

## 4.4

**ERF 4043, 50 GLADIOLUS CRESCENT, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND REZONING: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF AJ MOLLER**

4043 KBB

H van der Stoep

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Hermanus Administration

6 September 2021

## 1. EXECUTIVE SUMMARY

An application was received on 7 December 2020 from Messrs PlanActive Town and Regional Planners on behalf of AJ Moller on Erf 4043, Betty's Bay in terms of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- Removal of Restrictive Title Deed Conditions in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions B.6 and B.7(i) as contained in Title Deed T20907/2020 to permit the proposed application.

The restrictive title deed conditions read as follows:

*"B.6. This erf shall be used solely for the purpose of erecting thereon a garage or service station with the right to include residential accommodation above the ground floor or such other buildings as the Administrator may, from time to time after reference to the Townships Board and the Local Authority approve, provided that if the erf is included within the area of a Town Planning Scheme, the local Authority may permit such other uses as are permitted by the scheme, subject to the conditions and restrictions stipulated by the scheme*

*B.7.(i) no more than two-thirds of the area thereof shall be built upon."*

- Rezoning in terms of Section 16(2)(a) of the By-Law to rezone the property from Business Zone 4: Service Station to Business Zone 3: Local Business

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B. Title Deed T20907/2020 is attached as Annexure C.

## 2. DECISION AUTHORITY

Municipal Planning Tribunal

## 3. BACKGROUND / SITE HISTORY

The erf is located in Betty's Bay, 3504m<sup>2</sup> in extent, and located on the corner of Porter Drive, Gerbera Street and Gladiolus Crescent. The property is zoned Business Zone 4: Service Station and is vacant. The surrounding properties are zoned for single residential purposes, public roads and public open spaces.

#### 4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation can be summarized as follows:

At the time of the township development, it was expected that Porter Drive would be the main road from Somerset West to Kleinmond. A service station would have been more appropriate should Clarence Drive not have been constructed. Clarence Drive became the major arterial road and subsequently a service station was established on Erf 5410, Betty's Bay adjacent to Clarence Drive.

Porter Drive remains a busy road and Erf 4043 is ideally located to be used for a local business site that is centrally located and easily accessible to passing residents and tourist visiting area. The application property is also on route to the penguin colony frequently visited by local- and foreign tourists.

The proposed Business Zone 3 zoning will have less of an impact than the service station zoning. The Overstrand Zoning Scheme defines a service station as follows: *"means a property to the retail supply of fuel and includes trading in motor vehicles, oil, tyres or motor spares, general motor repairs to motor vehicles, exhaust fitting, washing of vehicles, and a shop of which the floor area does not exceed 50% of the total floor space of all buildings on the land unit but does not include spray painting, panel beating, black smithery or body work."* The current land use rights are not suited within the area it is located due to the close proximity of the lake, located 200m north of the site and the high-water table. A service station would require underground tanks, fuel pumps and the disposal of oil cans if servicing of vehicles are also being catered for. The possible spillage of fuel or oil will be detrimental to the environment.

It is therefore beneficial to retain the business use but dispose of the use of the site as a service station.

##### Condition B.6.

*"This erf shall be used solely for the purpose of erecting thereon a garage or service station with the right to include residential accommodation above the ground floor or such other buildings as the Administrator may, from time to time after reference to the Townships Board and the Local Authority approve, provided that if the erf is included within the area of a Town Planning Scheme, the local Authority may permit such other uses as are permitted by the scheme, subject to the conditions and restrictions stipulated by the scheme"*

##### Rationale for the removal:

This title deed condition prohibits the proposed rezoning which is the rationale for the removal thereof.

##### Condition: B.7.(i)

*"No more than two-thirds of the area thereof shall be built upon."*

Rationale for the removal

This restrictive title deed condition is not in harmony with the development parameters of the Overstrand Municipal Zoning Scheme (OMZS) and is more restrictive. The erf has three (3) street boundaries which has a major impact on the developability of the erf.

Section 35(4) of the Overstrand By-Law on Municipal Land Use Planning, 2015 highlights the relevant Municipal considerations for the removal, suspension or amendment of restrictive title deed conditions.

Herewith are the relevant considerations assessed in conjunction with this proposal:

**The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement**

The removal of the restrictive conditions will enable the applicant to make use of the business property in a manner more conducive to the area.

**The personal benefits which accrue to the holder of rights in terms of the restrictive condition**

The personal benefit is insignificant since the property will remain business. The proposal will have less than of an impact on the existing built form in the area.

**The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed**

The owner will benefit since it will create other land use possibilities and up its coverage.

**The social benefit of the restrictive condition remaining in place**

There is no social benefit since the property remains business.

**The social benefit of the removal of the restrictive condition**

It will have a social benefit in as far as the business activities are concerned as it will be more acceptable in an area which is residential in nature and to the environment.

**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**

Not all the conditions are being removed, only the conditions applicable to the rezoning to enable a better business proposition.

**Services**

No additional municipal services are required.

Access to the property is anticipated from Gerbera Road, but will be finalised with the submission of the building plan.

**Forward Planning**

Spatial development Framework: (2020)

The erf is earmarked for business development.

Overstrand Growth Management Strategy: (2010)

The erf is located in Planning Unit 3 that consists predominantly of residential development. No densification is proposed, and the rezoning and removal of restrictive conditions falls within the prescribed guidelines for this specific area.

Overlay Zones

The erf is not subject to the Heritage and Environmental Overlay Zones.

**Planning Principles**

Spatial Justice:	The proposed land use will be beneficial to the surrounding landowners.
Spatial Sustainability:	The rezoning will have no impact on agricultural land, environmentally sensitive areas of biodiversity rich areas.
Efficiency:	The application entails the optimal of the use of the vacant property.
Spatial Resilience:	N/A
Good Administration:	The process and a public participation process as prescribed by the Municipality will be followed.

**5. ADMINISTRATIVE COMPLIANCE**

Methods of advertising		Date published	Closing date for comments
Gazette	<b>Yes</b>	26 March 2021	30 April 2021
Local newspaper	<b>Yes</b>	25 March 2021	30 April 2021
Registered notices	<b>Yes</b>	25 March 2021	30 April 2021
Ward councillor	<b>Yes</b>	25 March 2021	30 April 2021
Total comments	<b>TWENTY-THREE (23)</b>		
Total letters of support	<b>ONE (1)</b>		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

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

Name	Date received	Summary of comments
Building Control	26/3/2021	Compliance with NBR
DEA&DP	13/11/2020	No listed activity is triggered

Fire Department	25/3/2021	Compliance with SANS 10400-A 2016, 10400-T 2020 and Fire By-Law
Engineering Services	13/4/2021	See Annexure G.

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION, THE APPLICANT'S RESPONSE AND THE MUNICIPAL TOWN PLANNER'S RESPONSE THEREON

Objections were received from the following twenty-two (22) individuals:

Betty's Bay Conservancy, H Meyburg, J Briers, J Laas, A Emmett, Property@ Betty's Bay.info, J Meyer, G Joubert, K Waller, E Bates, C Croucamp, H due Preez, R Dudley, I de Villiers, E Bell, DE & CB Keene, SA Fourie, Deon, W Crawford, Harry@sonic.mail, J Hansen, S Immelman, W Zybrands

One (1) support letter was received from the Betty's Bay Ratepayers Association.

The objections are summarised as follows (see Annexure D) and the applicant's response to the objections are attached as Annexure E.

### 1. Objection: Environmental issues

**The property is located within the Kogelberg Biosphere and is subject to an Environmental Assessment. The applicant has environmentally devastated and reduced the property of vegetation and animal life that is home to the Micro Frog and other animals and has a wetland on the property.**

#### Response from Applicant

The town of Betty's Bay is not located within the Kogelberg Biosphere. DEA&DP in a letter dated 13 November 2021 indicated that no EIA is needed. The property does not have a wetland. Due to the open channel stormwater system, the lower lying area is wet that the applicant will landscape with indigenous plant and or trees.

#### Response from Town Planner

The property is located in an existing town as per establishment in 1972. The rights have vested, and the environmental legislation only came into effect in 1998. However, due to the concerns of the community in clearing the property by the applicant, Department of Environmental Affairs and Development Planning (DEA&DP) was consulted and indicated that the activity does not trigger any listed activities.

It should be noted that the township of Betty's Bay is within the Kogelberg Biosphere, but is deemed a settlement. Owners of Betty's Bay township have purchased properties with specific rights attached to the property which needs to be respected.

### 2. Objection: The erf should be rezoned to residential, no business in the area should be allowed

**The mere fact that the property is zoned for a service station does not mean the erf should be developed as such. With the establishment of the town, an incorrect allocation has taken place and should have over the years been rectified by the Municipality. The property is located in a predominantly residential area and the business erf is out of place.**

Response from Applicant

The erf has vested land use rights and due to the fact that vacant properties are not developed does not mean that it is residential zoned. With the design of the township various business erven were created in the residential areas.

Response from Town Planner

Betty's Bay Extension 3 was approved in 1972, almost 50 years ago. The application erf was allocated a business use by the original developers of the town. The property is in private ownership and whether the use allocated is incorrect, the fact was known from 1972 and potential buyers should have taken due cognisance that the erf can be developed.

The Municipality does not have the mandate to take away land use rights and this aspect is entrenched in the Constitution. Although the objectors do not want the business erf in a predominantly residential neighbourhood, the applicant has a right to develop the erf as per the zoning. The development of the erf will have an influence on the area, but the proposed rezoning will lessen the impact of activities on the area.

**3. Objection: The development of the property will attract vagrants to the area and that crime and noise will increase**

Response from Applicant

This is pure speculation. The potential noise generated by shops, offices and flats is much lower than a service station, trading of vehicles, general repairs to motor vehicles, exhaust fitment and washing of vehicles.

Response from Town Planner

Agree with the applicant.

**4. Objection: The access to the property should not be from the residential roads of Gerbera and Gladiolus**

**The roads are gravel and extra traffic will create pollution in a residential area and will not be able to handle additional traffic.**

Response from Applicant

It is common practice that residents in the area takes the shortest route from their properties on these gravel roads to access Porter Drive, that is a tarred road. The site is in close proximity of Porter Drive and the distance to the entrance and exit of the site will be a mere 30m and 120m on a dirt road. The distance for residents from further away will have to drive from Porter Drive to Erf 4043, is extremely short and will have little impact on the neighbouring residential erven.

Response from Town Planner

The property can have two (2) access points, one from Gerbera Street and one from Gladiolus Crescent. Along Gerbera Road, only one (1) erf is affected. Along Gladiolus Crescent five (5) houses will be affected.

Every erf in South Africa must be able to access his or her property and the same apply to the application site. Depending on the design of the building, a safe access point will be approved that adheres to engineering principles in terms of sight and safety.

**5. Objection: The increase of coverage and 0m building lines are not acceptable**

**Building lines are there for a variety of reasons and the site has three building lines of 5m, thus it will lead to the increase potential area for construction. It would have a negative effect aesthetically speaking.**

**The percentage of this erf is 2628m<sup>2</sup> and should the 5m building lines be applicable, the building footprint will be less than 2628m<sup>2</sup>. At a coverage of 75% it will entail 2625m<sup>2</sup> and with the restriction of a 5m building line, the footprint will only be 1925m<sup>2</sup>. Should a 1,5-floor space ratio be added, the actual building constructed can be 3500m<sup>2</sup>, which will mean a multi storey building. This leads to the confusion of the height restriction of 8,5m, does it mean a base level and two additional storeys?**

Response from applicant

The property has two (2) street boundaries and not three (3) e.g., Gerbera Street and Gladiolus Crescent. If the lateral building lines under Business Zone 3 zoning and a 5m street building line are imposed, the area available to build on constitutes 79%. If a 0m street building line is applied, the available area to build on is 93%. The floor factor of 1,5m calculates to 5256m<sup>2</sup> of developable area. However, parking will have to be provided at four (4) parking bays per 100m<sup>2</sup> gross lettable area for commercial and one and a half (1,5) to two (2) parking bays per flat depending on their size.

This would entail a total number of 105 parking bays to be provided. The total of 105 parking bays equates to 2710m<sup>2</sup> (77%) of the site. It is clear that with a floor factor of 1,5 and 75% coverage, it is highly unlikely that these figures will be achieved.

Response from Town Planner

Although Business Zone 3: Local Business development parameters are: 75% coverage with 0m street building lines, the lateral building line is 3m. The aforementioned is determined by the parking ration of 4/100 GLA. A parking bay with manoeuvring space equates to 25m<sup>2</sup>/bay. The erf is 3504m<sup>2</sup> and 75% equates to 2625m<sup>2</sup> and with a 1,5 floor area ratio equates to 3975m<sup>2</sup>. The parking requirements of 4/100 GLA on 3975m<sup>2</sup> equates to 159 parking bays. The area needed to provide parking @25m<sup>2</sup> per bay equates to 3975m<sup>2</sup>. Thus, it is impossible for the applicant to develop the erf at 75% coverage with a floor area ratio of 1,5 with the parking requirements for a Business Zone 3 erf. The height is restricted to 8,5m and 2 storeys and the 0,5m above the residential height of the surrounding residential houses of 8m will be insignificant, since the erf has two street boundaries and only

two (2) residential erven at the rear of the erf. The view lines of the two (2) residential erven are protected by the 3m rear building line applicable on a Business Zone 3 erf.

**6. Objection: The development of the erf as a business erf is not economic viable**

The applicant has not done his homework if one considers the Tierkloof Centre, located adjacent Clarence Drive which is a dead centre and has problems securing suitable tenants. Given the current economic outlook and the fact that there are few employment opportunities in the Kleinmond/Hangklip area, the owner might struggle to attract tenants capable of paying a rental which will give him an economic return.

Response from Applicant

Tierkloof Centre has been vacant for some time and is the owner's choice not to lease shops/offices at this point in time, because he awaits the outcome of the Spar Tops Liquor Store.

Response from Town Planner

The objector is correct in as far as that the present economic outlook was bleak, but there are signs showing that the economy is on its way to recovery. In essence it is the applicant that takes the risk in developing a business zoned site. The proposal can be to the benefit of the area in providing a smaller rental space due to technological advances and the way business are conducted.

**8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS**

See Paragraph 7 above.

**9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)**

See Paragraph 7 above.

**Internal and External Departments**

The application was supported by all internal municipal departments and DEA&DP

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

**10.1 Background**

The application site has already a business zoning for a service station as per the establishment of the town in 1972.

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

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

N/A

Spatial Sustainability

The application is within the urban edge and will not impact on agricultural land or environmental areas. The application is in line with the promoting of compaction and infill urban environments.

Efficiency

The landowner wants to use the property to its full potential and make optimal use of municipal services available to the erf that in return contribute economic well-being.

Spatial Resilience

The application is in line with local policies which promote optimal use of an erf to limit urban sprawl. All structures will comply with the National Building regulations and SANS, thus promoting energy efficiency.

Good Administration

Administrative procedure was followed as prescribed by the Municipality.

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

Same as Point 10.2 above.

**10.4 consistency with the IDP/Various levels of SDF's/Applicable policies**

The erf is demarcated as a business erf in terms of the SDF.

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

N/A

**10.6 Impact on Municipal Engineering Services**

Existing services will be used.

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

N/A

**10.8 Existing and proposed zoning comparisons and considerations**

The Overstrand Municipality Zoning Scheme Regulations is applicable to this area. The existing zoning is Business Zone 4 and will remain a business erf, although the land uses will change. The removal of the restrictive conditions is to enable the rezoning to proposed Business Zone 3: Local Business.

**11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

**The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the personas of the owner of a dominant tenement.**

This restrictive condition does not have a beneficial, financial or other value for the property owner or anyone else in Extension 3.

**The personal benefits which accrue to the holder of rights in terms of the restrictive condition.**

The holder of these restrictive title deed conditions will not accrue any personal benefits.

**The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed.**

The holder of these restrictive title deed conditions will accrue any personal benefits in as far as the options on how the erf can be utilised optimally.

**The social benefit of the restrictive condition remaining in place.**

There is no social benefit should the condition remains in place due to the impact the present condition may have if executed.

**The social benefit of the removal of the restrictive condition.**

Possible employment opportunities and the development of a vacant erf similar to the surrounding area, thus eliminating the possibility of a service station development in the midst of a predominantly residential township.

**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.**

The rights are applicable to the erf exclusively and the only beneficiary is the owner of Erf 4043.

**12. THE DESIRABILITY OF THE PROPOSAL**

The objections have been addressed extensively under Paragraph 7., however a few aspects need to be addressed in more detail. They are as follows:

Betty's Bay Extension 3: The township was established in 1972 and the erf was allocated a business use, more specifically for a service station. At that stage Porter Drive was the main arterial road that gave access to people to and from the surrounding area. Whether it is correct or not, the site has a business zoning. Some of the objectors indicated that the Municipality should have rectified the situation over the years, however it is not for the Municipality to take away rights and implies similarly to the objectors' erven.

The application is evaluated in terms of rights allocated in the Title Deed, planning legislation and the environment the erf is located. The impact on the area, its

character and placemaking, the rezoning from a service station to a local business land use, has less of an impact than a full-blown service station that can operate 24/7.

The development parameters for a Business Zone 3 and the parking requirements will not enable the applicant to developed the erf to its full extent. The proposed development is seen as an opportunity to create an erf that caters for a niche market in terms of business and residential possibilities.

Betty's Bay as a town has various vacant erven that can be developed at any time and should people not assume it will not happen. In this case, the erf was always depicted as a business erf and the surrounding property owners in purchasing their property should have taken due cognisance of the fact.

The comments on pollution in various form that the business may have, have always been a possibility due to its zoning. The development of the erf will have an impact on the area, however with the rezoning it will lessen the effect of the effect of a service station and its associated uses. With the rezoning it will also be possible to design a building that is aesthetically pleasing, which is not the case with a service station. This will be to the benefit of the surrounding owners.

The erf has two (2) street boundaries and access can be obtained from both or one of the two. The Engineering Department did not stipulate which street be used for access, but will be determined once the building plan has been submitted in conjunction with the Operational Department, Kleinmond. It should be noted that the erf always had the right to access from either road.

The objectors are correct that the development of a vacant erf will have an impact, more than should the erf have been developed as a residential erf, however the erf has existing rights. The evaluation of the application, the determination factor is which of the land uses will have the least detrimental effect on the surrounding properties. Taking into consideration that uses associated with a service station, it is clear that a small business development consisting of shops, offices and flats will impact less on the surrounding community and the environment in terms of pollution and traffic generation.

