



OVERSTRAND MUNISIPALITEIT
ERF 3109, SEAVIEWRYLAAN 68, BETTYSBAAI:
AANSOEK OM OPHEFFING VAN BEPERKENDE
TITELAKTEVOORWAARDE, AFWYKING EN
BEPALING VAN ADMINISTRATIEWE BOETE: FVS
STADS- EN STREEKBEPLANNERS (nms ELEPHANT
ROCK INVESTMENT TRUST)

Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoek van toepassing op Erf 3109, Bettysbaai (die eiendom), naamlik:

Opheffing van Beperkende Titelaktevoorwaarde
Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelaktevoorwaarde C.I.5.(d), soos vervat in Titelakte T14153/1995 van die eindom om die bestaande woning te akkommodeer.

Afwyking
Aansoek ingevolge Artikel 16(2)(b) van die Verordening om die straatboulyn vanaf 4m na 3,786m te verslap om die bestaande woning te akkommodeer.

Bepaling van Administratiewe Boete
Aansoek ingevolge Artikel 16(2)(q) van die Verordening om ongemagtigde oorskrydings van die bestaande woning op die eiendom te akkommodeer.

Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 and 16:30 by die Departement: Stadsbeplanning te Patersonstraat 16, Hermanus en by die Bettysbaai Biblioteek, Clarencerylaan, Bettysbaai.

Enige kommentare moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) bereik voor of op **13 Mei 2022**, met u naam, adres en kontakbesonderhede, belang in die aansoek, en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Senior Stadsbeplanner, Me. H van der Stoep** by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word om hul kommentare te formuleer.

Munisipale Bestuurder, Overstrand Munisipaliteit,
Posbus 20, HERMANUS, 7200

Munisipale Kennisgewing Nr. 39/2022

OVERSTRAND MUNICIPALITY
ERF 3109, 68 SEAVIEW DRIVE, BETTY'S BAY:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE
DEED CONDITION, DEPARTURE AND
DETERMINATION OF ADMINISTRATIVE PENALTY:
FVS TOWN AND REGIONAL PLANNERS (obo
ELEPHANT ROCK INVESTMENT TRUST)

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of the following applications applicable to Erf 3109, Betty's Bay (the property), namely:

Removal of Restrictive Title Deed Condition
Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed condition C.I.5.(d), as contained in Title Deed T14153/1995 of the property to accommodate the existing dwelling.

Departure
Application in terms of Section 16(2)(b) of the By-Law to relax street building line from 4m to 3,786m to accommodate the existing dwelling.

Determination of Administrative Penalty
Application in terms of Section 16(2)(q) of the By-Law for the unauthorised encroachments of the existing dwelling on the property.

Details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department : Town Planning at 16 Paterson Street, Hermanus and at the Betty's Bay Library, Clarence Drive, Betty's Bay.

Any comments must be in writing to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **13 May 2022**, quoting your name, address and contact details, interest in the application, and the reasons for comment. Telephonic enquiries can be made to the **Senior Town Planner, Ms. H van der Stoep** at 028-313 8900. The Municipality may refuse to accept comment received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comments.

Municipal Manager, Overstrand Municipality, P.O. Box 20, HERMANUS, 7200

Municipal Notice No. 39/2022

UMASIPALA WASE-OVERSTRAND
ISIZA 3109, 68 SEAVIEW DRIVE, BETTY'S BAY:
ISICELO SOKUSHENXISWA KOMQATHANGO
OTHINTELAYO WEMEKO YETAYITILE YOBUNINI,
UTYESHELO LOMQATHANGO KUNYE
NOKUMISELWA KWESOHLWAYO SOLAWULO: FVS
TOWN AND REGIONAL PLANNERS (egameni
ELEPHANT ROCK INVESTMENT TRUST)

Esi saziso sikhutshwe ngokuvumelana neCandelo-47 nele 48 loMthetho kaMasipala wase- Overstrand Otshintshweyo omalunga Nokuceba Kokusetyenziswa Komhlaba kaMasipala (2020) ukuba kufunyenwe ezi zicelo zilandelayo eziqikiweyo kwi- Erf 3109, i- Betty's Bay (isakhiwo), ngale ndlela:

Ukususwa kwezithintelo kwiSivumelwano soBuninimhlaba

Isicelo ngokuvumelana neCandelo - 16(2)(f) ngeMithetho Yedolophu yokususa imibandela eluqilima yetaytile yobunini- C.I.5.(d), equkiweyo kwiTaytile Yobunini i- T14153/1995 yesakhiwo ukuze kulungiselele indawo yokuhlala ekhoyo

Ukuphambuka
Isicelo ngokuvumelana neCandelo -16(2)(b) Yomthetho wedolophu wokunyeniswa komda wesakhiwo ukusuka kwisi-4m ukuya kwi-3,786m ukuze kuhlaliswe indawo yokuhlala ekhoyo.

