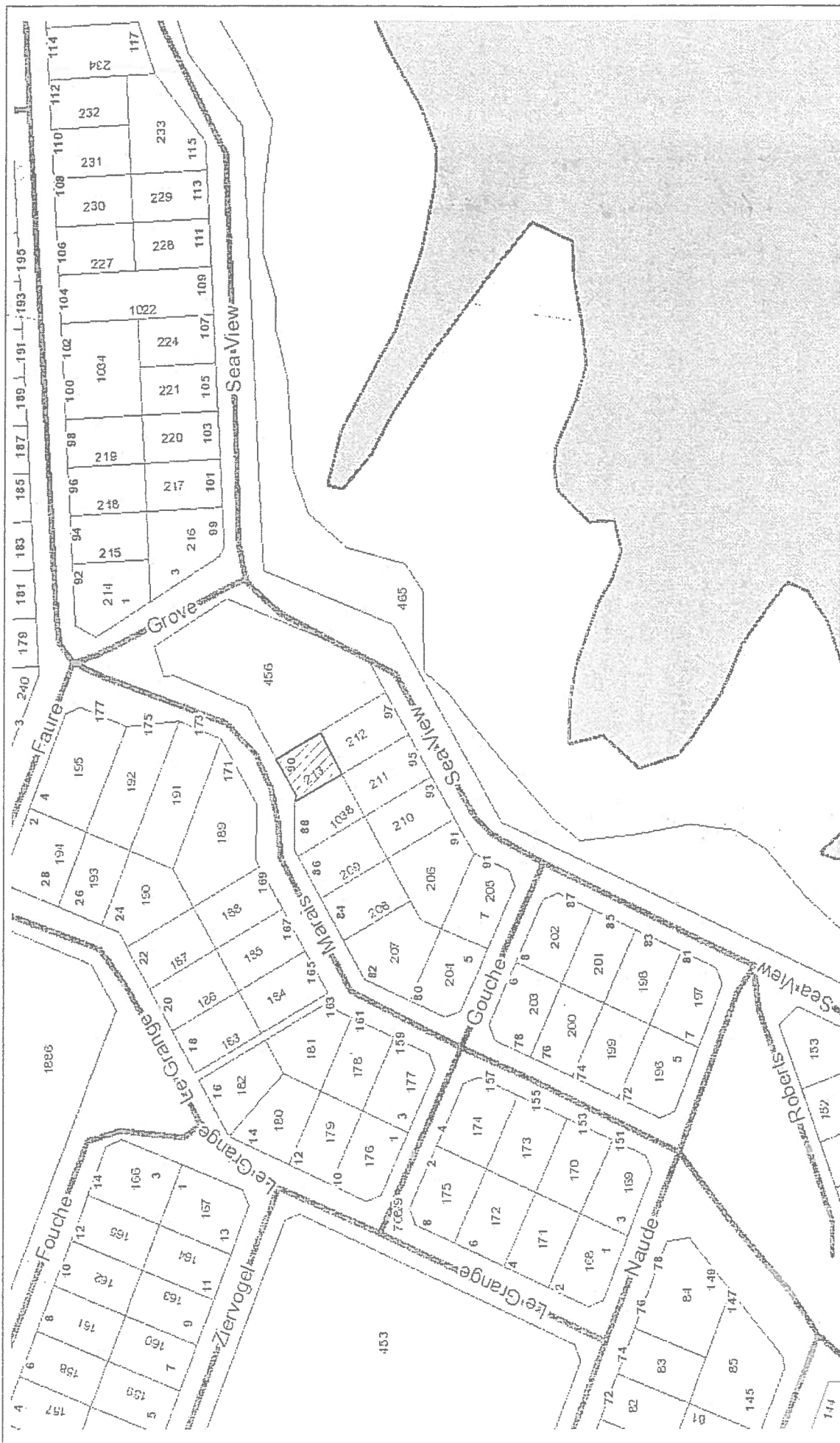
RECOMMENDATION:

1. that the objection **be noted**;
2. that, in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967) the application for the relaxation of restrictive title deed conditions in order to relax the 4,72m street- and 1,57m lateral building lines contained in Title Deed T13059/2005, **be recommended for approval** to the Provincial Government: Western Cape;
3. that, in terms of the provisions of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for departure in order to retain the existing carport, which carport encroach the 4m street- and 2m lateral building lines up to the respective erf boundaries, **be approved**, subject to the following conditions:
 - (a) that the approval in 2. above be subject to the successful relaxation of the restrictive title deed conditions in 1. above;
 - (b) that this approval only has reference to the relaxation of the building lines as indicated on Plan No. 358-008-2013, as submitted with the application;

