

## 4.3

**ERF 4413, 4 LACHENALIA ROAD, BETTY'S BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, REZONING, SUBDIVISION AND DEVIATION FROM THE OVERSTRAND MUNICIPAL GROWTH MANAGEMENT STRATEGY, 2010: MESSRS WRAP ON BEHALF OF BS MCLEOD**

4413 KBB

H van der Stoep

2 March 2021

(028) 313 8900

Hermanus Administration

## 1. EXECUTIVE SUMMARY

An application was received on 20 January 2020 from Messrs WRAP on behalf of BS Mcleod on Erf 4413, Betty's Bay 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, B.7.(a), B.7.(b), B.7.(d), B.8, B.8.(a), B.8.(b), B.8.(c), B.9 and B.10 as contained in Title Deed T5778/2020 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 building comprising shops and business premises 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.(a) No building or structure or any portion thereof above the ground floor, may be entered within 5 meters or half the height of the building, whichever is the greater, from the lateral or rear boundary of the erf, provided that that portion of the lateral boundary which is situated within 13m of a street boundary, shall be exempt from this requirement.*
- B.7.(b) Not more than 80% of the area of this erf shall be built upon, provided that any floor used wholly or in part for residential purposes shall not have a total floor area of more than half the area of the erf.*
- B.7.(d) The design and external appearance of the façade of any building erected on this erf shall conform to such canopy and cornice lines as the local authority may prescribe and the materials used in the facing thereof shall be in conformity with standards laid down by the local authority.*
- B.8. No residential accommodation shall be provided on this erf, unless provision shall simultaneously be made, to the satisfaction of the local authority, for parking bays to accommodate not less than one motor-car for every flat or in the case of other residential accommodation for every two bedrooms contained in the building, provided that.*

- B.8.(a) If situated under the building the said parking area shall not be enclosed for more than 50% of its perimeter.*
- B.8.(b) The said parking area and the access and exit thereto shall be located, hardened and surfaced to the satisfaction of the local authority.*
- B.8.(c) If in erecting his buildings the owner provides lock-up garages on the erf, the required parking area may be reduced by one parking bay for each garage up to a maximum of 75% of the original area required in terms of the foregoing.*
- B.9. On consolidation of this erf or any portion thereof with any abutting erf which is subject to the same conditions as herein set forth these conditions shall apply to the consolidated holding as if it was one erf.*
- B.10. In the event of this erf being subdivided each subdivided portion, other than any portion deducted for road or similar purposes, shall be subject to the conditions herein set forth as if it were the original erf.”*
- Rezoning in terms of Section 16(2)(a) of the By-Law to rezone the property from Business Zone 3: Local Business to Residential Zone 1: Single Residential.
  - Subdivision in terms of Section 16(2)(d) of the By-Law to subdivide the property into 3 portions, namely Portion A ( $\pm 602\text{m}^2$ ), Portion B ( $\pm 793\text{m}^2$ ) and the Remainder ( $\pm 818\text{m}^2$ ).
  - Deviation from Overstrand Municipal Growth Management Strategy, 2010 in terms of Section 10 to deviate from the density prescript of 5,1 dwelling units per hectare to permit the proposed maximum density of 27,1 dwellings units per hectare (additional dwelling units included).

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, while the proposed Site Development Plan is attached as Annexure C. The Title Deed is attached as Annexure D.

## **2. DECISION AUTHORITY**

Municipal Planning Tribunal

## **3. BACKGROUND / SITE HISTORY**

The erf is located in Betty's Bay Extension 5, established 13 October 1972 on the corner of Lachnenalia and Ixia Roads. The erf is zoned Business Zone 3 and surrounded by Residential Zone 1 erven. The residential erf sizes vary from approximately  $600\text{m}^2$  to  $1000\text{m}^2$  with an average erf size of  $710\text{m}^2$ .

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

The motivation can be summarized as follows:

Intent

- There are four (4) commercial properties within a radius of 1,2km that are vacant. This illustrates that there has historically never been a demand for commercial land uses within the vicinity.
- Viable commercial land uses are located along Clarence Drive in various commercial nodes. Any commercial outside of Clarence Drive is not seen as viable.
- The dominant residential character will be unduly disrupted with commercial land uses.
- Considering the property is 35m from the Grootvei lagoon, the establishment of commercial activities is uncommon in such close proximity.

**The proposed removal of restrictive conditions is motivated as follows:**Condition: B.6.

*“This erf shall be used solely for the purpose of erecting thereon a building comprising shops and business premises 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 and subdivision which is the rationale for the removal thereof.

This title deed condition was inserted in 1977 under the assumption that the western side of Betty’s Bay would function as a settlement which has individual commercial zonings which are dispersed. The current development trend in the area is that there has been two thirds uptake of the residential erven within a 1,2 km radius from the subject property and none of the commercial areas have been developed. This illustrates that the development trends and pressures in Betty’s Bay on the west are not for commercial land uses, but for residential. The restrictive title deed condition is therefore not responsive to the prevailing development pressures of the area which justifies the removal thereof.

Condition: B.7.(a)

*“No building or structure or any portion thereof above the ground floor, may be entered within 5 meters or half the height of the building, whichever is the greater, from the lateral or rear boundary of the erf, provided that that portion of the lateral boundary which is situated within 13m of a street boundary, shall be exempt from this requirement.”*

Rationale for the removal:

This restrictive title deed condition is not in harmony with the building lines of the Overstrand Municipal Zoning Scheme (OMZS) and is more onerous.

This title deed condition was inserted in 1977 for commercial properties and will become irrelevant when the property is rezoned to residential. Considering that the land use rights sought are for residential purposes, the building lines relating to how commercial land uses developed in 1977 are inappropriate for what is applied for. Notwithstanding the above, current commercial development trends are for commercial land uses to be located close to the street boundary to create a close-knit interaction between the customers in the buildings and the pedestrians.

Condition: B.7.(b)

*“Not more than 80% of the area of this erf shall be built upon, provided that any floor used wholly or in part for residential purposes shall not have a total floor area of more than half the area of the erf.”*

Rationale for the removal

This title deed condition is not in harmony with the provision of the OMZS.

This title deed condition was inserted in an era when the prevailing development pattern was the promotion of monofunctional land uses where different coverages were applicable to the different uses. The current development trends which are promoted by modern planning policies are mixed uses which provide a greater degree of coverage flexibility due to the increased pressures which urbanisation places for unlocking additional residential units. The removal of this restrictive title deed condition would confer an SR1 zoning on the subject property and enable future coverage departures if deemed necessary without having to submit a removal of restriction application

Condition: B.7.(d)

*“The design and external appearance of the facade of any building erected on this erf shall conform to such canopy and cornice lines as the local authority may prescribe and the materials used in the facing thereof shall be in conformity with standards laid down by the local authority.”*

Rationale for the removal

This restrictive title deed condition was inserted with the intent of ensuring that all buildings to be constructed in Betty’s Bay were of high architectural integrity. The National Building Regulations and Building Standards Act no. 103 of 1977 and the OMZS contains regulations pertaining to external appearance of the facade, canopies, cornice lines and materials used in construction. The insertion of this restrictive title deed condition is therefore not necessary which justifies the removal thereof.

Condition: B.8

*“No residential accommodation shall be provided on this erf, unless provision shall simultaneously be made, to the satisfaction of the local authority, for parking bays to accommodate not less than one motor-car for every flat or in the case of other residential accommodation for every two bedrooms contained in the building, provided that.”*

Condition: B.8.(a)

*“If situated under the building the said parking area shall not be enclosed for more than 50% of its perimeter.”*

Condition: B.8.(b)

*"The said parking area and the access and exit thereto shall be located, hardened and surfaced to the satisfaction of the local authority."*

Condition: B.8.(c)

*"If in erecting his buildings the owner provides lock-up garages on the erf, the required parking area may be reduced by one parking bay for each garage up to a maximum of 75% of the original area required in terms of the foregoing."*

Rationale for removal:

These parking standards were inserted in 1977 at a time when vehicle ownership was lower than it is currently. This was done to ensure that property owners do not park in the street as that would interfere with the traffic and movement networks.

Vehicle ownership is generally much higher today than it was in 1977. This has subsequently led to parking standards in Zoning Schemes increasing to respond to that. The parking standards which are imposed by the OMZS are higher than the standards in the Title Deed and more responsive to the higher vehicle ownership which is prevalent in Betty's Bay. The removal of this title deed condition is therefore justified as it is in harmony with current development trends and pressures.

Condition: B.9

*"On consolidation of this erf or any portion thereof with any abutting erf which is subject to the same conditions as herein set forth these conditions shall apply to the consolidated holding as if it was one erf."*

Condition: B.10

*"In the event of this erf being subdivided each subdivided portion, other than any portion deducted for road or similar purposes, shall be subject to the conditions herein set forth as if it were the original erf."*

Rationale for removal

The title deed conditions referred to in Section 8.5 are explaining standard conveyancing procedure and are therefore not necessary.

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.**

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

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

There are no personal benefits which accrue to the holder of these restrictive title deed conditions.

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

The purchaser will be able to derive an income from the approval and implementation of this proposal; and the approval and implementation of this proposal will provide the purchaser with a sense of purpose.

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

There is no social benefit if the restrictive conditions remain in place.

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

Employment will be created during the construction phase; and additional residential opportunities will be created which will benefit prospective property buyers.

**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.**

There are no rights which are enjoyed by any member of the society and the removal of these restrictive conditions do not constitute a deprivation of rights.

**The proposed subdivision and rezoning are motivated as follows:**

- The applicant envisaged the subdivision of the erf into three (3) portions and construct the dwellings in accordance to the Residential Zone 1 parameters. The application presents the opportunity for infill development in the area which the applicant wants to capitalise on.
- The property is vacant and contributes little to rates and taxes. The approval and construction of homes will substantially increase the value of the property.
- The additional three (3) families will contribute to the reduction in crime pertaining to additional surveillance.
- The additional properties will not result into additional cost to the owners of Betty's Bay.
- The proposed three (3) portions will not be to the detriment of the surrounding properties due to the conformity of the with the surrounding.
- The development parameters of the proposed subdivision erven will be similar to surrounding erven and will not interfere with views, sunlight and character.
- Investment will occur in the construction of will be labour intensive and assist in the reduction of poverty.
- No listed environmental activities are triggered.

**Services:**

Access will be obtained from both Lachenala- and Axia Roads.

Services will be provided to the newly created erven as stipulated by the Municipality.

**Forward Planning:**

- Spatial development Framework: (2020)

The erf is located in an area earmarked for residential development.

o Overstrand Growth Management Strategy: (2010)

The erf is located in Planning Unit 3 which prescribed density of 5,1 dwelling units per hectare. The subdivision of the property into three (3) erven would increase the proposed density to 13,5 units per ha if one dwelling is constructed. The density would increase to 27,1 units per ha should the owner act upon the primary SR1 land use right of constructing a second dwelling unit. The existing erf is out with the average erf sizes of the surrounding properties and the alignment which this proposal will bring about with the surrounding would contribute positively to the character of the area.

**Planning Principles:**

Spatial Justice:	The subdivision will create an opportunity for future landowners to obtain land.
Spatial Sustainability:	The subdivision 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 while conforming to the residential character of the surroundings.
Spatial Resilience:	The application is in line with the PSDF and SDF principles of resilience. The proposal is consistent with the surrounding erf sizes but inconsistent with the density.
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>	28 August 2020	2 October 2020
Local newspaper	<b>Yes</b>	27 August 2020	2 October 2020
Registered notices	<b>Yes</b>	27 August 2020	2 October 2020
Ward councillor	<b>Yes</b>	27 August 2020	2 October 2020
Total comments	<b>SIX (6)</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	23/10/2020	Refer to Local Heritage.
Local Heritage Committee	5/02/2021	Supported.
Fire Department	27/08/2020	No objection.
Engineering Services	26/01/2021	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 six (6) individuals:

- B van de Ghinste
- C & A Moine
- DE & LCG Shaw
- JH & MW Broom
- H van Rensburg
- JM Biggs

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

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

### 1. **Objection: B Van de Ghinste:**

- (a) *The calculation of the average erf size is misleading, since of Portion A is closer to 600m<sup>2</sup> and is too small.*
- (b) *The densification from 5,1 units per ha to 27 units per ha is not supported. It is not in keeping with the surrounding properties.*
- (c) *The document refers that the plot is not visually appealing. The area is part of the Kogelberg Biosphere Reserve and wish that any development should preserve the vegetation and its natural surroundings.*

### Applicant's response

- (a) The calculation was based on the average size of the surrounding erven. Section 7 of the Report indicates that the smallest erf is 585m<sup>2</sup>, which nullifies the assertion that the proposed erf size is too small.
- (b) The densification sought in the application as per the following calculations:  
An erf measuring 710m<sup>2</sup> with a second dwelling relates to 28 units per ha. The proposed subdivision of the increase to 27,1 units per ha is within the present densification of the surrounding erven (the area demarcated) which nullifies the

concerns raised. The present situation within the demarcated area to establish the average size property is at 27 units per ha and the subdivision will not densify the area any further.

- (c) The proposed development will adhere to the Overstrand Zoning Development Parameters for Single Residential e.g., 50% coverage and 2m building lines.

Town Planner's response

- (a) The report indicated that the average size of erven is more than 700m<sup>2</sup> and then indicated Portion A as 602m<sup>2</sup>, which is still larger than the smallest erf in the delineated area.
- (b) Erf 4413 is located in Betty's Bay Extension 5, which consists of 165 erven, excluding 5 open space erven and streets and equates to 121 687m<sup>2</sup> in extent as per General Plan No 8269, dated 1971. The Growth Management Strategy stipulates that Planning Unit 3 has a density of 5,1 units per ha. Planning Unit 3 consists of Betty's Bay Extensions 2 to 7, Silver Sands and Stoney Point.

The calculation to establish the average erf size of Extension 5 is as follows:

- $121687\text{m}^2 / 165 \text{ erven} = 737 \text{ m}^2/\text{erf}$ .
- The density at present is  $10000\text{m}^2 / 737\text{m}^2 = 13,5 \text{ du/ha}$ .
- The application erf is  $2213\text{m}^2 / 3 \text{ erven} = 737 \text{ m}^2/\text{erf}$ .
- The density is  $10\ 000 / 737\text{m}^2 = 13,5 \text{ du/ha}$ .
- The application report made reference to 27,1 du/ha and the reason is that should a second dwelling be built on each erf, the density will be doubled.

Betty's Bay Extension 5 proclaimed in 1972 has a density of 13,5 du/ha.

- (c) Noted and agreed.

**2. Objection: DE and LCG Shaw**

- (a) *Subdivision into three (3) plots will be an overdevelopment of the erf that would mean that the new buildings will be erected very close to building lines, now 2m. The density of the housing is not in keeping of the current developments.*
- (b) *The subdivision will mean the removal of indigenous vegetation, which is not in keeping with the Kogelberg Biosphere Reserve.*
- (c) *The concern that the Portion A of 602m<sup>2</sup> has no open space in front of it as all the other plots on Lachenalia Road.*
- (d) *The claim that the proposed erven sizes are in harmony with the surrounding area (demarcated 31 erven) is misleading. A more accurate calculation when looking at harmony is the erven bordering Lachenalia- and Ixia Roads between White River- and Lobelia Roads. The average size of the 15 erven is 871,5m<sup>2</sup> - the calculation used by the applicant includes smaller plots which is not situated on the curve of Ixia Road. The average size of the 6 plots on the curve of the road relates to 824,8m<sup>2</sup>.*

- (e) *The increase of the density of 5,1 dwellings units per ha to 5,5 (27,1 du/ha) dwelling units per ha is the complete opposite of the harmonious development in a recognized biosphere and derogates the beauty of residential development in Betty's Bay which allow lawn for protection against fire.*
- (f) *Section 12.1 of the report is misleading indicating the property is visually unpleasing. The plot is filled with fynbos.*
- (g) *The report claims that the permissible will not interfere with the views, sunlight and character enjoyed by property owners. Contrary to the claim, double story buildings will be erected close to the boundary that will impede views and sunlight enjoyed by owners.*
- (h) *The plot is across the greenbelt and freshwater lake and the current houses are built and positioned in harmony with this. Constructing three (3) separate dwellings on three (3) plots of the proposed sizes will violate the very reason that Betty's Bay lies within the Kogelberg Biosphere Reserve.*

Applicant's response

- (a) All property owners of Betty's Bay have the SR1 zoning that permits construction to occur up to 2m from the side boundary line. The owner of the erf will abide by the SR1 parameters and is in keeping with the current location of dwellings.
- (b) The subject property does not form part of the formally protected Kogelberg Biosphere Reserve and therefore not an environmentally sensitive site.
- (c) The practice of planting fynbos is every owner's own preference and cannot be enforced by anyone.
- (d) The delineation of the area as indicated in Section 7 of the report was to illustrate that the density sought in the proposal is in harmony with the immediate surroundings. The proposed delineation which is proposed by the objector would not illustrate the immediate surroundings and therefore have misleading calculations conclusions.
- (e) The densification sought in the application as per the following calculations: An erf of 710m<sup>2</sup> with a second dwelling relates to 28 units per ha. The proposed subdivision of the increase to 27,1 units per hectare is within the present densification of the surrounding erven (the area demarcated) which nullifies the concerns raised. The present situation within the demarcated area to establish the average size property is at 27 units per ha and the subdivision will not densify the area any further.
- (f) The property is invested with alien vegetation and the little fynbos prevalent on the erf will perish if alien clearing is not done.
- (g) The proposed erf sizes are similar to that of the surrounding and will not unlock and excessively dense collection of buildings. Any property owner including the objector has a right to develop itself in line with the Zoning Scheme. The placement of more onerous restrictions on the proposed application cannot be justified.