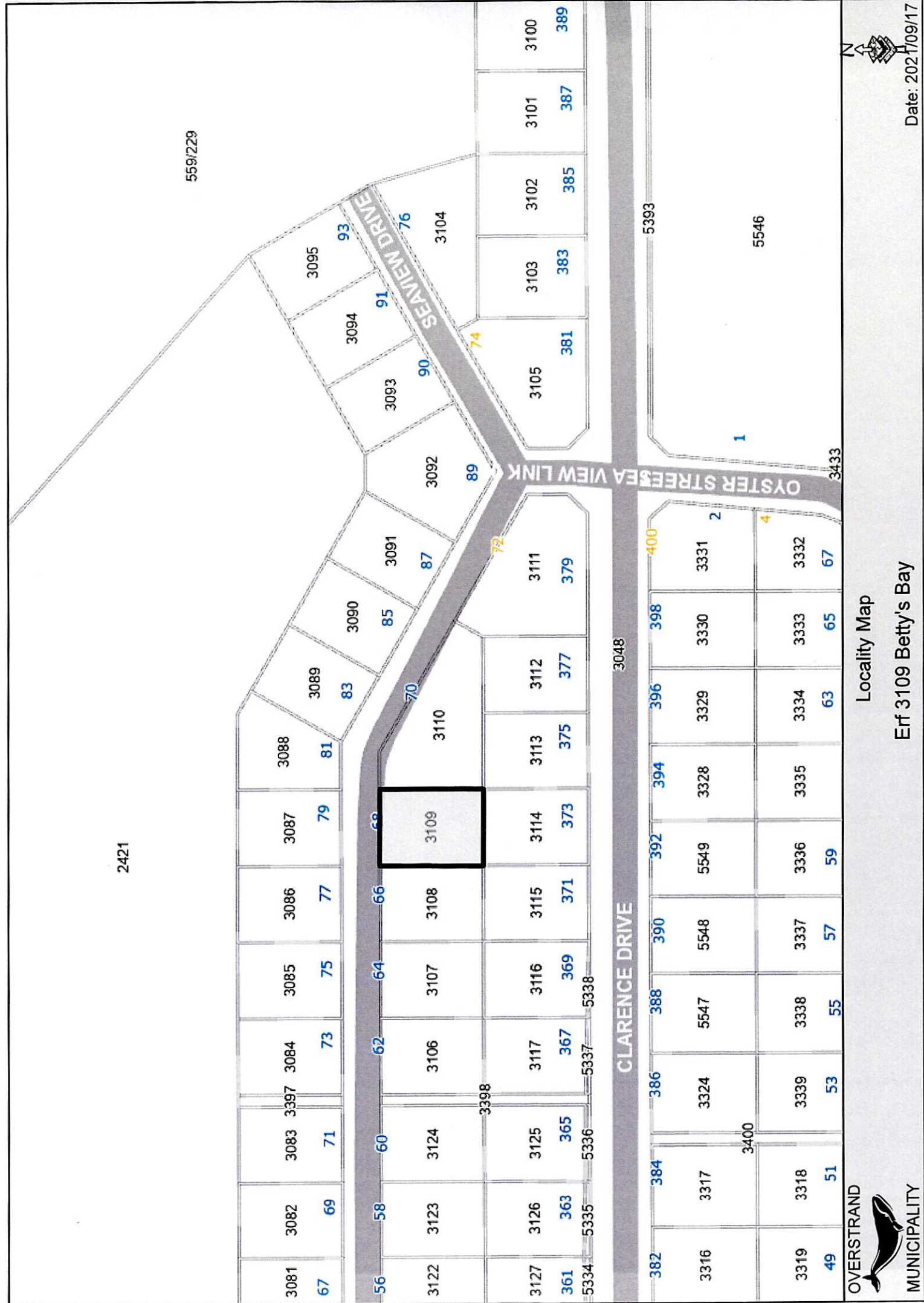
Ukumiselwa kweZohlwayo zoLawulo
Ukugqitywa kwesohlwayo ngokuvumelana neCandelo 16(2)(q) lweMithetho Yedolophu xa kutyenziswe umda womhlaba ekugabelwe kuwo ngokungekho mthethweni

Inkcukacha mayela nesindululo siyafumaneka ukuze sihlolwe phakathi evekini ngamaxesha omsebenzi ukusuka kwintsimbi ye08:00 ukuya kweye16:30 kwiSebe: Izicwangciso Zedolophu kwanombolo 16 Paterson Street, eHermanus nakwithala lencwadi e-Betty's Bay, Clarence Drive, Betty's Bay

Naziphi na izimvo ezibhaliweyo zingangeniswa ngokwezibonelelo zamaSolotyama-51 nama-52 kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngoLwesihlanu okanye ngaphambi koLwesihlanu, **13 uMeyi 2022**, ukhankanye igama lakho, idilesi, iinkcukacha ofumaneka kuzo, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Imibuzo ngefowuni ingabhekiswa ku**Mphathi kuCwangciso lweDolophu, uNksz. H van der Stoep** ku-028-313 8900. UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda okanye ukubhala angaya kwiCandelo leDolophu apho igosa likamasipala liza kumnceda avakalise izimvo zakhe ngokusemethethweni.

Umlawuli kaMasipala, Masipala waseOverstrand,
P.O. Box 20, HERMANUS, 7200

Municipal Notice No. 39/2022



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Town and Regional Planners

1. INTRODUCTION

FVS Town and Regional Planners is a professional town planning consultancy based in the Western Cape of South Africa, with project experience throughout the country. We strive to deliver town planning services to individuals, companies, and communities to create sustainable environments.

We have a combined experience of 10 years in both public sector and private sector. We can assist with all varieties of land - use related issues. With a dynamic and efficient team, we can assist with the management of both large and small-town planning projects and will be able to provide our consultation services where necessary.

1.1. Background Information

The property owner, Elephant Rock Investment Trust, contacted this office to ask for advice or assistance with a few concerns they had pertaining to their property. During a site visit and consultation, it was evident that with the proposed additions and alterations they would also have to apply for a building line relaxation, in conjunction with the removal of a restrictive title deed condition and the determination of an administrative penalty.

1.2. The Planning Brief

Application is hereby made in terms Section 16 of the Overstrand Municipal Land Use Planning By-Law for the following:

- Section 16 (2) (b) - Permanent departure from the provisions of the zoning scheme.
The existing dwelling is situated over the 4m street building line as discussed in the previous section. The street building line will thus have to be relaxed from 4m to 3.786m
- Section 16 (2) (f) - Amendment, suspension, or deletion of restrictive conditions in respect of a land unit.
The subject title deed (T14153/1995) contains a restrictive condition, namely Condition C.I.5 (d), which states the following:

"No building or structure or any portion thereof, except boundary walls and fences shall be erected nearer than 4.72m to the street line which forms a boundary of this erf, nor within 3.15m of the rear or 1.57m of the lateral boundary common to any adjoining erf..."

The subject building is situated within the above 4.72m from the street building line.

- Section 16 (2) (q) - Determination of an administrative penalty
The existing dwelling was not constructed as per the approved building plan, which will lead to the determination of an administrative penalty. Please refer to Section 3.3 of this motivation report, which will elaborate on the administrative penalty.

Please refer to the following attached Annexures:

Annexure A: Application Form

Annexure B: Power of Attorney

2. PROPERTY DETAILS

Section 2 of this report consists of the details pertaining to the ownership, locality, character of the surrounding area and the zoning.

2.1. Ownership Details

Erf 3109, Betty's Bay (Title Deed Number: T14153/1995) is currently registered in the name of THE ELEPHANT ROCK INVESTMENT TRUST and described as the following:

Erf 3109, BETTY'S BAY

In the MUNICIPALITY KANGKLIP / KLEINMOND

CALEDON Division, WESTERN CAPE

In extent: 1 338m²

Please refer to **Annexure C** for a complete copy of the Title Deed.