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- (c) that the conditions of the Fire Brigade (Annexure F) be complied with;
 - (d) that building plans be submitted to the Building Department for approval;
 - (e) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (f) that the carport, save for the boundary wall, may not be enclosed.
4. that the applicant/objector be notified of their right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

RESPONSIBLE OFFICIAL :	SW VAN DER MERWE
TARGET DATE FOR IMPLEMENTATION :	10 JUNE 2015
TARGET DATE TO INFORM APPLICANT :	10 JUNE 2015
TARGET DATE TO INFORM OBJECTOR :	10 JUNE 2015



LOCALITY PLAN / LIGGINGSPLAN
Erf 213, Franskraal



- NOTE:
1. ALL DIMENSIONS ARE HEREIN TO BE CHECKED ON THE FIELD.
 2. DIMENSIONS SHOWN IN THIS PLAN ARE TO BE TAKEN FROM THE CENTERLINE OF THE ROAD.
 3. ALL WORK ACCORDING TO S.A.S.
 4. THE ARCHITECTURE SUBJECT OF THIS DRAWING IS COMPLETE AND ALL DIMENSIONS ARE TO BE TAKEN FROM THE CENTERLINE OF THE ROAD.



NEW FLOORING	22.71 Sqm
EXIST DWELLINGS	217.19 Sqm
TOTAL	239.90 Sqm
ERF	772.00 Sqm
COVERAGE	19.87 %

PRINSLOO
ARGITEKTONIESE
ONTWERPKANTOOR
MARTIN PRINSLOO
10111 05 11 GANSBAAN
10111 05 11 GANSBAAN
10111 05 11 GANSBAAN

PROPOSED NEW
ADDITION FOR MR.
WALLIS ON ERF 213,
MARAIS STRAAT
FRANSKRAAL
GANSBAAN

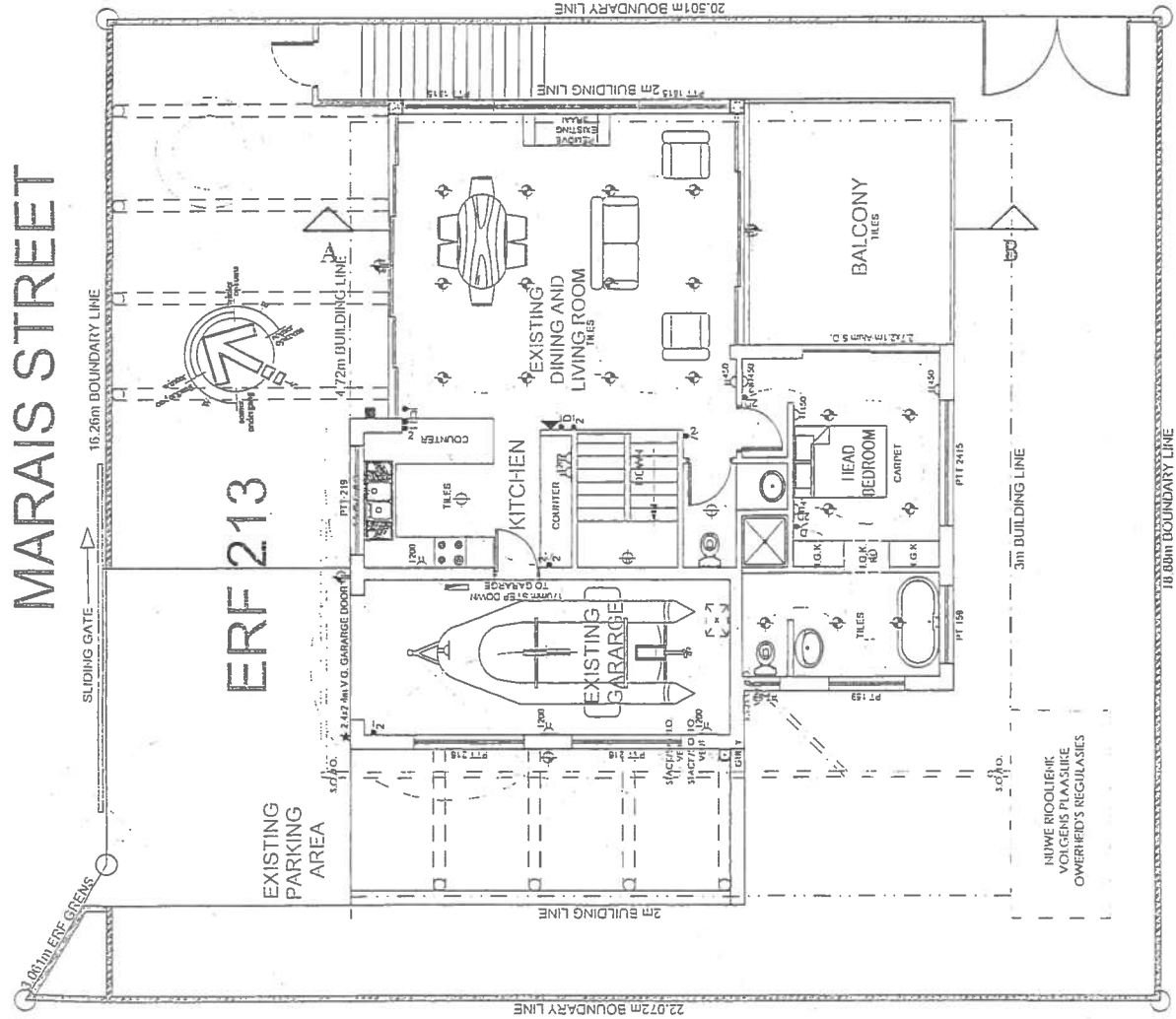
SECTION IN
SHEERHOUTPAAI
ELEVATIONS & DETAILS