- (h) The proposal entails infill development and does not encroach on environmentally sensitive green belt and large freshwater lake and cannot be regarded as violating the character of the area.

Town Planner's response

- (a) The objector is correct in as far as the present building lines as per the application is more lenient than the surrounding residential erven.

The Conditions of Establishment of Extension 5 has the following restrictions:

Street building line: 5m  
All other building lines: 3m

The Conditions of Establishment does make exemptions subject to certain conditions e.g. housing of vehicles and other outbuildings. The density to accommodate possible second dwellings give rise to the 27,1 hdu/ha. This aspect will be dealt with under desirability.

- (b) Agree with the applicant. The town was established in 1972 and the Kogelberg Biosphere came into being as a guiding document after 1972 and cannot be made retrospectively and take rights away. The existing developed erven is thus also part of the Biosphere as per the objector and no mention is made on the indigenous plant material that has been removed in developing the erven.
- (c) Agree with the applicant.
- (d) Erf 4413 is located in Betty's Bay Extension 5, which consists of 165 erven, excluding five (5) open space erven and streets and equates to 121 687m<sup>2</sup> in extent as per General Plan No. 8269, dated 1971. The Growth Management Strategy stipulates that Planning Unit 3 has a density of 5,1 units per ha. Planning Unit 3 consists of Betty's Bay Extensions 2 to 7, Silver Sands and Stoney Point.

The calculation to establish the average erf size of Extension 5 is as follows:

- $121687\text{m}^2/165 \text{ erven} = 737\text{m}^2/\text{erf}$ .
- The density at present is  $10000\text{m}^2/737\text{m}^2 = 13,5 \text{ du/ha}$ .
- The application erf is  $2213\text{m}^2 / 3 \text{ erven} = 737\text{m}^2/\text{erf}$ .
- The density is  $10\ 000 / 737\text{m}^2 = 13,5 \text{ du/ha}$ .
- The application report made reference to 27,1 du/ha and the reason is that should a second dwelling be built on each erf, the density will be doubled.

Betty's Bay Extension 5 proclaimed in 1972 has a density of 13,5 du/ha.

- (e) The objector indicates that a densification of 27,1 du/ha is not in keep with the surrounding area. The aforementioned density relates to the erection of second dwellings on the proposed subdivided erven. In terms of the Zoning Scheme a second dwelling is a primary use and to enable the land use, it will be seen as densification. The desirability thereof will be dealt with under desirability.
- (f) Noted.

- (g) It should be noted that the building lines and coverage does make provision to ensure sunlight, privacy, etc. The existing zoning as per the title deed conditions will have more of an impact, since it only stipulates two storeys, thus does not address the height of the roof. The coverage is 75%, which can be one structure thus not allowing for views or sunlight.
- (h) The buildings approved does not attend to the harmony of the environment, since none of them has been designed as eco-friendly structures. The designs are to optimally make use of views and has been positioned as such.

### **3. Objection: JH and MW Broom**

- (a) *Property be subdivided into 2 erven.*

*The reasons are as follows:*

- *Over densification, especially the corner plot of 602m<sup>2</sup>.*
  - *Increase in population density and related noise, pollution and rubbish which will disturb the tranquillity of Betty's Bay.*
  - *All fynbos will disappear and not in line with the Kogelberg Biosphere Reserve.*
  - *Reduction of property prices due to excess dwellings in the area.*
- (b) *Object to the request to permit the maximum proposed density of 27,1 units per ha. It contradicts the precepts of the Kogelberg Biosphere Reserve.*
- (c) *The current vacant erf is not visually pleasing as if dwellings will be more pleasing.*
- (d) *The misconception that three (3) additional families will be advantageous to the surrounding properties due to a reduction in crime. If anything, the reverse will happen, with more criminals being attracted to the area.*

### Applicant's response

- (a) In Section 7 of the report, it has been illustrated that the erf sizes are in harmony and general character of the surrounding area.
- *The increase in density will not necessarily create additional noise or pollution levels as that is depended on the behaviour of if the property occupants which are not known, thus making this assertion presumptions.*
  - *There is ample fynbos and the one application will not make it disappear*
  - *The proposal is in line with the character of the area and will not detract from the property value or prices.*
- (b) *The densification sought in the application as per the following calculations: An erf of 710m<sup>2</sup> with a second dwelling relates to 28 units/ha. The proposed subdivision of the increase to 27,1 units/ha is within the present densification of the surrounding erven (the area demarcated) which nullifies the concerns raised. The present situation within the demarcated area to establish the average size property is at 27 units/ha and the subdivision will not densify the area any further.*
- (c) *The property is invested with alien vegetation and the little fynbos prevalent on the erf will perish if alien clearing is not done.*

- (d) The concern around crime is prevalent in all neighbourhoods in South Africa. The additional occupants will ensure extra surveillance which will make criminals cautious about breaking into properties.

Town Planner's response

- (a) The smallest erf in the delineated area is 585m<sup>2</sup> and of the 31 erven, six (6) erven are 600m<sup>2</sup> and less. An indication that the proposed erf of 602m<sup>2</sup> is not the only small erf. The issue of pollution, waste, etc. cannot be an objection, since none of this has happened and is thus an assumption. The clearing of the erf is a right in an approved township to enable the development of the erf. Clearly the developed areas, before it was built, also had fynbos which was removed to build the dwellings. It is unclear why this is now relevant to an undeveloped erf to be developed. No proof has been submitted that there will be a reduction of property values.
- (b) This aspect has been dealt with extensively in previous comments.
- (c) A question of personal preference.
- (d) Agree with applicant.

**4. Objection: Helen van Rensburg**

- (a) *Subdivision of Erf 4413: To avoid bias, the average size of erven in the entire Betty's Bay, including mountain area, are calculated to find true average and the average size is 759,258m<sup>2</sup>. At most Erf 4413 could be subdivided in two (2) erven.*
- (b) *No social benefit to the proposed amendments. Higher density housing is known for creating serious social problems and will devalue the surrounding properties. There is currently more than adequate housing available for long- and short-term rentals.*
- (c) *Restrictive condition 8.7(b): Not more than 80% of the erf shall be built on, should remain intact. Due to the fire risks a minimum 20% should not be built on.*
- (d) *Restrictive condition 8.8: At least one (1) parking bay should be provided for every two (2) bedrooms. Even with parking provided the overflow can cause disruption of traffic flow. The condition must remain in place.*
- (e) *Restrictive conditions 8.9 and 8.10: The conditions should remain in place.*
- (f) *Deviation of densification is unacceptable: Betty's Bay is a rural town and is advisable that the owner rather purchase in an area where higher density is accepted.*
- (g) *Higher density creates serious social problems: The proposed density is unacceptable as this will devalue the properties, increase pollution and traffic. The proposed density of 27 units/ha would enable the owner to build six (6) dwellings, which is not acceptable and could present a substantial fire risk. To reduce fire risk, it is vital to have sufficient cleared spaces around one's erf, this enabled by the 20% unconstructed space.*

Applicant's response

- (a) Some of the erven along the mountain is approximately 340m<sup>2</sup> and some erven 800m<sup>2</sup> along the mountain. The small erven would variably reduce the average size, which would ultimately be around the same size as the average erf size as per the application.
- (b) The increase in density will not necessarily create additional noise or pollution levels as that is depended on the behaviour of if the property occupants, which are not known, thus making this assertion presumptuous.
- (c) The coverage of 80% relating to commercial use and the residential erven has a coverage of 50%, which is lower than the allowable in terms of the Title Deed. The remaining 20% will reduce the fire risk, whilst the residential erven have a 50% coverage, thus more adept to reduce fire risk.
- (d) The removal of the condition does not absolve the applicant from the Zoning Scheme requirements of two (2) bays per dwelling and one (1) bay for the second dwelling. The rationale for the condition to remain in place is not necessary.
- (e) The removal is based on the fact that should two (2) of the properties intend to consolidate, the condition becomes applicable on the Title Deed of the new property, which nullifies the need for this restriction as it is a general practice at the Deeds Office.

Town Planner's response

- (a) The aspect has been dealt with in comments pertaining to density. It should be mentioned that the whole of Extension 5 has been calculated to establish the average erf size and density by the Town Planner. The whole of Betty's bay cannot be made applicable, since Extension 5 has its own Conditions of Establishment.
- (b) The application if for a subdivision in line with the average size of Extension 5, the application is not for a high-density development as per reference to the objector's comments.
- (c) The coverage cannot remain in place, since in effect it will mean that every newly created erf will have a coverage of 80%. A residential erf has a coverage of 50%, which is more than the 20% as indicated by the objector for fire prevention purposes.
- (d) The objector's own single residential erf has a parking ration of two (2) parking bays and the one (1) parking bay for a second dwelling. It is unclear why the applicant must have more restrictive conditions.
- (e) The restriction of subdivision will have to be removed to enable the application. It is however unclear why the consolidation restriction cannot be removed. This was not extensively elaborated upon.
- (f) The applicant did not apply for a high-density development.
- (g) The higher density relates to a single residential erf, that may as a primary right erect a second dwelling. Due cognisance should be taken that the Conditions of

Establishment restricts the erven in Extension 5 to a single dwelling and associated outbuildings. The latter includes staff quarters, habitable units, which in terms of the Zoning Scheme (ZS) is seen as a second dwelling. Therefore, in terms of the Growth Management Strategy, should owners in Extension 5 have staff quarters, their density will be at 27 du/ha. The ZS only allows 50% coverage, inclusive of second dwellings, thus the remaining 50% per erf is more than the existing 20% as per the Title Deed.

**5. Objection: MJ Biggs**

- (a) *The proposed subdivision will affect Erf 4427 and will entail that all three (3) buildings will border the communal fence and impede the view, sunlight and privacy. There is no objection to the rezoning but would object to the subdivision into three (3) instead of two (2) portions.*
- (b) *The report indicate that the erf is not visually appealing. The erf is home to tortoise, cape grouse, mongoose, red duiker and porcupine as well as the Victorins warbler.*
- (c) *If developed, the fynbos will be removed.*
- (d) *Object to the increase in density, taking into consideration that Betty's Bay is located in the Biosphere.*
- (e) *There are no tar roads.*
- (f) *What will happen to the wild animals?*
- (g) *There are no security problems in the area, but more houses will elicit more temptations. Building activities normally bring security threats.*

**Applicant's response**

- (a) *The objector's erf is only abutted by Portion B and will only be visually exposed to one (1) dwelling and may be two (2) dwellings should a second dwelling be constructed.*
- (b) *The objector's house is facing north and south-west. The building on proposed portion B will be located towards the north-east and cannot interfere with the current views of the objector.*
- (c) *The present zoning of Business 3 and or the proposed zoning of single residential does not make provision for wild animals per se. The owner is prepared to relocate the wild animals which may be discovered before construction.*
- (d) *The increase in density will not necessarily create additional noise or pollution levels as that is depended on the behaviour of if the property occupants which are not known, thus making this assertion presumptions.*
- (e) *This aspect needs to be dealt with by the Municipality.*
- (f) *The owner is prepared to relocate if found.*

- (g) Building activities tend to be characterized by ample surveillance and more houses means more surveillance and has the potential to reduce crime.

Town Planner's response

- (a) Agree with applicant. It should be noted, a block building with coverage of 80% will be more imposing and impeding possible views and sunlight.
- (b) Various wildlife seems to establish themselves on the vacant site. The applicant did indicate his willingness to relocate wildlife, if applicable.
- (c) Yes, and so was all the fynbos removed from all the developed erven in Betty's Bay in the past and only replanted later.
- (d) Please note that the town of Betty's Bay were proclaimed before the Kogelberg Biosphere and in terms of the latter's framework, townships and their rights are acknowledged. The Kogelberg Biosphere is a guiding document and not legislation and cannot be implemented retrospectively.
- (e) The gravel roads must be addressed by the Operational Department.
- (f) Addressed by the applicant.
- (g) The same applied when the residents of Betty's Bay built their houses.

**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.

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

**10.1 Background**

N/A

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

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

The application does address the Growth Management Strategy Framework with regard to the deviation of the density for Planning Unit 6, Betty's Bay.

**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 3 and the applications is for a subdivision and rezoning to Single Residential

**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 5.

**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 not accrue any personal benefits

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

The social benefit should the condition remains in place, is that the immediate community will have the possibility of a shop or office development.

**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 commercial development in the midst of a solely 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 4413.

## 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:

### Density

Erf 4413 is located in Betty's Bay Extension 5, which consists of 165 erven, excluding five (5) open space erven and streets and equates to 121 687m<sup>2</sup> in extent as per General Plan No 8269, dated 1971. The Growth Management Strategy stipulates that Planning Unit 3 has a density of 5,1 units/ha. Planning Unit 3 consists of Betty's Bay Extensions 2 to 7, Silver Sands and Stoney Point.

### The calculation to establish the average erf size of Extension 5 is as follows:

- $121687\text{m}^2/165 \text{ erven} = 737\text{m}^2/\text{erf}$ .
- The density at present is  $10000\text{m}^2/737\text{m}^2 = 13,5 \text{ du/ha}$ .
- The application erf is  $2213\text{m}^2/ 3 \text{ erven} = 737\text{m}^2/\text{erf}$ .
- The density is  $10\ 000/737\text{m}^2 = 13,5 \text{ du/ha}$ .

- The application report made reference to 27,1 du/ha and the reason is that should a second dwelling be built on each erf, the density will be doubled.

Betty's Bay Extension 5 proclaimed in 1972 has a density of 13,5 du/ha.

The application report made reference to 27,1 du/ha and the reason is that should a second dwelling be built on each erf, the density will be doubled relating to units and not cadastral units. The Conditions of Establishment Betty's Bay Extension 5 allows for one (1) dwelling and associated outbuildings. The latter includes a staff quarter. In terms of the Overstrand Zoning Scheme a second dwelling is a primary right. The definition of a second dwelling stipulates that staff quarters will be seen as a second dwelling, thus avoiding that owners not build a staff quarters, habitable space and a second dwelling. If allowed, a residential erf may end up with three (3) dwellings.

In terms of the GMSF, a second dwelling counts as part of the densification definition, therefore the deviation application to cater for the primary right of a second dwelling on a residential erf. It should be noted that in terms of the Conditions of Establishment, Condition 15 (a): This erf shall be used solely for the purpose of erecting thereon one (1) dwelling or other buildings for such purposes as the Administrative 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. Thus, all owners in Extension 5 can erect a second dwelling in terms of the Title Deed conditions and thus will automatically have a density of 27,1 du/ha. The applications are thus not out in line with regard to the Conditions of Establishment or the Zoning Scheme.

#### Kogelberg Biosphere Framework

The Kogelberg Biosphere Framework was compiled in 2012, giving guidelines on the activities within the Biosphere. Towns within the Biosphere are acknowledged and promoted to form part of the economic and environmental sustainability and viability of the Biosphere. The Framework cannot stipulate or force an owner within an established township to comply with the guidelines.

The Western Cape Biodiversity Spatial Plan Handbook, 2017, clearly stipulate that urban extension be controlled by the Urban Edge and promote compact urban settlements. The application serves as infill development within the urban edge.

#### Portion A: 602m<sup>2</sup>

Portion A at 602m<sup>2</sup> is not the smallest of erven within Betty's Bay Extension 5 and in the applicant's demarcated area of the 31 erven, 6 are less than 600m<sup>2</sup>. The Municipality allows for a 10% variant pertain to subdivisions area of extent. This is in line with the Surveyor General interpretation of the allowable leniency if to deviate from an approved subdivision. Portion A falls within this category.

#### Building lines

In terms of the Conditions of Establishment of Betty's Bay Extension 5, the building lines applicable to residential erven are as follows: street 5m, rear and side building

lines 3m and differs from the Scheme building lines of street 4m and 2m lateral and rear building lines.

**The difference between the Conditions and the Zoning Scheme are as follows:**

In terms of the Conditions (residential erf) the Administrator, now Municipality may relax the various building lines and further stipulates that the local authority may allow the housing of vehicles on the 0m building line applicable for rear and lateral building lines. It also allows the local authority to allow outbuildings on the rear and lateral building lines for a distance of 12m measured from the rear boundary of the erf and a corner erf the distance of 12m shall be measured from the point furthest from the street abutting the erf.

In terms of the Zoning Scheme, the housing of vehicles is allowed with neighbour's consent on the 0m rear and lateral boundary. However, outbuildings are not allowed on the 0m building lines and can only be erected through a departure process.

Thus, various owners in Betty's Bay have lodged relaxation of the condition building lines to the scheme building lines to erect outbuildings and dwellings. The application is requesting the same consideration applicable to residential erven in Bettys Bay, and is in line with development of residential erven within the Overstrand Municipal area. It should be noted that the application for the rezoning to Residential Zone 1: Single Residential will have to adhere to the Scheme Regulations.

Conditions of Title

The conditions to be removed is to enable the application.