2.2. Locality

The application site is situated Seaview Drive in the coastal town of Betty's Bay, in the Overberg District of the Western Cape Province. Betty's Bay is approximately 90km from Cape Town located beneath the Kogelberg Mountains.

Please refer to **Annexure D** for the Locality Plan.

2.3. Character of the Surrounding Area

Betty's Bay, the area in which the application site is located, can be characterised as a predominately residential area. The immediate area surrounding the application site is predominately residential in nature, however, taking into consideration that Betty's Bay is a coastal town with the focus on tourism, there are a few B&B and self-catering facilities in the area. Please refer to Figure 1 and Figure 2 below provide a visual aspect of the immediate surrounding zonings and erven.

Betty's Bay, including other towns such as Kleinmond, Pringle Bay and Hermanus, is mainly sustained by the tourism trade and offers a wide variety of activities such as golfing, hiking, horse riding and other water related activities such as fishing and kayaking. The surrounding area is further stimulated by holiday goers coming to visit their holiday homes and a relatively large retirement community.



Figure 1: Surrounding Zonings (Overstrand Public Viewer, September 2021)



Figure 2: Aerial View and Surrounding Erf Numbers (Cape Farm Mapper, September 2021)

2.4. Zoning & Development Parameters

Erf 3109, Betty's Bay is currently zoned as Single Residential Zone 1. Please refer to the table below for an extract from the Overstrand Municipality Land Use Scheme 2020. Also, refer to the Scheme for additional parameters, such as parking, loading bays and screening pertaining to the Single Residential Zone 1.

OVERSTRAND MUNICIPALITY LAND USE SCHEME OF 2020 In terms of Section 16 of the Overstrand Municipality By-Law	
Development Parameters Erf 3109, Betty's Bay	
Zoning	Single Residential Zone 1
Primary Uses	Crèche, dwelling house, guest rooms, home occupation, second dwelling and self-catering.
Consent Uses	Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, and intensive horticulture.
Building Lines - Street	4m (erven larger than 400m ²)
Building Lines – Side and Rear	2m (erven larger than 400m ²)
Height	8m from base level
Coverage	50% (erven larger than 400m ²)
Parking	Please refer to Chapter 17.1 of the Overstrand Municipality Land Use Scheme of 2020

3. MOTIVATION

Section 3 of the motivation report deals specifically with the type of application and what will be applied for.

3.1. The Building Line Relaxation

The proposed application entails the relaxation of the street boundary building line from 4m to 3.786m for the existing dwelling on Erf 3109, Betty's Bay. The reason for the application to relax the subject building line is due to the fact that the existing dwelling was not constructed as per the approved building plan. The dwelling now situates in the street building line, approximately 3.786m from the street boundary of Erf 3109. Please see the figure below:

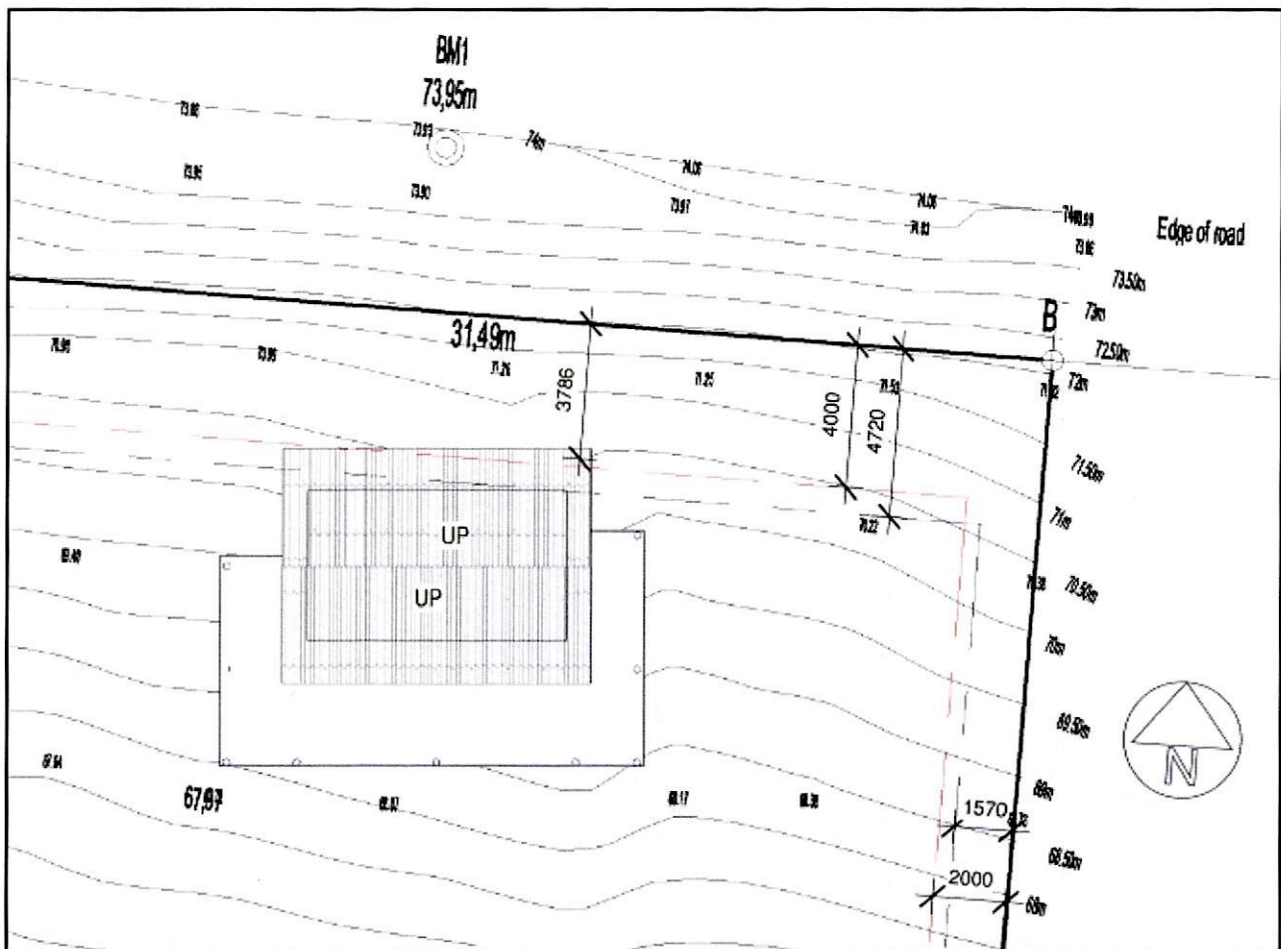


Figure 3: Extract from the proposed building plan, Plan no.: BB3109/21

From the figure above it is evident that the existing dwelling is situated over the street building line. It is important to note that the dwelling is still more than 3m from the erf boundary, which will not have a detrimental impact on the traffic flow (of Seaview Drive) as the application site is relatively large in extent and will not result in vehicles being parked in the road reserve of Seaview Drive.