DRAWING NUMBER
WAL-FK-14/036 - 1

DATE
10/11/2014

AS SURNAME

MARAIS STREET



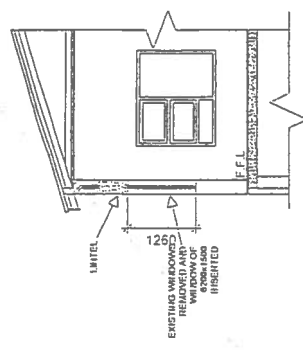
ERF 1038

ERF 456

ERF 212

GROUND STOREY PLAN
SCALE 1 : 100

SNIT - A
SCALE 1 : 100



- NOTE:
 1. ALL DIMENSIONS AND HEIGHTS TO BE SHOWN ON THIS DRAWING SHALL BE IN METERS UNLESS OTHERWISE SPECIFIED.
 2. ALL WORK SHALL BE IN ACCORDANCE WITH THE SANS 10400 SERIES OF STANDARDS.
 3. ALL WORK SHALL BE IN ACCORDANCE WITH THE SANS 10400 SERIES OF STANDARDS.
 4. THE DRAWING IS NOT TO BE USED FOR CONSTRUCTION OF ANY STRUCTURE WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.

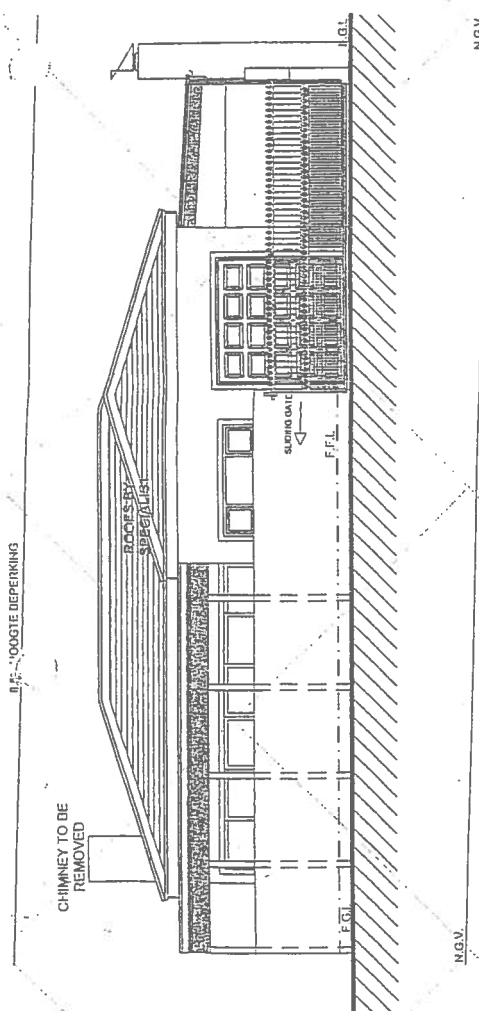


NEW ROOM	2221 Sqm
EXIST DWELLING	217,19 Sqm
TOTAL	239,40 Sqm
ERF	772,00 Sqm
COVERAGE	19,87 %

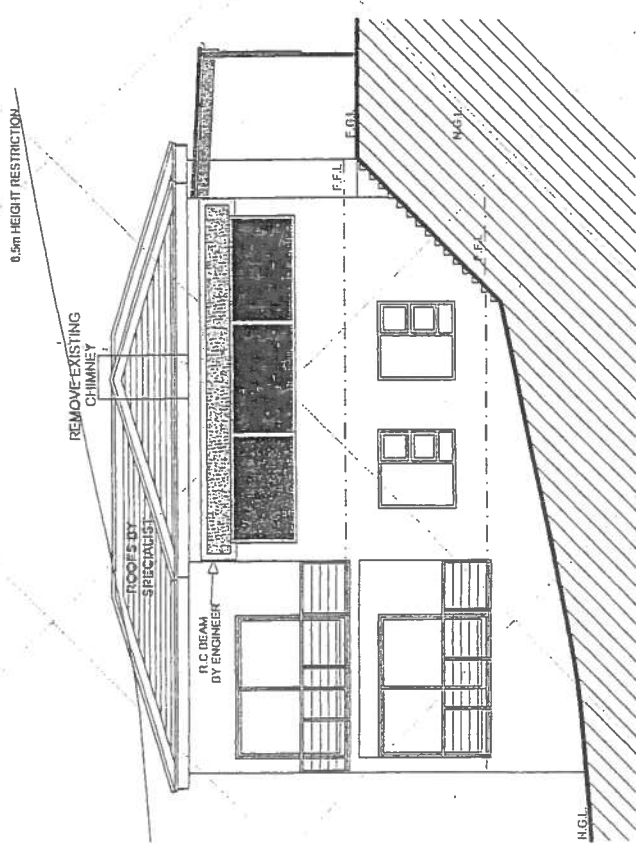
PIRINS LOOC
 WAGTIE KONTONIE SE
 ONTWERPKANTOOR
 MAIRTHIN - PIRIN ST. OC
 GANSBAAI

PROPOSED NEW
 ADDITION FOR MR.
 WALLIS ON ERF 213,
 MARIAS STRAAT
 FRANSKRAAL
 GANSBAAI

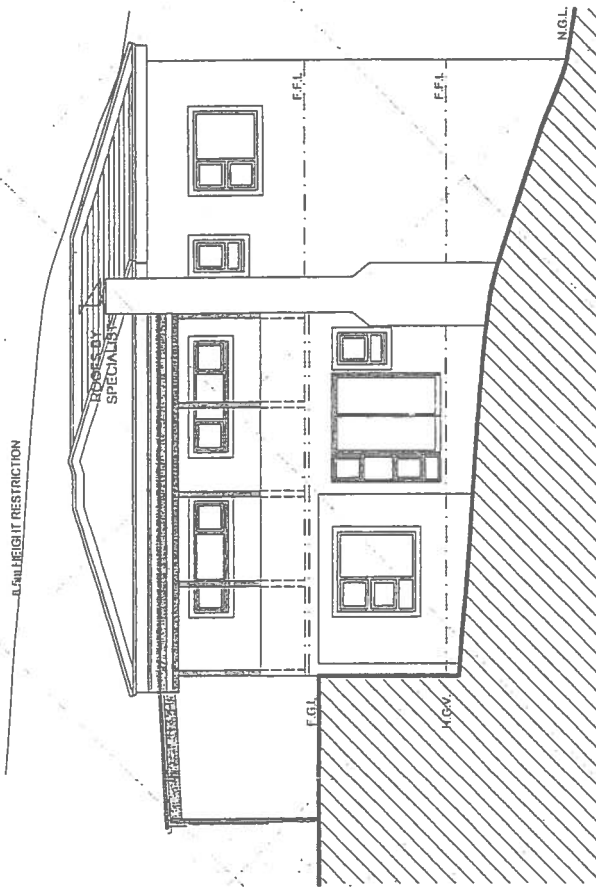
SECTION & SCALE	SECTIONAL ELEVATIONS 1:100
DRAWING NUMBER	WAL-FK-14036 - 2 of 2