**13. RECOMMENDATION**

1. that the application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions B.6, B.7.(a), B.7.(b), B.7.(d), B.8, B.8.(a), B.8.(b), B.8.(c), B.9 and B.10 as contained in Title Deed T5778/2020 to permit the proposed application, **be approved** in terms of the provisions of Section 61,
2. that the application in terms of Section 16(2)(a) of the By-Law to rezone Erf 4413, Betty's Bay from Business Zone 3: Local Business to Residential Zone 1: Single Residential, **be approved** in terms of the provisions of Section 61,
3. that the application in terms of Section 16(2)(d) of the By-Law to subdivide Erf 4413, Betty's Bay into three (3) portions, namely: Portion A ( $\pm 602\text{m}^2$ ), Portion B ( $\pm 793\text{m}^2$ ) and the Remainder ( $\pm 818\text{m}^2$ ), **be approved** in terms of the provisions of Section 61,
4. that the approvals in Points 1., 2. and 3. be subject to the following conditions:
  - (a) that subdivision be in line with Drawing No.19/117 dated December 2019 submitted with this application;
  - (b) that the proposed subdivided Portions A, and the Remainder be rezoned to Residential Zone 1 as per Drawing No.19/117 dated December 2019;

- (c) that the following condition be inserted in the Title Deeds of the newly created portions that reads as follows:  
*“No further subdivisions of the erf be allowed, except with the consent of the Municipality”;*
  - (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
  - (e) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
  - (f) that all the conditions in the Services Report (attached as Annexure G), be complied with.
5. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

#### RECOMMENDATION TO COUNCIL :

that the application to deviate from the Overstrand Municipal Growth Management Strategy, 2010 in terms of Section 10 to deviate from the density prescript of 5,1 dwelling units/ha to permit the proposed maximum density of 27,1 dwellings units/ha (additional dwelling units included), **be recommended for approval** by Council in terms of the provisions of Sections 10 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015.

#### 14. REASONS FOR RECOMMENDATION

- ❖ The application is in line with forward planning documents.
- ❖ The creation of four (4) residential erven is in line with the surrounding erf extents and will not be to the detriment of the character of the area.
- ❖ The objection with regard to dust and speeding is not the responsibility of the applicant and thus cannot be held responsible.

#### 15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Objection received
Annexure E:	Applicant's response to the objection received
Annexure F:	Services Report

#### SIGNATURE

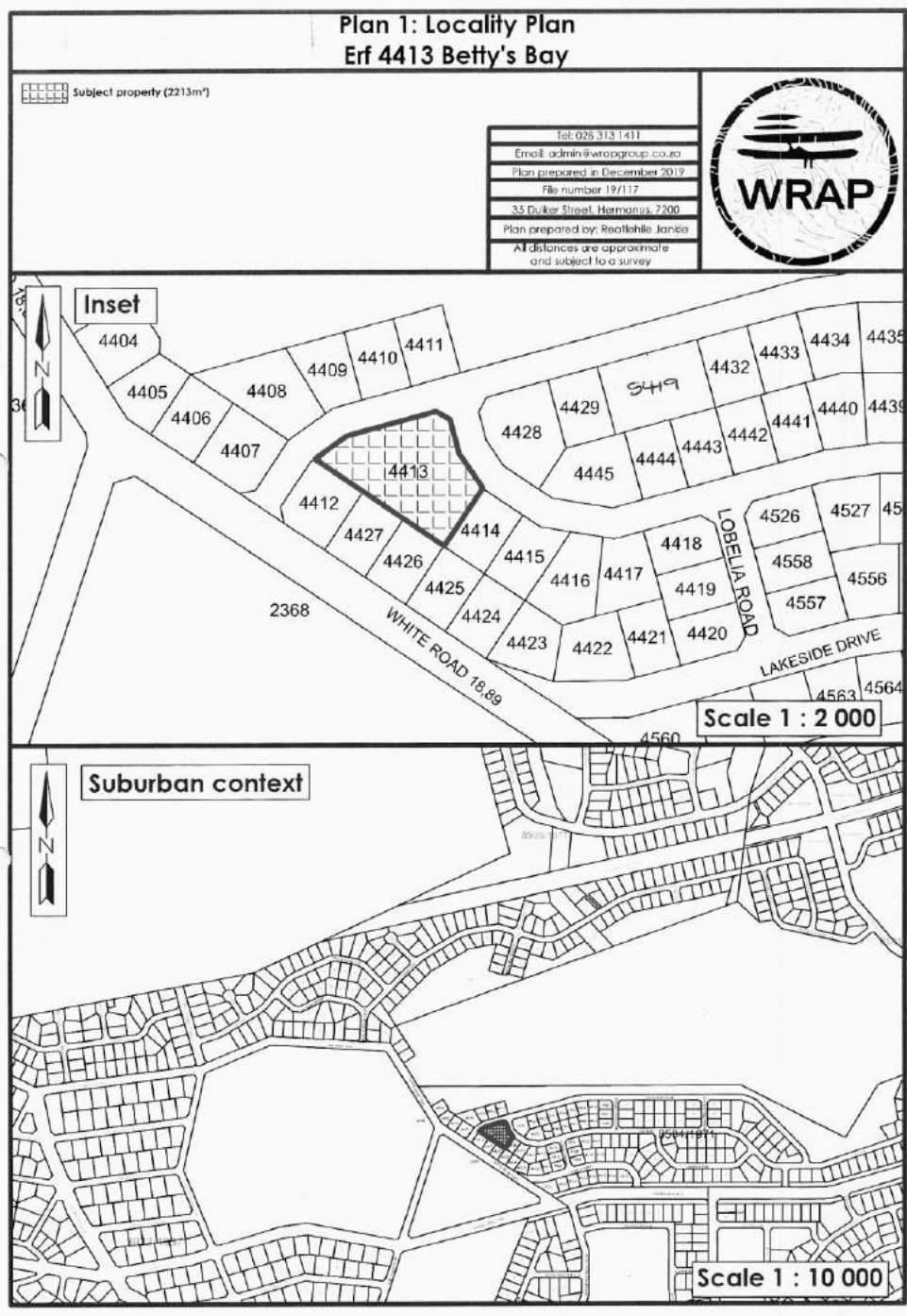
##### REGISTERED PLANNER

Name : **H VAN DER STOEP**

SACPLAN registration number: **A/1708/2013**

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

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





## MOTIVATION

## 1. ABBREVIATIONS

<b>OMZS</b>	Overstrand Municipality Zoning Scheme, 2013
<b>SDF</b>	Overstrand Municipality Spatial Development Framework, 2006
<b>OM</b>	Overstrand Municipality
<b>OM By-Law</b>	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015
<b>SDF</b>	Overstrand Spatial Development Framework, 2006
<b>OMGMS</b>	Overstrand Municipal Growth Management Strategy, 2010
<b>LUPA</b>	Land Use Planning Act, 2014
<b>DEADP</b>	Western Cape Department of Environmental Affairs and Development Planning
<b>SDP</b>	Site Development Plan
<b>B3</b>	Business Zone 3: Local Business
<b>SR1</b>	Residential Zone 1: Single Residential

## 2. SUMMARY OF PROPERTY DETAILS

<b>Property description</b>	Erf 4413 Betty's Bay
<b>Registered owner</b>	Bruce Stanley McLeod
<b>Consultant</b>	WRAP Project Office
<b>Restrictive title deed conditions</b>	B.6, B.7.(a), B.7.(b), B.7.(d), B.8, B.8.(a), B.8.(b), B.8.(c), B.9 and B.10
<b>Property extent</b>	2213m <sup>2</sup>
<b>Current zoning</b>	Business Zone 3: Local Business (B3)
<b>Current land use</b>	Vacant

## 3. BACKGROUND

The current owner sold the subject property and the purchaser has the intention to develop residential dwellings on the property after rezoning and subdivision. The current owner provided her consent for this application. The title deed and power of attorney of the purchaser will be submitted after transfer of the property.

## 4. INTENT

- 4.1** The purchaser identified the subject property more suitable to be subdivided into 3 SR1 erven with the intent of constructing dwellings on the subdivided portions for the following reasons:
- 4.1.1** There are 4 properties within a radius of 1,2km from the subject property which are zoned for commercial purposes which are all vacant. This illustrates that there has historically never been a demand for commercial land uses within the vicinity of the subject property;
- 4.1.2** Viable commercial land uses in Betty's Bay are located in different pockets along Clarence Drive due to the high volume of vehicular movement. The establishment of any commercial enterprises outside of Clarence Drive are not envisaged to be successful;
- 4.1.3** The dominant residential character within the immediate surroundings would unduly be disrupted by a commercial land use on the subject property. This would be due to higher volumes of movement and frequency associated with commercial enterprises;



## MOTIVATION

- 4.1.4 The purchaser would find it much easier to develop SR1 erven with dwellings compared to the establishment of a commercial enterprise; and
- 4.1.5 Considering that the subject property is located 35m from the Grootvlei lagoon, it is common practice for suburbs in the Western Cape to have residential land uses along a lagoon and the establishment of commercial land uses around that is uncommon. This proposal therefore upholds the legitimate expectations which surrounding property owners hold.

### 5. TECHNICAL PROCEDURES PROPOSED

- 5.1 The following technical procedures are proposed for the purchaser to obtain the most appropriate land use rights to materialise what is highlighted in Section 4 of this motivation report.

#### 5.1.1 Removal of the following restrictive title deed conditions from title deeds T5778/2020.

Title deed condition	Title deed condition contents
B.6	This erf shall be used solely for the purpose of erecting thereon a building comprising shops and business premises 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.(a)	No building or structure or any portion thereof above the ground floor, may be erected within 5 meters or half the height of the building, whichever is the greater, from the lateral or rear boundary of the erf, provided that portion of the lateral boundary which is situated within 13m of a street boundary, shall be exempt from this requirement.
B.7.(b)	Not more than 80% of the area of this erf shall be built upon, provided that any floor used wholly or in part for residential purposes shall not have a total floor area of more than half the area of the erf.
B.7.(d)	The design and external appearance of the façade of any building erected on this erf shall conform to such canopy and cornice lines as the local authority may prescribe and the materials used in the facing thereof shall be in conformity with standards laid down by the local authority.
B.8	No residential accommodation shall be provided on this erf, unless provision shall simultaneously be made, to the satisfaction of the local authority, for parking bays to accommodate not less than one motor-car for every flat or in the case of other residential accommodation for every two bedrooms contained in the building, provided that:
B.8.(a)	If situated under the building the said parking area shall not be enclosed for more than 50% of its perimeter.
B.8.(b)	The said parking area and the access and exit thereto shall be located, hardened and surfaced to the satisfaction of the local authority.
B.8.(c)	If in erecting his buildings the owner provides lock-up garages on the erf, the required parking area may be reduced by one parking bay for each garage up to a maximum of 75% of the original area required in terms of the foregoing.



## MOTIVATION

<b>B.9</b>	On consolidation of this erf or any portion thereof with any abutting erf which is subject to the same conditions as herein set forth these conditions shall apply to the consolidated holding as if it was one erf.
<b>B.10</b>	In the event of this erf being subdivided each subdivided portion, other than any portion deducted for road or similar purposes, shall be subject to the conditions herein set forth as if it were the original erf.

**5.1.2** The proposed development is either prohibited by the restrictive title deed conditions above or the title deed conditions are not relevant to current development trends and patterns. The title deed conditions were imposed in 1977 when commercial land uses of low intensity were spread out in small towns which has proven to not be the case in Betty's Bay. Considering the shift in development patterns and allocation of land uses in Betty's Bay, the removal of these restrictive title deed conditions will bring the land use rights sought on the subject property in harmony with the prevailing trends in the area. This will be elucidated in Section 8 of this motivation report.

**5.2 Rezoning** Erf 4413 Betty's Bay from Business Zone 3: Local Business to Residential Zone 1: Single Residential; and  
**Subdivision** of Erf 4413 Betty's Bay to create Portion A ( $\pm 602\text{m}^2$ ), Portion B ( $\pm 793\text{m}^2$ ) and Remainder ( $\pm 818\text{m}^2$ ).

**5.2.1** The purchaser envisages subdividing the erven and constructing dwelling houses on each of the subdivided erven. The dwellings are intended to be constructed in accordance with the development rights applicable on SR1 properties. This proposal is therefore an investment which the purchaser envisages deriving an income from. Approximately a third of the erven in Betty's Bay are vacant which presents a huge opportunity for infill development in the area which the purchaser wants to capitalise on.

**5.3 Deviation** from the Overstrand Municipality Growth Management Strategy, 2010 density prescripts of 5,1 dwelling units a hectare to permit the proposed maximum density of 27,1 dwelling units a hectare (additional dwellings included) in terms of Section 10 (1) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015.

**5.3.1** The OMGMS was approved in 2010 when urbanisation pressures and the need to unlock residential units were lower compared to the current trends. The OMGMS designates the subject property for residential purposes but limits the density at 5,1 dwelling units a hectare. The proposed subdivision is intended to maximise on the possible yield of erven while ensuring that the proposed erf sizes and shapes are in harmony with the surroundings as illustrated in Section 7 of this report. The proposed density increase is in harmony with the surrounding residential densities when evaluated in conjunction with the right of each property owner to construct a second dwelling unit. Considering this, the proposed deviation can be regarded as compatible with the surrounding.

## 6. APPLICATION

**6.1** Considering the above, application is made for the following:

**6.1.1 Removal of the restrictive title deed conditions** B.6, B.7.(a), B.7.(b), B.7.(d), B.8, B.8.(a), B.8.(b), B.8.(c), B.9 and B.10 from title deeds number T5778/2020 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;



## MOTIVATION

- 6.1.2 Rezoning** Erf 4413 Betty's Bay from Business Zone 3: Local Business to Residential Zone 1: Single Residential in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;
- 6.1.3 Subdivision** of Erf 4413 Betty's Bay to create Portion A ( $\pm 602\text{m}^2$ ), Portion B ( $\pm 793\text{m}^2$ ) and Remainder ( $\pm 818\text{m}^2$ ) in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015; and
- 6.1.4 Deviation** from the Overstrand Municipality Growth Management Strategy, 2010 density prescripts of 5,1 dwelling units a hectare to permit the proposed maximum density of 27,1 dwelling units a hectare (additional dwellings included) in terms of Section 10 (1) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015.

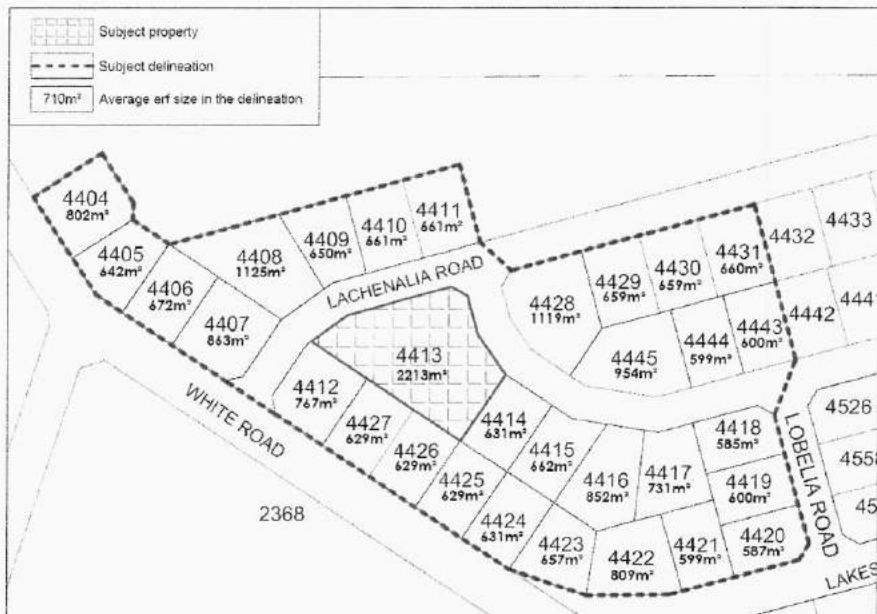


## MOTIVATION

## 7. URBAN FORM AND LAND USE FABRIC

The evaluation of the urban form and land use fabric is a relevant consideration in terms of the OM motivational report guidelines.

### 7.1 Urban form



(Figure 1)

Figure 1 illustrates that the delineated area where the subject property is located has an average erf size of 710m<sup>2</sup> and the subject property is 2213m<sup>2</sup> which is out of harmony with the average surrounding erf size. This proposal will create an average erf size of 737,6m<sup>2</sup> which is in harmony with the size of the surrounding even.

The irregular shape of the subject erf is out of harmony with the surrounding regular shaped even. The proposed subdivision (refer **Plan 3**) is intended to bring the shape of the proposed even in harmony with the shape of the surrounding even.



## MOTIVATION

## 7.2 Land use fabric

(Figure 2)

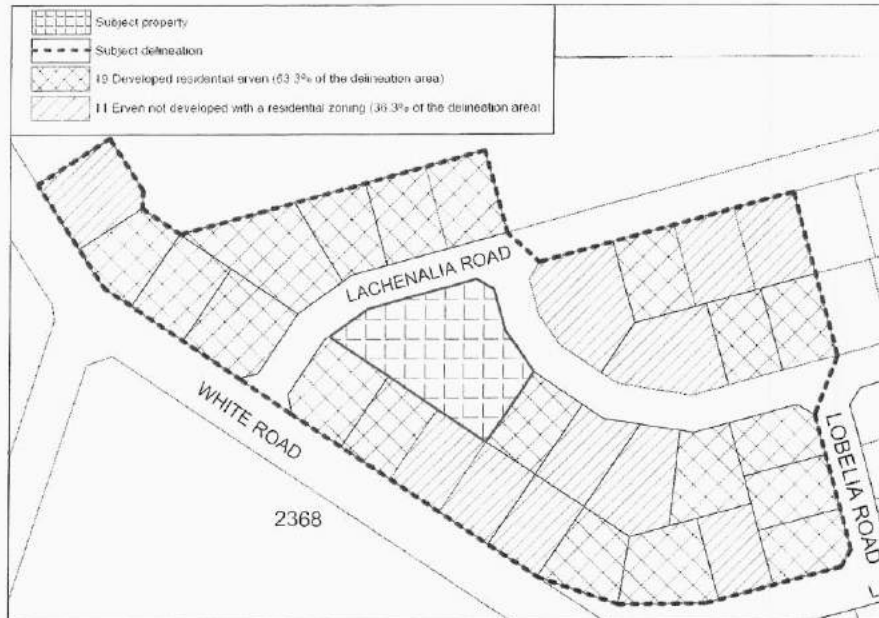


Figure 2 illustrates that all the land uses and permissible land use rights which surround the subject property are residential. The subject property which is zoned B3 permits commercial land uses which would be a disruption to the valued and prevailing residential land use fabric of the immediate surrounding.