### **Conditions of Title**

The conditions to be removed is to enable the application for a Business Zoning 3 and applicable development parameters. All other conditions will remain in place.

The coverage as per title condition of 66,6% to 75% will be restricted due to the parking requirements of the proposed Business Zone 3 to such an extent that the coverage of the actual building footprint will be less than 75%.

Title Deed condition 6: Preamble needs that condition of the Town Planning Scheme is applicable if the erf is located within a town planning area. It further stipulated that with consent of the "Administrator" condition 6(i) can be relaxed. In terms of the condition 2/3 of the property may be develop with a first floor. The petrol pumps are restricted to a 4m street building line.

In terms of the Land Use Scheme for a service station, the street building line is 5m with the lateral and rear building lines similar to the 3m building line.

Thus, the Title Deed did only restrict the pumps not any other building. The Land Use Scheme for a service station is more restrictive than the Title Deed. The rezoning to Business Zone 3: Local Business does have more relaxed development parameters pertaining to floor factor of 1,5 in lieu of 1. However, if one take the parking requirements into consideration,, the applicant will have less than the Title Deed developable area. A very important factor is that Business Zone 3 has less of a pollution factor than Business Zone 4: Service Station.

In terms of the title deed restrictions, a 4m street building line is applicable for the petrol pumps, there is no restriction relating to the buildings. Thus, it would imply that the buildings may have been built on a 0m street building line. The Overstrand Zoning Scheme, 2020 is more restrictive pertaining to the Service Station, Business Zone 4, which indicates a 5m street building line for the petrol pumps and 3m lateral buildings. If the comparison is made between the Business Zone 3 and Business Zone 4, the development parameters relating to the building lines are the same except for the erection of petrol pumps.

### Conclusion

The application for the rezoning from Business Zone 4: Service Station to Business Zone 3: Local, business will have less of an impact in terms of pollution of the environment and the predominantly residential area. The re-development of the erf may add value to provide the opportunity for niche developments more in line with the character of the area.

It should also be noted that the erf has business rights which have vested with the establishment of the township in 1972.

### 13. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the removal of restrictive title deed conditions B.6, B.7.(i), as contained in Title Deed T20907/2020 to permit the proposed application, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(a) of the By-Law to rezone Erf 4043, Betty's Bay from Business Zone 4: Service Station to Business Zone 3: Local Business, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the approvals in paragraphs 1. and 2. be subject to the following conditions:
  - (a) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
  - (b) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
  - (c) that all the conditions in the Services Report (attached as Annexure G), be complied with.

4. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

#### 14. REASONS FOR RECOMMENDATION

- ❖ The application is in line with forward planning documents, and will not be to the detriment of the character of the area.
- ❖ The erf has vested business rights
- ❖ The proposed rezoning will have less detrimental impact than the current zoning

#### 15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Title Deed T20907/2020
Annexure D:	Objection received
Annexure E:	Applicant's response to the objection received
Annexure F:	DEA&DP comments
Annexure G:	Service Report

#### SIGNATURE

##### REGISTERED PLANNER

Name : **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

Signature : \_\_\_\_\_

Date: \_\_\_\_\_

ANNEXURE A



Scale: NTS  
 Drawing Nr: bet4043L.dwg  
 Date: 11/2020

Plan Description:  
 LOCALITY MAP

Property Description:  
 ERF 4043  
 BETTY'S BAY

All distances approximate  
 and subject to survey.

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 Town & Regional Planners  
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Motivation report

**PROPOSED REZONING AND REMOVAL  
OF RESTRICTIVE TITLE DEED  
CONDITIONS**

**ERF 4043 BETTY'S BAY**

**DIVISION: CALEDON**

**OVERSTRAND MUNICIPALITY**

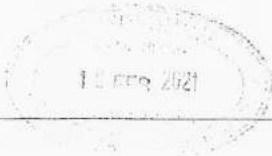
**MOTIVATION REPORT**

1. **BACKGROUND**

The owner of Erf 4043 Bettys Bay, Mr. A.J. Möller, has instructed the company Plan Active to apply for the rezoning and removal of restrictive Title Deed conditions of Erf 4043 Betty's Bay. With the establishment of the Betty's Bay Township, Erf 4043 Betty's Bay was reserved to be used as a garage, service station with the right to include residential accommodation above the ground floor. Please refer to Page 3, Paragraph 6 of the enclosed copy of the Title Deed. Subsequently the property also has a Business Zone 4 zoning.

The owner intends to rezone Erf 4043 Betty's Bay from Business Zone 4 to Business Zone 3. The Title Deed applicable to Erf 4043 Bettys Bay contains land use restrictions that need to be addressed in order for the proposed application to be approved.

Erf 4043 Betty's Bay is 3504m<sup>2</sup> in extent and is held by Title Deed Number T20907/2020.



Motivation report

## 2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the removal of restrictive Title Deed conditions;
- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the rezoning of Erf 4043 Betty's Bay.

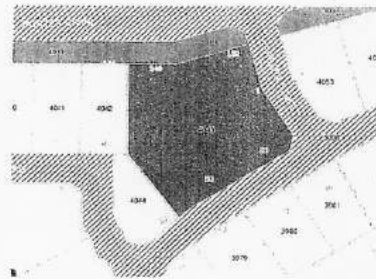
## 3. DESIRABILITY

### 3.1 PROPERTY DESCRIPTION

Erf 4043 Betty's Bay is located on the corner of Porter Drive, Gerbera Street and Gladiolus Crescent. Erf 4043 Betty's Bay is 3504m<sup>2</sup> in extent. Please refer to the enclosed locality plan.

### 3.2 ZONING

Erf 4043 Betty's Bay is zoned Business Zone 4: Service Station and is currently vacant. The surrounding properties are zoned for single residential purposes, public roads and public open space as depicted in on the zoning map below.



Motivation report

**3.3 LAND USE**

Erf 4043 Betty's Bay is currently vacant.

Land uses that surround Erf 4043 Betty's Bay are single dwellings, public roads, and public open spaces. It is therefore evident that Erf 4043 Betty's Bay is situated within a predominantly single residential area with the exception of this Business Zone 4 site.

**3.4 PROPOSAL**

The following are proposed:

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the removal of restrictive Title Deed conditions;
- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the rezoning of Erf 4043 Betty's Bay.

Erf 4043 Betty's Bay is 3504m<sup>2</sup> in extent. The intention of the owner of the subject property is to rezone the subject property from Business Zone 4 to Business Zone 3 and to simultaneously apply for the removal of restrictive Title Deed conditions.

**3.4.1. Proposed Rezoning**

With the establishment of Betty's Bay Extension 3, Erf 4043 Betty's Bay was reserved for the purposes of being used as a service station with the right to also establish accommodation above ground floor. Please refer to Page 3, Paragraph 6. With reference to Paragraph 7 and the subparagraphs (i) to (iii) that follow, the land use restrictions pertaining to the services station can be summarised as follow:

## Motivation report

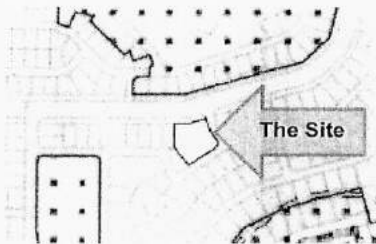
- Coverage being not more than 2/3 (66.66%) of the site;
- Building lines applicable to petrol pumps that may not be closer than 4m from the street boundary etc.
- Any part of the property which is used for the storage of disused motor vehicles or parts of motor vehicles, any other scrap whatsoever, or empty containers such as oil drums and packing cases, or for the assembly, repair, painting or dismantling of motor vehicles shall, unless it is enclosed by buildings at least 2 metres high, be enclosed with a wall at least 2 metres high.

Please refer to the enclosed copy of the Title Deed. The Title Deed contains further restrictions such as prohibiting spray painting, panel beating etc.

With reference to the reservation of the use of the site as a service station with accommodation above ground floor, Erf 4043 Betty's Bay has a Business Zone 4 zoning. In terms of the 2006 Overstrand Municipal Wide Spatial Development Framework the subject property is earmarked as a commercial site. Please refer to the abstract below:



In terms of the May 2020 Overstrand Municipality Spatial Development Framework that subject erf is also earmarked for business purposes. Please refer to the abstract below:



## Motivation report

With reference to the Title Deed of Erf 4043 Betty's Bay and the applicable zoning Scheme the land use rights under the zoning of Business Zone 4 are service station and caretaker's accommodation. The definition of a service station read as follows:

"service station" means a property for the retail supply of fuel and includes trading in motor vehicles, oil, tyres or motor spares, general motor repairs to motor vehicles, exhaust fitment, washing of vehicles, and a shop of which the floor area does not exceed 50% of the total floor space of all buildings on the land unit but does not include spray painting, panel beating, blacksmithery or body work;

The current land use rights of Erf 4043 Betty's Bay are for a service station and related uses that in our opinion is not suited within the area due to its close proximity to a lake located  $\pm 200\text{m}$  north of the site and the rather low water table that is more prominent in the winter months. A service station would require the construction of underground fuel holding tanks, fuel pumps and the disposal of used oil cans or oil barrels if the servicing of vehicles are also being catered for. The use of underground fuel holding tanks and possible spillage could pose a potential threat to the natural environment. We are therefore proposing that we retain the business use but dispose of the use of the site as a service station and related uses.

We are proposing a rezoning from Business Zone 4 (Service Station) to Business Zone 3 (Local Business). The change in land use and the land use restrictions can be tabled as follow:

Current Zoning: Business Zone 4: Service Station		Proposed Zoning: Business Zone 3: Local Business	
Primary Use	Service Station and caretaker's accommodation	Primary Use	Shops, dwelling unit (above ground level), flats, offices, restaurant, caretaker's accommodation and self-catering.
Consent Uses	Heavy vehicle service station, motor repair garage, multiple parking garage, restaurant, transmission apparatus,	Consent Uses	Bottle store, business premises, clinic, conference facility, dwelling unit (on ground floor), flats, townhousing, tourist accommodation, hotel,

Motivation report

	transport use and utility services.		institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, sale of alcoholic beverages, service station, service trade and transmission apparatus.
<b>Floor Factor</b>	1	<b>Floor Factor</b>	1.5
<b>Coverage</b>	75%	<b>Coverage</b>	75%
<b>Height</b>	From base level to top of structure is 8.5m	<b>Height</b>	From base level to top of structure is 8.5m. 2 Storeys.
<b>Building Lines</b>	Street building line is 5m;  Side building line is 0m, provided that when a property zoned Business 4 abuts a residential or community zone the side building line is 3m  Rear building line is 0m, provided that when a property zoned Business 4 abuts a residential or community zone the side building line is 3m	<b>Building Lines</b>	Street building is 0m, provided that a 5m building line applies where fuel pumps are erected.  Side building line is 0m, provided that when a property zoned Business 3 abuts a residential or community zone the side building line is 3m  Rear building line is 0m, provided that when a property zoned Business 3 abuts a residential or community zone the side building line is 3m.

\* Please note that this application does not constitute an application for any of the consent uses listed above under a zoning of Business Zone 3: Local Business.

As mentioned earlier in this report, we are applying for the re zoning of Erf 4043 Betty's Bay from Business Zone 4 to Business Zone 3, due to the fact that the Local Business use would be more appropriate to the site in terms of its location than a Service Station use. It was expected at the time of the Township Development that Porter Drive would be the main road from Somerset West to Kleinmond. A service station site would have

Motivation report

been more appropriate at the time if Clarence Drive was not constructed. Clarence Drive became a major arterial road and subsequently a service station was established on Erf 5140 Betty's Bay, adjacent to Clarence Drive.

Porter Drive remains a busy road and Erf 4043 Betty's Bay is ideally located to be used as a local business site that is centrally located and easily accessible to passing residents and tourist visiting the area. Erf 4043 Betty's Bay is also en route to the penguin colony frequently visited by local and foreign tourists.

With the approval of this application the current owner would have the land use rights as stipulated under the primary rights of the proposed Business Zone 3 zoning tabled above. No consent uses or departures are being applied for. The owner will have to submit a building plan for any future building work, that will have to conform to all the stipulated land use restrictions under the proposed zoning.

**3.4.3. Proposed Removal of Title Deed restrictions**

The enclosed Title Deed, T20907/2020 contains the following Title Deed restrictions that have to be addressed:

- Page 3, paragraph (6): "The erf shall be used solely for the purpose of erecting thereon a garage or service station with the right to include residential accommodation above the ground floor or other buildings for such purposes as the Administrator may, from time to time after reference to the Townships Board and the local authority approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the Scheme"
- Page 3, paragraph 7 (i): "Except with the prior consent of the Administrator – (i) not more than two-thirds of the area thereof shall be built upon;"

In terms of Chapter 4, Section 35(4) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 and Section 39(5) of the Land Use

Motivation report

Planning Act, 2014, when the Municipality considers the removal, suspension or amendment of restrictive conditions the municipality must consider the following:

- **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 vests in the person as the owner of a dominant tenement.**

The removal of the Title Deed restrictions will allow the property's use not to be limited to a service station, its related uses and accommodation on the first floor and would still be in line with future land use planning policies. The removal will also provide an opportunity for the subject property to continue to be used as a business site but will dispose of the land use right namely service station and related uses after the Title Deed restrictions are removed. We are of the opinion that the change of land use from a service station and related uses to business uses as stipulated under the proposed Business Zone 3 Zoning will suit the area much better, it will increase the market value of the area and attract investment opportunities as future owners will be able to develop the site according to the primary uses as set out in the Zoning Scheme Regulations of the Overstrand Municipal Area under the proposed Business Zone 3 Zoning. The restriction pertaining to coverage is also more restrictive than what is stipulated in the Overstrand Municipality Zoning Scheme and will increase from 66% to 75%.

- **The personal benefit which accrue to the holder of rights in terms of the restrictive conditions.**

The personal benefit accumulated to the owners in the township is insignificant insofar as the Title Deed conditions to be removed are concerned. The owner will retain a business type use but dispose of the land use rights limiting the use as service station and related uses. The environment and the existing owners within the township will gain personally by having the restriction removed, which prevents the owner to establish any other use stipulated under the proposed zoning other than a service station and related uses. The proposal will have less of an impact on the existing built form in the area. A services station and the permitted associated land uses could be more unsightly than a standard business site. The proposed land use is also a much cleaner and environmental friendlier option than

#### Motivation report

a service station site and related land uses. It should be noted that the same height restriction will apply with the change of the zoning from Business Zone 4 to Business Zone 3.

The restriction pertaining to coverage is also more restrictive than what is stipulated in the Overstrand Municipality Amended Zoning Scheme and the coverage will increase from 66% to 75%.

The proposed rezoning is supported in the future planning documents of the area (Overstrand Growth Management Strategy, the 2006 & 2020 Spatial Development Frameworks).

Surrounding property owners are still protected by the policies in place for the area such as the 2020 Amended Zoning Scheme Regulations of the Overstrand Municipal Area and the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. The proposed removal of restrictive Title Deed conditions will increase the market value of the property as well as the area. This in turn leads to the social and economic benefit of the local community as greater investment will be attracted. The proposal will also be more beneficial to the natural environment.

- The personal benefit which will accrue to the person seeking the removal of the restrictive conditions if it is removed.

The property owner will benefit from the removal of the mentioned Title Deed restrictions as it will create other land use possibilities as tabled above under the proposed zoning of Business Zone 3. Cognisance will also have to be taken of the fact that the landowner will dispose of his current land use rights to develop the site as a service station and related uses stipulated in his Title Deed. The restrictions pertaining to coverage is also more restrictive than what is stipulated in the Overstrand Municipality Zoning Scheme. With the removal of the restrictive Title Deed condition the coverage will increase from 66% to 75%.

- The social benefit of the removal, suspension or amendment of the restrictive conditions remaining in place.

#### Motivation report

The particular township has already gone through some changes. In this instance a service station site was developed on the busier Clarence Drive as mentioned earlier in this report. The current zoning as well as the proposed zoning is business related. If the type of conditions to be removed is considered, the social benefit would be the same due to the fact that the property would remain a business site. It is just a question of the type of business that would change to the benefit of the surrounding landowners and the environment.

The retention of these restrictions will add another layer to be enforced by the Overstrand Municipality, in addition to the 2020 Amended Zoning Scheme Regulations requirements.

- **The social benefit of the removal, suspension or amendment of the restrictive conditions**

It can be argued that the possible social benefit of removing the restrictive Title Deed conditions and consequently allowing for other business uses on the site other than a service station and related uses, will be positive. In this instance a business zoning will be retained but will be more acceptable in the area than a service station and its related uses. Removing the condition will enable the better utilization of the property in terms of land use, that will be beneficial to the surrounding land owners and the environment.

Furthermore, the removal of the Title Deed conditions is in line with the land use planning principles of efficiency and spatial sustainability as set out in the SPLUMA and LUPA, in that the proposed change of land use is in line with mentioned Density Policy and both Spatial Development Frameworks, without detracting from the visual or residential appeal of the area.

- **Whether the removal, suspension or amendment of the restrictive conditions will completely remove all rights enjoyed by the beneficiary or only some of the rights**

The removal of the restrictions will not remove the rights completely, as the Overstrand Municipality's Amended By-Law on Municipal Land Use Planning, 2020 and the Amended Zoning Scheme provide a certain level of control that will guide

#### Motivation report

the manner in which the property is both used and developed. The mentioned Title Deed also consists of other development restrictions that provide a certain level of control in the specific area of Betty's Bay.

With reference to Section 47 of the **Spatial Planning Land Use Management Act, 2013**, the removal of the restrictive Title Deed conditions will not deprive any person in the subject area of Betty's Bay as contemplated in Section 25 of the **Constitution of the Republic of South Africa**. By denying the removal of the Title Deed restrictions would force the land owner to establish a land use that could have a negative impact on the surrounding land owners and the natural environment.

The removal of the Title Deed restrictions applied to be removed and the application are made in the prescribed manner as per the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. The proposed removal of the restrictions will therefore be in the interest of the general public. In relation to the above, the benefit of removing the Title Deed restriction outweighs the benefits of keeping the restrictions in place.

#### 3.5 ACCESS

The property abuts Gerbera Road and Gladiolus Crescent. It is anticipated that access could be gained from Gerbera Road but will be confirmed with a building plan submission when the owner intends to develop Erf 4143 Betty's Bay.

#### 3.6 SERVICES

Erf 4143 Betty's Bay is situated in an already developed township, municipal services have been designed and constructed to provide services to the erven. It should be noted that the application constitutes mainly the change of zoning from Business Zone 4 to Business Zone 3. Due to the fact that a business zoning will be retained we are of the opinion that no additional services will be required to service the site.