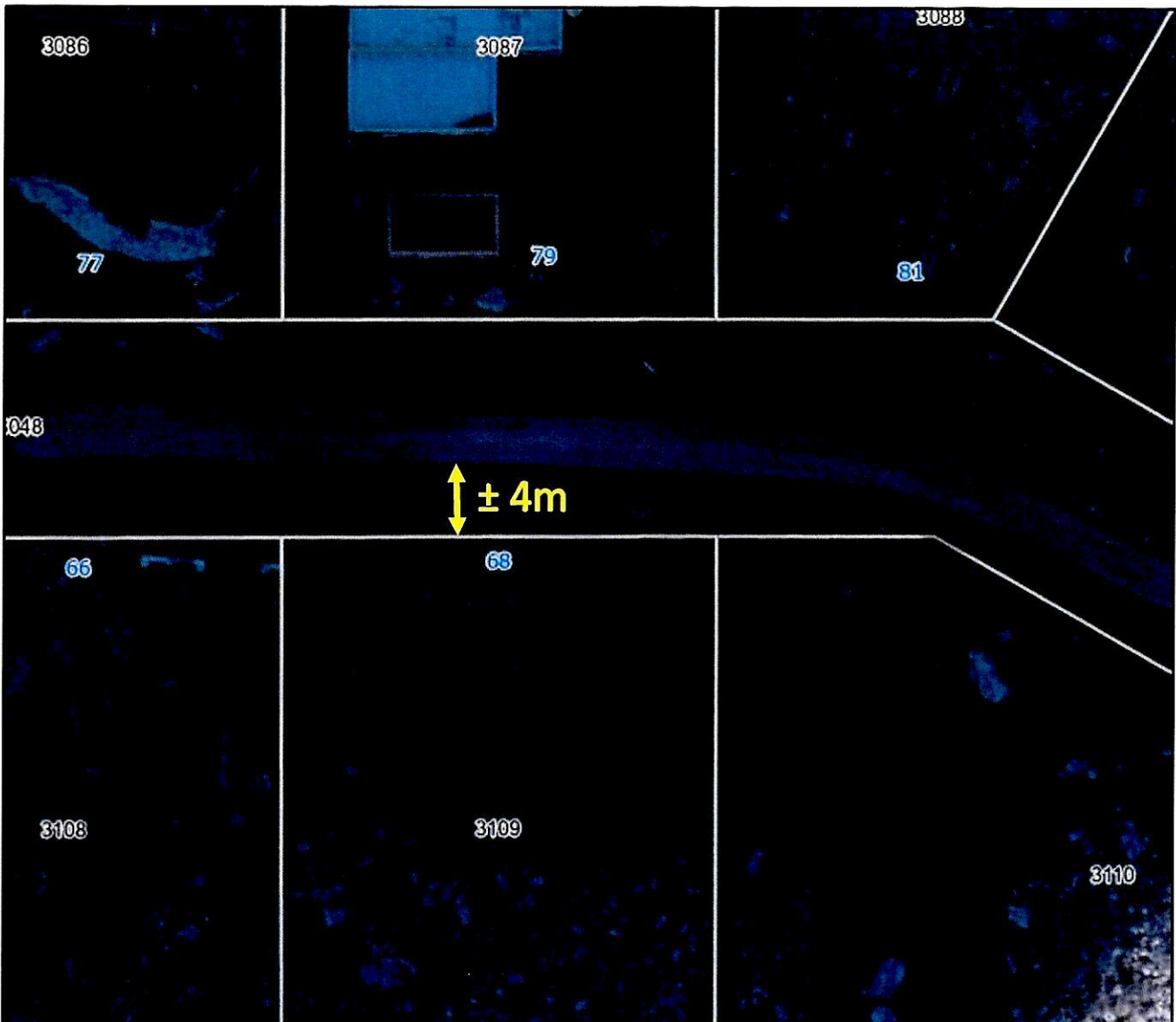


Figure 4: Road Reserve width of Seaview Drive, Betty's Bay (Overstrand Public Viewer, October 2021)

3.2. Removal of Restrictive Title Deed Condition

The subject Title Deed (T14153/1995) contains a restrictive condition that is currently prohibiting this application from being approved. The condition being referred is Condition C.I.5 (d), and reads as follow:

"No building or structure or any portion thereof, except boundary walls and fences shall be erected nearer than 4.72m to the street line which forms a boundary of this erf, nor within 3.15m of the rear or 1.57m of the lateral boundary common to any adjoining erf..."

The full inscription can be viewed in the title deed, attached hereto as Annexure C.

The removal of said restrictive condition is not deemed to have a negative impact on the surrounding community as it is deemed as a minor restrictive condition, meaning that the impact will be less than that of a more restrictive

condition. As with the relaxation of the street building line, the dwelling was not constructed according to the approved building plan. The surrounding community will thus not be impacted in a negative manner as the dwelling is in the same position for several years now, without any negative impact on the traffic flow of Seaview Drive, decrease in privacy on the abutting neighbours and overall character of the surrounding area.

The requirements of LUPA have also been taken into consideration and is required to be addressed in terms of Section 39 (5) (a-f)

(a) 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 vest in the person as the owner of a dominant tenement.

The applicant will from the removal of the restrictive title deed condition as the restrictive condition does not have any real financial value.

(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;

The holder and the person that is supposed to benefit from the restrictive title deed condition is the registered owner

(c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;

The applicant will be gaining from the removal of the restrictive condition as the dwelling was constructed in the incorrect position and will now allow the property owner to proceed with alterations to his dwelling.