DRAWN BY	CHRISTO CRAFFORD
CHECKED BY	
DATE	



NORTH - WEST VIEW
 SCALE 1 : 100



NORTH - EAST ELEVATION
 SCALE 1 : 100



SOUTH - WEST VIEW
 SCALE 1 : 100

Maraistraat 90
Erf 213
Franskraal
5 Januarie 2015

WIE DIT MAG AANGAAN

Die Munisipale Bestuurder
Overstrand Munisipaliteit
Hermanus

ERF 213, FRANSKRAAL : AANSOEK OM AFWYKING EN VERSLAPPING VAN 'N BEPERKENDE TITELVOORWAARDE

Erf 213 is vir enkel residensiële doeleindes gesoneer en is 388m² groot.

Ek het 'n afdak aan die voorkant van die eiendom opgerig sonder dat die nodige statutêre goedkeuring verkry is.

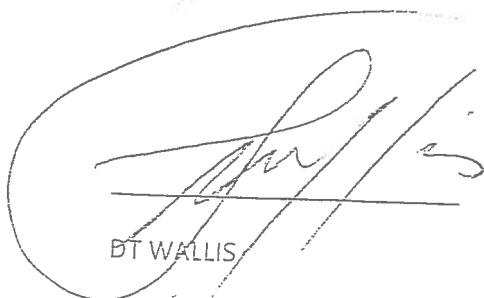
Ek doen dus hiermee aansoek ten einde die bestaande afdak op die eiendom te wettig, welke afdak die straat- en syboulyne van die eiendom tot op die onderskeie erfgrense oorskry. Die titelakte van die eiendom bevat 'n beperkende klousule met betrekking tot boulyne (klousule C.20.d.) en doen ek ook hiermee ingevolge die Wet op Opheffing van Beperkings aansoek om die straat- en syboulyne te verslap om die afdak te akkommodeer.