Motivation report

### 3.7 TITLE DEED

The Title Deed T20907/2020 has restrictions that need to be removed in order for the property to be rezoned from Business Zone 4 to Business Zone 3.

The enclosed Title Deed, T20907/2020 contains the following Title Deed restrictions that have to be addressed:

- Page 3, paragraph (6): "The erf shall be used solely for the purpose of erecting thereon a garage or service station with the right to include residential accommodation above the ground floor or other buildings for such purposes as the Administrator may, from time to time after reference to the Townships Board and the local authority approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the Scheme"
- Page 3, paragraph 7 (i): "Except with the prior consent of the Administrator – (i) not more than two-thirds of the area thereof shall be built upon;"

The motivation for the removal of the restrictive Title Deed conditions has already been covered as per paragraph 3.4.3 above.

There is no bond registered against Erf 4143 Betty's Bay.

### 3.8 FORWARD PLANNING

#### **Overstrand Municipal Spatial Development Framework (2020).**

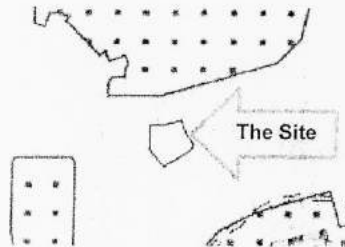
In terms of the 2006 Overstrand Wide Spatial Development Framework the subject property is earmarked for businesses purposes. The application constitutes the change of zoning from Business Zone 4 to Business Zone 3. Subsequently a

### Motivation report

business zoning will be retained after the application for the proposed rezoning and the removal of the restrictive Title Deed restrictions has been approved. Please refer to the abstract below:



In terms of the 2020 Overstrand Municipality Spatial Development Framework the subject property is also earmarked for businesses purposes. Please refer to the abstract below:



### Overstrand Growth Management Strategy (2010)

With reference to the Overstrand Growth Management Strategy the subject erf falls within Planning Unit 3 that consists of the predominant residential area on the south-western side of Betty's Bay. No densification proposals are made for this area of Betty's Bay.

The application constitutes the change of zoning from Business Zone 4 to Business Zone 3 and not a subdivision. Subsequently the densification for the Betty's Bay area will not be impacted in any way. Therefore, the proposed rezoning and removal of restrictive Title Deed conditions application falls within the prescribed guidelines for the specific area of Betty's Bay.

### **3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

#### **3.9.1 HERITAGE VALUE**

Erf 4043 Betty's Bay is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009). The property is also not categorised as having significance in terms of the Heritage Protection Overlay Zone.

The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

In light of the above mentioned it is evident that the proposed rezoning and removal of the restrictive Title Deed conditions will not have a negative impact on the heritage value of the subject property or the greater area of Betty's Bay.

#### **3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT**

The proposed rezoning and removal of the Title Deed restrictions do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998). The subject property is also not categorised as having any environmental significance in terms of the Environmental Management Overlay Zone.

### **3.10 PLANNING PRINCIPLES**

#### Motivation report

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

**Spatial Justice:** The proposed rezoning and removal of restrictive Title Deed conditions are in line with the current zoning of the property and the land use tendencies as reflected in the Spatial Development Frameworks for erven in the vicinity within the Betty's Bay area. The proposed change of land use will be beneficial to the surrounding landowners and the natural environment.

**Spatial sustainability:** The proposed rezoning and removal of Title Deed restrictions are in line with the allocated land uses and established zonings in the area. The proposed will have a lesser impact on the natural environment and the surrounding land owners.

**Efficiency:** The proposed application for the rezoning and removal of restrictive Title Deed conditions will promote the optimisation of the use of space taking the surrounding land uses and environment into consideration within a developed township.

**Spatial Resilience** in the context of land use planning refers to the need to promote the development of sustainable livelihoods for the poor (i.e. communities that are most likely to suffer the impacts of economic and environmental shocks). Spatial resilience also refers to the requirement for flexibility in spatial plans, policies and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks. The spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner, which includes the preservation and restoration of essential basic infrastructure and functions, but also adaptation in order to ensure increased resilience in terms of future shocks (United Nations Office for Disaster Risk Reduction, 2009). In our opinion the principle of Spatial Resilience is not applicable to this application.

#### Motivation report

**Good administration:** Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

#### 4. RECOMMENDATION

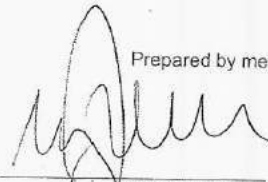
When this application is evaluated it is important to take note of the following:

- The property has a Business Zone 4 zoning and was reserved to be used as a service station and related land uses with accommodation above the ground floor. It is proposed that the owner retains a business use but dispose of the service station and related land uses;
- The application for rezoning and the removal of restrictive Title Deed conditions constitutes only the rezoning of Erf 4043 Betty's Bay from Business Zone 4 to Business Zone 3, in general a business use will be retained;
- The proposed rezoning and the removal of restrictive Title Deed conditions of Erf 4043 Betty's Bay are in line with the forward planning land use policies;
- The proposed rezoning and the removal of restrictive Title Deed conditions will not have a negative impact on the current character and land values of the surrounding erven.
- The proposed rezoning and the removal of restrictive Title Deed conditions will have less of an impact on the neighbouring landowners and the natural environment than the establishment of a service station and its related land uses.
- The proposed application is in line with the Spatial Planning Land Use Management Act, 2013 (SPLUMA) and the Land Use Planning Act, 2014 (LUPA).

Motivation report

With regards to the above mentioned it would be appreciated if the Overstrand Municipality would consider the application favourably for the rezoning and removal of restrictive Title Deed conditions of Erf 4043 Betty's Bay.

Boshoff Inc  
 302 Buitenkloof Studios  
 8 Kloof street  
 Gardens  
 Cape Town CBD  
 8001

Prepared by me  
  
 CONVEYANCER  
 WILLEM JACOBUS THEUNISSEN

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 6,150,000	R. 946,000
Reason for exemption	Category Exemption	Exemption i f.o. Sec/Reg Act/Proc



T 000020907 / 2020

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

**INGE-MARIE THEUNISSEN**

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

1. **GERARD FRANCOIS KOENIG**  
 Identity Number 610513 5193 08 5  
 Married out of community of property
2. **MICHELLE KOENIG**  
 Identity Number 640916 0094 08 9  
 Married out of community of property



which said Power of Attorney was signed at CAPE TOWN on 14 MAY 2020.

And the appearer declared that his/her said principal had, on 30 March 2020, truly and legally sold 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:

**ADOLF JOHANNES MÖLLER**  
**Identity Number 620424 5080 08 2**  
**Married out of community of property**

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

ERF 4043 BETTYS BAY  
 SITUATE IN THE OVERSTRAND MUNICIPALITY  
 DIVISION OF CALEDON, PROVINCE OF THE WESTERN CAPE

IN EXTENT 3504 (THREE THOUSAND FIVE HUNDRED AND FOUR) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T 33672/1977 (Paragraph 198 thereof) with General Plan No. T P 8267 relating thereto and held by Deed of Transfer Number T7905/2005.

- A. **SUBJECT** to the conditions referred to in Deed of Transfer No. T26686/1970.
- B. **SUBJECT FURTHER** to the following conditions mentioned in Deed of Transfer No. T33672/1977 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of BETTY'S BAY TOWNSHIP EXTENSION No. 3 namely :
1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Notice No. 623 dated 14<sup>th</sup> August 1970.
  2. In the event of a Town Planning Scheme or any portion thereof applying or being made applicable to this erf, any provisions thereof which are more restrictive than any conditions of title applicable to this erf shall take precedence. Furthermore, nothing in these conditions shall be construed as overriding the provisions of section 146 of Ordinance NO. 15 of 1952, as amended.
  3. The owner of this erf shall, without compensation be obliged to allow electricity cables and / or wires and main and / or other waterpipes and the sewage and drainage, including stormwater of any other erf or erven inside and outside his township to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.

4. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
5. No building on this erf shall be used or converted to use for any purposes other than that permitted in terms of these conditions.
6. This erf shall be used solely for the purpose of erecting thereon a garage or service station with the right to include residential accommodation above the ground floor or other buildings for such purposes as the Administrator may, from time to time after reference to the Townships Board and the local authority approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the Scheme.
7. Except with the prior consent of the Administrator –
  - (i) not more than two-thirds of the area thereof shall be built upon;
  - (ii) no petrol pump shall be erected less than 4 metres from the street boundary and where two lanes of traffic are to be served by such pump a lane not less than 4 metres wide shall be provided at the rear of such pump;
  - (iii) any part of the erf which is used for the storage of disused motor vehicles or parts of motor vehicles, any other scrap whatsoever, or empty containers such as oil drums and packing cases, or for the assembly, repair, painting or dismantling of motor vehicles shall, unless it is enclosed by buildings at least 2 metres high, be enclosed with a wall at least 2 metres high.
8. No engineering work which causes objectionable noise or in the course of which obnoxious or harmful gases, fumes or odours are released, no spray-painting, and no panel-beating shall be carried on, on this erf.



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

1. GERARD FRANCOIS KOENIG, Married as aforesaid
2. MICHELLE KOENIG, Married as aforesaid

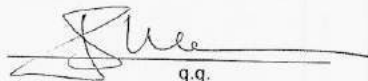
heretofore had to the premises, did in consequence also acknowledge them to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

**ADOLF JOHANNES MÖLLER, 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 R695 000,00 (SIX HUNDRED AND NINETY FIVE 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 20<sup>th</sup> August 2020.

  
 \_\_\_\_\_  
 q.q.

In my presence

  
 \_\_\_\_\_  
 REGISTRAR OF DEEDS





**BBRA / BBV**  
Betty's Bay Ratepayers' Association  
Bettiesbaai Belastingbetalersvereniging



TP - A Theart  
(Huld Stoep)

29042021

To who it may concern

iro: ERF 4043 GLADIOLUS CRESCENT BETTY'S BAY

The notice regarding the proposed removal of a restrictive title condition and rezoning of erf 4043 Betty's Bay, refers.

This matter was considered by the BBRA on 27 April. A rezoning to residential would have been ideal but the proposed zoning is deemed to be less intrusive than the current zoning.

It was resolved to support the application subject thereto that the prescribed parking ratio applicable to the relevant use be made conditional and thereafter strictly enforced.

Yours sincerely,

Karon Scholefield (PROPERTY REPRESENTATIVE BBRPA)

FILE NO: EL 4043-KBB ✓
SCAN NO:
BBRA
COLLABORATOR NO:
535173

Chairman: Bill Steyn  
082 509 1564  
BBRA P.O.Box 48 Betty's Bay 7141

Secretary/Treasurer: Adrian de Kock  
082 940 4519  
BBV Postbus 48 Bettysbaai 7141

TP

30 APR 2021

**L Gillion**

**From:** hendrik meyburgh <thecocmanwc@gmail.com>  
**Sent:** Friday, 30 April 2021 22:57  
**To:** L Gillion; Engela Pereira; hendrik meyburgh  
**Subject:** erf 4043 bettiesbaai beswaar



TP - A Theart  
(Huid Stoep)

30 April 2021

Heil die Leser.

Hierme my en my vrou se amptelike beswaar teen die voorgestelde hersonering van bogenoemde erf.

Ons is eienaar van erf 2162 via Gedeelte 7 van erf 947 Vereeniging (EDMS) BPK

Ons besware is soos:

- 1) Porterstraat kan verseker nie meer verkeer dra as huidiglik nie. Dit is te smal en die algemene spoed is te hoog
- 2) Die ontwikkeling van die erf -hetsy as Vulstasie of algemene besigheid, gaan die verkeer verhoog.
- 3) Die genoemde twee strate vir toegang is van grond en algeheel ongeskik vir verhoogde verkeer en meer ingange
- 4) Die toevloei van Taxi verkeer wat dit gaan meebring- daar is geen voorsiening vir die parkeer/aflaai en oplaai van voetgangers nie.
- 5) Dit gaan verseker die misdaad elemente meer inbring asook omliggende diefstalle verhoog
- 6) Beligting gaan verseker 'n baie groot impak op die omliggende residensiële persele hê asook geraas gaan toeneem
- 7) Die oorspronklike toekenning van besigheidsregte en veral die van 'n vulstasie is onuitvoerbaar/ onprakties.
- 8) Ek vermoed dat die verkoopsagentskap nie die eienaar die ware toedrag van sake vertel het nie.  
Daar is verseker meer geskikte persele in BETTIESBAAI vir hierdie voorgenome ontwikkeling.
- 9) Die Raad kan 'n kompromie met die eienaar tref oor die koste van hersonering van enige ander geskikte perseel- hetsy langs "Clarence Drive" of by enige ander afrit. As voorbeeld kan die mees westelike ingang van Bettiesbaai oorweeg word of 'n ander is ook tussen Disa sirkel en die Garage of dalk miskien daar waar BB. glas is ?
- 10) Daar is alreeds te veel onnodige verkeer deur die residensiële dele van Bettiesbaai wat niks bydra tot ons ontwikkeling en algehele veiligheid nie.
- 11) Die afval en RIOOL van die "Concent uses" asook die vereistes van die stoor van goedere is totaal ontoereikend vir die omliggende residensiële erwe.
- 12) Die ontwikkeling van hierdie erf as Besigheid Zone 3 of 4 is totaal onprakties en ongevraagd vir die rustige omgewing wat so intense deel is van Bettiesbaai se kultuur en leefwyse.
- 13) Die gerugte doen die rondte dat daar 'n "Selfstoor" opgerig gaan word. Dit sal dus ook die toevloei van verkeer en voete na-ure verhoog asook die geraasvlakke verhoog veral op Saterdag en Sondag .
- 14) In die lig van die onvermoë van die raad om in die algemeen enige van die bywette behoorlik toe te pas beteken die versekering vanaf die ontwikkelaar maar relatief minveral wanneer al die Sertifikate uitgereik is en du ontvang is en besigheid "as usual" bedryf word.

Ons is van mening dat hierdie is verseker agteruitgang vir hierdie Munisipaliteit indien hulle enige besighede hier gaan toelaat.- Die eerste ontwikkelaars van Bettiesbaai het versker nie behoorlik die saak deurdink nie. Dit is in elkgeval baie maklik om enige van hierdie sogenaamde wette soos byvoorbeeld (By-law on Municipal Land Use Planning) te verander-

Ons dank u vir die geleentheid om 'n beswaar in te dien.

1

FILE NO: EL 4043 - KBB ✓
SCAN NO: Meyburgh
COLLABORATOR NO: 1535678

TP - 3 MAY 2021

Du toit en Engela Meyburgh  
erf 2162 Coot Road  
0832287269  
0746264007  
0849994638

2 Meersig Close

Elfindale

7945

30 April 2021



Overstrand Municipality

Email: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

Comment on zoning of erf 4043 Bettys Bay Overstrand Municipality

TP - A Theart  
(H vld stoep)

Dear Sir/ Madam

Please receive our comment on the application for rezoning of the above-mentioned erf:

1. We are located at erf 4505, in Ixia Road, Bettys Bay, situated directly across (Porter Drive) erf 40403, in effect only meters away from it and are thus directly affected by the rezoning proposal
2. We support the rezoning from Zone 4 to 3 on the following basis:
  - a. It is less harmful to the general environment than a service station.
  - b. We understand that 'shops' allowed in Zone 3 are small, local business types rather than supermarket and larger type shops.
3. Since we are so close to this property we wish to request that uses that consent needs to be applied for under Zone 3 be advertised to enable us to comment on it. We understand that presently the Municipality can make decisions on such requests for consent and therefore would like to request a deviation in this instance seeing as the property is so close to surrounding residences including ours.
4. We further wish to bring it to your attention that given the proximity of the erf to our property we would be concerned about future business use that negatively impacts on safe traffic flow e.g. increased traffic and overflow parking and seek assurance that this will be adequately provided for; we also seek assurance that we will not be negatively affected by increased sound, light and refuse/litter pollution from this development.

We bought this property precisely because it is in a quiet, remote town in a pristine natural setting and we hope that introducing Zone 3 on our doorstep will not fundamentally change the character of the area and negatively affect the value of our property.

Please advise when the matter will be considered by the relevant committee and whether we might attend electronically or in person and be furnished with the agenda and the specific report item.

Sincerely

Russell HJ Dudley and Anne Emmett

[russellhdudley@gmail.com](mailto:russellhdudley@gmail.com) - 071 342 6341[anne@emmettconsulting.co.za](mailto:anne@emmettconsulting.co.za) - 072 182 8454

FILE NO: EL H043-KBB ✓
SCAN NO: Emmett
COLLABORATOR NO: 1535181

TP  
30 APR 2021

L Gillion

From: John Laas <john.laas@googlemail.com>  
 Sent: Friday, 30 April 2021 15:42  
 To: L Gillion  
 Subject: erf zone 4043



TP - A Theart  
 (H vld Steep)

Good Afternoon Loretta

I could not get the Comment form ,i hope it's not too late to comment.

As a resident that is near to the Erf do not approve the Zone Change because we require a Service Station that will benefit everyone and we do not approve the owner running a brick factory near to the surroundings and environment .

Thank you  
John.

FILE NO:	EL 4043- KBB ✓
SCAN NO:	John
COLLABORATOR NO:	1535665

TP - 3 MAY 2021

**L Gillion**

**From:** Werner Zybrands <wernerzy@gmail.com>  
**Sent:** Wednesday, 28 April 2021 22:03  
**To:** L Gillion  
**Cc:** Bill Steyn; 'Karon Scholefield'; Finance BBRA  
**Subject:** Erf 4043 Betty's Bay



TP - A Theart  
 (H v d Stoep)

The Municipal Manager (For attention H v d Stoep)

Overstrand Municipality.

The notice regarding the proposed removal of a restrictive title condition and rezoning of erf 4043 Betty's Bay, refers.

This matter was considered by the BBRA on 27 April. A rezoning to residential would have been ideal but the proposed zoning is deemed to be less intrusive than the current zoning.

was resolved to support the application subject thereto:

1. That the prescribed parking ratio applicable to the relevant use be made conditional and thereafter strictly enforced;
2. That the points of ingress and egress be restricted to Gladiolus Crescent;
3. That, when preparing the property for development, as much as possible of the existing fynbos on the property be retained.

Please acknowledge receipt of this letter.