(d) the social benefit of the restrictive condition remaining in place in its existing form;

The restrictive condition does not have a social impact and there will be no social benefit if the condition remains in place.

(e) the social benefit of the removal or amendment of the restrictive condition;

The restrictive title deed condition does not have any social benefits.

(f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

The development parameters of the Overstrand Municipal Land Use Scheme will remain and will thus have to be always adhered to.

3.3. Determination of an Administrative Penalty

In accordance with Section 90 (3) of the By-Law, the following must be provided, to the satisfaction of the Municipality:

- The nature, duration, gravity, and extent of the contravention.
- The conduct of the person (allegedly) involved in the contravention.
- A report by a quantity surveyor in matters of unauthorised building/construction.
- Whether the unlawful conduct was stopped.

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

It should be noted that the current property owner is not the one that is in contravention with the By-law and that the “illegal building work” was conducted by the previous owner of the subject Erf. It is further important to take into consideration that the existing dwelling house was not constructed without approved building plans but was not constructed in accordance with the approved plan. This could have been due to an error made by the builder of the dwelling, and blame should not be placed on the current owner of Erf 3109, Betty’s Bay.

Mitigating Factors:

- The property owner has accepted the administrative penalty and is determined to comply with the local authorities.
- No detrimental impact on the surrounding community is caused by the existing dwelling and has not resulted in a negative impact on the traffic flow of Seaview Drive.
- No complaints from the surrounding property owners were received.
- The application has resulted in significantly high application fees for the property owner and should thus not have to suffer an additional cost due to the incorrect construction of the previous owners.

It is the opinion of this office that the property owner is not at fault and should thus not suffer the consequences of somebody else’s actions. This office further requests of Council the favourable consideration of this application.

4. LEGISLATION

Section 3 of this report consists of the details pertaining to the subject property, such as its locality and ownership details and the property.

4.1. Forward Planning

Western Cape Provincial SDF, 2005 & 2009

The Western Cape Provincial Spatial Development Framework (WCPSDF) is a structured plan approved in terms of Section 4(6) of the Land Use Planning Ordinance, aimed at providing spatial expression to the Provincial Growth and Development Strategy.

The guiding principle of the Western Cape Provincial Spatial Development Framework (WCPSDF) is sustainable development. Accepted international consensus is that sustainability consists of three pillars, often referred to as the “triple bottom line”, namely “economic efficiency/prosperity”, “ecological integrity” and “social equity”.

Sustainability encompasses all three pillars. Ecological integrity or social equity alone does not constitute sustainability. The triple bottom line propagates a holistic approach. The WCPSDF contains several objectives. These are:

- Align the future settlement pattern of the province with economic potential and the location of environmental resources e.g., the Provincial urbanisation strategy.
- Optimise the provincial settlement pattern concerning where people live, the availability of resources and future economic potential for growth.
- Economic development locations - Tourism within the whole Province with Tourism Development Areas (TDAs) and golf and eco-estates inside urban edges.
- Combined road and rail transport corridors - Transport corridors containing both road and rail routes should be developed as primary freight and passenger routes and settlements along these linkage corridors should generally be Priority Fixed Investment Urban Settlements.
- Deliver human development programmes and basic needs programmes wherever they may be required.
- Strategically invest scarce public resources where they will incur the highest socio-economic returns (e.g., Priority Fixed Investment Urban Settlements - Settlements that show high economic growth potential and have high population thresholds shall be prioritised as locations for fixed infrastructure investment).
- Support land reform.
- Conserve and strengthen the sense of place of important natural, cultural, and productive landscapes, artefacts, and buildings (e.g., appropriate architectural character - foreign and unsympathetic styles shall be discouraged in urban settlements and rural areas to strengthen the local sense of place and minimise visual impact).
- End the apartheid structure of urban settlements (e.g., through densification).
- Conveniently locate urban activities and promote public and non-motorised transport (e.g., through the integration of urban activities).
- Protect biodiversity and agricultural resources (e.g., through land use management).
- Minimise the consumption of scarce environmental resources, particularly water, fuel, building materials, mineral resources, electricity, and land (e.g., through water conservation).

Notwithstanding the above, it should be noted that the WCPSDF defines guidelines as “policies that are intended as general developmental goals and whose detailed implementation may vary due to place specific conditions and therefore requiring a certain amount of flexibility in their application.” The WCPSDF has as one of its goals to be sensitive to the principle of co-operative governance and recognise that the detailed implementation of principles and policies must occur at the local authority (municipal) level.

Although the above WCPSDF does not impact directly on this application, it is important to note that it does state that the implementation of principles and policies lies with the local authority, in this case, Overstrand Municipality. This application is thus to rectify the wrong, by no fault of the property owner, but by the individuals that were part of the construction of the existing dwelling.

Integrated Development Plan (May 2020)

The Overstrand Municipality Integrated Development Plan (IDP) is aimed towards addressing the development needs of our communities with clearly defined strategic objectives and performance indicators. These strategic objectives are as follows:

- The provision of democratic, accountable, and ethical governance
- The provision and maintenance of municipal services
- The encouragement of structured community participation in the matters of the municipality
- The creation and maintenance of a safe and healthy environment
- The promotion of tourism, economic and social development.

The proposal is aimed at rectifying the wrong. Should the application be considered favourably it could lead to the social development of the surrounding, as the property owner can then expand his existing dwelling. The proposal is further not deemed to impact negatively on the health and safety of the environment and surrounding community, which is one of the strategic objectives of the IDP.

4.2. Planning Principles

The proposed development supports the principles of Chapter VI (Article 59) of the Land Use Planning Act (LUPA), Act 3 of 2014, and Chapter 2 (Article 7) of the Spatial Planning and Land Use Management Act (SPLUMA), Act 16 of 2013, as follows:

Spatial Justice

Refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services, and land.

The proposed application will not contribute to the perpetuation of past apartheid spatial development imbalances.

Spatial Sustainability

A spatially sustainable settlement will be one which has an equitable land market while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity-rich areas, as well as scenic and cultural landscape and ultimately limits urban sprawl.

Spatial Sustainability is not applicable to this application as the subject erf is not located on viable agricultural land or in an environmentally sensitive area.



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Efficiency

Efficiency refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources, and land.

The proposal will not require any additional infrastructure in terms of services, as proven under Section 4.4 of this motivation report. Furthermore, the application site is located in an already developed settlement.