## 7.3 Urban form and land use fabric

Both figure 1 and 2 illustrate that the shape of the subject property and permissible commercial land uses conferred by the B3 zoning are out of harmony with the surrounding urban form and land use fabric. The approval and implementation of this proposal will therefore harmonise the urban form and land use fabric of the area which is in the interest of surrounding property owners.



## MOTIVATION

### **B. RESTRICTIVE TITLE DEED CONDITIONS PROPOSED FOR REMOVAL**

The removal of the restrictive title deed conditions which is a relevant consideration in terms of Section 35 of the OM By-Law, is motivated as follows:

#### **8.1 Restrictive title deed condition**

**B.6** *"This erf shall be used solely for the purpose of erecting thereon a building comprising shops and business premises 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."*

##### **8.1.1 Rationale for the removal**

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

##### **8.1.2 Background**

This title deed condition was inserted in 1977 under the assumption that western side of Betty's Bay would function as a settlement which has individual commercial zonings which are dispersed.

##### **8.1.3 Current development trends**

The current development trend in the area is that there has been two thirds uptake of the residential erven within a 1,2 km radius from the subject property and none of the commercial areas have been developed. This illustrates that the development trends and pressures in Betty's Bay on the west are not for commercial land uses but for residential. The restrictive title deed condition is therefore not responsive to the prevailing development pressures of the area which justifies the removal thereof.

#### **8.2 Restrictive title deed condition**

**B.7.(a)** No building or structure or any portion thereof above the ground floor, may be entered within 5 meters or half the height of the building, whichever is the greater, from the lateral or rear boundary of the erf, provided that that portion of the lateral boundary which is situated within 13m of a street boundary, shall be exempt from this requirement.

##### **8.2.1 Rationale for the removal**

This restrictive title deed condition is not in harmony with the building lines of the OMZS and is more onerous.

##### **8.2.2 Background**

This title deed condition was inserted in 1977 for commercial properties and will become irrelevant when the property is rezoned to Residential.

##### **8.2.3 Current development trends**

Considering that the land use rights sought are for residential purposes, the building lines relating to how commercial land uses developed in 1977 are inappropriate for what is applied for. Notwithstanding the above, current commercial development trends are for commercial land uses to be located close to the street boundary to create a close-knit interaction between the customers in the buildings and the pedestrians.



## MOTIVATION

### 8.3 Restrictive title deed condition

**B.7.(b)** Not more than 80% of the area of this erf shall be built upon, provided that any floor used wholly or in part for residential purposes shall not have a total floor area of more than half the area of the erf.

#### 8.3.1 Rationale for the removal

This title deed condition is not in harmony with the provision of the OMZS.

#### 8.3.2 Background

This title deed condition was inserted in an era when the prevailing development pattern was the promotion of monofunctional land uses where different coverages were applicable to the different uses.

#### 8.3.3 Current development trends

The current development trends which are promoted by modern planning policies are mixed uses which provide a greater degree of coverage flexibility due to the increased pressures which urbanisation places for unlocking additional residential units. The removal of this restrictive title deed condition would confer an SR1 zoning on the subject property and enable future coverage departures if deemed necessary without having to submit a removal of restriction application.

### 8.4 Restrictive title deed condition

**B.7.(d)** *"The design and external appearance of the façade of any building erected on this erf shall conform to such canopy and cornice lines as the local authority may prescribe and the materials used in the facing thereof shall be in conformity with standards laid down by the local authority."*

#### 8.4.1 Background

This restrictive title deed condition was inserted with the intent of ensuring that all buildings to be constructed in Betty's Bay were of high architectural integrity.

#### 8.4.2 Current development trends

The National Building Regulations and Building Standards Act no. 103 of 1977 and the OMZS contains regulations pertaining to external appearance of the façade, canopies and cornice lines and materials used in construction. The insertion of this restrictive title deed condition is therefore not necessary which justifies the removal thereof.

### 8.5 Restrictive title deed condition

**B.8** *"No residential accommodation shall be provided on this erf, unless provision shall simultaneously be made, to the satisfaction of the local authority, for parking bays to accommodate not less than one motor-car for every flat or in the case of other residential accommodation for every two bedrooms contained in the building, provided that."*

**B.8.(a)** *"If situated under the building the said parking area shall not be enclosed for more than 50% of its perimeter."*

**B.8.(b)** *"The said parking area and the access and exit thereto shall be located, hardened and surfaced to the satisfaction of the local authority."*

**B.8.(c)** *"If in erecting his buildings the owner provides lock-up garages on the erf, the required parking area may be reduced by one parking bay for each garage up to a maximum of 75% of the original area required in terms of the foregoing."*



## MOTIVATION

### 8.5.1 Rationale for removal

These parking standards are not in harmony with standards in the modern OMZS.

### 8.5.2 Background

These parking standards were inserted in 1977 at a time when vehicle ownership was lower than it is currently. This was done to ensure that property owners do not park in the street as that would interfere with the traffic and movement networks.

### 8.5.3 Current development trends

Vehicle ownership is generally much higher today than it was in 1977. This has subsequently led to parking standards in zoning schemes increasing to respond to that. The parking standards which are imposed by the OMZS are higher than the standards in the title deed and more responsive to the higher vehicle ownership which is prevalent in Betty's Bay. The removal of this title deed condition is therefore justified as it is in harmony with current development trends and pressures.

### 8.6 Restrictive title deed condition

**B.9** "On consolidation of this erf or any portion thereof with any abutting erf which is subject to the same conditions as herein set forth these conditions shall apply to the consolidated holding as if it was one erf."

**B. 10** "In the event of this erf being subdivided each subdivided portion, other than any portion deducted for road or similar purposes, shall be subject to the conditions herein set forth as if it were the original erf."

#### 8.6.1 Rationale for removal

The title deed conditions referred to in Section 8.5 are explaining standard conveyancing procedure and are therefore not necessary.

## 9. REQUIREMENTS FOR THE AMENDMENT, SUSPENSION OR REMOVAL OF RESTRICTIVE CONDITIONS

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.

### 9.1 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.

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

There are no personal benefits which accrue to the holder of these restrictive title deed conditions.

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

**9.3.1** The purchaser will be able to derive an income from the approval and implementation of this proposal; and



## MOTIVATION

**9.3.2** The approval and implementation of this proposal will provide the purchaser with a sense of purpose.

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

There is no social benefit if the restrictive conditions remain in place.

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

**9.5.1** Employment will be created during the construction phase; and

**9.5.2** Additional residential opportunities will be created which will benefit prospective property buyers.

**9.6 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.**

There are no rights which are enjoyed by any member of the society and the removal of these restrictive conditions do not constitute a deprivation of rights.

## 10. ZONING

The evaluation of zoning is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law.

Portion A, B and the Remainder are all proposed to be conferred a zoning of SR1 and all buildings to be constructed in the future will have to comply with the prescribed development parameters.

## 11. SERVICES

The situation regarding the availability of services as a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA, can be illustrated as follows:

**11.1 Solid waste**

Solid waste is collected by the OM on a weekly basis in Betty's Bay and the proposal will derive the same benefit.

**11.2 Electricity**

The proposed building will connect to the existing electricity network in Betty's Bay.

**11.3 Water**

The proposed building will connect to the existing reliable potable network operated by the OM in Betty's Bay.

**11.4 Sewage**

The proposed building will connect to a conservancy tank.

**11.5 Access and egress**

Access and egress for Portion A, Portion B and the Remainder will be gained from Lachenalia Road and Ixia Road.

## 12. NEED AND DESIRABILITY

The need and desirability for the approval and implementation of this proposal will be illustrated in accordance with Section 66 (1) (c) of the OM By-Law and DEADP Provincial Support Document



## MOTIVATION

on Relevant Considerations, 2015. The purpose of addressing the desirability of this proposal is to place the decision maker in a position to consider whether any positive advantages will accrue to the area or community by approving this application.

### 12.1 Impact on views, sunlight and character of the area

The development parameters applicable to the SRI zoning are applicable on the surrounding erven. The permissible buildings will therefore be of the same scale and not interfere with the views, sunlight and character enjoyed by the property owners.

The subject vacant property is currently not visually appealing. The approval and implementation of this proposal will therefore lead to the construction of an aesthetically appealing building. This will visually benefit surrounding property owners.

### 12.2 Economic impact

The investment which will occur in the construction on the subject property will be labour intensive and contribute to the reduction of poverty which can be regarded as a positive economic impact.

### 12.3 Environmental impact

No listed activities in terms of the National Environmental Management Act are triggered by this proposal.

## 13. SPLUMA MOTIVATION REQUIREMENTS

This application as a relevant consideration in terms of Section 42 (c) of SPLUMA is motivated as follows:

### 13.1 Public interest

The subject property is vacant and contributes little rates and taxes to the OM. The approval and construction of homes on the subject property will substantially increase the value of the subject property and the rates which would be paid to the OM for service delivery which is in the public interest.

### 13.2 Impact on safety, health and wellbeing of the surrounding community

The additional three families which will reside on the subdivided properties will be additional surveillance which is projected to contribute to the reduction of crime. This can therefore be regarded as being in the interest of the safety and wellbeing of surrounding property owners.

Residential land uses are not noxious and therefore not projected to interfere with the health of surrounding property owners.

### 13.3 Opportunity costs

The approval and implementation of this proposal will not result in an unacceptable opportunity cost for other property owners in Betty's Bay.

### 13.4 Respective rights and obligations of all those affected

The approval and implementation of this proposal is not projected to interfere with the ability of surrounding property owners to occupy respective properties in comfort. This is due to the residential land use rights being in conformity with the surrounding.



## MOTIVATION

### **14. SPATIAL PLANNING POLICIES WHICH THIS PROPOSAL IS CONSISTENT WITH**

The consistency of this proposal with all relevant spatial planning policies was investigated. This is a relevant consideration in terms of Section 66 (1) (h), (i) (u) (k) and (l) of the OM By-Law:

#### **14.1 PSDF**

The aim of the PSDF is to communicate the governments' sound spatial development intentions to the private sector and civil society. Policy proposal in the PSDF which are pertinent to this proposal are recorded below.

##### **14.1.1 The PSDF promotes the protection and enhancement of the prevailing sense of place and settlement patterns.**

The prevailing sense of place for Betty's Bay is that of a popular retirement and holiday town and is predominantly residential in nature. The approval of this proposal for residential land uses therefore will contribute to this sense of place.

##### **14.1.2 Provide households with residential environments.**

This proposal is intended to contribute towards the residential environment of Betty's Bay as prescribed.

##### **14.1.3 Avoid developing new residential areas in proximity to agricultural areas.**

The unlocking of additional residential opportunities within the urban edge as illustrated with this proposal reduces the pressure for urban sprawl into agricultural areas.

#### **14.2 SDF**

The SDF identifies areas where growth and changes are projected and contains policy proposals which ensure that this occurs to the benefit of the inhabitants of the area. Policy proposal in the SDF which are pertinent to this proposal are recorded below.

##### **14.2.1 Promote infill development within existing boundaries through infill development.**

The subject proposal promotes infill development.

##### **14.2.2 Contain urban development within the existing urban edge.**

This proposal is located within the urban edge.

##### **14.2.3 The current provision of business uses is regarded as sufficient for the town, given the retirement and holiday function of the town.**

The SDF highlights that there is no need for the provision of additional business uses in Betty's Bay. This proposal is therefore intended to materialise this.

##### **14.2.4 Spatial proposal plan**

The subject property is designated for residential purposes and the approval and implementation of this proposal will align with this.

### **15. SPATIAL PLANNING POLICIES WHICH THIS PROPOSAL DEVIATES FROM**

#### **15.1 OMGMS**

**15.1.1** The inconsistency of this proposal with all relevant spatial planning policies was investigated. This is a relevant consideration in terms of Section 66 (1) (h), (i) (u) (k) and (l) of the OM By-Law:



## MOTIVATION

- 15.1.2** The purpose of the OMGMS is to improve the Overstrand Municipalities' overall environmental sustainability by enhancing the quality and efficiency of the built environment. The OMGMS is guided by a set of objectives and the deviation of this proposal from the document will be motivated. Section 22 of SPLUMA highlights that the Municipality may make a decision which deviates from the spatial development framework on condition that site specific circumstances are motivated.
- 15.1.3** The OMGMS was compiled in 2010 in response to the prevailing development pressures and established development direction prevalent at the time. The dynamics of urban development and land use pressure which is exerted by developers and the public continually changes in direction and the use of space. These changes are also underpinned by a variety of factors such as economic, political, societal, legislative climate with agency being a common thread. These climatic conditions are in most instances beyond the control of town planners and cannot be accurately predicted by authors of spatial planning policy. The contextual framework of the compilation of spatial planning policy as well as a shift in land use patterns justifies the deviation from the OMGMS on condition that this proposal has no externalities (a consequence of an activity/land use which adversely affects other parties without this being reflected in the value of the property) for the public.
- 15.1.4** The subject property is located in Planning Unit 3 and there is no further densification proposal for the planning unit. The prescribed density for Planning Unit 3 is 5,1 dwelling units a hectare. The subdivision of the property into 3 erven would increase the proposed density to 13,5 dwelling unit a hectare if only one dwelling is constructed on each erf. The density would be increased to 27,1 dwelling units a hectare if each property owner decides to act upon the primary SR1 land use right of constructing a second dwelling unit. The deviation from the density prescripts which is sought, is calculated based on the maximum density potential which the SR1 zoning confers on the two properties.
- 15.1.5** The existing erf is out of harmony with the average erf sizes of the surrounding properties and the alignment which this proposal will bring about with the surrounding would contribute positively to the character of the area. All dwellings which will be constructed on the proposed 3 erven will have to conform to the SR1 zoning land use rights and development parameters. This will contribute towards the character of the area being retained.

Notwithstanding the above, the submitted proposal is in harmony with the following broad development objectives of the OMGMS.

**15.1.6 Enhance the built environment and landscapes.**

The subject property is currently not being maintained. The approval and implementation of this proposal would enhance aesthetic appeal of the subject property and contribute towards enhancing the built environment of Betty's Bay.

**15.1.7 Subdivisions need to be done in accordance with density which is achievable in an area while being sensitive to the surrounding context.**



## MOTIVATION

Section 7 of this motivation report illustrates that the proposed subdivision is in harmony with the prevailing densities of the surrounding.

### 15.1.8 Promote infilling of vacant sites within the exiting urban area.

This proposal promotes the infilling of the subject vacant site as prescribed by the OMGMS.

### 15.1.9 Spatial proposal plan

The subject property is designated for residential purposes and the approval and implementation of this proposal will align with this.

## 16. PLANNING PRINCIPLES

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles which each development application must be guided by. Policy proposal in SPLUMA which are pertinent to this proposal are recorded below:

### 16.1 Spatial justice

Spatial justice refers to addressing spatial development imbalances caused by apartheid planning. The approval and implementation of this proposal will benefit the historically marginalised through employment creation during the construction phase. The incomes which will be earned will be used by the employees to afford access to land, housing and improve socio economic standing. The approval and implementation of this proposal will therefore unlock the opportunities which will address spatial development imbalances.

### 16.2 Spatial sustainability

This proposal does not entail the encroachment on agricultural land, environmentally sensitive areas or biodiversity rich areas and can therefore be regarded as spatially sustainable.

### 16.3 Efficiency

The proposal promotes the optimal use of energy and space on the current derelict property which has great residential development potential. This application entails the optimal use of the subject vacant property while conforming to the residential character of the surroundings.

### 16.4 Spatial resilience

The proposal is aligned with the PSDF and SDF which promotes spatial resilience and the approval of this proposal will enhance such resilience. This proposal is consistent with the residential land use designation for the subject property but inconsistent with the density prescripts. The consistency of this proposal with the surrounding erf sizes and densities is an exceptional circumstance which justifies a deviation from the OMGMS. The approval of this proposal will therefore not jeopardise the broad spatial resilience principles.

### 16.5 Good administration

The OM has a credible track record of good administration regarding the method of public participation which accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.



## EVALUATION AND RECOMMENDATION

### 17. EVALUATION

The approval and implementation of this proposal will be in harmony with the prevailing urban form and land use fabric.

This proposal is in synchrony with most spatial planning policies and all planning principles. This illustrates that the purchaser did not arbitrarily invent this proposal but was informed by relevant policies before concluding to forge ahead with this proposal.