Kind regards

--  
 Werner Zybrands (Deputy Chairperson BBRA)  
 083 631 0667  
[wernerzy@gmail.com](mailto:wernerzy@gmail.com)  
 12 Albertyn Drive, Betty's Bay, 7141

 Virus-free. [www.avg.com](http://www.avg.com)

FILE NO:	EL 4043 - KBB v
SCAN NO:	Werner
COLLABORATOR NO:	1534119

TP  
 29 APR 2021

**L Gillion**

**From:** Janet Meyer <janetmeyer@gmail.com>  
**Sent:** Friday, 30 April 2021 11:26  
**To:** L Gillion  
**Subject:** Objection to rezoning of erf 4043



TP - A Theart  
(H vld stoep)

Good Day Loretta,

I wish to lodge my objection to rezoning of above mentioned erf.

- It is in the centre of a residential are. Thus a commercial property envisaged here is totally inappropriate.

-The entrance is from a gravel road and the dust created by increased traffic will be very unpleasant to surrounding households.

-The fynbos region in which we live in Bettys Bay will be spoilt by a business of this nature. It might have been appropriate in the days where Porter Drive was the main through road. This is not the case anymore. It is now a sleepy road through the residential area.

-the noise level will increased and be a hindrance to surrounding houses.

The natural fynbos has been stripped off this property and is a total eyesore. Never mind exposing the soil and sand which blows evert which way.

-As a family of Bettys Bay residents since 1970's, we do not want our environment spoiled by the (greedy ) venture of this nature. It affects everyone who ever drives down Porter drive.

-The sewerage systems and water supplies are already under huge pressure. With an added commercial venture it will further compromise an already fragile system.

I am adding my objection to the proposed rezoning of erf 4043 as a landowner and permanent resident of Bettys Bay.

I own erfs 2592 and erf 2591 (house), Clarence Drive. Bettys Bay.  
 Mobile Number: 0845801298.

Kind Regards,

(Mrs) Janet Meyer.

Janet Meyer  
 janetmeyer@gmail.com  
 0027845801298

FILE NO:	EL 4043 - KBB ✓
SCAN NO:	Meyer
COLLABORATOR NO:	1535162

TP 30 APR 2021

**L Gillion**

**From:** Gina Joubert <gnbsgj@ufs.ac.za>  
**Sent:** Thursday, 29 April 2021 11:52  
**To:** L Gillion  
**Subject:** Erf 4043, Bettysbaai sonering



TP-A Theart  
(H vid Stoep)

Goeiemore

Ek woon in Gladiolussingel 31 (erf 4089), n straatblok weg van bogenoemde erf. Ek besef dat die aansoek gaan oor n verandering van vlak 4 na vlak 3 sonering maar die eintlike beswaar wat ons wil maak is dat die besigheidsonering van hierdie erf histories van aard is uit die tyd toe Porter die hoofpad na die Kaap was en onvanpas is soos wat die dorp ontwikkel het met Clarencerylaan as hoofpad. Verder is dit onverstaanbaar en onaanvaarbaar dat die toegang na die perseel uit die residensiele strate (Gerbera en Gladiolus) sal wees, nie uit Porter nie.

Die verskeie planne wat die eienaar al genoem het, eers winkels met sy woning bo-op wat toe verander na voorruimtes, en die manier waarop die erf verwoes is voordat enige goedkeuring verkry is, skep die indruk dat dit maar n twyfelagtige besigheid is met min respek vir die toekomstige bure. Daar is geen aanduiding dat die aansoeker enige navorsing gedoen het oor watter tipe besigheid nodig sou wees nie en die vrees bestaan dat die beplande bouery op mislukking afstuur en n oogseer in die buurt sal wees.

Met vriendelike groete  
 (Prof) Gina Schall  
 0783125150  
 Gladiolussingel 31  
 Bettysbaai

University of the Free State: This message and its contents are subject to a disclaimer.  
 Please refer to <http://www.ufs.ac.za/disclaimer> for full details.

FILE NO:	EL 4043 - KBB ✓
SCAN NO:	Gina
COLLABORATOR NO:	1534125

1

TP

29 APR 2021

TP-A Theart  
(H vld Stoep)



L Gillion

**From:** Kevin Waller <helify@live.co.za>  
**Sent:** Thursday, 29 April 2021 09:42  
**To:** planactive@hermanus.co.za  
**Cc:** L Gillion  
**Subject:** Objection to application for removal of restrictive title deed conditions and rezoning of Erf 4043 Betty's Bay.

Dear Mr/Ms Mc Lachlan

I hereby submit my objection to the application by Mr A J Moller/Plan Active's to remove restrictive title deed conditions and rezone Erf 4043 in Betty's Bay (doc no PA20050).

This is a large erf and is surrounded by single residential dwellings (see paragraph 3.3 in the Motivation Report). There is already a well-used 'business hub' further along Porter Road and another 'local business' zoned area (Erf 4032) not far from disputed erf (Erf 4043). To put two 'business zones' so close together in a small village is unnecessary and will bring ... unwanted traffic, increased noise levels and increase the danger to wildlife (i.e. the risk of motorists driving over animals).

The Motivation Report mentions that Erf 4043 has no heritage value (see paragraph 3.9.1) yet if this erf is allowed to be developed as any type of business (zone 2, 3 or 4) the resulting buildings will detract from the current residential 'look and feel' of its immediate surroundings. This will negatively impact the heritage value, especially for those living in close proximity to this erf. There may be no heritage value at present, but over time every building attains heritage value. Rezoning Erf 4043 to Zone 1 (single residential) will allow the 'look and feel' to remain and encourage heritage and property values.

Betty's Bay is first and foremost part of the Kogelberg Biosphere Reserve and this must be respected at all times. The scant mention of the impact on the biophysical environment (see paragraph 3.9.2 in the Motivation Report) is not sufficient to persuade residents that any worthwhile environmental feasibility study has been done to support the application. As we all know, Nature (plants and animals) returns when people and development vacate.

Please submit my objection.

Yours sincerely,  
Kevin Waller  
helify@live.co.za  
Owner: Erf 4508  
Betty's Bay

FILE NO:	EL 4043 - KBB ✓
SCAN NO:	Kevin
COLLABORATOR NO:	1534123

TP 29 APR 2021

**L Gillion**

**From:** Eily Bates <allofus@mweb.co.za>  
**Sent:** Tuesday, 27 April 2021 10:50  
**To:** L Gillion  
**Cc:** charlotte@bbaccounting.co.za  
**Subject:** ERF4043 Betty's Bay



TP - A Theart  
 (Huid Stoep)

Dear Loretta

I object most strongly to the proposed development on this property. The siting of a commercial property in the middle of single residential properties is a disgrace and without any sensitivity to the general area .

The ideas that the erf was originally designated for a petrol station is completely ludicrous a

- a) In view of the fact that it is not on any main highway
- b) b) that a petrol storage area in Betty's bay which is so vulnerable to fire , would have posed an extremely volatile fire hazard, threatening many surrounding homes.
- c) that any explosion could have caused death and destruction to surrounding properties.
- d) that petrol fumes emanating from the petrol station would be poisonous to the families living adjacent to the property, plus lighting at night which is not permitted to advertise the business
- e) the constant coming and going of strangers which would add to security problems of adjacent properties

Given the fact that now the present owner wants to change the zoning does not take away from the fact that having a commercially designated plot in an area which is off the main routes, off a gravel road and in the midst of single residential erf. This person seems to want to "develop" the his property for some un-named commercial business . It makes town planning sense to keep all commercial areas together in the 2 existing commercial zones and not to have random commercial plots in residential areas

It is unfortunate that the zoning of a unique, natural area which is Betty's Bay was effected so many years ago in Pretoria and very little has been done in recent years to re-zone the village more sympathetically taking into consideration its natural environment and irreplaceable plant, bird and animal life. This can never be replaced once bricks and mortar take its place. The area should be exploited for these attractions rather than urban businesses. The popularity of the penguins and Harold Porter gardens are perfect examples of a more creative and intelligent way to deal with the issues of so-called development and would creat job opportunities for the whole community instead of the Overstrand municipality just unthinkingly rehashing the Hermanus, Kleinmond "development" scenarios.

It is time to think differently with a view to better the present generation and generations to come in the future.

I object to the zoning of erf 4043 for any commercial purposes and humbly request that the whole of Betty's Bay be be considered for rezoning with input from various sympathetic, knowledgeable community members who have a vested interest in the area so that the majority of stakeholders are involved.

Yours  
E Y bates (erf 2140 Betty's Bay)

FILE NO:	EL 4043 - KBB ✓
SCAN NO:	Bates
COLLABORATOR NO:	1533222

1

TP

28 APR 2021

L Gillion

From: Christa Croukamp <christa.croukamp100@gmail.com>  
 Sent: Tuesday, 27 April 2021 17:28  
 To: L Gillion  
 Subject: Erf 4043, 50 Gladiolus Crescent



TP - A Theart  
 (Huid stoep)

Dear Sir/Madam

It is with concern that I noted the request for rezoning the abovementioned erf from Business Zone 4 to Business Zone 3.

It is all very well to indicate that shops will be built, but shops mean more feet roaming our streets, parking taking up space, loiterers, employment seekers, more noise, etc. This will compromise our safety and the quiet residential area will become too busy. There is another stand, possibly more than one, set aside for business development in Crassula Road. It would be better to keep that erf as a residential zone.

Yours faithfully  
 Christa Croukamp  
 35 Ixia Street, Betty's Bay, 7141  
 083 534 8717

FILE NO:	EL 4043 - KBB ✓
SCAN NO:	Croukamp
COLLABORATOR NO:	1533218

TP 28 APR 2021

LI  
26 April 2021

TP - A Theart  
(H Vld Stoep)



L Gillion

**From:** Hilgard Du Preez <hilgard.dupreez@sba-group.org>  
**Sent:** Friday, 23 April 2021 09:10  
**To:** L Gillion  
**Subject:** Proposed rezoning of erf 4043, 50 Gladiolus crecent, Betty's Bay

Good day.

I would like to officially appose the re zoning of erf 4043, 50 Gladiolus crecent in Betty's Bay for any business or commercial use.

Our town needs to be preserved and protected. Fynbos and wildlife must be protected, this is a sanctuary.

Regards  
HM Du Preez  
Property owner and resident  
224 Mimetes rd  
Betty's Bay

FILE NO: EL 4043 - KBB
SCAN NO: 11
COLLABORATOR NO: 1532406

TP 23 APR 2021

LL  
26 April 2021

13/42

L Gillion

**From:** Russell Dudley <russellhdudley@gmail.com>  
**Sent:** Thursday, 22 April 2021 11:06  
**To:** Anne Emmett; L Gillion  
**Subject:** Re: Erf 4043 Betty's Bay



Dear Ms Gillion

TP-A Theart  
(H Vld Stoep)

Thank you I have received it.

We are currently studying the documentation and would like to respond but we require more information

Please provide the document or the link to the following

1. The Spatial Planning Policy documents so that one can appreciate the context and meaning of the Zone 3 and Zone 4 classifications
2. The documents that relate to the Kogelberg Biosphere Reserve status that was granted by the United Nations. That would include any formulations at national/regional/district/local level, that are of a policy and strategic nature that originate from this status. The impact of further development on the natural heritage bears reference.
3. Transport studies, Local Economic Development and Disaster Management Plan
4. How the current proposal is consistent with short medium and long term of the IDP

Kindly revert

Regards

Russell

On Wed, Apr 21, 2021 at 4:07 PM Anne Emmett <anne@emmettconsulting.co.za> wrote:

----- Forwarded Message -----

**Subject:** Erf 4043 Betty's Bay  
**Date:** Wed, 21 Apr 2021 13:23:04 +0000  
**From:** L Gillion <loretta@overstrand.gov.za>  
**To:** anne@emmettconsulting.co.za <anne@emmettconsulting.co.za>

Dear Ms Emmett

FILE NO: EL 4043-KBB
SCAN NO: 14
COLLABORATOR NO: 1532415

Your telephonic enquiry refers.

Attached please find the documents, as discussed. Should you wish to provide a comment / objection against the proposal, please do so on or before the closing date.

TP 23 APR 2021

Regards

**Loretta Gillion**

Administrator : Town & Spatial Planning

Overstrand Municipality

A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20

T: 028 313 8900 | F: 028 313 2093 | E: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

**Overstrand Municipality**



A: 1 Magnolia Street, Hermanus, 7200 | P: P.O Box 20, Hermanus, 7200

T: +27 (0) 313 8000 | F: +27 (0) 312 1894

E: [enquiries@overstrand.gov.za](mailto:enquiries@overstrand.gov.za) | W: [www.overstrand.gov.za](http://www.overstrand.gov.za)

Vision Statement: *"To be a centre of excellence for the community"*

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Please consider the environment before printing this correspondence.

LI  
26 April 2021

15/42

**L Gillion**

**From:** Inge de Villiers <inge.div@gmail.com>  
**Sent:** Thursday, 22 April 2021 23:40  
**To:** L Gillion  
**Subject:** Erf 4043, Betty's Bay - Rezoning



TP - A Theart  
(Huid stoep)

Dear Loretta,

It is with 100% opposition against the rezoning of Erf 4043 that we as a Family Trust send you this email.

As property owners in Gladiolus Crescent, Erf 3821 & 3820 - we strongly oppose that this erf should be rezoned for anything other than residential purposes.

It will do much harm to the tranquility we all long for in Betty's Bay, the destruction of fynbos and habitat of species of fauna & flora living in the area. This is unthinkable!

What about the property value of neighbouring houses to this erf? What about their privacy and serenity?

We urgently request the Municipality to PLEASE do not allow rezoning for this property.

With much faith in you.

Inge de Villiers on behalf of the DE VILLIERS FAMILY TRUST  
Cell 071 289 8940  
[inge.div@gmail.com](mailto:inge.div@gmail.com)

FILE NO: EL 4043-KBB
SCAN NO: 12
COLLABORATOR NO: 1532407

TP 23 APR 2021

**L Gillion**

**From:** Fanie Fourie <fourie.sa@gmail.com>  
**Sent:** Friday, 16 April 2021 17:20  
**To:** L Gillion  
**Subject:** Fwd: rezone info for erf 4043 *KBB*



See comments below:

----- Forwarded message -----  
**From:** Charlotte Keene <charlotte.keene@gmail.com>  
**Date:** Fri, 16 Apr 2021, 08:42  
**Subject:** Re: rezone info for erf 4043  
**To:** Fanie Fourie <fourie.sa@gmail.com>

*TP- A Theart  
(Huld stoep)*

And have you made these comments to the Overstrand in your comments?

On Fri, Apr 16, 2021, 08:33 Fanie Fourie <fourie.sa@gmail.com> wrote:  
Hi Charlotte,

I don't think you can do much about the actual zoning, but with reference to the tables on pages 5 and 6:

1. The biggest thread is still that the service station and related service items is still shown - this must be definitely be removed.
2. The 0m building lines around the perimeter of the property is totally unacceptable. It must definitely be brought back to at least the normal of 5m and 3m, but 10m and 5m would be much better for this type of zoning inside a normal residential area.

Regards.

On Fri, 02 Apr 2021, 14:47 Charlotte Keene, <charlotte.keene@gmail.com> wrote:

 Virus-free. [www.avg.com](http://www.avg.com)

FILE NO: EL 4043 - KBB ✓
SCAN NO: KBB 4043
COLLABORATOR NO:
153000

19 APR 2021

1

*TP* 19 APR 2021

TP - A Theart  
(H vld stoep)



Reference: ERF 4053, 50 Gladiolus Crescent, Betty's Bay: Application for removal of Restrictive Title Deed and Rezoning: Plan Active

We the undersigned, DE and CB Keene, owners and residents of 2 Gerbera Rd. Betty's Bay, the most affected property in this request for rezoning, adamantly oppose the rezoning application for ERF 4043 Betty's Bay to any rezoning EXCEPT for 100% residential. This ERF (4043) is currently located in a 100% single family residential area, for at least a radius of 700 +/-metres. Currently, there are two main "commercial/business" areas within the Betty's Bay community, that can and do adequately support the community. ANY commercial and/or business activity on this property will severely impact the quality of life and property valuation in the immediate and surrounding area.

It appears that the applicant has assumed he has obtained, or has already obtained, this change of zoning, as he has removed all vegetation from the plot, installed a portable toilet and had delivered a shipping container. I hope that no one at the Overstrand Municipality has entered into a quid-pro-quo agreement with the applicant, prior to all community input being received and duly debated/evaluated.

The applicant has told each neighbor a different plan for the plot to included, but not limited to: Storage and Lock, Bottle Store, Shops with Apartments on the 1<sup>st</sup>

TP 20 APR 2021


FILE NO: EL 4043 - KBB
SCAN NO: KBB 4043
COLLABORATOR NO: 1530698

Floor, Doctor's office, Medical Clinic, Workshops, Brick making facility, Convenience Store, Storage Units with apartments above, all of which we do not agree to. We understand these activities/uses are in line with the proposed zoning change, but we reiterate we are opposed to any zoning change unless it is 100% residential.

Should this request for rezoning be approved, which we hope is not the case, then we ask the Overstrand Municipality to plan for and fund the taring of Gerbera Rd. (Approximately 200 +/- metres) from Porter Road to Gladiolus Crescent due to the increase in traffic along Gerbera Road, to and from, this plot and the increase in pot holes and dust being generated by this additional traffic. As the approved access point, per the applicant, to ERF 4043 is not on/at 50 Gladiolus Crescent, but rather Gerbera Rd. this **DIRECTLY** affects our property.

  
D. E. Keene

079 827 3510

  
C. B. Keene

060 652 4042

E-Mail: DE.CB.Keene@gmail.com

L4  
19 April 2021TP: A. Theart  
(H.v.d. Stoop)

19/42

**L Gillion**

**From:** Deon <deon@topcarpets.co.za>  
**Sent:** Wednesday, 14 April 2021 15:17  
**To:** L Gillion  
**Subject:** ERF 4043 Gladiolus Singel 50 , Berrtysbaai Hersonerig - A J Meier



Kommentaar op die hersonerig :

Naam : Deon F Stevens  
 Adress: Erf 3982/5557 Gladiolus Singel

Namens eggenoot ook : Evelyn Stevens  
 Adress: Erf 3959 Diastella Straat

FILE NO:	ERF 4043 Betty's Bay
SCAN NO:	Stevens
COLLABORATOR NO:	1529339

nntak : 0824537925 en ook die epos adres: [deon@topcarpets.co.za](mailto:deon@topcarpets.co.za)

Dit is ons gevoel dat met die tot standkoming van die Unesco en Biosphere sou stadsbeplanners sekerlik die erwe wat sou skade kan aanrig , met besighede , nagegaan sou word en die eienaars die bestaande sonerings van jare terug sou regstel. Dit is tog so dat Porter Drive as die hoofweg beskou was en daarom die sonerings gedoen was . Met die bou van Clarence weg en die veranderings met ons omgewings moes die beplannings tog hersien moes word .