Spatial Resilience

Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems that should enable the communities to be able to resist, absorb and accommodate economic and environmental shocks and to recover from these shocks in a timely and efficient manner.

The proposed development is well aligned with the spatial plans and policies and that will enable the subject property to be able to resist, absorb and accommodate environmental and economic shocks and recover from shocks in a timely and efficient manner.

Good Administration

Good administration in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure a joint planning approach is pursued.

The proposed development will promote consultative planning as the Municipality will advertise the proposal to the public to allow the comments of the public to be taken into consideration. FVS Town and Regional Planners will also respond to the comments of the public and take the comments into consideration in the planning of the project.

This section outlines how the proposed development is aligned with the core planning principles as outlined in SPLUMA and LUPA. The proposed can therefore be viewed as encompassing and promoting all planning principles.

4.3. NEMA

NEMA reiterates the provisions of Section 24 of the Constitution and contains the internationally accepted principles of sustainability. It is therefore a legal requirement that these principles must be taken into consideration in all decisions that may affect the environment. Furthermore, the need for intergovernmental co-ordination and harmonisation of policies, legislation, and actions relating to the environment, is emphasised.

It is also important to note that the Best Practical Environmental Option (BPEO) is defined in NEMA as “the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as the short term”.

The proposal is therefore not deemed to harm the physical and natural environment as the dwelling has stood on the subject erf for several years, in an already established residential area.



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4.4. Impact on Municipal Services

The proposal is not deemed to have a negative impact on the municipal engineering services. The application site is well serviced, and the proposal is not deemed to have an additional impact on the municipal services. See hereunder the use of each of the services:

Water

The application site is already connected to the existing water network of the Overstrand Municipality, providing services to the surrounding neighbourhood.

Electricity

Erf 3109 is currently supplied with sufficient electrical needs as currently supplied by Eskom, and no increase is foreseen.

Sewerage

The application site is connected to the Overstrand Municipal sewage network providing services to the neighbourhood.

Surface Water

All surface water will be accommodated on the property and will be channelled via the Overstrand Municipality Stormwater system of the town, as is the current situation.

Access

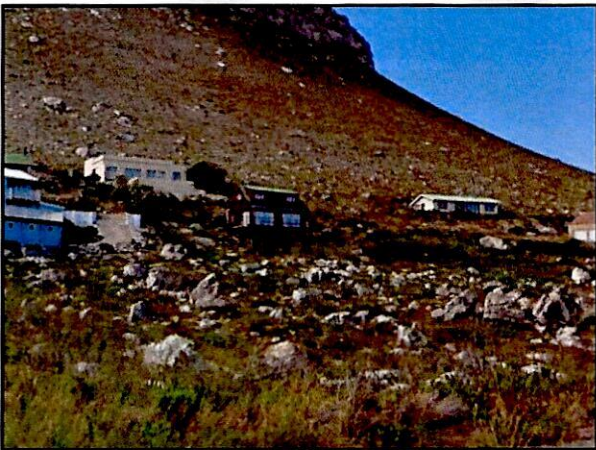
Access will be obtained via Seaview Drive, Betty's Bay, as is currently the case.

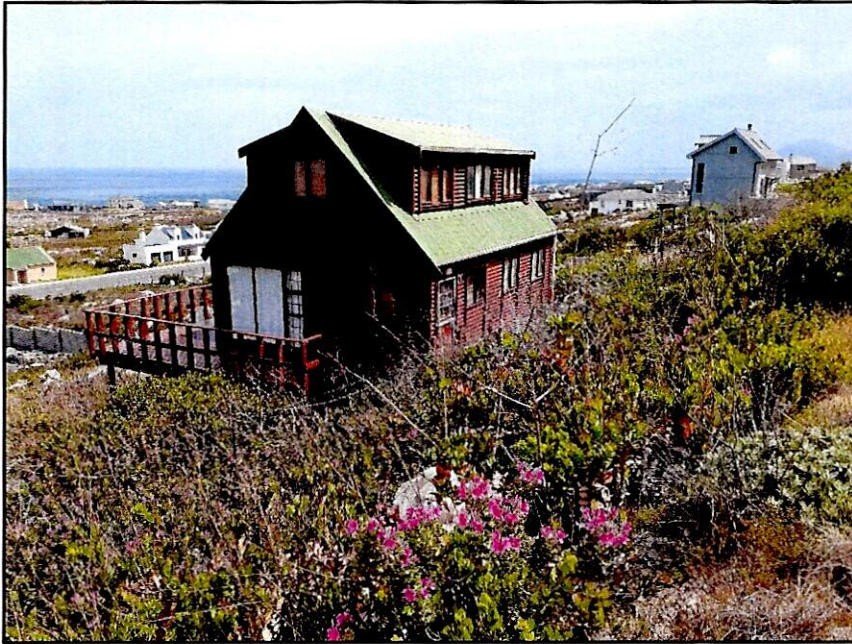
4.5. Photos of the Site



Photo 1, 2 & 3:

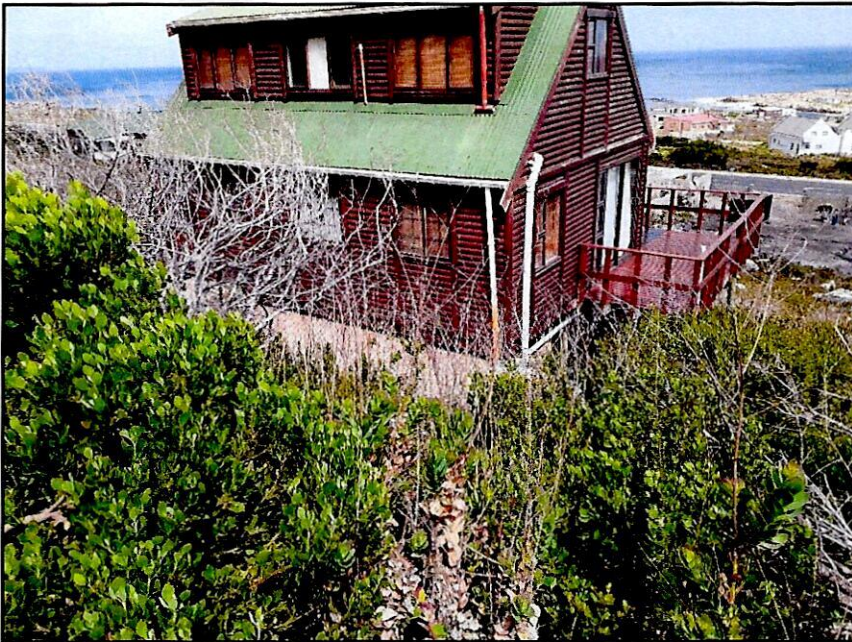
Subject property as can be viewed from Clarence Drive (R44). Please see figure below for an indication from where the photos have been taken.