Die afdak word gebruik vir die parkering van motors ten einde dit teen natuurelemente te beskerm en ook om die bestaande woning te komplimenteer.

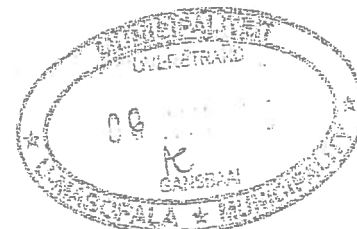
Die afdak is esteties mooi en is dit my mening dat die impak op die karakter van die omliggende omgewing en grondeienaars se eiendomme minimaal van aard is aangesien geen uitsigte nadelig beïnvloed word nie en verkeer ook nie deur die afdak belemmer word nie.

Ek vertrou dat u my aansoek gunstig sal oorweeg.

Baie danksie



DT WALLIS



Alida Calitz - Fwd: Relaxation and departure - Reference Erf 213 GFK(2706)

From: Theuns Roodman <sheerbliss80@gmail.com>
To: <alida@overstrand.gov.za>
Date: 2015/02/25 05:39 PM
Subject: Fwd: Relaxation and departure - Reference Erf 213 GFK(2706)

TR A Theun
CS vld Marwel



----- Forwarded message -----

From: Theuns Roodman <sheerbliss80@gmail.com>
Date: 25 February 2015 at 17:37
Subject: Relaxation and departure - Reference Erf 213 GFK(2706)
To: alida@overstran.gov.za

On behalf of the Franskraal ratepayers Association committee we wish to object to the above application by DT & JM Wallis. An illegal structure already exists and the property hosts a carport and a garage.

We cannot be seen to set precedents when considering these kind of excursions over the normal building limits.

The Council should also see that the illegal structure is pulled down

Kind Regards

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

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

FILE NO: EL 213 PK
SCAN NO:
COLLABORATOR NO: 759845

26 FEB 2015

TR A Theart
(S vld Merwe)

Alida Calitz - RE: Erf 213 Franskraal

From: "Theo Wallis" <twallis@lantic.net>
To: "Alida Calitz" <alida@overstrand.gov.za>
Date: 2015/03/12 11:28 AM
Subject: RE: Erf 213 Franskraal



Beste Alida,

Na aanleiding van die skrywe ontvang, lewer ek graag die volgende kommentaar.

Gedurende Desember 2011, het ek na n besoek aan Paternoster, die gedagte gekry om n afdak soortgelyk aan die wat by Paternoster die gebruik is, by my woning in Franskraal te laat oprig. Dit was vir my esteties mooi en was ek van mening dat dit my bestaande woning te Franskraal sou komplimenteer en geensins afbreuk daaraan doen nie. Franskraal, anders as Paternoster bestaan uit n mengelmoes van boustyle.

Ek het toe n kontrakteur wat werksaam was in Paternoster gekontak en hom die opdrag gegee om die bestaande afdakke vir my op te sit wat hy toe ook gedoen het. Tydens die proses en veral daarna, was ons deur verskeie mense gekontak, wat ons gekomplimenteer het met die verbeterings en het navraag na die kontrakteur gedoen ten einde soortgelyke verbeteringe by hulle huise te laat doen. Die standaard van vakmanskap en die materiaal is dus presies die van Paternoster.

Gedurende 2014, het ek besluit om my huis aan die binnekant te laat verander. Ek wil die bestaande kagel in die woonvertrek laat afbreek en dit met n venster vervang ten einde die see-uitsig maksimaal te kan geniet. Dit was tydens hierdie afspraak met mnr Martin Prinsloo, n argitek/tekenaer (wat my huis se aanvanklike planne geteken het), wat hy my gevra het of die afdakke se planne goedgekeur is. Ek het hom meegedeel dat ek van mening was, dat dit seker nie nodig was nie. Hy het my meegedeel dat goedkeuring wel nodig was. Ek het op daardie presiese oomblik aan hom die opdrag gegee om die fout van my kant, onmiddelik te laat regstel.

U sal met my saamstem dat ek die aangeleentheid net so kon gelaat het aangesien daar al bykans 4 jaar verloop het, sonder dat die spreekwoordelike haan gekraai het. Dit is egter nie my styl nie en is dit my opregte begeerte om die nodige goedkeuring te verkry.