Met die aansoek wat ingedien is wil ek graag my opinie soos volg lig.

**Met betrekking tot punt 3 Desirability :**

Soos gemeld , deur die aansoek self , is die eiendom omring deur " Single Residential purposes, public roads and public open spaces " . Punt 3.2 en 3.3 maak dit ook duidelik . Bettysbaai is tog oor die jare so ontwikkel om die " Village" gevoel te behou. Met verwysing na, Punt 3.4.1 , die " May 2020 Overstrand Municipal Spatial Development Framework " se hulle die was nog steeds ge oormerk as n besigheids ontwikkeling . Mens sou wou se dat indien dit jaarliks opgehaal sou word met beplanning dat die stads beplanners dan al lankal sou optree .

Die hersonerig maak dit nog wyer oop om enige besigheid daar te open terwyl dit totaal tussen privaat wonings is . Bettiesbaai , soos Pringle baai en Rooi Els behoort besighede en ontwikkeling van besighede te beperk tot die areas waar die ontwikkeligs al gevorder het .

1

TP

15 APR 2021

Rondom die bestaande Village Centre/Centre Shop / Vulstasie en ook verder aan rondom Penquine Place .

Op Bladsy 10 word daar gepoog om te se dat daar sosiale voordele sal wees as ander besighede daar open . Die eienaar het nog nie eens definitiewe planne nie. Ek dink nie dit is waar dat daar soveel werk geskep sal word wat die nadeel tot die omgewing sal oorskry nie. Kan nie sien watse sosiale voordele ingehou sal word nie .

SPLUMA en LUPA is Grieks vir my .

Maar laastens onder die hoofie van "Desirability" wil dit voorkom asof vele inwoners gekant is teen die ontwikkeling as mens die " facebook " reaksies kyk .

Dit is jammer dat die nuwe eienaar selfs daar mense sleg se en selfs "dreig" dat hy twee mense van Kenia het wat belangstel in die erf !

### 3.5 Access

Die eienaar HET REEDS die ingang in Gladiolus straat en die uitgang in Gerbera beplan , soos die heining gespan is en soos hy dit aan my verduidelik het .

Ons raadslid het dit tog duidelik in sy " speech" in die Herald n maand of twee terug gestel dat paaie een van ons probleem areas is .

Soos dit is kan nie een van die twee paaie die huidige verkeer goed beheer nie . Wat nog te se van die ekstra verkeer .

Dan ook die stof probleem . Weereens nie geskik vir besigheids ontwikkeling waar daar gepoog word om nie teer paaie te he en lig besoedeling te probeer bekamp.

### 3.6 Services

Dit is jammer dat hier sommer aanvaar word dat geen verdere dienste benodig sal word nie , omdat dit kwansuis reeds gesoneer is vir besigheid .!! Sien asseblief onder wat wel sal moet gebeur idien die waansinnige ontwikkeling wel plaas vind .

### 3.8 Forward Planning

Weereens gaan haal hulle die beplannings raamwerk van 2006 aan en trek dit na 2020 . Verstommend dat die beplanning van die " village" en die behoud van die unieke omgewing

nog nooit aangespreek was deur die stads beplanners in terme van sonerings wat so ver terug strek tot 1940!!

### 3.9.2 Impact of biophysical environment

Ek is nie n kennner op die gebied nie .... Maar as n leek wat sedert 2002 hier woon , weet ons dat die erf n vlei opvang is en waar daar altyd goeie plante groei op WAS. Ek kan nie glo dat die ontwikkeling van n besigheids perseel , wat seer sekerlik geplavei/teer moet word vir parkering en stof bekamping geen invloed sal he nie.

### 4 Recommendation

Die aansoek wil dit hier verontskuldig dat die hersonering n minder negatiewe impak op die inwoners en dit om dit, die natuurlike omgewing , sal he as n vulstasie . Ek glo darem ook dat met die inwoners tal en omgewing sal daar nie maklik, deur die groot petrol maatskappeie, n vulstasie geopen word nie. Hulle doen sekerlik goeie navorsing oor die volumes wat verkoop sal word .

Feit is dat geen besigheids ontwikkeling in die stil woonbuurte toegelaat moet word nie en dat die omgewing baie beter daaraan sal af wees indien dit in enkel residensieele erwe omskep sou word , waar daar n mate van tuine/water/lig/stof besodening beheer kan word .

Ek hoop dat die Stadsbeplanners ook nou sal aandag gee aan die ander besigheids persele wat so uitgele was voor die " village" se ontwikkeling verander is met die Bioshere .

### TER AFSLUITING DIE VOLGENDE

Indien die munisipaliteit die ontwikkeling sou laat voortgaan :

- 1 Die dienste wat MOET aangele word is storm water . Met die ontwikkeling , en gepaard gaande parkerings /dakke/ sal die afvloei in reen seisoen baie vinniger en meer sal wees . In die verlede was die vlei n goeie absorbeerder van water . Erwe wat direk hier deur beïnvloed kan word is : 3982(5557)/ .. 3957/.... 3958/....3959/...3949/....3939/...3940. Ek wens iemand wil dit met ons bespreek . Ek is heel bewus dat u storm water pype wil le in Dilatrus Straat maar wil u daarop wys dat die projek net stil staan en ek nie kan sien dat dit enigsins sal verligting bring aan die erwe hier genoem nie . Die probleem wat begin by om en by 3977 gaan net vererger word met die besigheids ontwikkeling en vinnige afloop van water .
- 2 Die toegangs paaie sal MOET opgradeer word indien dit nou n ontwikkelde besigheids perseel word. Met die ingang en uitgang soos nou met heining uitgewys sal die grondpaaie nie dit kan hanteer nie

Beide die twee punte is in die raadslid se berig in die Herald genoem as knelpunte in die algemeen wat deur die vererger sal word .

Dit sal n jammer dag wees sou die munisipaliteit die besigheids ontwikkelings tussen enkel woon buurte toe laat . Hulle behoort eerder die besigheids "hub"/ " hubs" bymekaar hou en aanmoedig . Ons inwoner getalle sal beter gedien word as dit bymekaar gehou word .

**SAL U ASSEBLIEF ONTVANGS ERKEN VAN MY EPOS**

Groete /Regards

Deon Francois Stevens

Cell : 082 453 7925

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LI  
8 April 2021

23/42

HJ Wassermann  
4507 Ixiaweg  
Bettysbaai



TP - A / Theart  
(H. J. d. Stoep)

Senior stadsbeplanner  
Ms. H van der Stoep

Erf 4043 Gladiolussingel 50, Bettysbaai Beswaar teen aansoek vir opheffing van beperkende titelakte.

1. Toegang tot erf 4043 is via Porterweg en Gerbera st. Soos gesien kan word op die kaart is dit 'n gevaarlik kruising, tussen twee draale in Porterweg.  
Sig lyne is baie swak. Met verkeer wat veelvuldig gaan toeneem met 'n besigheid op genoemde perseel sal 'n baie gevaarlike en ongewenste situasie geskep word.
2. Steurende geraas vlakke soos motordeure wat klap, harde stemme, aflewering voertuie wat op en affaai sal 'n geweldige negatiewe invloed op al die omliggende eiendomme se waarde hê.
3. Besoedeling in die omliggende area sal geweldig toeneem. Groter volume van voertuie in 'n klein area en gepaardgaande skadelike uitlaatgasse sal die gesondheid van inwoners skadelik beïnvloed.
4. Rommel soos papiere, plastiekhouders ens. sal toeneem en 'n bestaande probleem net vererger.
5. Toeriste besoek Bettysbaai meestal vir die natuurskoon en rustigheid. Die vlei, 100m noord van die beoogde ontwikkeling is baie voelryk en ryk in natuurlewe en daarom baie gewild by plaaslike sowel as oorsese besoekers. Enige sake ontwikkeling op erf 4043 sal toeriste afskrik en Bettysbaai se beeld as natuur vriendelike bestemming skaad.
6. Bettysbaai het nie nog 'n sake kompleks nodig nie. Bestaande besigheids spasie staan leeg en kan nie gevul word nie.
7. Enige sake ontwikkeling op erf 4043 Bettysbaai is ongewens en sal die inwoners en toeriste, internasionaal en plaaslik, negatief beïnvloed.

Groete  
HJ Wassermann  
083 740 7680

FILE NO:	Er 4043 ✓
	Bettysbaai
SCAN NO:	
	Harry
COLLABORATOR NO:	
	1523689

TP  
06 APR 2021

Re: 4043 KBB

LI  
19 April 2021

TP: A. Theart 24/42  
(H. v. d. Stoep)

**L Gillion**

**From:** Walter Crawford <wali.crawford@gmail.com>  
**Sent:** Wednesday, 14 April 2021 16:21  
**To:** L Gillion  
**Subject:** Objection to proposed re zoning erf. 4043 to general business.

Good day,  
I am part owner of erf 3978, which is diagonally opposite of erf 4043.  
I hereby object to the re zoning application in its current form to rezone to general business.  
As this is primarily a residential area, I would not have an objection to rezone Erf 4043 to residential.

Thanking you,  
Walter James Crawford  
083 232 9640.



FILE NO:	ERF 4043 Betty's Bay
SCAN NO:	Crawford
COLLABORATOR NO:	1529342

TP

LI  
8 April 2021

P. N. Ahearne  
(H. ud Slopp)

25/42

L Gillion



**From:** jane hansen <jhfrance47@gmail.com>  
**Sent:** Thursday, 01 April 2021 15:50  
**To:** L Gillion  
**Subject:** ERF 4043 : 50 GLADIOLUS Application for removal of restrictive title deed

Dear Madam

As a Betty's Bay resident in the area of this property, I strongly urge the municipality to keep this zone residential. Betty's Bay is a village in a biosphere, traffic and noise pollution must be kept to a minimum. The essence of this village cannot be sacrificed for commercial gain.

I hope that we can trust our municipal authority to follow the wishes of the majority of residents who have moved here for the beauty and peace of this village.

Sincerely

Jane Hansen 060 896 0529  
Dianne de Villiers  
4316 Athanasia Close  
Betty's Bay

FILE NO:	OF 4043 ✓
	Betty's Bay
SCAN NO:	Jane
COLLABORATOR NO:	1525697

LI  
8 April 2021

TP. O'Heart  
(1) Jd Stoop



**L Gillion**

**From:** Sandy Immelman <sandyimmelman@gmail.com>  
**Sent:** Thursday, 01 April 2021 14:16  
**To:** L Gillion  
**Cc:** Fanie Krige; Grant Immelman  
**Subject:** Rezone proposal

FILE NO:	Er 4043
	Kenny's Bay
SCAN NO:	Sandy
COLLABORATOR NO:	1525721

Good day

I would like to make comment on the proposed rezoning of Erf 4043.

I find it hard to understand how a business is going to be allowed to operate right in the middle of a residential area - with access from dirt roads. Surely this cannot be in the best interests of the biosphere or the residents? I am shocked to see how the plot has been completely stripped and fenced - surely there are restrictions in place to protect our flora and fauna from this kind of decimation?

I realise that the comment requested is with regards to amending the zoning from 4 to 3 - however, I do not believe this should be a business at all unless it is restricted to a guest house/residential unit of some kind. (Not the options currently included such as bottle store, place of entertainment, service station, etc). I also think the building should be restricted to 66% and allowed to expand to 75% of the area.

If it means this plot is not used if it remains at zone 4 due to there being too many negatives in using it for a service station, then I would rather it remained at Zone 4 until such time as it can be rezoned to residential, as it should be, given its location.

On another point, I am concerned about 3553 - cnr Disa and Porter as per map below - which is a wetland and somehow zoned to Business Zone 3. Please advise what can be done to protect this area and avoid it being utilised (I see it is currently For Sale!)?

Regards  
Sandy Immelman



On Thu, Apr 1, 2021 at 12:59 PM Charlotte Keene <charlotte.keene@gmail.com> wrote:

06 APR 2021



29 April 2021

TP - A Theart  
(A vld steep)

**APPLICATION: ERF 4043 BETTYS BAY**  
**PROPOSED REZONING AND REMOVAL OF RESTRICTIVE TITLE DEED**

**APPLICATION DETAILS**

Application is made in terms of:

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the removal of restrictive Title Deed conditions;
- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the rezoning of Erf 4043 Betty's Bay.

**WE NOTE THE FOLLOWING POINTS FROM THE APPLICATION:**

**A. Background:**

- The owner intends to rezone Erf 4043 Betty's Bay from Business Zone 4 to Business Zone 3. The Title Deed applicable to Erf 4043 Bettys Bay contains land use restrictions that need to be addressed in order for the proposed application to be approved.
- Erf 4043 Betty's Bay is 3504m<sup>2</sup> in extent and is held' by Title Deed Number T20907/2020.
- Erf 4043 Betty's Bay is zoned Business Zone 4: Service Station and is currently vacant. The surrounding properties are zoned for *single residential purposes, public roads and public open space*. The erf is situated within a predominantly single residential area with the exception of this Business Zone 4 site.
- With the establishment of Betty's Bay Extension 3, Erf 4043 Betty's Bay was reserved for the purposes of being used as a service station with the right to also establish accommodation above ground floor. Coverage being not more than 2/3 (66.66%) of the site;
- Proposed Zoning: Business Zone 3: Local Business :
  - Primary Use: Shops, dwelling unit (above ground level), flats, offices, restaurant, caretaker's accommodation and self- catering.
  - Consent use: Bottle store, business premises, clinic, conference facility, dwelling unit (on ground floor), flats, town housing, tourist accommodation, hotel institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, sale of alcoholic beverages, service station, service trade and transmission apparatus.
  - this application *does not constitute an application for any of the consent uses* listed above under a zoning of Business Zone 3: Local Business.
- ...due to the fact that the Local Business use would be more appropriate to the site in terms of its location than a Service Station use. It was expected at the time of the Township Development that Porter Drive would be the main road from Somerset West to Kleinmond. A service station site would have been more appropriate at the time if Clarence Drive was not constructed. Clarence Drive became a major arterial road and subsequently a service station was established on Erf 5140 Betty's Bay, adjacent to Clarence Drive.

**B. We would like clarity on the intention of the Applicant:**

Is the owner putting in the application for himself or is it with the intention of obtaining the land use rights in order to sell the property to "future owners"

FILE NO: EL 4043 - KBB ✓
SCAN NO: Cons
COLLABORATOR NO: 1535187

TP 30 APR 2021



- o Porter Drive remains a busy road and Erf 4043 Betty's Bay is ideally located to be used as a local business site that is centrally located and easily accessible to passing residents and tourist visiting the area. Erf 4043 Betty's Bay is *also en route to the penguin colony frequently visited by local and foreign tourists.*
- o With the approval of this application *the current owner would have the land use rights as stipulated* under the primary rights of the proposed Business Zone 3 zoning tabled above. No consent uses or departures are being applied for. ***The owner will have to submit a building plan for any future building work, that will have to conform to all the stipulated land use restrictions under the proposed zoning.***
- o The property abuts Gerbera Road and Gladiolus Crescent. It is anticipated that access could be gained from Gerbera Road but will be confirmed with a ***building plan submission when the owner intends to develop Erf 4143 Betty's Bay.***
- o The removal of the Title Deed restrictions will allow the property's use not to be limited to a service station, its related uses and accommodation on the first floor and would still be in line with future land use planning policies. The removal will also provide an opportunity for the subject property to *continue to be used as a business site* but will dispose of the land use right namely service station and related uses after the Title Deed restrictions are removed. We are of the opinion that the change of land use from a service station and related uses to business uses as stipulated under the proposed Business Zone 3 Zoning will suit the area much better, *it will increase the market value of the area and attract investment opportunities as future owners* will be able to develop the site according to the primary uses as set out in the Zoning Scheme Regulations of the Overstrand Municipal Area under the proposed Business Zone 3 Zoning. The restriction pertaining to coverage is also more restrictive than what is stipulated in the Overstrand Municipality Zoning Scheme and will increase from 66% to 75%.

3. The Application makes frequent reference to how this rezoning from Business Zone 4 to 3 will "benefit the natural environment":

- A. He notes that it is in close proximity to a lake and the low water table that is more prominent in winter months.
  - o The current land use rights of Erf 4043 Betty's Bay are for a service station and related uses that in our opinion is not suited within the area **due to its close proximity to a lake located ±200m north of the site and the rather low water table that is more prominent in the winter months.** A service station would require the construction of underground fuel holding tanks, fuel pumps and the disposal of used oil cans or oil barrels if the servicing of vehicles are also being catered for. The use of underground fuel holding tanks and possible spillage could pose a ***potential threat to the natural environment.*** We are therefore proposing that we retain the business use but dispose of the use of the site as a service station and related uses.

The Betty's Bay Conservancy notes that this erf had a wetland on it.



- B. The Applicant says that the rezoning is a “better environmental friendly, a better environmental option, the environment will gain positively, will benefit, that it is not categorised as having any environmental significance”. See quotes below from the Motivation Report.
- *The environment and the existing owners within the township will gain personally by having the restriction removed, which prevents the owner to establish any other use stipulated under the proposed zoning other than a service station and related uses. The proposal will have less of an impact on the existing built form in the area. A services station and the permitted associated land uses could be more unsightly than a standard business site.*
  - *The proposed land use is also a much cleaner and environmental friendlier option than*
  - *The proposed removal of restrictive Title Deed conditions will increase the market value of the property as well as the area. This in turn leads to the social and economic benefit of the local community as greater investment. The proposal will also be more beneficial to the natural environment.*
  - *If the type of conditions to be removed is considered, the social benefit would be the same due to the fact that the property would remain a business site. It is just a question of the type of business that would change to the benefit of the surrounding landowners and the environment.*
  - *It can be argued that the possible social benefit of removing the restrictive Title Deed conditions and consequently allowing for other business uses on the site other than a service station and related uses, will be positive. In this instance a business zoning will be retained but will be more acceptable in the area than a service station and its related uses. Removing the condition will enable the better utilization of the property in terms of land use, that will be beneficial to the surrounding land owners and the environment.*
  - *By denying the removal of the Title Deed restrictions would force the land owner to establish a land use that could have a negative impact on the surrounding land owners and the natural environment.*
  - *The property abuts Gerbera Road and Gladiolus Crescent. It is anticipated that access could be gained from Gerbera Road but will be confirmed with a building plan submission when the owner intends to develop Erf 4143 Betty's Bay.*
  - **3.9.1 Heritage Value**  
*Erf 4043 Betty's Bay is not situated within the Heritage Overlay Zone; as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009). The property is also not categorised as having significance in terms of the Heritage Protection Overlay Zone. In light of the above mentioned it is evident that the proposed rezoning and removal of the restrictive*



Title Deed conditions will not have a negative impact on the heritage value of the subject property or the greater area of Betty's Bay.