Photos 4 & 5:

Photos 4 & 5 provide clarity on area of contravention, taken from Seaview Drive.



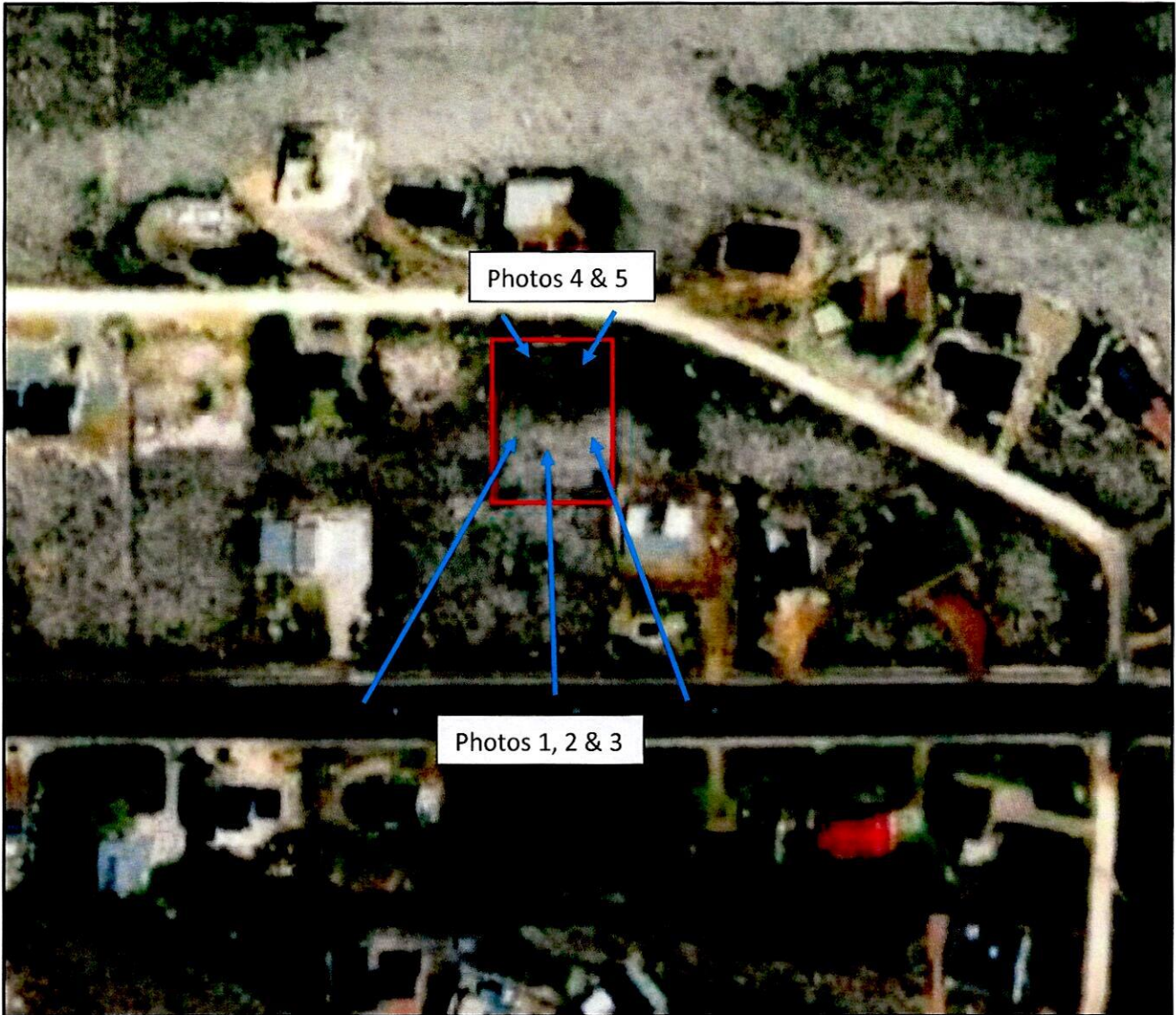


Figure 5: Direction of Photos (Cape Farmmapper, 2021)

5. DESIRABILITY

In terms of Section 55 (b) and Section 55 (c) of the Western Cape Land Use Planning Act, 2014, an application can be refused based on whether it is undesirable. The measure to assess the desirability of the application is the consistency of the application with spatial development frameworks, applicable structure plans, the planning principles and guidelines issued by the Provincial Minister regarding the desirability of the proposed development.

The proposed development needs to be desirable and consistent with the logical character of the area and surrounding properties and must add value for the owner and the community.

The Department of Environmental Affairs and Development Planning (DEADP) published a Guideline on Need and Desirability as part of the EIA Guideline and Information Document Series. Although this application does not include an environmental authorization, the desirability guidelines set out in the document are also applicable in planning and thus appropriated to use in this land-use planning application.

To evaluate the proposed land use activity, the layout of the current and proposed activities should be scrutinized within of what is proposed. In terms afore mentioned, several questions need to be asked concerning the need and desirability of a proposal, which includes the following:

Need and Desirability Measure	Yes / No	Applicability to the subject property
<i>Is the land use considered within the timeframe intended by the existing approved SDF agreed to by the relevant environmental authority?</i>	Yes	The proposed development is within the existing timeframe intended by the existing approved SDF. The spatial planning initiatives section of this report will also motivate how the proposal is well aligned with the core principles of the SDF.
<i>Does the community / area need the activity and the associated land use concerned?</i>	Yes	Due to the small scale of the proposal, it is deemed that the application will not have a detrimental impact on the surrounding community or the greater Betty's Bay area
<i>Are the necessary services with adequate capacity currently available, or must additional capacity be created to cater for the development?</i>	Yes	There are existing services available for the application site that have adequate capacity and there is no need for the provision of additional service capacity.
<i>Is this development the best practicable environmental option for this land/site?</i>	Yes	The proposed development will not have any adverse impact on the environment as the property will be utilised sustainably. The proposed development can, therefore, be deemed as the best practicable environmental option for the property.