### 18. RECOMMENDATION

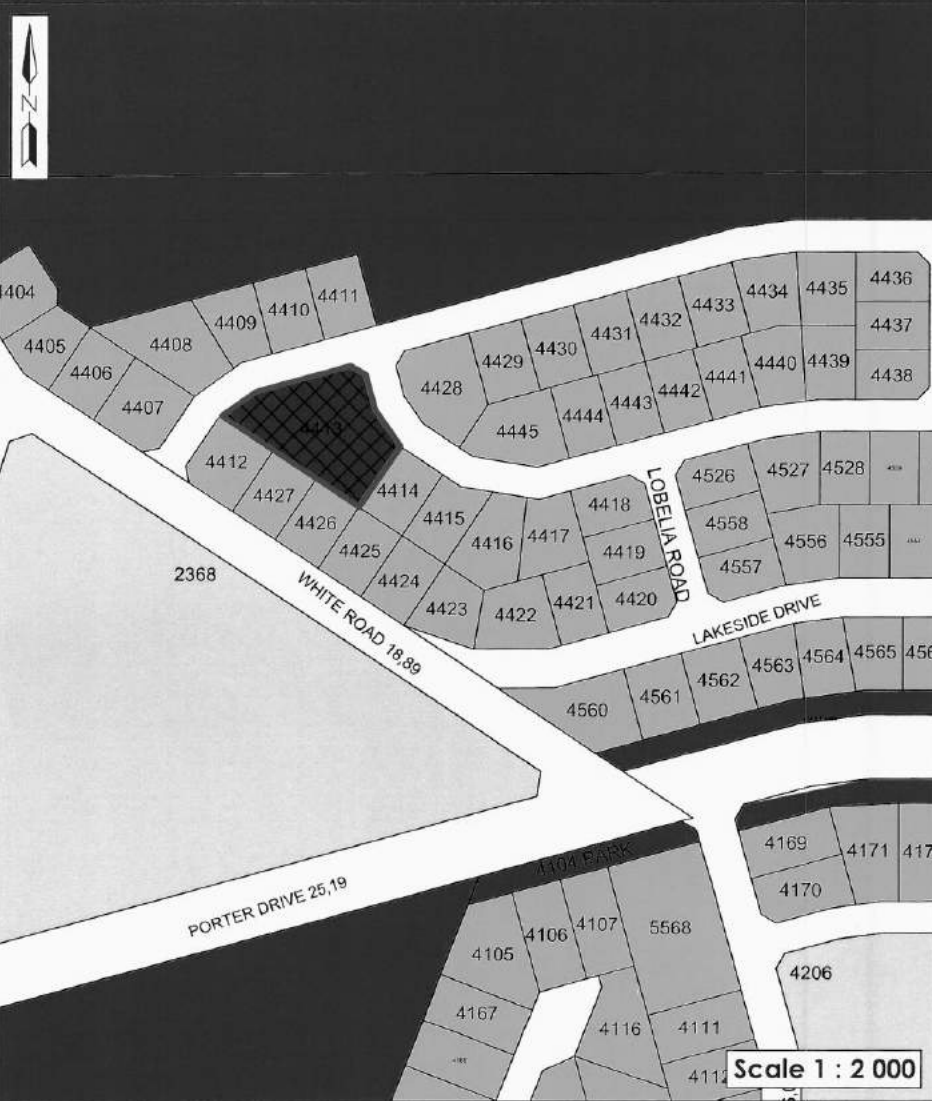
**18.1** This motivation report has illustrated that the proposal is desirable and will be of value to the surrounding property owners and prospective employees. It is recommended that the following is approved:

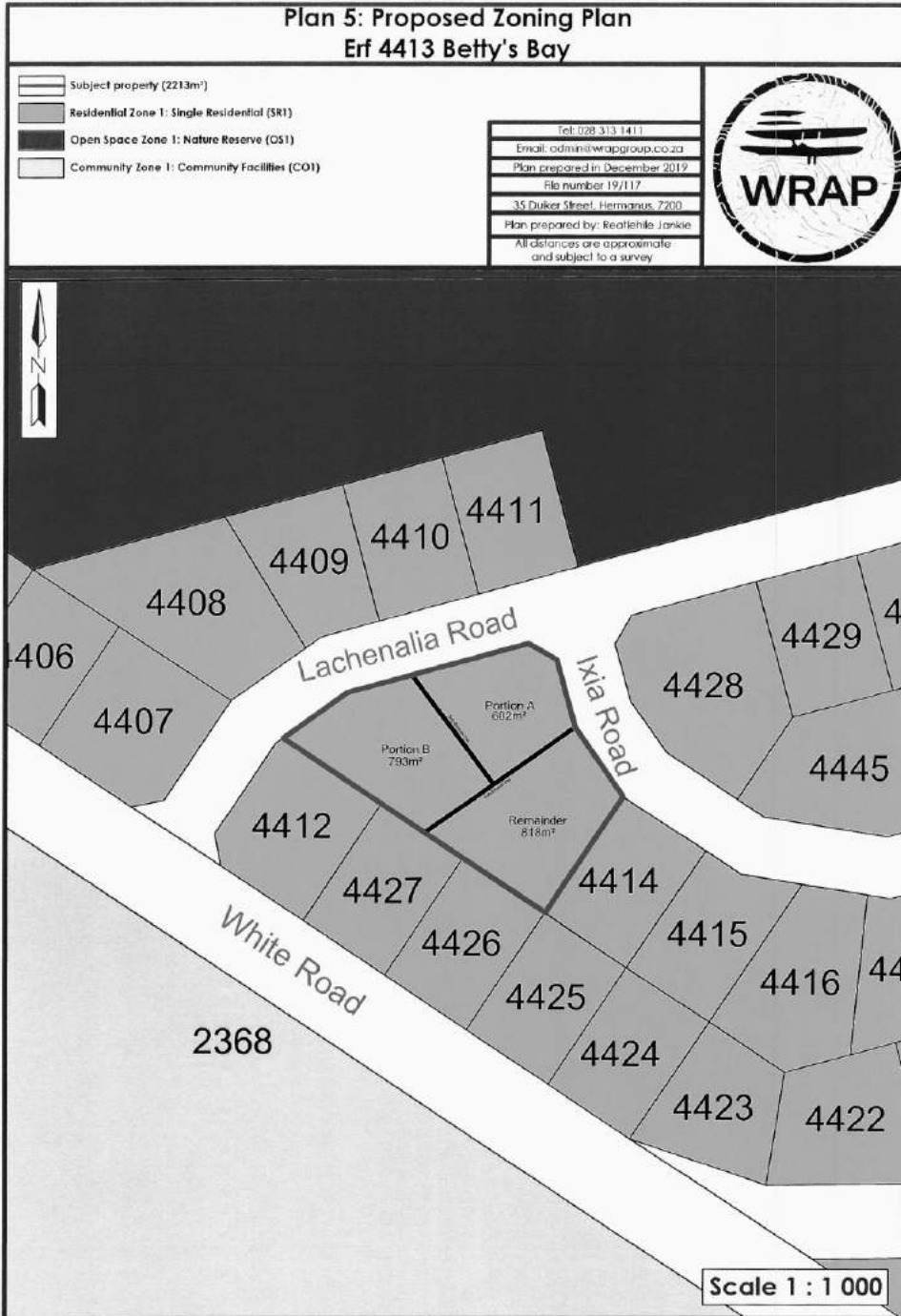
- 18.1.1 Removal of the restrictive title deed conditions** B.6, B.7.(a), B.7.(b), B.7.(d), B.8, B.8.(a), B.8.(b), B.8.(c), B.9 and B.10 from title deed number T5778/2020 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;
- 18.1.2 Rezoning** Erf 4413 Betty's Bay from Business Zone 3: Local Business to Residential Zone 1: Single Residential in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015;
- 18.1.3 Subdivision** of Erf 4413 Betty's Bay to create Portion A ( $\pm 602\text{m}^2$ ), Portion B ( $\pm 793\text{m}^2$ ) and Remainder ( $\pm 818\text{m}^2$ ) in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015; and
- 18.1.4 Deviation** from the Overstrand Municipality Growth Management Strategy, 2010 density prescripts of 5,1 dwelling units a hectare to permit the proposed maximum density of 27,1 dwelling units a hectare (additional dwellings included) in terms of Section 10 (1) of the Overstrand Municipality By-Law on Municipal Land Use Planning Act, 2015.

### Plan 2: Status Quo Zoning Plan Erf 4413 Betty's Bay

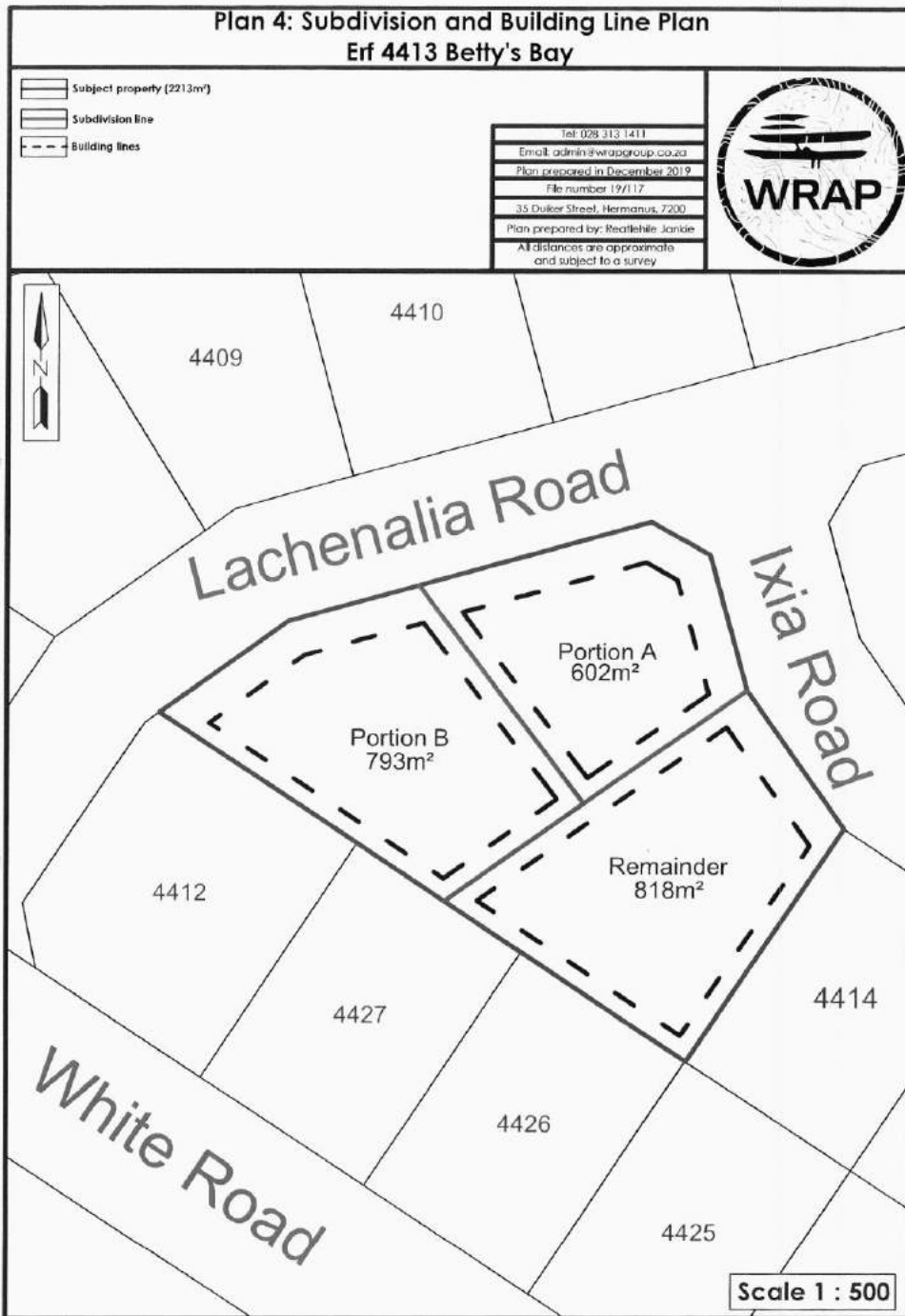
-  Subject property (2213m<sup>2</sup>)
-  Residential Zone 1: Single Residential (SR1)
-  Open Space Zone 1: Nature Reserve (OS1)
-  Business Zone 3: Local Business (B3)
-  Community Zone 1: Community Facilities (CO1)

Tel: 028 313 1411  
Email: admin@wrapgroup.co.za  
Plan prepared in December 2019  
File number 19/117  
35 Duiker Street, Hermanus, 7200  
Plan prepared by: Reathlele Jankie  
All distances are approximate  
and subject to a survey









**340**

DYKES VAN HEERDEN SLABBERT  
 HOPKINS  
 Unit E4/2  
 Edward IV  
 120-122 Edward Road  
 Bellville 7530  
 South Africa

Prepared by me

*Lise Coetzee*  
 CONVEYANCER  
 LISE COETZEE

Fee enforcement	
	Amount
Purchase price/value	R. 150 000,00
Mortgage capital Amount	R. 630,00
Reason for exemption	Exempt Lt. o
Cat.	section: Act

**DEED OF TRANSFER**

BE IT HEREBY MADE KNOWN THAT

**T 000005778 / 2020**

**LISE COETZEE**

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at Clayville, Pretoria on 31 October 2019 granted to him by

**CORINNE EVELYN MARTHA HORN**  
 Identity Number 670524 0370 08 8  
 Married out of community of property

**DATA / VERIFY**  
 25-02-2020  
 ATHI DAMOYI

**DATA / CAPTURE**  
 24-02-2020  
 PHUMELELA MNAMATA

*Handwritten initials*

And the appearer declared that his said principal had, on 20 September 2019, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

**BRUCE STANLEY MC LEOD**  
**Identity Number 510206 5113 08 5**  
**Unmarried**

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

ERF 4413 BETTYS BAY  
 IN THE OVERSTRAND MUNICIPALITY  
 DIVISION CALEDON  
 WESTERN CAPE PROVINCE

IN EXTENT 2213 (TWO THOUSAND TWO HUNDRED AND THIRTEEN)  
 Square metres

FIRST TRANSFERRED by Deed of Transfer Number T33674/1977 (Paragraph 9) with General Plan TP8269 relating thereto and held by Deed of Transfer Number T33669/1993 and Deed of Transfer No. T80269/2005

- A. **SUBJECT** to the conditions referred to in Deed of Transfer No. T26686/1970.
- B. **SUBJECT FURTHER** to the following conditions contained in Deed of Transfer No. T33674/1977 imposed by the Administrator of the Province of the Cape of Good Hope on approval of Bettys Bay Township Extension No. 5 in terms of Ordinance No. 33 of 1934, 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 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 or outside this Township to be conveyed across this erf, if deemed necessary by the local or any other statutory 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 purpose other than that permitted in terms of these conditions.
6. This erf shall be used solely for the purpose of erecting thereon a building comprising shops and business premises 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.
7. Except with the prior consent of the Administrator –
  - (a) No building or structure or any portion thereof above the ground floor, may be entered within 5 meters or half the height of the building, whichever is the greater, from the lateral or rear boundary of the erf, provided that that portion of the lateral boundary which is situated within 13m of a street boundary, shall be exempt from this requirement.

- (b) Not more than 80% of the area of this erf shall be built upon, provided that any floor used wholly or in part for residential purposes shall not have a total floor area of more than half the area of the erf.
- (c) No building on this erf shall exceed 2 storeys in height.
- (d) The design and external appearance of the façade of any building erected on this erf shall conform to such canopy and cornice lines as the local authority may prescribe and the materials used in the facing thereof shall be in conformity with standards laid down by the local authority.
8. No residential accommodation shall be provided on this erf, unless provision shall simultaneously be made, to the satisfaction of the local authority, for parking bays to accommodate not less than one motor-car for every flat or in the case of other residential accommodation for every two bedrooms contained in the building, provided that :-
- (a) If situated under the building the said parking area shall not be enclosed for more than 50% of its perimeter.
- (b) The said parking area and the access and exit thereto shall be located, hardened and surfaced to the satisfaction of the local authority.
- (c) If in erecting his buildings the owner provides lock-up garages on the erf, the required parking area may be reduced by one parking bay for each garage up to a maximum of 75% of the original area required in terms of the foregoing.
9. On consolidation of this erf or any portion thereof with any abutting erf which is subject to the same conditions as herein set forth these conditions shall apply to the consolidated holding as if it was one erf.
10. In the event of this erf being subdivided each subdivided portion, other than any portion deducted for road or similar purposes, shall be subject to the conditions herein set forth as if it were the original erf.

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

**CORINNE EVELYN MARTHA HORN, Married as aforesaid**


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

**BRUCE STANLEY MC LEOD, Unmarried**

his Heirs, Executors, Administrators or Assigns, now is 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 R450 000,00 (FOUR HUNDRED AND FIFTY THOUSAND RAND) .

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

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 21 FEB 2020

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

In my presence

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





FILE NO:	4413
	Betty's Bay
SCAN NO:	KBB 4413
COLLABORATOR NO:	1464122



4411 Lachenalia Road  
Betty's Bay  
2<sup>nd</sup> October 2020

TP. A. Abcard  
(Hud Stoop)

Municipal Manager  
Overstrand Municipality  
Hermanus

Dear Sir

**OBJECTION TO PROPOSED SUBDIVISION OF ERF 4413, 4 LACHENALIA ROAD,  
BETTY'S BAY**

We own 4411 Lachenalia Road, Betty's Bay which is situated opposite erf 4413.