- o 3.9.2 Impact on the biophysical environment  
The proposed rezoning and removal of the Title Deed restrictions do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998). The subject property is also *not categorised as having any environmental significance* in terms of the Environmental Management Overlay Zone.
- o **Spatial sustainability:** The proposed change of land use will be beneficial to the surrounding landowners *and the natural environment*
- o **Efficiency:** The proposed application for the rezoning and removal of restrictive Title Deed conditions will promote the optimisation of the use of space taking the surrounding land uses and *environment into consideration* within a developed township.
- o 4. Recommendation
  - The proposed rezoning and the removal of restrictive Title Deed conditions will not have a negative impact on the *current character and land values of the surrounding erven.*
  - The proposed rezoning and the removal of restrictive Title Deed conditions will have less of an impact on the neighbouring landowners *and the natural environment* than the establishment of a service station and its related land uses.

The Applicants motivates for the rezoning regarding all the "benefit of the rezoning on the environment" it would have but this appears to be in total contrast to the reality of what the owner has currently done to the environmental status of the plot.

He has environmentally devastated it and reduced the erf to a barren sand patch as indicated in the photo below. It was bulldozed of vegetation and animal life and even a tortoise was rescued by a residents after being scooped up by the bulldozer and about to be dumped somewhere.





The Betty's Bay Conservancy would like to inform the Overstrand Municipality and the owner that this site was a well-known wetland and habitat to the endangered Microfrog.

*The Micro Frog (Microbatrachella capensis) as its name suggests, is a tiny frog measuring up to a maximum size of 18mm. It is Critically Endangered with only four known locations, in the fynbos wetlands of the South Western Cape. Its total known range less than 10 sq. Km.! It lives here in Betty's Bay and we should consider ourselves responsible for its welfare where it is reliant on seasonal seepage pools. In the case of the plot in question one of these refuges has been destroyed due to decimation of this erf. Betty's Bay is losing a species that contributes to its uniqueness.*

Considering the quote:

*The property abuts Gerbera Road and Gladiolus Crescent. It is anticipated that access could be gained from Gerbera Road but will be confirmed with a building plan submission when the owner intends to develop Erf 4143 Betty's Bay.*

It appears the owner is not even currently planning to develop the erf but will submit a building plans "when he intends to."

Under these circumstances of this erf only now being in the process of a rezoning application, and no building plan application in process, there appears to be no necessary reason for the owner to have destroyed the fauna and flora on erf to the extent that he did and destroying habitat for an endangered species.

We would like to make you aware of the vision and mission of the Betty's Bay Conservancy:

- **Vision:** That Betty's Bay, located in the Kogelberg Biosphere Reserve, will be a place where people live in a harmonious and sustainable relationship with their natural surroundings, guided by conservation principles.
- **Mission:** The mission of the Conservancy is to promote and coordinate environmentally sustainable living in Betty's Bay and to protect the long term ecological integrity, biodiversity and global significance of the region; thereby enabling the wonder, beauty and importance of our rich natural heritage to endure for future generations.
- **The main objective** of the Conservancy is to promote and facilitate the sustainable use and management of the environment in the area of the Conservancy, thereby protecting the natural heritage and upholding the premises on which the Kogelberg Biosphere Reserve was designated international status by UNESCO in 1998.

We do not condone denuding of erfs and the Betty's Bay Conservancy wishes to express both their concern and disappointment of the unnecessary and radical environmental destruction of the erf at this time and would like to engage in a positive discussion with the owner.

Yours sincerely

Betty's Bay Conservancy

[betty'sbayconservancy@gmail.com](mailto:betty'sbayconservancy@gmail.com)

L Gillion

**From:** Jan Briers <janbecol@gmail.com>  
**Sent:** Friday, 30 April 2021 21:40  
**To:** L Gillion  
**Subject:** Re: Erf 4043 Betty's Bay



TP - A Theart  
(H vld Steep)

**REMOVAL OF RESTRICTIVE CONDITION AND REZONING ON ERF 4043 BETTY'S BAY: Overstrand - Notice no. 40/2021**

1. I am Mr JH Briers, 4200 Brunia Road, PO Box 878, Betty's bay, Cell 079 857 4457 and email address [janbecol@gmail.com](mailto:janbecol@gmail.com). I am a ratepayer living in Betty's Bay and one of the Directors of the Kogelberg Biosphere Reserve Company (KBRC) and concerned about the uncertainty of the legislative requirements which may affect the conservation of the environment in the urban areas and property values in Betty's Bay, Pringle Bay and Rooi-els.

This input is given in order to understand the legal requirements which developers must adhere to at this the subject property and on similar land. The response will guide the (KBRC) regarding further actions concerning comments made on the draft 2020 SDF.

2. This erf is indicated as zoned for a Service Station on the Survey General map of the area dated 1972. This "zoning" was given without undertaking an appropriate social-environmental assessment, as may be required for a Service Station at that site then, as well as today. The application made no reference to any *specific layout plan, extent or baseline information* used to consider and to establish particular parameters of the project, which seems to confirm that such studies were never performed. **In practice, rezoning applications are normally preceded by an appropriate NEMA- EIA process in order to accomplish a specific and informed decision.**

In principle, a range of authorisations is required in terms of separate statutory instruments (each with its own functional domain and administered by its own functionary). The reality that various other authorisations (issued by their respective functionaries within the same or within another sphere of government, in terms of the specific legislation concerned) may be required prior to the utilisation of an authorisation granted by a specific functionary.

NEMA as well as Zoning in terms of LUPO are legislation implemented by different Government institutions, thus they both apply. The opinion that the development of the plot has commenced when the land was "zoned" in 1972, seems to indicate that (i) that property zoned within municipal boundaries does not fall under NEMA and does not require an application with specific information and a specific layout plan BUT include the total property and (ii) that property boundaries or building restrictions have environmental significance.

1

FILE NO:	EL 4043 - KBB
SCAN NO:	Briers
COLLABORATOR NO:	1535669

TP

The total plot (erf 4043) was until recently still covered with unspoiled vegetation classified as an Endangered Vegetation Type in a Critical Biodiversity Area and located in a National Freshwater Ecosystem Priority Areas and in the transitional Zone of the Kogelberg Biosphere Reserve. **Currently more than 90% of the plot is cleared of vegetation, the topsoil removed and the site levelled by a bulldozer** before this application was submitted.

3. We have to admit that the Zoning of Betty's Bay has serious flaws, the same as the flaw of zoning plot 4043 as a Service Station and this should have been apparent to all. Erf 4043 is "zoned" as Service Station while totally surrounded by residential erven and a park and separate from any/all other development zones and not taking into account the strict legislative requirements of a Service station or the fact that BB had a Service station. BB (a residential area with less than 2000 erven) has at least 6 development zones and on 4 of these "nodes", attempts to develop have been made. These areas are all separated from another and spread out over about 10km unlike RE and PB which has only one main Commercial zone. The lack of a node for development probably impacts negatively socially and on the economy of BB.

A service station would have to go through a full EIA and given this report, the location would most probably not be approved as a service station, as it would also not be economically viable.

4. The proposal to (i) rezone to Business zone 3 and (ii) remove restrictive conditions is empty without a specific plan to consider this. The statements that "*the Zoning as Business Zone 3 will increase the market value of the area and attract investment opportunities*" and that "*The proposed change of land use will be beneficial to the surrounding landowners and natural environment*" is nonsense without any proposal to consider, as the activity has already reduce the market value and opportunities of property in the vicinity.

5. The current **restrictive condition** of 66% cover is not based on any appropriate information or assessment and may be too high as the hydrology alone suggests that runoff from hard surfaces affect all other current or future land use and shall force the Municipality to spend tax money on storm water- and draining infrastructure and degrading the environment.

The statement that "*denying the removal of the Title Deed restrictions would force the land owner to establish a land use that could have a negative impact on the surrounding land owners and the natural environment*", imply that the landowner has total discretion and seems to threaten the neighbours and the Municipality. This confirms that both rezoning and reducing title deed restrictions require a specific plan based on the social, economic and environmental limitations. It must be said that the landowner has already totally destroyed more than 90% of heritage and environment infrastructure present on the site.

6. The statement regarding impact on the Biophysical Environment that rezoning does not trigger any listed activity in terms of NEMA of 1998 (Act no. 107 of 1998) is incorrect and may be

misleading. The subject property is classified as Endangered Vegetation Type, a Critical Biodiversity Area and located in a National Freshwater Ecosystem Priority Areas and in the transitional Zone of the Kogelberg Biosphere Reserve, the plot had a number of threatened plant spp. and a threatened frog species and part of it is covered with a healthy wetland contrary to the misleading statement in the document as "having no environmental significance". The land in an undisturbed state until more than 90% of the Erf or more than 3000M<sup>2</sup> has been totally destroyed by the landowner in September and December 2020. The disturbance of more than 300m<sup>2</sup> of vegetation, classified as Endangered Vegetation Type, as well as in terms of NEMBA, requires at least Basic Assessment in terms of NEMA. The opinion expressed in the letter of DEA&DP to Overstrand (Ref. 16/3/3/6E2/1/1242/20), dated 13 November 2020, **state that the activity to clear more than 300m<sup>2</sup> of vegetation at this site does trigger GN No. R. 324 - Activity Number 12 because as;** (i) *It is within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004; and (ii) Within critical biodiversity areas identified in bioregional plans.*

7. The motivation under **Planning Principals** cannot be considered or commented on, as no specific proposal is made and it assumes that a Service Station under the worst state to be approved (most like a threat).

The good administration and cooperation and adherence to all legislation must be shown through actions and from the start of a project.

8. A statements under Recommendation that "*the removal of restrictive Title Deed conditions will not have a negative impact on the current character and land values of the surrounding erven*" and "*The proposed rezoning and removal of restrictive Title Deed conditions will have less of an impact on neighbouring landowners and the natural environment than the establishment of a service station*" can never be established without specific plants and appropriate informatoin to make a decision. It further assumes that a decision of approving a Service Station is only up to the Overstrand Municipality and has to be approved.

**Therefore it seems that:**

- The activity to clear more than 300m<sup>2</sup> of vegetation at this site does trigger GN No. R. 324 - Activity Number 12 and a
  - basic assessment must be done depending on the activity proposed.
- That rezoning and removal of a restrictive condition from a Title Deed, needs a specific plan and the results of above
  - assessment for decision makers and the public to be able to comment and/or consider the application shall also trigger
  - GN No. R. 324 - Activity Number 12.

**J H Briers**

**Ratepayer & a Director of Kogelberg Biosphere Reserve Company**

On Thu, Apr 29, 2021 at 11:53 AM Jan Briers <[janbecol@gmail.com](mailto:janbecol@gmail.com)> wrote:  
Thanks and sorry

I woke up and find it below the ADD

Jan

On Thu, Apr 29, 2021 at 11:27 AM L Gillion <[loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)> wrote:

Dear Mr Briers

The documentation was attached to my previous email.

I hereby attach it again for your perusal.

Regards

*Loretta Gillion*

Administrator : Town & Spatial Planning

Overstrand Municipality

A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20

T: 028 313 8900 | F: 028 313 2093 | E: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

**From:** Jan Briers <[janbecol@gmail.com](mailto:janbecol@gmail.com)>  
**Sent:** Thursday, 29 April 2021 11:26  
**To:** L Gillion <[loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)>  
**Subject:** Re: Erf 4043 Betty's Bay

Thanks for the prompt response.

I could not find the document / application on the Overstrand website. I did find it in the BB Library, Notice 40/2021.

Can you please mail me the documentation or give inform me where I can get a copy.

Kind regards

Jan

On Thu, Apr 29, 2021 at 11:21 AM L Gillion <[loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)> wrote:

Dear Sir

Attached please find the application, as requested.

Regards

*Loretta Gillion*

Administrator : Town & Spatial Planning

Overstrand Municipality

A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20

T: 028 313 8900 | F: 028 313 2093 | E: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

26 April 2021

37/42

TP-A Theart  
(Hvd Stoe?)



L Gillion

From: Elaine Bell <gavin.elainebell@yahoo.com>  
Sent: Thursday, 22 April 2021 15:27  
To: L Gillion  
Subject: OBJECTION TO RE-ZONING OF ERF 4043 GLADIOLUS CRESCENT BETTYS BAY

Dear Sir/Madam

Your Municipal Notice No. 40/2021 refers.

My wife and I jointly own erf 5571 Ixia Road Bettys Bay and we reside permanently at this address. Our names are Gavin William Templeton Bell and Elaine Sylvia Bell. My cell number is 083 3077273. Our interest in the application is that we live in close proximity to erf 4043 (approximately 100/150 metres).

Our personal information is private and may not be disclosed to any party or person without our express, written consent.

Reasons of objection:

The current zoning is restrictive and effectively renders the property unusable. Notwithstanding the fact that the site is environmentally unsuitable for a petrol station/garage it is also financially non viable as no petroleum company would brand the site unless it could meet all their criteria such as but not limited to a servitude being registered over the forecourt, a quick service sit down/take away fast food outlet, a mini franchise food shop, public toilets and an ATM. The site would clearly not generate the minimum level of petrol sales even if the whole surrounding area were fully developed nor would it attract the necessary "feet" for the other businesses to survive. It follows that the owner has realised the purchase of the property with its current zoning effectively limits its utility and has negative financial implications for the owner.

The re zoning to business 3 is not acceptable especially when taking the proposed removal of certain restrictions into account as well as the proposed primary and consent use being sought if not initially then at a later stage should the proposed rezoning be approved (see underlined section on page 6).

The increase in coverage to 75% is acceptable but the removal of the 5 metre building lines on street frontage, which this property has on three sides, is not. All the residential properties are subject to this and I'm sure it also applies to the commercial/business sites. The only reason to waive this requirement is a narrow and clever way to increase the footprint and ensure that the full 75% coverage is possible.

... we understand it coverage is usually a percentage of the gross erf size which in this case amounts to 2,628 square metres (75% x 3,504). However, in the normal course the coverage or building footprint is effectively reduced by the building lines. I am unable to work out the net effect as the notice does not give the square metreage of the area within the building lines. In order to arrive at the true footprint or coverage area one needs to subtract the portion of the erf which sits within the building lines from the gross size of the erf. If this is done it will result in the coverage area coming in at less than the 2,628 square metres. Coverage is therefore restricted by the building lines. To illustrate this we can use the following hypothetical parameters:

Assume the site is rectangular with sides measuring 70 x 50 metres giving a gross area of 3,500 square metres. Coverage at 75% of this amounts to 2,625 square metres. If one superimposes the building line restrictions (three sides at 5 metres and one at 2 metres) the gross available area for coverage would be 2,580 square metres which at 75% coverage would mean a footprint of 1,925 square metres. By waiving the building line restrictions the owner is gaining 690 square metres of building area which he would not be entitled to if the property was restricted to the regulations which all of us have had to comply with. Again the inference is to maximise profit without consideration of the effect on adjoining and nearby properties.

1

23 APR 2021

TP

FILE NO: EL 4043-KBB
SCAN NO: 15
COLLABORATOR NO: 1532419

The floor space ratio should not be allowed to increase to 1.5 times. As we understand it this will have the effect of allowing the square metreage of actual building constructed to increase from the current zoning of 66,6% coverage = 2,333 square metres to 3,500 square metres.

If one takes the proposed increase in the coverage ratio to 75% the size of the building construction increases to 5,250 square metres. This is a substantial and unwarranted increase and if approved will see almost all the site built upon. It will also necessitate a multi story construction. This is not desirable in a single dwelling residential area.

We are also confused as to the height section on page 6 of the motivation which says under current zoning "from base level to top of structure is 8.5 metres" while the proposed change is "from base level to top of structure is 8.5 metres. 2 Storeys". Base level is not defined so we cannot understand why the need to add the 2 storey codicil. Does this mean a ground floor plus an additional two storeys i.e. three levels of structure?

Building lines are there for a variety of reasons and even though the council has reduced the side line two metres between adjoining properties the side frontage stays at 5 metres. This site has three street frontages and to waive these makes no sense other than to increase the potential area for construction. It would have a negative effect aesthetically speaking. The retention of the building lines will play an important part in respect of off street parking.

The primary and consent use(s) are unacceptable as proposed. The principle of the highest and best use of every property should be the predominant factor when deciding what to do with it. This concept needs to take into account the surrounding area and competing existing uses already established there. Shops are not going to be financially viable as the surrounding area's foot traffic will not be sufficient to ensure the owner/lessee will constitute a going concern. There are already three general grocery shops servicing the community in well established and high profile locations. It will not be easy to attract custom from these shops. Blocks of flats are also not acceptable in a single residential area. Flats come with their own unique problems. If the intention is to sectionalise and sell off the flats a body corporate will need to be established in terms of the sectional titles act and Trust Property control act. If not sectionalised the owner will be responsible to maintain the building. Unless properly supervised tenants will not necessarily respect the ethos of the surrounding community. One only needs to look at the high number of insolvent body corporates and substandard condition of many scheme properties. Given the current economic outlook and the fact that there are few employment opportunities in the Hangklip/Kleinmond area the owner might struggle to attract tenants capable of paying a rental which will give him an economic return. This in turn will lead to lack of maintenance and deterioration in the quality of property which in turn negatively affects the value of surrounding properties.

The same issues apply to tourist and self catering accommodation. There are already numerous guest houses, air B'nB's, etc catering to local and foreign tourists. Again, a viability analysis will show that given the poor economy and future economic outlook plus competing international areas vying for foreign tourists it will be problematic to develop an economically sound proposition. The number of visitors to the penguin colony will hardly prove capable of sustaining any retail/tourist accommodation on the site. As with hotels the key factor is occupancy levels and number of rooms. Having spent some time being involved with hotels etc the following rule of thumb should serve as a guide to assessing the viability of such establishments. Firstly the breakeven even occupancy levels for a hotel are in the 60/65% and the minimum number of rooms hovers around 28. These kinds of occupancy levels are simply not achievable now or in the foreseeable future. Other factors to consider are that hotel establishments will need to be attractive aesthetically speaking with garden areas and designs which include but are not limited to, swimming pools recessed structures to allow sunlight, to penetrate into it etc. This will impact the footprint and therefore the full coverage will not be used which means that it is not the highest and best use of the property.