Soos aan u telefonies genoem, het my bure geen probleem gehad die afgelope bykans 4 jaar met die verbeteringe nie. Dit verstom my dat n instansie soos die Franskraal Belastingbetalersvereniging, waarvan ek terloops ook n lid is, nou skielik n probleem blyk te he met die verbeteringe. Merk hulle dit dan nou vir die eerste keer op na hulle daarop gewys word? Kan tog nie wees nie. Wat is die proses wat die vereniging gevolg het om by hulle besluit uit te kon kom? Is daar n vergadering gehou (waar lede seker moes kennis kry van)? Wie en hoeveel lede was teenwoordig? Was daar n kworum waartydens die besluit geneem is en is die Franskraal belastingbetalersvereniging enigsins verteenwoordigend van die totale inwonertal? Ek sal graag hulle lederegister wil sien sou u hulle mening ernstig beskou.

Ek dank u vir u tyd en vertrou dat u my aansoek derhalwe gunstig sal oorweeg en goedkeur.

Groete,

Theo Wallis

12 MAR 2015

FILE NO:	EL 213 FK
SCAN NO:	
COLLABORATOR NO:	764275

Town Planning Internal Memo



Enquiries: S W van der Merwe (Senior Town Planner)

Applicant: D T & J M Wallis

File Reference: 2706

Date: 3 February 2015

Comment By: 17 February 2015

TO:

INTERNAL & EXTERNAL DEPARTMENTS CIRCULATION							
INTERNAL DEPT	✓	Req	Rec		✓	Req	Rec
Operational (Jan Nel – GB)	X			Traffic Dept.			
Electrical (Danie Maree – GB)				Building Dept. (R Dickson – GB)	X		
Environmental Officer (B Kondokter – GB)				Fire Dept. (Joe Schoeman)	X		
Health Dept. (Chantal Adams)				Engineering Services (D Hendriks)			
Ward Councillor				Area Manager	X		

SUBJECT: ERF 213 FRANSKRAAL

PROPOSAL: DEPARTURE (BUILDING LINES)

ATTACHED: Notice, locality plan, lay out plan, motivation

COMMENT ON THE PROPOSAL:

In terms of National Building Regulation
 SANS 10400T:2011 - A carport may not be enclosed
 on more than 2 sides.

MUNISIPALITEIT OVERSTRAND MUNICIPALITY
 FIRE BRIGADE / BRANDWEER
 APPROVED / GOEDGEKEUR

17 FEB 2015

Kindly provide your comment (with specific reference to any conditions of approval that should be imposed) in the space provided or in a separate Memo by not later than the date stipulated. Should no comment be received, it will be assumed that you have no objection to the proposal (and where appropriate Mayco will be informed accordingly).



MINUTES OF THE MAYORAL COMMITTEE MEETING28 MAY 2015

4.

ERF 213, 90 MARAIS STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND RELAXATION OF RESTRICTIVE TITLE DEED CONDITION : DT & JM WALLIS

Erf 213 GFK (2706)**SW van der Merwe****13 April 2015****(028) 313 8900****Hermanus Administration****EXECUTIVE SUMMARY**

To consider an application for departure and relaxation of a restrictive title deed condition received on 23 September 2014 from the owners of Erf 213, Franskraal, DT & JM Wallis, in order to accommodate the existing carport, which carport encroaches the 4m street- and 2m lateral building line up to the respective property boundaries.

RESOLVED:

1. that the objection **be noted**;
2. that, in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967) the application for the relaxation of restrictive title deed conditions in order to relax the 4,72m street- and 1,57m lateral building lines contained in Title Deed T13059/2005, **be recommended for approval** to the Provincial Government: Western Cape;
3. that, in terms of the provisions of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for departure in order to retain the existing carport, which carport encroach the 4m street- and 2m lateral building lines up to the respective erf boundaries, **be approved**, subject to the following conditions:
 - (a) that the approval in 2. above be subject to the successful relaxation of the restrictive title deed conditions in 1. above;
 - (b) that this approval only has reference to the relaxation of the building lines as indicated on Plan No. 358-008-2013, as submitted with the application;
 - (c) that the conditions of the Fire Brigade be complied with;
 - (d) that building plans be submitted to the Building Department for approval;
 - (e) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (f) that the carport, save for the boundary wall, may not be enclosed.