Need and Desirability Measure	Yes / No	Applicability to the subject property
<i>Would the approval of this application compromise the integrity of the existing approved and credible municipal IDP and SDF as agreed to by the relevant authorities?</i>	No	The proposal is well aligned with the approved municipal SDF and IDP as the spatial planning initiatives section of this report will prove.
<i>Do location factors favour this land use?</i>	Yes	The location and land use are in line with any neighbourhood property.
<i>How will the activity or the land use associated with the activity applied for, impact on sensitive natural and cultural areas?</i>		The proposed application is on land which is outside the sensitive natural and disturbed areas of the property. The property is within the urban edge of Betty's Bay and already developed.
<i>Will the proposed activity or the land use associated with the activity applied for, result in unacceptable opportunity costs?</i>	No	The proposed development will not result in an unacceptable opportunity cost.
<i>Will the proposed land use result in an unacceptable cumulative impact?</i>	No	The proposed development will not result in an unacceptable cumulative impact on society, the environment, and the economy of the property and surrounding area.

The table above indicates that the proposed development is aligned with the core principles of the SDF, no additional services are required, and no additional capacity needs to be created due to the proposal, and location factors favour this land use. The proposal will also not harm the sensitive natural and cultural areas. The proposed development can, therefore, be deemed to be aligned with the principles of desirability as stipulated above.

6. CONCLUSION

The motivational report has provided a clear and complete analysis of the land use proposal. It was proven that the application is desirable and will not in any way adversely impact on the existing landscape.

It was also proven that the proposal is well aligned with the spatial planning initiatives and consistent with the planning principles set out in LUPA and in SPLUMA.

The following reasons of approval should also be taken into consideration when evaluating the feasibility of the proposed application:

6.1. Reasons for Approval

- No additional Municipal Services will be required, and no additional capacity increase is foreseen.
- The removal of the restrictive title deed condition is not deemed to have a negative impact on the surrounding community as discussed under Section 3.2 of this motivation report.
- Although the property owner is in contravention of the By-law, it should be taken into consideration that it is the first offence committed by the property owner.
- The character of the surrounding area will remain as is, as the dwelling is on the subject property for several years now.
- No negative impact on the abutting neighbours, as no complaints have been received by the property owner, nor will the proposal have a detrimental impact on the surrounding community's health and safety.

Considering the above information, Council is respectfully requested to favourably consider the application for the following:

- *Approval for the proposed building line relaxation, removal of restrictive title deed condition, and determination of the administrative penalty in terms of the Overstrand Municipality Land Use Planning By-law on Erf 3109, Betty's Bay.*

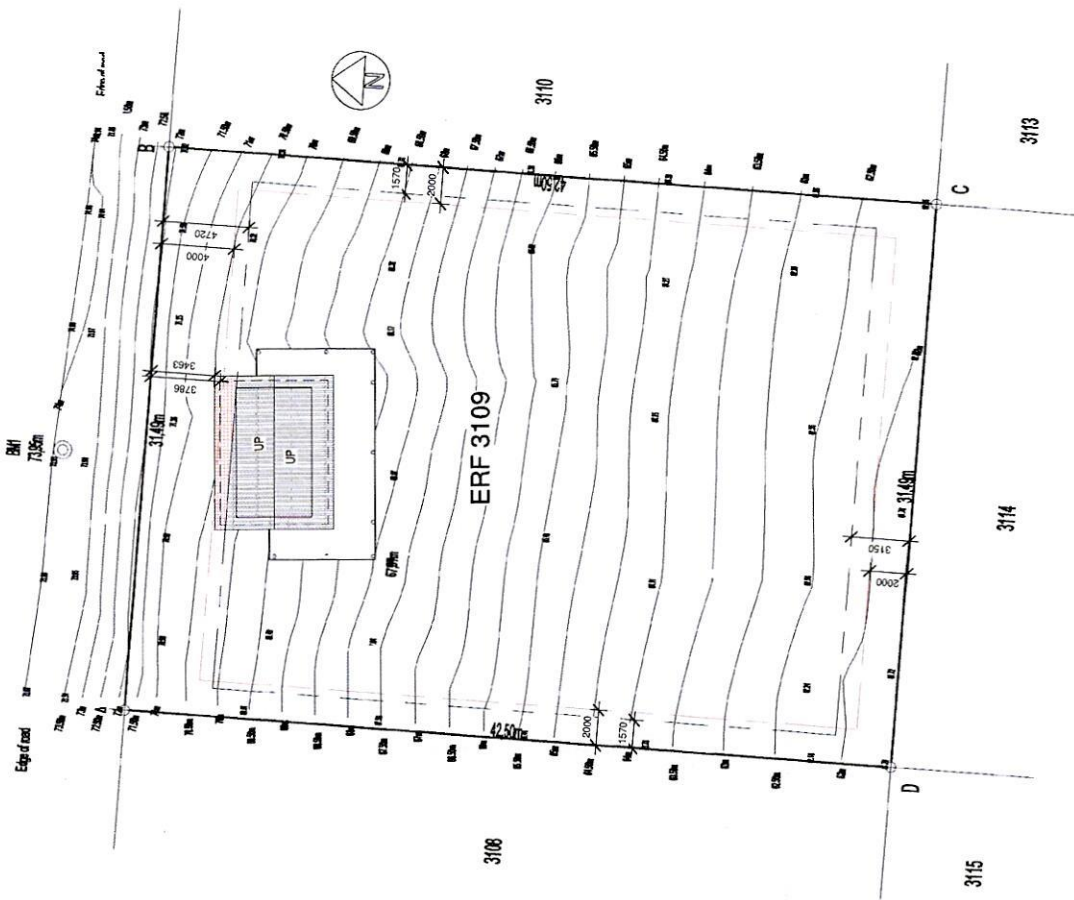
Kind Regards,



Jaco van Schaalkwyk

Director of FVS Town and Regional Planners

Sea View Drive



C. MURPHY
ERF 3109
SEAVIEW DRIVE
BETTY'S BAY

COUNCIL DRAWINGS	
Project nr	BB3109/21
Date	10/11/2021
Drawn by	PJM
Pro Arch D	20652
A101	
Scale	1 : 200

1 SITEPLAN
1 : 200