Business/commercial premises. Again, the theory sounds good but in practice demand simply does not exist. The economy as we knew before the lockdown has fundamentally changed the way people transact business and interact with each other. Most of the listed property companies have had horrendous results with tenants defaulting and going out of business. They have, for the most part, national and regional names on their rolls and they are now proactively redesigning their business models taking the new economic realities and the digital revolution into account. There is simply no demand for office space or alternate uses such as clinics entertainment venues etc. Rentals would need to be of such a magnitude that the developer would be

able to finance the borrowing costs of the construction the ongoing maintenance and still give him a return in excess of other less risky options.

One of the glaring omissions is the parking issue. Any non residential development on the site will need to make provision for on site parking. It would not be unreasonable to expect one parking bay for every 100 square metres of commercial/retail/office/ hotel space. Taking the proposed increase in the coverage and floor space ratios into account the provision for parking could amount to up to 40 bays depending on the split. Allocating ground for the bays will further reduce the sites' optimum usage and with a single access and egress point on a very short and narrow street. Street parking is not an option at all.

In order to fully appreciate all the comments above, one need only visit the Tierkloof Centre located on Clarence Drive. It is a mixed use building with, at various times offices, shops and even restaurants. It has been there for many years and but for its facebrick construction would be totally "invisible" to passers by. It has perennially had problems in securing suitable tenants and maintaining levels of occupancy sufficient to generate an appropriate return on capital for its owners. It is a "dead centre" which, in our opinion, will be the case with this site should it attempt to make use of the consent use(s).

The motivation incorrectly states that this is the only business site in the immediate vicinity. There is a huge tract of land adjacent to the Crassula hall and bounded by Ferraro Street which we believe has business rights. The site must be over 12,000 square metres. Should this site be developed it will compete with any non residential development on erf 4043. The site is only roughly 100 metres from the western boundary of erf 4043.

The only viable use for this site would be for the owner to develop a private residential estate with freehold title to buyers subject to a home owners association. There are a number of examples of this in Kleinmond and the model would be suitable given the size of the erf.

The reality is that the owner may never actually make a sufficient return on his investment. We are not aware of the purchase price and the clearing/rock removal costs involved to date but we are guessing that any development other than housing as mentioned in the previous paragraph will be disastrous from a financial point of view and that will directly affect the surrounding residents should any improvements thereon fail to be maintained and or not be properly completed etc.

From the motivation it would appear that the owner does not intend to reside on the erf and thus might not be as sympathetic to the concerns of the community.

We can see no reason why the rezoning should be consented to until the residents have knowledge of what the owner intends to develop on the site. We know that he cannot proceed with a petrol station/garage from both a financial and environmental point of view. The owner needs to be more transparent and take the community into his confidences. Using the environmental card to push for the rezoning just results in an adversarial situation.

It is clear that the motivation is as a result of the realisation that as it currently stands, the restrictive zoning needs to be waived for a profit and financial motive at the expense of the surrounding properties which could conceivably see their values reduced. Owners and residents should not be made to pay for the owners lack of investigation before buying the property in 2020.

We therefore object to any change in the rezoning of erf 4043 from business 4 to business 3. We are open to reconsidering our objection should the owner include the community in his ideas/plans for the property and we consider his plans in the best interests of all parties.

Regards  
Gavin and Elaine Bell

L Gillion

From: Sharon C <sharoncrawford7@gmail.com>  
Sent: Wednesday, 17 March 2021 20:23  
To: A.Wali; hildelourens@gmail.com; L Gillion  
Subject: ERF 4043 BETTYS BAY



TP - A Theart  
(Hild Steep)

Good day Loretta,

I hope you dont mind me contacting you but I have no idea who to speak to. There is a development taking place on 4043 Porter Drive, Bettys Bay which we would like some help and clarification on. Last year out of the blue a chap arrived with a bulldozer arrived and started digging up the plot which was a very 'busy' environmental plot. We had Grysbok, Mongoose, tortoise and the small endangered frogs all living happily in this plot which was a haven of fynbos. After a very ugly scene when we went out to talk to him and having my animals threatened the lady from Environmental Affairs came over and it transpires he did not have the necessary permissions, and could not put up living areas i.e. His house. She shut him down. Then we saw him back and he flattened the entire plot except for a very small corner which he has to leave for the 'wetland frogs'. He has now fenced off the entire plot with two entrance points one in Gerbera Road and one in Gladioulous Crescent.

Again things seem to have come to a stand still, but what is concerning everyone is what he is planning to build, apparently this ERF was originally zoned for a petrol station and he initially said he was building a house for himself, making his own bricks on site and a set of storage units. This story changes from week to week and whom he speaks to. Today the discussion with regards to the Tower has arisen and he at some point has said that he is erecting either storage units or shops with living space above them. This ERF must have Title Deed Restrictions on it as it is along Porter Drive. I see, in looking through the documentation available the documentation regarding the Tower and the Parking area, both on Porter Drive, but absolutely nothing to do with ERF 4043.

Please, please can you help, advise or steer us in the right direction on this matter as this ERF is right in the middle of houses with no commercial businesses anywhere near. Both Gerbera and Gladioulous Crescent are dirt roads, which we have no objection to, but how can it handle the traffic of trailers and trucks and or a shopping centre? The crime level that will increase most definitely with either of the above - either targeted crime or spontaneous crime. The majority, if not all of us moved to BB to be away from commercialism, shopping centers, industry and everything a city stands for. We love and protect the wildlife in our area and the quietness we live in.

would like to remain anonymous at this stage as I mentioned earlier he has threatened us and our animals.

I thank you for your time and any assistance you can provide us with.

Best regards

Sharon Crawford.

FILE NO: EL 4043 - KBB
SCAN NO: 05
COLLABORATOR NO: 1518557

TP 18 MAR 2021

**Loriaan Isaacs**

**From:** L Gillion  
**Sent:** 18 March 2021 10:41 AM  
**To:** Loriaan Isaacs  
**Subject:** FW: ERF 4043 BETTYS BAY

fyi

**From:** L Gillion  
**Sent:** Thursday, 18 March 2021 10:40  
**To:** 'Sharon C' <sharoncrawford7@gmail.com>; A..Wali <wali.crawford@gmail.com>; hildelourens@gmail.com  
**Cc:** H van der Stoep <hvdstoep@overstrand.gov.za>  
**Subject:** RE: ERF 4043 BETTYS BAY

Dear Ms Crawford

KB 3978

Receipt is hereby acknowledged of your e-mail. The contents thereof have been noted.

It is hereby confirmed that an application for rezoning and removal of restrictive title deed conditions have been received. The public participation will commence soon and will registered notices be forwarded to interested and affected parties, as well as being advertised in the local newspaper (Overstrand Herald). Should you then wish to provide your comments / objections on the proposal, kindly submit your comments by the said closing date.

Hope you find the above in order.

Regards

*Loretta Gillion*  
 Administrator : Town & Spatial Planning  
 Overstrand Municipality  
 A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20  
 T: 028 313 8900 | F: 028 313 2093 | E: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

**From:** Sharon C <[sharoncrawford7@gmail.com](mailto:sharoncrawford7@gmail.com)>  
**Sent:** Wednesday, 17 March 2021 20:23  
**To:** A..Wali <[wali.crawford@gmail.com](mailto:wali.crawford@gmail.com)>; hildelourens@gmail.com; L Gillion <[loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)>  
**Subject:** ERF 4043 BETTYS BAY

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42/42

Again things seem to have come to a stand still, but what is concerning everyone is what he is planning to build, apparently this ERF was originally zoned for a petrol station and he initially said he was building a house for himself, making his own bricks on site and a set of storage units. This story changes from week to week and whom he speaks to. Today the discussion with regards to the Tower has arisen and he at some point has said that he is erecting either storage units or shops with living space above them.

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I would like to remain anonymous at this stage as I mentioned earlier he has threatened us and our animals.

I thank you for your time and any assistance you can provide us with.

Best regards

Sharon Crawford.



TP-A Theart  
(Hvd.Stoep)



**ANNEXURE E 1/11**

6 Magnolia St / Str  
PO Box / Posbus 296  
HERMANUS  
7200  
Tel: (028) 313 1673  
Fax / Faks: (028) 312 1351  
Email:  
[planactive@hermanus.co.za](mailto:planactive@hermanus.co.za)  
Website: [www.planactive.co.za](http://www.planactive.co.za)

**TOWN & REGIONAL PLANNERS  
STADS-EN STREEKSBEPLANNERS**

Our reference: PA20050

14 June 2021

**THE MUNICIPAL MANAGER  
OVERSTRAND MUNICIPALITY  
PO BOX 20  
HERMANUS  
7200**

FILE NO: EL 4043 - KBB ✓
SCAN NO: KBB 4043
COLLABORATOR NO: 549234

**For attention: Mrs. Hanneen van der Stoep**

Sir

**COMMENTS ON THE OBJECTIONS RECEIVED:**

**ERF 4043 BETTY'S BAY: APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE DEED**

**CONDITIONS AND REZONING**

Your e-mail dated 10 May 2021 with the objections attached thereto and your e-mail dated 1 June 2021 providing us with an additional 30 days to comment on the objections refer. Our comments on the objections received are as follow:

- We have indicated the locality of the objectors' properties in relation to Erf 4043 Betty's Bay on a map that we have enclosed for your reference. With reference to the map we have received 6 objections and 1 letter of support from property owners situated within a radius of 100m from Erf 4043 Betty's Bay, ±23 land owners are situated within this 100m radius. Objections have been received from land owners as far as ±3km from the site. The distances of the land owners' properties, calculated from Erf 4043 Betty's Bay, that objected can be tabled as follow:

Distance from the site	0-100m	100-200m	200-300m	300-400m	400-500m	500-750m	750-1000m	1000m-1500m	1500-2000m	>2000m
Number of objections received	6	2	1	3	1	0	1	2	1	3

Page 1

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Vat. No. 4770250340

John Me Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI Nr.10908; SACPLAN Tch.Pin B/8250/2014  
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)  
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pin A/158/2009  
Darren Adams: BTech (Town and Regional Planning) CPUT; SACPLAN Pr.Pin A/3002/2021

TP 14 JUN 2021

From the information concluded from the above it is clear that the majority of owners do not have any objection against the proposal. Some of the objectors have used misinformation to formulate their objections and it is clear that they do not have knowledge of the actual zonings of properties in the area surrounding Erf 4043 Betty's Bay.

It should be noted that the subject property has an existing Business Zone 4 Zoning and that the current owner may act on the land use rights prescribed under the said zoning and restrictions imposed in the property's Title Deed. The subject property already falls within a commercial category. The current zoning of the property has been the same since the establishment of the Betty's Bay Township. The current zoning of the subject erf has also been indicated as such in the historic zoning maps and structure plans. Subsequently any owner in the vicinity that had invested in property should have investigated the surrounding zonings and future land uses and should therefore have had the knowledge of the zoning of Erf 4043 Betty's Bay.

- It is mentioned that the siting of Erf 4043 Betty's Bay, a commercial property in the middle of residential properties, is a disgrace and without any sensitivity to the general area. Furthermore the objector provides a number of reasons why a petrol station should not be developed on the subject erf. It is also mentioned that given the fact that the owner of Erf 4043 Betty's Bay wants to change the zoning, does not take away from the fact that it is inappropriate having a commercially designated plot in an area which is off the main routes, off a gravel road and in the midst of single residential erven.

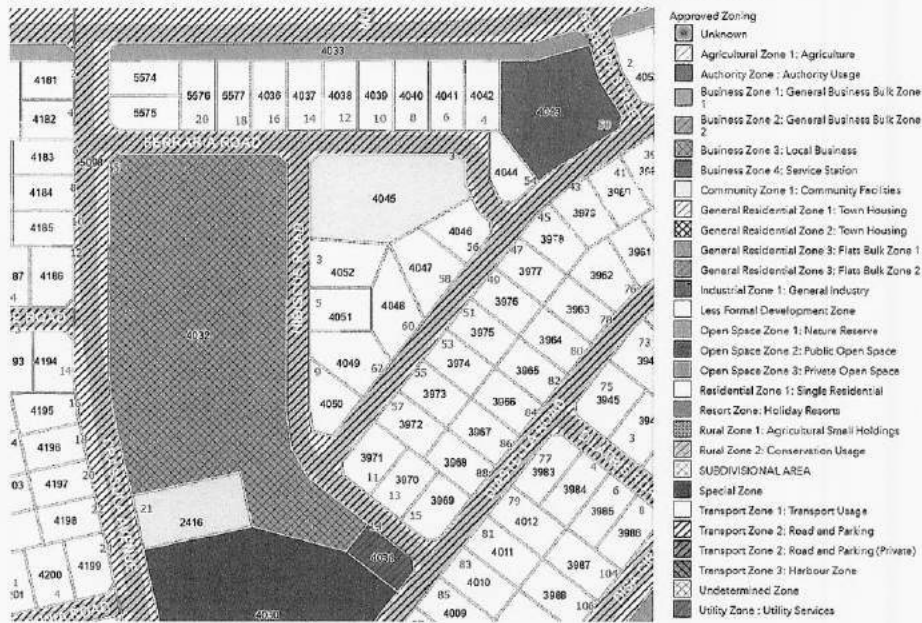
With the establishment of Betty's Bay Extension 3, Erf 4043 Betty's Bay was reserved for the purposes of being used as a service station with the right to also establish accommodation above ground floor and has a Business Zone 4 zoning. In terms of the 2006 Overstrand Municipal Wide Spatial Development Framework the subject property is earmarked as a commercial site. Please refer to the abstract below:



In terms of the May 2020 Overstrand Municipality Spatial Development Framework the subject erf is also earmarked for business purposes. Please refer to the abstract below:



The portion of the current zoning map inserted below indicates the zoning of the properties in the vicinity of Erf 4043 Betty's Bay, these zonings were imposed with the establishment of the Betty's Bay Township. It is clear that commercial zoned properties are not being created at this point in time, but that the objectors' properties are actually situated within a mixed use zoned area and not in a purely residential area, as the objectors have stated.



Due to the fact that these zoned properties are not developed yet does not mean that it is residential zoned, as it might be perceived. Betty's Bay is one of the fastest developing coastal towns within the Overstrand Municipal area with reference to the construction of new houses. Subsequently this will impact on the need for more commercial uses that will lead to the development of vacant commercial properties in time. With reference to the zoning map above, the objectors located in the proximity of Erf 4043 Betty's Bay are also situated close to a Community Zone 1 erf, Erf 4045 Betty's Bay that is owned by a church group and a large Business Zone 3 erf, Erf 4032 Betty's Bay that is 20 276m<sup>2</sup> in extent.

It can therefore be argued that the area surrounding Erf 4043 Betty's Bay is not a purely single residential area in a broader context as stated by the objector. With reference to our motivation report we have also provided reasons why we are of the opinion that a local business use proposed for Erf 4043 Betty's Bay will be more appropriate than a service station on the subject erf.

- The current zoning of Erf 4043 Betty's Bay does not effectively renders the property unusable. The subject erf does have vested land use rights that are restricted in terms of the applicable Title Deed. The restrictions limit the use to that of a services station and the rights to build residential accommodation on top. The definition of a service station is not limited to a petrol filling station only but also includes the trading of vehicles, oil, tyres or motor spares, general motor repairs to motor vehicles, exhaust fitment, washing of vehicles and a shop of which the floor area may not exceed 50% of the total floor area.

The abovementioned land uses can be established by means of merely a building plan submission. It is our opinion that the land uses associated with a local business use as applied for, excluding a filling station outweighs a service station and its associated uses and will be less detrimental to the established residential uses in the area and environment. With reference to the proposed rezoning of the subject erf the ground floor will remain commercial with an opportunity to accommodate residential accommodation on top that is very similar to the current zoning but less detrimental to the surrounding environment.

- It is proposed that following restrictive Title Deed restrictions be removed in order to utilise the site as a local business erf and not a service station and its related uses mentioned above.

- **Page 3, paragraph (6): “The erf shall be used solely for the purpose of erecting thereon a garage or service station with the right to include residential accommodation above the ground floor or other buildings for such purposes as the Administrator may, from time to time after reference to the Townships Board and the local authority approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the Scheme”**
- **Page 3, paragraph 7 (i): “Except with the prior consent of the Administrator – (i) not more than two-thirds of the area thereof shall be built upon;”**

We have not applied for any other relaxations from the land use restriction imposed by the Overstrand Municipality Zoning Scheme prescribed under a Business Zone 3 zoning and no consent uses are applied for. Some of the objectors find the 75% coverage acceptable but not a 0m street building line. It should be noted that Erf 4043 Betty's Bay has 2 street boundaries adjoining Gerbera Street and Gladiolus Crescent. The subject erf does not abut Porter Drive to the north, but Erf 4033 Betty's Bay, that has an Open Space Zone 1 Zoning.

- It is highly likely that the future building will be set back from Gerbera Street and Gladiolus Crescent in order to make provision for parking as prescribed by the Overstrand Municipality Zoning Scheme.

If the lateral boundary lines as defined in the Overstrand Municipality Zoning Scheme under a Business Zone 3 zoning and a 5m building line are imposed on the street front, the area available to build upon constitutes  $\pm 79\%$ . If a 0m street building line applies in terms of the Overstrand Municipality Zoning Scheme the available area to build upon will increase to  $\pm 93\%$ . In both instances mentioned pertaining to the coverage of  $\pm 79\%$  and  $\pm 93\%$ , these figures cannot be achieved due to the fact that, after the application for the removal of restrictions and rezoning is approved, the coverage applicable to Erf 4043 Betty's Bay will be limited to 75%, that is more restrictive than the coverage mentioned before. It is therefore highly unlikely that any structures will be constructed on the 0m line from Gerbera Street or Gladiolus Crescent taking coverage and the provision of parking bays into consideration.

In terms of the Overstrand Municipality Zoning Scheme the Floor Factor imposed will be 1.5 after an approval has been obtained and calculates to  $\pm 5256\text{m}^2$  of developable area. Taking the 75% coverage into consideration a 2 storey building will constitute the total Floor Factor

of 1.5. Again it should be noted that parking will have to be provided at 4 parking bays per 100m<sup>2</sup> gross leasable floor area for commercial / office uses and 1.5 to 2 parking bays per flat depending on their size, if it should be proposed.

Should 75% of the site be utilised as commercial use, a total number of  $\pm 105$  parking bays will have to be provided, this excludes any development on the first floor. To put the last mentioned figures into perspective a total of 105 parking bays will require an area of  $\pm 2710\text{m}^2$  ( $\pm 77\%$ ) of the site. With reference to the above information we reiterate the fact that even though a floor factor of 1.5 and coverage of 75% is being provided for, it is highly unlikely that these figures will be achieved.