MINUTES OF THE MAYORAL COMMITTEE MEETING**28 MAY 2015**

4. that the applicant/objector be notified of their right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

RESPONSIBLE OFFICIAL :**SW VAN DER MERWE****TARGET DATE FOR IMPLEMENTATION :****10 JUNE 2015****TARGET DATE TO INFORM APPLICANT :****10 JUNE 2015****TARGET DATE TO INFORM OBJECTOR :****10 JUNE 2015**

**DIRECTORATE: DEVELOPMENT MANAGEMENT (REGION 2)**

Rifaah.Samaai@westerncape.gov.za
Tel: +27 21 483 8338 Fax: +27 21 483 3633
1 Dorp Street, Cape Town, 8000
www.westerncape.gov.za/eadp

REFERENCE: 15/3/1/4/1/E2/9/Erf 213, Franskraal
ENQUIRIES: R Samaai

The Municipal Manager
Overstrand Municipality
P. O. box 20
HERMANUS
7200

Sir / Madam

PENDING REQUESTS FOR RELAXATION OF BUILDING LINE(S): ERF 213, FRANSKRAAL

1. The purpose of this letter is to inform you that as of 1 July 2015 the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)(SPLUMA) was enacted in the Republic of South Africa as national legislation, to provide a framework for spatial planning and land use management.
2. Prior to 1 July 2015 this Provincial Department granted consent for the relaxation of title deed conditions that were imposed by the former Administrator of the Cape, in terms of the Townships Ordinances (Ordinance 13 of 1927 and Ordinance 33 of 1934).
3. The restrictive conditions contemplated in section 39(4) of the Land Use Planning Act, 2014 (Act 3 of 2014) and section 45(6) of SPLUMA provides that a restriction may be relaxed with the consent of the Administrator. From the commencement of SPLUMA and LUPA, municipalities will be regarded as the Administrator and will therefore be the competent authority to decide on these matters.
4. This Department has obtained legal clarification with regards to title deed relaxations and the manner in which to proceed with it given the new planning law regime. The implications for this Department and for you, as the municipality, is that this Department will not have the competency to issue consent letters for title deed relaxations from 1 July 2015. This Department will now handover these requests for title deed relaxations to the municipality who now have this competency.

5. In the interest of cooperative governance and in an effort to prevent any delays in the finalisation of these requests, this Department will undertake to hand deliver all pending requests to the applicable Municipality (where deemed necessary) for processing and provide assistance if required. It is, however, the Municipality's discretion to determine the manner in which these will be dealt with. The applicant should liaise with the Municipality in this regard.
6. As noted in paragraph 3 the only conditions in title deeds that can be relaxed are those imposed by the former Administrator and must be clearly stated in the wording of the preamble of the conditions in question, or in the condition itself. Conditions imposed by third parties (e.g. municipalities, private companies, individuals etc.) cannot be relaxed. The only types of conditions that this Department has relaxed in the past are conditions pertaining to building lines and coverage/built upon area. The property owner was advised that when the building work/activity is not permitted in terms of all other restrictive conditions, these conditions must be removed or amended in terms of the applicable legislation or other procedures available (e.g. court order).
7. Before consent to a title relaxation was issued, the following information was required by this Department (please see example attached):
 - A **locality plan**, clearly showing the erf numbers of the relevant property and surrounding properties.
 - A **building / development plan**, clearly showing the new building work for which a relaxation is required and the relevant building lines in terms of the title deed.
 - A **full copy of the title deed** for the property concerned.
 - A **copy(ies) of the form(s) or letters of consent or the relevant building plan(s) signed by the affected property owner**, clearly indicating the relaxations required and the correct erf numbers of the affected property owners (please see checklist attached).
8. The affected neighbours are the ones that abut (e.g. next door) or are closest to (e.g. across the street from) the building lines being encroached upon or the property on which the coverage/built upon area is being exceeded. This will vary according to each request for a relaxation and should be determined by the relevant official.
9. The written consent from the affected neighbor(s) was required and in the event that the neighbor(s) were not prepared to sign, this was seen as a refusal and an objection. In such a case, the applicant was then advised that a formal removal application was necessary.

10. The difference in the concept of 'coverage' and 'area to be built upon' should be noted. To ensure correct and consistent practice and advise to applicants, the concepts are further explained and defined below:

- Regulation 6 of the "Requirements for the establishment of townships or subdivision of estates under Ordinance 33 of 1934" as published in the Cape of Good Hope Province Official Gazette of 18 October 1935 (see copy attached), refers to "area to be built on" as "The proportion of the area of any one erf which may be covered by buildings ...". It is noted specifically that the above approach only refers to "buildings" as opposed to structures, where it sets such "built upon" restrictions.
- In light of the above, the standard interpretation of the "area to be built upon" title restrictions are therefore considered to include the following building elements and components for the purposes of calculating compliance with the maximum upper limit of this parameter:
 - All parts of a building (including cantilevered/overhanging parts, e.g. balconies or suspended floors), as well as all outbuildings, whether attached or detached;
 - All basements or parts thereof above ground (after construction completion) and visible from level or angle;
 - Covered decks (including swimming pools within it)