1. We have only been made aware of this rezoning proposal in the last few days and have had very little time to examine the documents and potential impact of same but we have no objection in principal to the rezoning of erf 4413 from Business to Residential.
2. However, we believe that any development/building on the property/properties must comply with current conditions governing all of the surrounding residential properties in the area with regards to building lines, densification, maximum building height, erf size etc.
3. Your documents refer to the current plot not being visually appealing: if the owner feels that way then he should purchase property which is not situated in an ecologically sensitive area which is home to a wide variety of indigenous vynbos, which he obviously intends to remove. Most of us own property in this area because we appreciate the natural surroundings and wish to preserve the vegetation, not to mention the wildlife which inhabits same. This area is part of the Kogelberg Biosphere Reserve and as such any development allowed should respect that.
4. Your calculation of the average erf size is misleading – it is closer to 700m<sup>2</sup>. Your proposed Portion A measures a mere 600m<sup>2</sup> – surely that is too small and does not conform to the average size plots in the area?
5. We object to the increase of the current maximum density of 5.1 dwelling units a hectare to the proposed maximum density of 27.1 dwelling units (5.3 in the proposal). This is not in keeping with the surrounding properties and is as such unacceptable.

Yours sincerely  
Brenda Van de Ghinste 0834800443 [brenda@skyfans.co.za](mailto:brenda@skyfans.co.za)  
Sally-Anne Gage 0833005878 [sal@skyfans.co.za](mailto:sal@skyfans.co.za)

TP - 1 OCT 2020



Loretta Gillion - RE: Ref. 19/117 and 4413 KBB R.JANKIE

From: WRAP <admin@wrapgroup.co.za>  
To: claude moine <moine.claude@hotmail.com>  
Date: 01/10/2020 04:28 PM  
Subject: RE: Ref. 19/117 and 4413 KBB R.JANKIE  
Cc: <loretta@overstrand.gov.za>

TP n/hoort  
(Hud Steep)

Good day

Please note that any written comments must be submitted in accordance with the provisions of Sections 51 and 52 of the said By-law and reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za).

Regards

Solomé Kolzé  
ADMINISTRATION

Email: [skolze@overstrand.gov.za](mailto:skolze@overstrand.gov.za)  
T: +27 (0)21 213 1411 | M: +27 (0)21 561 2868  
Unit 8, Shorland House, Off Royal and D'Arle Wvs Street  
P.O. Box 7247, Hermanus, 7200  
[www.overstrand.gov.za](http://www.overstrand.gov.za)



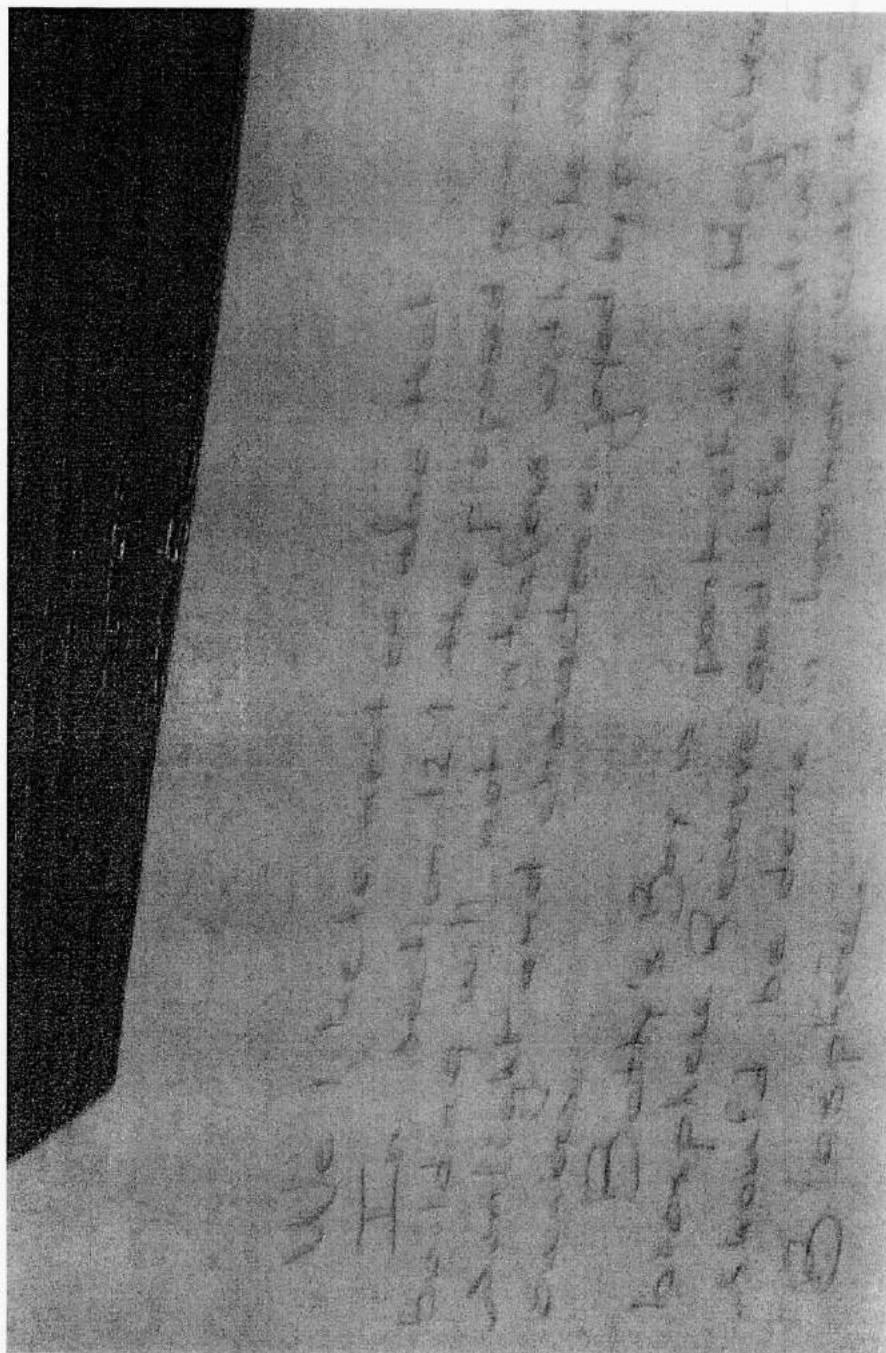
FILE NO:	OF 1113 v.
	Bethys Bay
SCAN NO:	MOINE
COLLABORATOR NO:	1464462

From: claude moine  
Sent: Thursday, October 1, 2020 4:00 PM  
To: admin@wrapgroup.co.za  
Subject: Ref. 19/117 and 4413 KBB R.JANKIE

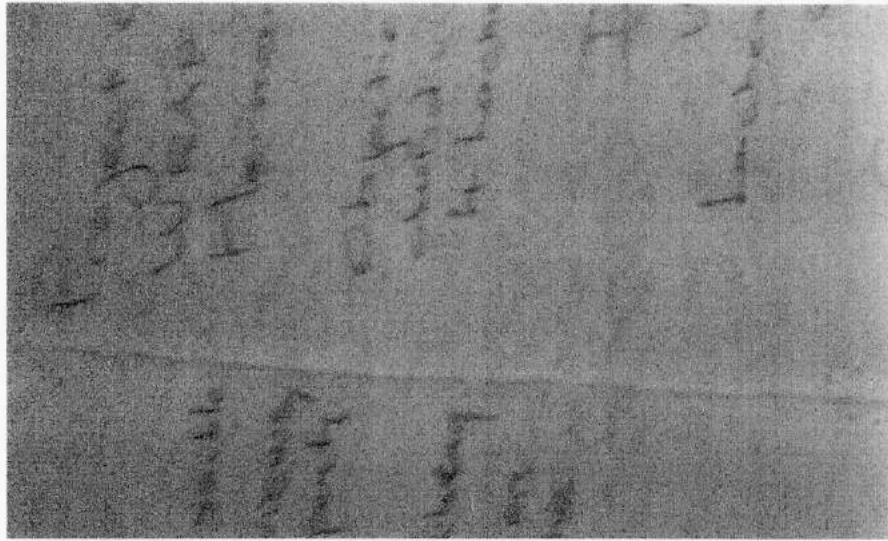
Please find hereattached a copy of our objections to the subdivision of ERF 4413 Bethys BAY

Claude and Annie Moine ERF 4412 Bethys BAY.  
The original was sent by registres mail on the 30 september 2020.

TP - 1 OCT 2020







[Télécharger Outlook pour Android](#)

6/14



7 Lachenalia Road  
Betty's Bay  
30 September 2020

TP- A. (Heart  
(I. Ud Steep)

To the Municipal Manager  
Overstrand Municipality  
Hermanus

FILE NO:	EF 4413
	Betty's Bay
SCAN NO:	07
COLLABORATOR NO:	1463832

Dear Sir

OBJECTION TO PROPOSED SUBDIVISION OF ERF 4413, 4 LACHENALIA ROAD,  
BETTY'S BAY

I, together with my wife, own the house built in 1991 on erf 4410 Lachenalia Road, Betty's Bay which is situated opposite erf 4413.

We have no objection to the rezoning of erf 4413 from Local Business to Residential as proposed in the proposal (19/117) which was sent to us with your letter dated 27 August 2020.

We do, however, **object to subdividing the current erf into 3 plots** rather than dividing it into 2 plots for the following reasons:

1. Subdivision into 3 plots allowing for the erection of 3 separate dwellings will result in over development of the current erf which is a corner plot.
2. Subdivision into 3 plots and constructing 3 dwellings would mean that the new buildings would have to be erected very close to building lines (now only 2 meters from the edge of the plot). This density of housing is not in keeping with current development and will affect the neighbouring residents.
3. Subdivision into 3 plots means that all the natural vegetation would have to be removed to accommodate 3 dwellings which is not in keeping with attempts to preserve fynbos in Betty's Bay which forms part of the Kogelberg Biosphere Reserve.
4. Subdivision into 3 plots is of particular concern for the proposed Portion A which measures only 602 m<sup>2</sup> as plot 4413 is a corner plot and has no open space (fynbos) in front of it as all the other plots on Lachenalia Road do.
5. The claim that the proposed erf sizes are in harmony with the surroundings is misleading. Figure 1 (page 5) has included 31 plots to calculate "an average" erf size of 710 m<sup>2</sup> and states that the average erf size of the proposed 3 new erfes would be 737.6 m<sup>2</sup>.

TP

- 1 OCT 2020

A more accurate calculation when looking at harmony with surroundings would result from using the erfen bordering Lachenalia and Ixia roads between White Road and Lobelia Road. The average size of these 15 erfen is 871.5 m<sup>2</sup>.

6. Even with the misleading calculation used in the proposal, the fact that Portion A would be a mere 602m<sup>2</sup> is ignored.
7. The calculation used by the proposer includes smaller plots which are not situated on the curve of Ixia road. If one calculates using the sizes of the 6 plots on the curve of the road close to erf 4413 (excluding erf 4413) one gets an average size of 824.8 m<sup>2</sup>.
8. We do not agree with and we strongly object to the increase of the current maximum density of 5.1 dwelling units a hectare to the proposed maximum density of 27.1 dwelling units (5.3 in the proposal). This we feel is the complete opposite of harmonious development in a recognized biosphere and derogates the beauty of residential development in Betty's Bay which allows for lawn for protection against fire as well as gardens with the natural fynbos.
9. Section 12.1 in the proposal is misleading and untrue when it states that the "*vacant property is currently not visually appealing*". The plot is filled with fynbos with very little alien infestation which is currently visually appealing to the surrounding property owners.
10. Section 12.1 in the proposal claims that the proposed permissible buildings will "*not interfere with the views, sunlight and character enjoyed by property owners*". Contrary to this claim, the proposed division would create a dense collection of buildings resulting from owners wanting to maximize the ground area and would increase the likelihood of double story buildings close to the boundary which would interfere with the views and sunlight enjoyed by property owners. Once the plots are sold, the proposer would have no say whatever in what is built.
11. This plot is across the road from a greenbelt and a large fresh water lake. The current houses surrounding erf 4413 are positioned and built in harmony with this. Constructing 3 separate and independent dwellings on the 3 plots of the sizes proposed by this application will violate the very reason that Betty's Bay lies within the Kogelberg Biosphere Reserve, the heart of the floral kingdom.

We accept that development is inevitable, but this is what we believe would be acceptable and if the development could be in keeping with the environment and respect everyone's privacy as much as possible, this is what we would support.

We point out that there is no site development plan and it would be easier to comment if one was able to see that the housing would be of a sensitive & complementary design for the location.

Yours sincerely  
DE Shaw and LCG Shaw

8/14

**Loretta Gillion - Objection to Proposed Subdivision of ERF 4413, 4 Lachenalia Road, Betty's Bay.**

**From:** Jenny Broom <Jenny@marketingscience.co.za>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>  
**Date:** 30/09/2020 05:23 PM  
**Subject:** Objection to Proposed Subdivision of ERF 4413, 4 Lachenalia Road, Betty's Bay.  
**Cc:** Mike Broom <Mike@marketingscience.co.za>



TP- A. Abert  
(Il. Ud Stoop)

To The Municipal Manager  
 Overstrand Municipality  
 Hermanus.  
 Municipal Reference 4413 KBB

From J.H.Broom  
 5 Lachenalia Road,  
 Betty's Bay  
 ERF 4409.  
 30/09/2020  
 Contact details – 021 4388363 Cell 083 3007005

FILE NO:	Of 4413 Betty's Bay
SCAN NO:	08
COLLABORATOR NO:	14-b3835

**OBJECTION TO THE PROPOSED SUBDIVISION OF ERF 4413, 4 LACHENALIA ROAD, BETTY'S BAY.**

Dear Sir,

My husband, M.W.Broom and I own the property at 5 Lachenalia Road, Betty's Bay, ERF 4409, which is situated opposite ERF 4413.

1. With regards to the proposed subdivision of ERF 4413 into 3 plots, rather than 2, we would like it on record that we object in the strongest possible terms to this proposal, for the following reasons.
  - A. This would result in over-densification of dwellings in the area, especially as the corner plot would be particularly small, at only 602 m2.
  - B. The increased population density would result in heightened noise levels, pollution and rubbish in what is presently a tranquil corner of Betty's Bay.
  - C. All fynbos would disappear, which is not in keeping with the preservation of the Kogelberg Biosphere Reserve.
  - D. Overall, it could have the effect of reducing the property prices of existing homes, due to excess dwellings in the area.
2. Point 5.3

We also strongly object to the request to permit a proposed maximum density of 27.1 dwelling units per hectare, as opposed to the current maximum of 5.1 dwelling units per hectare. Again, this contradicts the precepts of what the Kogelberg Biosphere Reserve is all about, namely the protection and preservation of natural fynbos in all its forms.

3. Point 12.1

TP - 1 OCT 2020

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9/14

To state that the vacant property is currently not visually appealing is utter nonsense, as is the remark that buildings on the plot will visually benefit surrounding property owners. Personally, we would prefer to see natural vegetation, as opposed to densely packed homes, any day.

4. Point 13.2

It is also a misconception to state that the addition of 3 extra families living in the area will be to the advantage of surrounding property owners, due to reduction of crime in the area. If anything, the reverse will happen, with more criminals being attracted to the area, with additional homes to break into.

We trust that this objection will be favourably received.

Yours sincerely,  
J.H. Broom and M.W.Broom.

TP. D. / heart<sup>10/14</sup>  
(H. Ud Stoop)

Loretta Gillion - erf 4413, Betty's Bay : Response to the proposed amendments ,

**From:** Helen van Rensburg <63442442@mylifeunisaac.onmicrosoft.com>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>  
**Date:** 01/10/2020 01:51 PM  
**Subject:** erf 4413, Betty's Bay : Response to the proposed amendments ,  
**Cc:** Helen van Rensburg <63442442@mylifeunisaac.onmicrosoft.com>



Dear Loretta

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

From

Helen van Rensburg  
 Erf 4408 Lachenalia rd  
 P.O. Box 246, Betty's Bay  
 082 418 5712.  
 30.09.2020

FILE NO: AF 4413
Betty Bay
SCAN NO: 03
COLLABORATOR NO: 1463817

In response to proposed amendments to title deed of Erf 4413

**Rezoning:**

In response to the Rezoning of erf 4413 from Business Zone to Residential Zone, appears reasonable.

**Subdividing of erf 4413:** The proposed subdivision dividing the erf into 3 is not in line with the area, and should NOT be permitted.

To avoid bias it would be best that average size of erven in the entire of Betty's Bay, including mountain erven, are calculated to find a true average and avoid bias. In WRAPS motivation they took a biased selection which they said average 710m<sup>2</sup>, however even this is a miscalculation and should be 759,258m<sup>2</sup>. Once one takes in the true average size of all the erven into account you can expect the average erven to be even larger. At most erf 4413 could subdivide into two erven but no more.

**I see no social benefit to the proposed amendments.**

Higher density housing is known for creating serious social problem, furthermore such amendments would unjustly devalue the surrounding properties worth. Short term rentals have created a headache for locals as rentals are not considerate with their noise / music and parking, and are often targeted for break ins. In some cases, the short-term rentals have been suspected to be involved in contributing to crime in the area. As a generalisation both short term and long-term rentals tend to be poorly maintained and should not be encouraged. There is currently more than adequate housing available for long term and short-term rentals.

**Restrictive Title Deed 8.7(b)**

**Not more than 80% of the erf shall be built on, should remain intact.** Due to fire risks a minimum of 20% of the erf should not be built on.

**Restrictive Title Deed 8.8**

**At least 1 parking bay should be provided for every two bedrooms.**

Even with parking provided the overflow can cause a disruption of traffic flow and at times no access. This title deed requirement should stay in place. Once an alternative suggestion is provided, this can be reconsidered.