- We would also like to confirm that the height restriction will be 8.5m, 2 storeys that will consist of a ground floor and a first floor and not a ground floor and additional 2 storeys as mentioned by objectors.
- As mentioned earlier in our response to the objections it should be kept in mind that Erf 4043 Betty's Bay was earmarked to be utilised as a commercial site limited to a service station with residential accommodation on top. It can be argued that with the change in zoning that the land use would be like for like in the sense of remaining commercial with the possibility of residential accommodation on the first floor. The major change would however be from a service station use on ground floor to possibly a shop, restaurant, office or a combination of these land uses on ground floor. The crux of the matter is that the site would remain a commercial property.
- The property owner is currently investigating development options for which there are needs in the Betty's Bay area and different business models that will determine the future viable land uses and development of the site within the ambit of the proposed Business Zone 3 zoning and land use restrictions.

Reference is made to the Tierkloof Centre that has been vacant for some time and that it is an indicator that there is no need for additional business premises. The Tierkloof Centre located adjacent to Clarence Drive is located on Erf 5580 Betty's Bay. It is the owners choice not to lease the shops / offices at this point in time because he awaits the outcome of an application lodged for a consent use for a Spar Tops Liquor Shop. Subsequently the objection in this regard is not valid.

- Objection is also lodged against the rezoning of the property to Business Zone 4 and that the subject erf be used for single residential purposes. This is not the case. We are not applying for the rezoning of Erf 4043 Betty's Bay to Business Zone 4, but from the last mentioned existing zoning to Business Zone 3.

Therefore making provision for a local business use site and not a site limited to a service station with residential opportunities on top, as prescribed in the Title Deed. It is the current owner's intention to develop the site himself.

- With reference to the objections referring to environmental related issues and the clearing and fencing of the site, the owner has followed the correct channels prior to clearing the site and made the necessary enquiries to do so. Please refer to the letter dated 13 November 2020 from the Department of Environmental Affairs and Development Planning approving the clearing of 75% of the site.

After clearing the site, it was clearly a fact that the site is not a wetland. The lowest portion of Erf 4043 Betty's Bay is located on the corner of Gerbera Road and Gladiolus Crescent. Due to the open channel stormwater system this lower laying area is wet. The owner has not cleared this corner and has planted indigenous trees in this area. After the development of the site, including the provision of the required parking, the owner will consider landscaping the site and the re-establishment of indigenous vegetation.

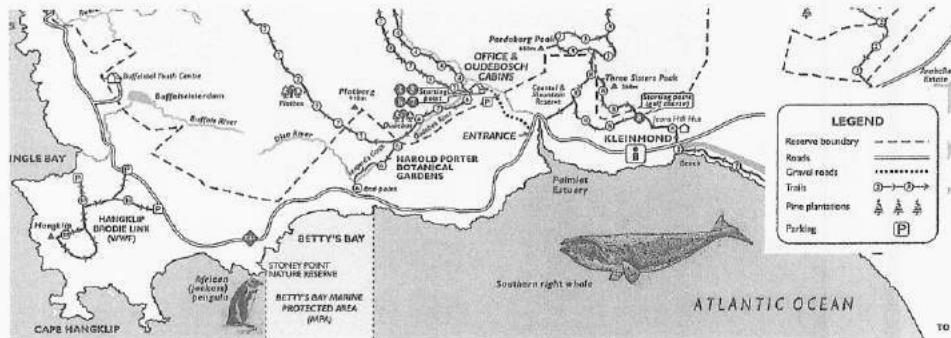
- The owner cannot submit a building plan for the development of the site due to the fact that he wants to use it for local business uses as defined in the Overstrand Municipality Zoning Scheme as stated earlier in our response. If a building plan is submitted now it will be turned down because of the fact that it would not be in line with the property's current zoning or Title Deed restrictions. We are therefore making mention thereof in our motivation report that a building plan will be submitted once an approval has been obtained, that will confirm the access to the property. Access however cannot be obtained from Porter Drive due to the fact previously mentioned. Erf 4043 Bettys Bay does not share a common boundary with Porter Drive, as an Open Space Zone 1 erf, Erf 4033 Bettys Bay is situated between Erf 4043 Betty's Bay and Porter Drive.
- We cannot deny the fact that the development of the site will have an impact on the area, but it should be measured against the fact that the property does have existing rights that will, in our opinion, have a far greater impact on the surrounding area than what can be developed in terms of the proposed Business Zone 3 zoning.

- With reference to the letter of support received from the Betty's Bay Ratepayers Association we can confirm that the future development of the site will comply with the prescribed provision of onsite parking as determined by the Overstrand Municipality Zoning Scheme. Limiting the entrance and exit to Gladiolus Crescent can be investigated as well as the possibility of creating an exit only into Gerbera Road.
- With the design of the Betty's Bay Township certain areas have been earmarked to be utilised as commercial properties. Betty's Bay is  $\pm 10$ km in length and it is our opinion that at the design stage of the town this was taken into consideration and therefore a number of business nodes have been allocated. Accessibility to these sites has also been thought through at the time of the design and it is our opinion that the current roads infrastructure is sufficient. Porter Drive can be classified as a collector road servicing a large number of properties located on the western side of Betty's Bay below Clarence Drive. Subsequently Erf 4043 Betty's Bay has great exposure from road users making use of Porter Drive and the site is therefore ideal to be used as a Business Zone 3 site.

It is common practise that residents in the area take the shortest route from their properties driving on dirt roads to Porter Dive that is a tarred road, commuting to friends or the shops. The site is in close proximity to Porter Drive and subsequently the distance travelled from Porter Drive to the entrance or exit to and from the site will be a mere 30m and 120m on a dirt road. Gladiolus Crescent and Gerbera Street are used by surrounding land owners to access Porter Drive in any case, to travel to and from shops further away. The short distance that residents from further away will have to drive from Porter Drive to Erf 4043 Betty's Bay is extremely short and will have little impact on the neighbouring residential erven.

- It is pure speculation that the change of zoning from Service Station to Local Business zone will attract vagrants to the area and that crime and noise will increase. The potential noise generated by shops, office and flats are much lower than the potential noise generated by a service station, trading of vehicles, general repairs to motor vehicles, exhaust fitment and washing of vehicles.
- With the establishment of the Betty's Bay Township and the construction of services, the various future land uses have been taken into account. Due to the fact that the site remains a commercial property the municipal services will be sufficient to service a future development on the site.

- Betty's Bay is located south of the Kogelberg Biosphere Reserve and it is not included within the boundaries of the reserve. Please refer to the map below for easy reference:



The owner does however take cognisance of the fact that Erf 4043 Betty's Bay is located within an area of natural beauty, but it must also be accepted that each owner has vested land use right that they may take up. Betty's Bay is developing at a fast pace and privately owned land that is vacant, and that has been enjoyed by neighbouring landowners, will eventually all be developed.

- The development of the site from a land use perspective will be done in a sensitive manor, taking the neighbouring land uses into consideration. The owner of the subject property will also reside on the premises and will see to it that the future development of the site be well managed.
- It is stated by one of the objectors that Erf 4043 Betty's Bay is currently situated in a 100% single residential area for at least a radius of  $\pm 700\text{m}$  and that only single residential development will be supported. The fact is, as previously stated, within a 200m radius there is a local business zone erf, Erf 4032 Betty's Bay that is  $20\,276\text{m}^2$  in extent and a community zoned erf, owned by a church group that is  $3\,865\text{m}^2$  in extent. It is therefore a fact that Erf 4043 Betty's Bay is within a mixed land use area.

A portable toilet and temporary shipping container have been placed onsite. The container is used as storage for tools and implements used for the upkeep of the property and will be used as such until the construction phase is completed. The portable toilet is used by the owner and labourers onsite while working on the premises.

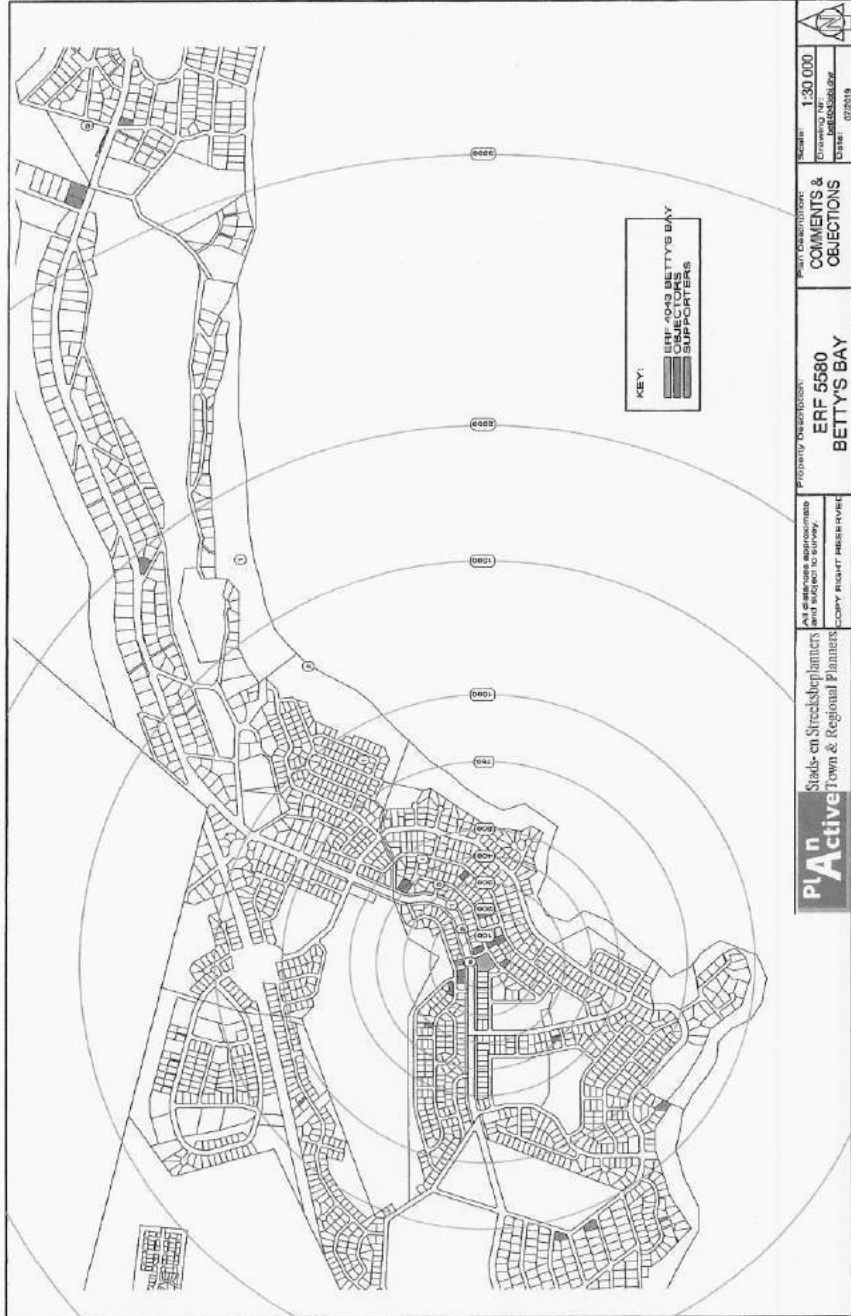
- We hereby confirm that the site will not be utilised as a brick factory in the future for the sale of bricks to the general public, building contractors and building supply stores.
- Even though the property has been fenced with access provided from both Gladiolus Crescent and Gerbera Street, the formal accesses to the site will be confirmed by means of the submission of building plans.

With reference to our comments above it is clear that the proposed application for a rezoning from Business Zone 4 to Business Zone 3 and the removal of the restrictive Title Deed conditions have merit and can be supported. We trust that you will find our comments on the objections received in order and we look forward to a favourable outcome of the application.

Yours faithfully



John Mc Lachlan



<b>Plan Active</b> State or Streetsplanners Town & Regional Planners	All estimates approximate and subject to survey. Copy right reserved	Property Description: <b>ERF 5580          BETTYS BAY</b>	Plan Description: <b>COMMENTS &amp;          OBJECTIONS</b>	Scale: 1:30 000 Drawing No: 101/03/01/01 Date: 07/2019



**Western Cape  
Government**

Department of Environmental Affairs and Development Planning  
**D'mitri Mathews**  
 Development Management  
[Dmitri.Mathews@westerncape.gov.za](mailto:Dmitri.Mathews@westerncape.gov.za) | Tel: 021 483 8350

**REFERENCE:** 16/3/3/6/E2/1/1242/20  
**DATE:** 13 November 2020

The Municipal Manager  
 Overstrand Municipality  
 P. O. Box 20  
**HERMANUS**  
 7200

**Attention: Ms. H. van der Stoep**

Tel.: (028) 313 8900  
 Email: [hvdstoep@overstrand.gov.za](mailto:hvdstoep@overstrand.gov.za)

Dear Madam

**RE: APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT ("EIA") REGULATIONS, 2014 (AS AMENDED), WITH RESPECT TO THE PROPOSED SELF-STORAGE FACILITY ON ERF NO. 4043, BETTY'S BAY**

1. The correspondence dated 21 September 2020, and the electronic correspondence dated and received on 21 October 2020, refer.
2. Following the review of the above-mentioned correspondence, this Department draws your attention to the following:
  - The proposal will entail the development of a small-scale commercial Self-Storage Facility on the property. The self-storage facility will remain within the coverage specification of 75%.
  - The property was initially set aside for a service station and is currently Business Zone 4. The owner must therefore apply to rezone the property from Business Zone 4 to Business Zone 3, Local Business and request Departure for Industry.
  - The erf formed part of the Surveyor General Plan No. 8267 of the Betty's Bay Township Expansion No. 3, Betty's Bay Allotment Area. The SG diagram was approved on 13 October 1972.
  - Various erven surrounding the the subject property have since been developed in accordance with the approved Surveyor General Plan No. 8267 of the Betty's Bay Township Expansion No. 3, Betty's Bay Allotment Area.
3. On 7 April 2017 the Minister of Environmental Affairs promulgated amendments to the regulations in terms of Chapter 5 of the National Environmental Management Act, 1998 (Act No. 107 of 1998) ("NEMA"), viz. the EIA Regulations 2014 (Government Notice ("GN") No. R. 326, R. 327, R. 325 and R. 324 in Government Gazette No. 40772 of 7 April 2017). These regulations came into effect on 7 April 2017.

4. The Department has reviewed the information in terms of the NEMA EIA Regulations, 2014 and is of the opinion that the of the self-storage facility on Erf No. 4043, Bettys Bay, falls within the ambit of the following listed activities:

In terms of GN No. R.327 of 7 April 2017:

Activity Number 19:

*The infilling or depositing of any material of more than 10 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 10 cubic metres from a watercourse;*

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

- (a) will occur behind a development setback;*
- (b) is for maintenance purposes undertaken in accordance with a maintenance management plan;*
- (c) falls within the ambit of activity 21 in this Notice, in which case that activity applies;*
- (d) occurs within existing ports or harbours that will not increase the development footprint of the port or harbour; or*

*where such development is related to the development of a port or harbour, in which case activity 26 in Listing Notice 2 of 2014 applies.*

In terms of GN No. R.324 of 7 April 2017:

Activity Number 12:

*The clearance of an area of 300 square metres or more of indigenous vegetation except where such clearance of indigenous vegetation is required for maintenance purposes undertaken in accordance with a maintenance management plan.*

#### **i. Western Cape**

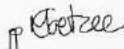
- i. Within any critically endangered or endangered ecosystem listed in terms of section 52 of the NEMBA or prior to the publication of such a list, within an area that has been identified as critically endangered in the National Spatial Biodiversity Assessment 2004;*
  - ii. Within critical biodiversity areas identified in bioregional plans;*
  - iii. Within the littoral active zone or 100 metres inland from high water mark of the sea or an estuarine functional zone, whichever distance is the greater, excluding where such removal will occur behind the development setback line or even in urban areas;*
  - iv. On land, where, at the time of the coming into effect of this Notice or thereafter such land was zoned open space, conservation or had an equivalent zoning; or*
  - v. On land designated for protection or conservation purposes in an Environmental Management Framework adopted in the prescribed manner, or a Spatial Development Framework adopted by the MEC or Minister.*
5. However, as per the interpretation of Circular 0024/2014, INTERPRETATION OF "COMMENCE" IN TERMS OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT NO. 107 OF 1998) ("NEMA") **Environmental Authorisation does not need to be obtained from this Department** prior to the proposed construction work taking place. This determination is based on the following:

[www.westerncape.gov.za](http://www.westerncape.gov.za)

Department of Environmental Affairs and Development Planning w

- 5.1 The development is considered to have commenced prior to the date that the requirement for environmental authorisation was effected.
  - 5.2 The construction works are to remain within the specific parameters of the erf.
  - 5.3 The 75% coverage limitation for the erf will not be exceeded.
6. However, should any future development of the consolidated portions trigger any listed activity in terms of the EIA Regulations, 2014 (as amended), an application form for Environmental Authorisation must be submitted to the Competent Authority and the Environmental Authorisation obtained prior to the development proposal being commenced with on the proposed site. The relevant application forms are available on this Department's website: [www.westerncape.gov.za/eadp](http://www.westerncape.gov.za/eadp).
  7. You are further reminded of your general duty of care towards the environment in terms of section 28(1) of NEMA which states:  
"Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."
  8. Please note that the applicant must comply with any other statutory requirements that may be applicable to the undertaking of the activity.
  9. Kindly quote the abovementioned reference number in any future correspondence concerning the proposed development.
  10. This Department reserves the right to revise or withdraw its comments and request further information based on any information received.

Yours faithfully



**HEAD OF COMPONENT**  
**ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 1**  
**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

Cc: (1) Ms. T. Zweig (Overstrand Municipality)

Email: [tzweig@overstrand.gov.za](mailto:tzweig@overstrand.gov.za)



**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS &  
REZONING: ERF 4043, BETTY'S BAY**

Stormwater (SW) : In Order  
Electricity : Eskom Area  
Water : In Order  
Sewer : 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 should additional services connections be required, the owner will be responsible for the payment of bulk services levies;
3. that the developer investigates and determine the limitations of the site in terms of drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
4. that on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Directorate: Infrastructure and Planning;
5. that any additional and / or extended vehicle entrance will be for the owner's account;
6. that, upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Senior Manager: Operational Services (Kleinmond) for written approval;
7. that stormwater be allowed to discharge through Erf 4043, Betty's Bay, unobstructed.

  
DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES

  
DATE