11. Please note that the Departmental file is now considered closed.

12. Further queries regarding the contents of this letter can be directed at the Director: Development Management:

- Region 2 (Cape Winelands and Overberg)
Henri Fortuin - Henri.Fortuin@westerncape.gov.za - (021) 483 5842



1 HEAD OF DEPARTMENT

Date: 21 JUL 2015

MUNISIPALITEIT OVERSTRAND MUNICIPALITY

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

BESONDERHEDE VAN EIENAAR(S) WAT AANSOEK DOEN VIR VERSLAPPING VAN BOULYNE			
ERF NO	213.		
STRAATADRES	MARAIS STRAAT 90.		
NAAM EN VAN	THEO + MARIET WALLIS.		
TEL NO	083 560 8558. 082 789 2789		
POSADRES	POSBUS 3437		
	FREEMANVILLE		
	KLERKS DORP	POSKODE	2573.

BESONDERHEDE VAN AANSOEK (voltooi waar van toepassing)			
VERSLAPPING VAN:	MERK (✓)	BOULYN VOLGENS TITELAKTE/SKEMAREGULASIES:	VERSLAPPING TOT:
SYBOULYN		1 m	0 m
AGTERBOULYN		m	m
STRAATBOULYN		4 m	0 m
OPRICHTING VAN GRENSMUUR			

BESONDERHEDE VAN EIENAAR(S) VAN OMLIGGENDE ERF			
ERF NO	189		
STRAATADRES	MARAIS STRAAT 171.		
NAAM EN VAN	S.P VAN BLERK.		
TEL NO			
POSADRES	PRIVAATSAK X05.		
	HERMANUS		
		POSKODE	7200.

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

Hiermee stem ek/ons in tot die bogenoemde verslapping.

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

S.P. van Blerk
HANDTEKENING/E

4. 01. 2015
DATUM

OPMERKINGS/VOORWAARDES _____

MUNISIPALITEIT OVERSTRAND MUNICIPALITY

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

BESONDERHEDE VAN EIENAAR(S) WAT AANSOEK DOEN VIR VERSLAPPING VAN BOULYNE		
ERF NO	213.	
STRAATADRES	MARAI'S STRAAT 90.	
NAAM EN VAN	THEO + MARIET WALLIS.	
TEL NO	083 560 8558 082789 2789.	
POSADRES	POSBUS 3437	
	FREEMANVILLE	
	KLERKSDORP	POSKODE 2573.

BESONDERHEDE VAN AANSOEK (voltooi waar van toepassing)			
VERSLAPPING VAN:	MERK (✓)	BOULYN VOLGENS TITELAKTE/SKEMAREGULASIES:	VERSLAPPING TOT:
SYBOULYN		m	m
AGTERBOULYN		m	m
STRAATBOULYN		m	m
OPRIGTING VAN GRENSMUUR			

BESONDERHEDE VAN EIENAAR(S) VAN OMLIGGENDE ERF		
ERF NO	1038.	
STRAATADRES	MARAI'S STRAAT RR.	
NAAM EN VAN	D. A. SCHAKKERLING.	
TEL NO		
POSADRES	LYELLSTRAAT 67	
	CERES.	
		POSKODE 6835.

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

Hiermee stem ek/ons in tot die bogenoemde verslapping.

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


HANDTEKENING/E

4/1/2015
DATUM

OPMERKINGS/VOORWAARDES

Geen besoed.

MUNISIPALITEIT OVERSTRAND MUNICIPALITY

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

BESONDERHEDE VAN EIENAAR(S) WAT AANSOEK DOEN VIR VERSLAPPING VAN BOULYNE			
ERF NO	213.		
STRAATADRES	MAA15 STRAAT 90.		
NAAM EN VAN	THEO + MARIET WALLIS		
TEL NO	083 560 8558		082 789 2789
POSADRES	POSBUS 3437,		POSKODE 2573
	FREEMANVILLE		
	KLERKSDORP		

BESONDERHEDE VAN AANSOEK (voltooi waar van toepassing)			
VERSLAPPING VAN:	MERK (✓)	BOULYN VOLGENS TITELAKTE/SKEMAREGULASIES:	VERSLAPPING TOT:
SYBOULYN		m	m
AGTERBOULYN		m	m
STRAATBOULYN		m	m
OPRIGTING VAN GRENSMUUR			

BESONDERHEDE VAN EIENAAR(S) VAN OMLIGGENDE ERF			
ERF NO	211.		
STRAATADRES			
NAAM EN VAN			
TEL NO			
POSADRES	THERON FAMILIE TRUST.		POSKODE 7600
	LOVELLAN 52		
	DIE BOORD		

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

Hiermee stem ek/ons in tot die bogenoemde verslapping.

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


HANDTEKENING/E

DATUM

OPMERKINGS/VOORWAARDES

Dat pla alreeds, in teenstel die veteen goed en is amind in die posel