**Restrictive Title Deed 8.9 and 8.10:**

**The title deeds should remain applicable regardless of consolidating or subdividing**

TP

- 1 OCT 2020

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11/14

**Deviation of density is unacceptable:**

Betty's Bay is a peaceful residential village with coastal and estuarine habitats within a biosphere, with no manufacturing or heavy industry. Residents live here because of its rural nature and to be closer to nature, with properties allowing for reasonable distances from neighbours.

It would be advisable for the purchaser to rather purchase in an area where high density housing is accepted practice, and where there are employment prospects for their proposed tenants.

High density housing is known for creating serious social problems.

To propose high density is unacceptable, this would devalue our properties, cause increase in noise pollution, crime, the existing infrastructure would also be affected, including traffic congestion. Our roads are already in a poor state and that is before additional traffic. High density housing is would destroy the rural nature of Betty's Bay and encourage further similarly undesirable developments.

The proposed density of 27.1 per hectare would enable the building of 6 residential/other units on erf 4413, which is totally unacceptable and not in keeping with the area, furthermore the proposed high-density housing would present **substantial fire risks** to the houses on the erf and surrounding it.

Housing that is inadequately spaced apart holds a greater fire risk, and a fire in one house might cause the surrounding houses to ignite. It also runs the risk of creating wind channels for fire to accelerate through and denying fire fighters safe access and egress.

Being close to Grootvlei and Rondevlei, one needs to realise that in a fire that the vlei's water bodies offer no true fire protection. The reeds burn at incredibly high temperature and have the ability to create fire balls. This area should be considered high risk for fire.

To reduce one's fire risk: it is vital to have sufficient cleared space around one's house, this is enabled by: leaving at least 20% unconstructed, allowing for at least 1 parking bay per 2 bedrooms, and adhering with pre-existing approved density.

Taking the above in consideration, I consider it highly irresponsible to attempt the proposed subdivision and deviation. It would be recommended that the purchaser rather invests in an area where their requirements are pre-existing.

Kindest regards,

Helen van Rensburg  
Erf 4408 Lachenalia rd  
P.O. Box 246, Betty's Bay  
082 418 5712.  
30.09.2020

TP. N. (hoort  
(1. ud Sloep)



4427 White R

Bettys Bay

14 September 2020

The Municipal Manager  
Overstrand Municipality  
Hermanus.

FILE NO:	OF 4413
	Betty's Bay
SCAN NO:	KBB 4413
COLLABORATOR NO:	115 8284

Dear Sir,

RE: OBJECTION TO PROPOSED SUBDIVISION OF ERF 4413, 4 LACHENALEA RD, BETTYS BAY

I have no objection to the rezoning of Erf 4413 Bettys Bay from Business to Residential as proposed in your letter dated 27 August 2020 , Ref: proposal 19/117 KBB

I do however object strongly to subdividing the existing erf into three (3) plots rather than two (2) plots.

My reasons being:

1. I am going to be affected by all 3 new plots as the fence connects directly to mine in the middle and so doing putting all 3 new buildings in front of me.
2. Erecting 3 buildings in this area would mean a cluster of houses directly on my fence and view.
3. Section 12.1 in your proposal claims that the proposed buildings "will not interfere with the views, sunlight and character enjoyed by property owners". Well the proposed buildings will all be in my view and close to my fence line and if high buildings would be erected it will effectively block my sunlight and views not to mention intrude on the privacy I would like to enjoy in my living space.
4. You also state in section 12.1 that the plot in its current state is not visually appealing. On the contrary, we live in a biosphere with quite a number of small animals sharing our space. This plot is home to tortoises, cape grouse who are breeding there, mongoose and red duiker and porcupine. Abundant bird life including the eluding Victorins warbler. I know the plot will be developed but three (3) plots with houses will be crowding the area.
5. With the proposed 3 houses to be built the plots will have to be cleared meaning all fynbos will be removed, and it will not grow back easily.

TP

16 SEP 2020

6. I won't go into the fact of average plot sizes in the area. The corner stand is not suitable for 3 houses as it will crowd the area and take away the open spaces people living in Bettys Bay enjoy. Apart from crowding there won't be much room left for open lawns to help protect in case of fires, which is a real threat in our area.
7. I strongly object and really do not agree with the proposed increase of the current maximum density of 5.1 dwelling units to hectare to maximum of 27.1 dwelling units per hectare! As I have stated before, we live in a biosphere especially around the lakes.
8. We do not even have tar roads and are happy without it but bringing in more houses means more people and more cars. What happens to the small animals in our area?
9. Lastly, concerning safety in our area. We do not experience any security problems in this area. Building activities normally bring however security threats. More houses, more temptation especially if they are not permanently occupied.

I urgently appeal to you to think this proposal through carefully.

Yours sincerely,

JM Biggs.



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



TP n. Neal  
(1/4d Group)

FILE NO:	OF 4413
	Bell's Bay
SCAN NO:	KBB 4413
COLLABORATOR NO:	1464435

To whom it may concern

Re: 19/117 & Mun Reference 4413 KBB

Dear Sir/Madam,

The Betty's Bay Ratepayers Association will support the decision taken by the Overstrand Municipality with the subdivision of ERF 4413 Lachenalia Betty's Bay.

Yours sincerely,

GORDON SCHOLEFIELD (Property Portfolio Representative-BBRPA)

Chairman: B. Scholefield      Secretary: T. Scholefield  
087 402 1934                      021 840 4014  
Edwin P.O. Box 44, Betty's Bay, 7051      851, Riebeekstrand, 7051

TP - 1 OCT 2020



# Project Office

Town Planning & Project Management

TP: D. Ince  
(H. van der Stoep)



Our Reference: 19/117  
Your reference: 4413 KBB 3577/2020

23 October 2020

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

Attention: Ms H van der Stoep

FILE NO:	OF 4413 ✓
SCAN NO:	KBB 4413
COLLABORATOR NO:	1472852

**APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, REZONING AND SUBDIVISION: ERF 4413 BETTY'S BAY: RESPONSE TO OBJECTIONS**

Your letter dated 21 October 2020, refers.

Comments / objections and letters of support were received through the prescribed public participation process from:

- B van de Ghinste
- DE & LCG Shaw
- JH & MW Broom
- H van Rensburg
- Betty's Bay Ratepayers Association (K Scholefield)

Comments / objections were sent by the following objectors to WRAP instead of the OM which violates the instruction in the notice which was circulated to the objectors but are nonetheless responded to:

- JM Biggs
- C & A Moine

Project Planning | Project Feasibility | Land Use Applications | Project Execution Management | Liquor Licensing

Wright Approach Investments  
136 CC  
(Reg No. 2002/060745/23)

Unit B, Standard House,  
Cnr Royal and Dirkie Uys Street  
Hermanus, 7200

Tel: +27 (0)28 313 1411

Email: admin@wrapgroup.co.za  
Web: www.wrapgroup.co.za

TP 28 OCT 2020

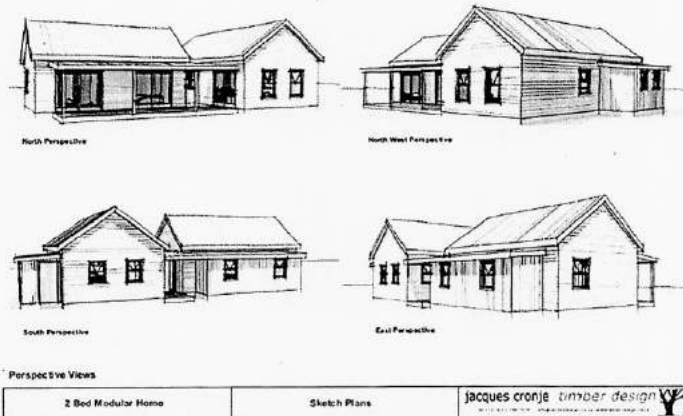
Established 2002

All the submitted objections raise a concern regarding the creation of 3 residential erven and the scale thereof. This table below illustrates a comparison between the proposed land use rights and applicable development parameters for the Business Zone 3: Local Business zoning currently applicable on the subject property and the Residential Zone 1: Single Residential zoning proposed on the subject property.

	<b>Business Zone 3: Local Business</b>	<b>Residential Zone 1: Single Residential</b>
<b>Primary uses</b>	shops, dwelling unit (above ground floor) in accordance with 6.3.2, flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering.	crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering.
<b>Coverage</b>	75%	50%
<b>Height</b>	(i) The maximum height of a building, measured from the base level to the top of the structure, is 8,5 m. (ii) The maximum number of storeys is 2.	(i) The maximum height of a building measured from the base level to the top of the structure is 8,0 m.

The table above illustrates that the owner of the subject property can as a primary right establish a restaurant, office and shop on the ground floor and flats on the first floor which may have a maximum coverage of 75% after building plans are approved without obtaining input from the neighbours. These land uses would generate excessive noise and traffic in a neighbourhood which is characterised by tranquillity and the absence of commercial land uses. The rationale for the submitted application is for the establishment of dwelling units on the 3 proposed erven which constitutes a low land use impact with a coverage of 50% compared to what is currently permissible. This response to these objections should therefore be evaluated with the thought in mind that this proposal constitutes a significant downscaling of land use rights and development parameters which are currently applicable on the subject property.

Below is a concept drawing of the architectural integrity of the proposed buildings which is of a lower scale compared to what is permissible on the proposed SR1 zoning.





**Response to comments pertaining to the scale of the submitted application.**

Comment	Response to comment
<p>We have only been made aware of this rezoning proposal in the last few days and have had very little time to examine the documents and potential impact of same but we have no objection in principal to the rezoning of erf 4413 from Business to Residential. However, we believe that any development/building on the property/ properties must comply with current conditions governing all of the surrounding residential properties in the area with regards to building lines, densification, maximum building height, erf size etc.</p>	<p>The 3 erven are proposed to be zoned Residential Zone 1: Single Residential (SR1) which is the same zoning as the property of the objector and other surrounding properties. This by implication will ensure that the building lines, densities, maximum building height and erf size are similar to that of the objector and the surrounding properties. This will protect the existing character of the area which the objector values and is therefore not a cause for concern.</p>
<p>Your calculation of the average erf size is misleading- it is closer to 700m<sup>2</sup>. Your proposed Portion A measures a mere 600 m<sup>2</sup> surely that is too small and does not conform to the average size plots in the area?</p>	<p>The calculation that the proposed subdivision will create an average erf size of 737,6m<sup>2</sup> was factual as the word average means a number expressing the central or typical value in a set of data. Section 7 of the motivation report has also illustrated that the smallest erf within the delineation within proximity to the subject property measures 585m<sup>2</sup> which nullifies the assertion by the objector that the proposed size of the plot is too small.</p>
<p>We object to the increase of the current maximum density of 5.1 dwelling units a hectare to the proposed maximum density of 27.1 dwelling units (5.3 in the proposal). This is not in keeping with the surrounding properties and is as such unacceptable. We do not agree with and we strongly object to the increase of the current maximum density of 5.1 dwelling units a hectare to the proposed maximum density of 27.1 dwelling units (5.3 in the proposal). This we feel is the complete opposite of harmonious development in a recognized biosphere and derogates the beauty of residential development in Betty's Bay which allows for lawn for protection against fire as well as gardens with the natural fynbos. The proposed density of 27.1 per hectare would enable the building of 6 residential/other units on erf 4413, which is totally unacceptable and not in keeping with the area, furthermore the proposed high-density housing would present substantial fire risks to</p>	<p>To illustrate the compatibility of the density sought in this application with the immediate surrounding, the following calculations are made:</p> <p>An erf which measures 710m<sup>2</sup> (this is the average erf size of the immediate surrounding) with the zoning of SR1 is allowed to have a second dwelling unit which places the density on the property at 28,1 dwelling units per hectare. The proposed subdivision would increase the permissible residential density on the subject property to 27.1 dwelling units per hectare which is within the same density range of the surrounding which nullifies the concerns of over densification raised by the objectors.</p> <p>The proposed erven will each have the SR1 zoning which prescribes a 2m building line and 50% coverage which will by default leave space between the</p>



<p>✓ the houses on the erf and surrounding it. We also strongly object to the request to permit a proposed maximum density of 27.1 dwelling units per hectare, as opposed to the current maximum of 5.1 dwelling units per hectare. Again, this contradicts the precepts of what the Kogelberg Biosphere Reserve is all about, namely the protection and preservation of natural fynbos in all its forms. Housing that is inadequately spaced apart holds a greater fire risk, and a fire in one house might cause the surrounding houses to ignite. It also runs the risk of creating wind channels for fire to accelerate through and denying fire fighters safe access and egress. Even with the misleading calculation used in the proposal, the fact that Portion A would be a mere 602m<sup>2</sup> is ignored.</p>	<p>properties which will serve as a fire break as well as a garden in which the prospective property owners can plant vegetation. This proposal therefore does not derogate from the surroundings as submitted by the objectors.</p>
<p>I, together with my wife, own the house built in 1991 on erf 4410 Lachenalia Road, Betty's Bay which is situated opposite erf 4413. We have no objection to the rezoning of erf 4413 from Local Business to Residential as proposed in the proposal (19/117) which was sent to us with your letter dated 27 August 2020. We do, however, object to subdividing the current erf into 3 plots rather than dividing it into 2 plots for the following reasons: Subdivision into 3 plots allowing for the erection of 3 separate dwellings will result in over development of the current erf which is a corner plot.</p>	<p>The motivation report and the response to the objection in the previous column illustrates that the submitted planning proposal is in harmony with the character and density of the surrounding which nullifies the over densification assertion by the objector.</p>
<p>Subdivision into 3 plots and constructing 3 dwellings would mean that the new buildings would have to be erected very close to building lines (now only 2 meters from the edge of the plot). This density of housing is not in keeping with current development and will affect the neighbouring residents.</p>	<p>All property owners in Betty's Bay have the SR1 zoning which permits construction to occur up to 2m from the side boundary line which the owner of the subject property will abide by and is in keeping with the current location of dwellings on erven in the area and is therefore not projected to adversely affect neighbouring residents.</p>
<p>Subdivision into 3 plots is of particular concern for the proposed Portion A which measures only 602m<sup>2</sup> as plot 4413 is a corner plot and has no open space (fynbos) in front of it as all the other plots on Lachenalia Road do.</p>	<p>The practice of planting fynbos on properties is a matter of a property owners personal vegetation preference and cannot be imposed by anyone. The absence of fynbos in front of the Proposed Portion A is not a reflection on the general desirability of the submitted planning application.</p>
<p>The claim that the proposed erven sizes are in harmony with the surroundings is</p>	<p>The rationale for using the delineation in Section 7 of the motivation report was to</p>



*misleading. Figure 1 (page 5) has included 31 plots to calculate "an average" erf size of 710m<sup>2</sup> and states that the average erf size of the proposed 3 new erven would be 737.6m<sup>2</sup>. A more accurate calculation when looking at harmony with surroundings would result from using the erven bordering Lachenalia and Ixia roads between White Road and Lobelia Road. The average size of these 15 erven is 871.5m<sup>2</sup>. The calculation used by the proposer includes smaller plots which are not situated on the curve of Ixia road. If one calculates using the sizes of the 6 plots on the curve of the road close to erf 4413 (excluding erf 4413) one gets an average size of 824.5m<sup>2</sup>.*

*With regards to the proposed subdivision of Erf 4413 into 3 plots, rather than 2, we would like it on record that we object in the strongest possible terms to this proposal, for the following reasons.*

- *This would result in over-densification of dwellings in the area, especially as the corner plot would be particularly small, at only 602m<sup>2</sup>.*
- *The increased population density would result in heightened noise levels, pollution and rubbish in what is presently a tranquil corner of Betty's Bay.*
- *All fynbos would disappear, which is not in keeping with the preservation of the Kogelberg Biosphere Reserve.*
- *Overall, it could have the effect of reducing the property prices of existing homes, due to excess dwellings in the area.*

illustrate that the density sought in the proposal is in harmony with the immediate surroundings. The delineation which is proposed by the objector would not illustrate the immediate surrounding to the subject property and would therefore have misleading calculation conclusions.

- It has been illustrated in Section 7 of the motivation report and above responses that the proposed erf sizes are in harmony with the general character of the surrounding and not particularly small as cited by the objector.
- The increase in density to be in harmony with the surrounding cannot be assumed to lead to excessive noise emission for the subject property as that is dependent on the general behaviour and character of property occupants who are not yet known which makes this assertion presumptuous.
- There is ample fynbos within Betty's Bay and surrounding nature reserves and the assertion that the approval and implementation of this proposal would make fynbos disappear in the area is unfounded.
- This proposal blends in with the character and density of the surrounding and does not constitute a derogation which nullifies the concern that existing property prices would be reduced.



<p><i>To state that the vacant property is currently not visually appealing is utter nonsense, as is the remark that buildings on the plot will visually benefit surrounding property owners. Personally, we would prefer to see natural vegetation, as opposed to densely packed homes, any day.</i></p>	<p>The subject property is currently zoned for commercial purposes and if the property owner acted upon this zoning without obtaining input from the neighbour and opened a shop, crowds of people would enter and egress the subject property daily which could potentially negatively alter the tranquil residential ambience which is enjoyed by the objector. The submitted proposal for the establishment of 3 residential erven is intended to be in harmony with the residential character of the surrounding as opposed to a large shop which has the potential to be an edifice. It is also unreasonable for the objector to expect the owner of the subject property to not develop land within an urban area with development potential in favour of a more pristine site as a return on investment is expected by the owner of the subject property.</p>
<p><i>Subdividing of erf 4413: The proposed subdivision dividing the erf into 3 is not in line with the area and should NOT be permitted. To avoid bias it would be best that average size of erven in the entire of Betty's Bay, including mountain erven, are calculated to find a true average and avoid bias. In WRAPS motivation they took a biased selection which they said average 710m<sup>2</sup>, however even this is a miscalculation and should be 759,258m<sup>2</sup>. Once one takes in the true average size of all the erven into account you can expect to the average erven to be even larger. At most erf 4413 could subdivide into two erven but no more.</i></p>	<p>While some of the erven at the foot of the mountain measure approximately 800m<sup>2</sup>, there are some erven which measure approximately 340m<sup>2</sup>. If the delineation was stretched to the mountains as requested by the objector, the small erven would invariably reduce the average erf size which would ultimately be around the same size as the average erf size proposed in the submitted proposal and would not create a different outcome.</p>

**Response to objections pertaining to environmental considerations.**

<b>Comment</b>	<b>Response to comment</b>
<p><i>Your documents refer to the current plot not being visually appealing: if the owner feels that way then he should purchase property which is not situated in an ecologically sensitive area which is home to a wide variety of indigenous fynbos, which he obviously intends to remove. Most of us own property in this area because we appreciate the natural surroundings and wish to preserve the vegetation, not to</i></p>	<p>The subject property is not ecologically sensitive but there are vleis within Betty's Bay and nature reserves around the urban area which are ecologically sensitive. This proposal is infill development which constitutes optimising on the use of land within the urban area and does not constitute further encroachment into pristine environmentally sensitive land which will not result in vegetation and habit</p>



<p>mention the wildlife which inhabits some. This area is part of the Kogelberg Biosphere Reserve and as such any development allowed should respect that.</p>	<p>loss as cited by the objector. The only vegetation loss which is projected on the subject property is the removal of the grass and weeds which are prevalent on the site.</p>
<p>Subdivision into 3 plots means that all the natural vegetation would have to be removed to accommodate 3 dwellings which is not in keeping with attempts to preserve fynbos in Betty's Bay which forms part of the Kogelberg Biosphere Reserve.</p>	<p>The subject property does not form part of the formally protected Kogelberg Biosphere Reserve and therefore not an environmentally sensitive site.</p>
<p>Section 12.1 in the proposal is misleading and untrue when it states that the "vacant property is currently not visually appealing". The plot is filled with fynbos with very little alien infestation which is currently visually appealing to the surrounding property owners.</p>	<p>The alien infestation prevalent on the subject property which the objector refers to tends to make a landscape inhabitable for indigenous vegetation such as fynbos due the alien vegetation consuming excessive water and emitting nitrogen. Without alien vegetation clearance, the little bit of fynbos prevalent on the subject site would over time perish and become an environmental and aesthetics problem which the approval and implementation of this proposal would avert through the construction of dwellings with gardens landscaped with indigenous vegetation. The current visual character on the subject property should therefore not be taken for granted as a permanent state.</p>
<p>This plot is across the road from a greenbelt and a large freshwater lake. The current houses surrounding erf 4413 are positioned and built in harmony with this. Constructing 3 separate and independent dwellings on the 3 plots of the sizes proposed by this application will violate the very reason that Betty's Bay lies within the Kogelberg Biosphere Reserve, the heart of the floral kingdom.</p>	<p>This proposal entails infill development and does not encroach on the environmentally sensitive greenbelt and large freshwater lake and cannot be regarded as violating the character of the surrounding floral kingdom as cited by the objector.</p>
<p>Being close to Grootvlei and Rondevlei, one needs to realise that in a fire that the vlei's water bodies offer no true fire protection. The reeds burn at incredibly high temperature and have the ability to create fire balls. This area should be considered high risk for fire.</p>	<p>The matter pertaining to the fire risk of Betty's Bay is beyond the scope of what can be addressed in the planning application and it is suggested that the objector raise this concern with the relevant State or Municipal authorities.</p>

#### Response to objections pertaining to aesthetics.

Comment	Response to comment
<p>Section 12.1 in the proposal claims that the proposed permissible buildings will "not interfere with the views, sunlight and</p>	<p>The proposed erf sizes which are similar to that of the surrounding will not unlock an excessively dense collection of buildings,</p>



<p>character enjoyed by the property owners". Contrary to this claim, the proposed division would create a dense collection of buildings resulting from owners wanting to maximize the ground area and would increase the likelihood of double story buildings close to the boundary which would interfere with the views and sunlight enjoyed by property owners. Once the plots are sold, the proposer would have no say whatever in what is built.</p>	<p>but the denseness will be of a similar scale to the surroundings. Any property owner including the objector may maximise on the floor space within the development parameters which are prescribed in the OMZS and the placement of more onerous restrictions on the submitted proposal cannot be justified.</p>
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**Response to objections pertaining to restrictive title deed conditions.**

<b>Comment</b>	<b>Response to comment</b>
<p><i>Restrictive Title Deed 8.8</i>  <i>At least 1 parking bay should be provided for every two bedrooms. Even with parking provided the overflow can cause a disruption of traffic flow and at times no access. This title deed requirement should stay in place. Once an alternative suggestion is provided, this can be reconsidered.</i></p>	<p>The removal of this title deed condition will not absolve parking requirements on the proposed erven as the parking requirements of the SR1 zoning is 2 parking bays for the dwelling house and 1 parking bay for the second dwelling unit. Considering that the removal of this restrictive title deed condition pertaining to parking will unlock alternative parking standards and not eliminate the requirement for parking, the rationale for this restrictive title deed condition remaining in place is not necessary.</p>
<p><i>Restrictive Title Deed 8.9 and 8.10:</i>  <i>The title deeds should remain applicable regardless of consolidating or subdividing</i></p>	<p>The reason for this restrictive title deed condition being proposed for removal is that when title deeds of two different properties are consolidated, the title deed conditions of each of the previous properties become applicable on the title deed of the new property which nullifies the need for this restriction as it is a general practice at the Deeds Office.</p>
<p><i>Restrictive Title Deed 8.7(b)</i>  <i>Not more than 80% of the erf shall be built on, should remain intact. Due to fire risks a minimum of 20% of the erf should not be built on.</i></p>	<p>The current property coverage is 80% and this proposal will entail coverage on each of the erven being 50% which constitutes a lower coverage than what is currently permissible on the subject property. The request that the coverage be reduced to 20% which is more onerous than the 50% which is applicable on the objectors property cannot be rationally justified considering that the 2m side building lines applicable on all properties generally tend to reduce fire risk.</p>



**Response to objections pertaining to safety and security considerations.**

Comment	Response to comment
<p><i>It is also a misconception to state that the addition of 3 extra families living in the area will be to the advantage of surrounding property owners, due to reduction of crime in the area. If anything, the reverse will happen, with more criminals being attracted to the area, with additional homes to break into.</i></p>	<p>The concern around crime raised by the objector is one which is prevalent in all neighbourhoods in South Africa. The additional dwellings will have additional occupants who will be additional surveillance which will make criminals more cautious about breaking into properties due to the high levels of observation which will be prevalent on the premises.</p>
<p><i>I see no social benefit to the proposed amendments. Higher density housing is known for creating serious social problem, furthermore such amendments would unjustly devalue the surrounding properties worth. Short term rentals have created a headache for locals as rentals are not considerate with their noise/ music and parking, and are often targeted for break ins. In some cases, the short-term rentals have been suspected to be involved in contributing to crime in the area. As a generalisation both short term and long-term rentals tend to be poorly maintained and should not be encouraged. There is currently more than adequate housing available for long term and short-term rentals.</i></p>	<p>The objector has not listed the social problems which higher density housing tends to cause nor the reasons why this leads to property devaluation which makes it difficult to understand the rationality applied by the objector. The submitted report did not mention whether the proposed dwelling will be sold, used for short- or long term rentals so the assumption that the proposed dwellings will be rented out and trigger all the negative social consequences which are cited by the objector is unfounded.</p>

**Response to objections pertaining to the character of the area.**

Comment	Response to comment
<p><i>"Deviation of density is unacceptable: Betty's Bay is a peaceful residential village with coastal and estuarine habitats within a biosphere, with no manufacturing or heavy industry. Residents live here because of its rural nature and to be closer to nature, with properties allowing for reasonable distances from neighbours.</i></p> <p><i>It would be advisable for the purchaser to rather purchase in an area where high density housing is accepted practice, and where there are employment prospects for their proposed tenants."</i></p>	<p>The proposed erven are of a similar size to the surrounding erven with the same building lines and coverage which allows for reasonable distance from neighbours. The approval and implementation of this proposal will not hinder the ability of the objector to continue enjoying the peaceful residential village with coastal and estuarine habitats within the biosphere with no manufacturing or heavy industry.</p> <p>This proposal does not constitute high density housing and the future occupants will carefully consider the employment prospects in Betty's Bay before choosing to reside in the neighbourhood.</p>



<p>High density housing is known for creating serious social problems. To propose high density is unacceptable, this would devalue our properties, cause increase in noise pollution, crime, the existing infrastructure would also be affected, including traffic congestion. Our roads are already in a poor state and that is before additional traffic. High density housing would destroy the rural nature of Betty's Bay and encourage further similarly undesirable developments.</p>	<p>This proposal does not constitute high density housing as explained previously in this response to objections.</p> <p>The objector seems to create a correlation between high density and many negative social problems while there are examples of high-density developments which have high property values and quality living environments with the V&amp;A Waterfront being a glaring example of this.</p> <p>The poor state of the roads in Betty's Bay are not as a result of the density of the neighbourhood but rather as a result of the lack of tarring in most streets and can easily be solved if all roads in the neighbourhood were tarred which is beyond the scope of what the submitted planning application can address.</p> <p>The reasoning by the objector that the approval and implementation of this proposal will lead to many problems in Betty's Bay cannot be convincingly substantiated.</p>
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The following objections were posted directly to WRAP instead of the OM which violates the instruction in the notice which was disseminated to the objectors but nonetheless responded to.

**Response to comments pertaining to the scale of the submitted application.**

Comment	Response to comment
<p>We are the corner of Erf 4412 Lachenalia Road in Betty's Bay. Our erf is adjacent to the Erf 4413. We have no objection to the rezoning from Local Business to Residential of Erf 4413 as mentioned in your proposal, reference: 19/117 2413 KBB. About the subdivision of the Erf into 3 plots, our objections are: The density 5,1 dwelling units on hectares should not be changed to the density of 27,1.</p>	<p>It has been motivated in previous responses that the proposed density of 27,1 dwelling units per hectare is in harmony with the average density of the immediate surroundings.</p>
<p>Therefore no second dwelling should be allowed on the plots.</p>	<p>Every property in Bettys Bay which is zoned SR1 may have a second dwelling unit as a primary right in the OMZS which the objector enjoys and the imposition that the subject property only be allowed to have one dwelling unit is an unjustified request. While there are properties in Betty's Bay</p>



	<p>which have title deed restrictions limiting one dwelling on each erf, the general trend has been for some property owners to apply for the removal of these restrictive title deed conditions which the OM has approved on numerous occasions in the past.</p>
<p><i>The building lines should not be modified.</i></p>	<p>The title deed building lines applicable on the subject property are too onerous for a residential erf and the Business Zone 3: Local Business (B3) building lines which have a 0m street building line are far too relaxed for a residential property and have the potential to allow properties which are located up to the street boundary which would derogate from the surrounding. The proposal that the SR1 building lines be applicable on the proposed erven is to ensure conformity with the development parameters which are applicable on the surrounding properties.</p>
<p><i>The height of the construction should be allowed to the same height then the surrounding constructions.</i></p>	<p>The height restriction applicable on the proposed erven is 8m which conforms to that of the surrounding.</p>
<p><i>The intended building plans of the 3 plots should be supplied so that the surrounding plot owners can consult the plans and give their opinions.</i></p>	<p>The building plans for the dwelling on the proposed erven will only be submitted to the OM Building Control Department which nullifies the request by the objector that the plans be disseminated to the neighbours to obtain opinions.</p>
<p><i>We therefore propose a subdivision into 2 erf not 3 as mentioned."</i></p>	<p>The subdivision of the subject property into 2 erven would create erven which each measure 1106,5m<sup>2</sup> which is much larger than the surrounding average erf size of 737,6 m<sup>2</sup> which would create disharmony with the surrounding urban form. The rationale for the subdivision of the property into 3 erven was to create conformity with the surrounding urban form which would be undermined by the request of the objector.</p>
<p><i>We like to mention also that in Section 12.1 the proposed permissible building will not interfere with the views, sunlight and character enjoyed by the property owners. Betty's Bay is part of the Kogelberg Biosphere Reserve and the construction should be done in harmony with the biosphere.</i></p>	<p>Each of the dwellings to be constructed on the proposed erven will not be visually imposing due to the restrictions applicable in the development parameters applicable in the SR1 zoning and will inhibit the views, sunlight and character which is enjoyed by the objector from being interfered with.</p>



**Response to objections pertaining to the impact and implication of the approval and implementation of this proposal.**

Objection	Response to objection
<p>I have no objection to the rezoning of Erf 4413 Betty's Bay from Business to Residential as proposed in your letter dated 27 August 2020, Ref: proposal 19/117 KBB. I do however object strongly to subdividing the existing erf into three (3) plots rather than two (2) plots. My reasons being: I am going to be affected by all 3 new plots as the fence connects directly to mine in the middle and so doing putting all 3 new buildings in front of me. Erecting 3 buildings in this area would mean a cluster of houses directly on my fence and view.</p>	<p>The objector's property is only abutted by the proposed Portion B and not Portion A and C. The objector will only be visually exposed to 1 dwelling to be constructed on the proposed Portion B or 2 at most if a second dwelling unit is constructed which are land use rights which are also enjoyed by the objector and cannot be regarded as unlocking extra ordinary land use rights.</p>
<p>Section 12.1 in your proposal claims that the proposed buildings "will not interfere with the views, sunlight and character enjoyed by property owners". Well the proposed buildings will all be in my view and close to my fence line and if high buildings would be erected it will effectively block my sunlight and views not to mention intrude on the privacy I would like to enjoy in my living space.</p>	<p>The existing house of the objector is located on a corner plot and is facing north west and south west which offers spectacular views of the mountains and the Groot Vlei. The building which will be constructed on the proposed Portion B is will be located towards the north east and cannot interfere with the current prime views and sunlight which are enjoyed by the objector.</p>
<p>I won't go into the fact of average plot sizes in the area. The corner stand is not suitable for 3 houses as it will crowd the area and take away the open spaces people living in Betty's Bay enjoy. Apart from crowding there won't be much room left for open lawns to help protect in case of fires, which is a real threat in our area. I strongly object and really do not agree with the proposed increase of the current maximum density of 5.1 dwelling units to hectare to maximum of 27.1 dwelling units per hectare! As I have stated before, we live in a biosphere especially around the lakes.</p>	<p>It has been motivated in this response that the approval and implementation of this proposal will be in harmony with the surroundings and will not result in the creation of a crowded environment. The buildings lines and coverage which will be applicable on the proposed erven will serve as a "fire break".</p>

**Response to objections pertaining to environmental considerations.**

Objection	Response to objection
<p>You also state in section 12.1 that the plot in its current state is not visually appealing. On the contrary, we live in a biosphere with quite a number of small animals sharing our space. This plot is home to tortoises, cape grouse who are breeding there, mongoose and red duiker and porcupine. Abundant</p>	<p>The subject property is currently zone B3 and proposed to be zone SR1 and both zonings do not make provision for the location of wild animals. The property owner is prepared to relocate any tortoises, cape grouse, mongoose and red duiker and porcupine which may be discovered</p>



<p>bird life including the eluding Victorins warbler. I know the plot will be developed but three (3) plots with houses will be crowding the area.</p>	<p>on the subject property before construction to a public open space in Betty's Bay before construction commences to protect the abundance of wildlife which is prevalent in the area. It has also been motivated that the proposed erven are in harmony with the character of the area and will not create a crowded environment.</p>
<p>With the proposed 3 houses to be built the plots will have to be cleared meaning all fynbos will be removed, and it will not grow back easily.</p>	<p>Vegetation which is planted on individual erven is subject to personal preference and cannot be imposed by neighbours.</p>
<p>What happens to the small animals in our area?</p>	<p>The property owner is willing to relocate any small animals which will be discovered on the subject property to the existing open space in Betty's Bay which is in contrast with standard practice by building contractors who tend to kill the animals.</p>

**Response to objections not related to the submitted proposal.**

Objection	Response to objection
<p>We do not even have tar roads and are happy without it but bringing in more houses means more people and more cars.</p>	<p>While the concern pertaining to the absence of tarred roads is valid, it is suggested that the objector raise this with the municipality as that is beyond the scope of what the submitted planning application can address.</p>

**Response to objections pertaining to safety and security considerations.**

Objection	Response to objection
<p>Lastly, concerning safety in our area. We do not experience any security problems in this area. Building activities normally bring however security threats. More houses, more temptation especially if they are not permanently occupied.</p>	<p>Building activities tend to be characterised by ample surveillance by the contract workers into the surrounding which tends to reduce crime. More houses mean more surveillance which has the potential deter criminal activities.</p>

**Conclusion**

Most of the objectors generally support the submitted proposal with the key contention being the preference of the objectors for the subject property to be subdivided into 2 erven as opposed to 3 erven due to over densification concerns which were raised. It has been motivated in the submitted report and the response to these objections that the submitted proposal is in harmony with the general character of the surrounding and does not constitute over densification. Considering this, it is recommended that the OM approve the submitted application.

Yours faithfully

A handwritten signature in black ink, appearing to read "R Jankie", is written over a faint, illegible printed name.

**R JANKIE**

**TOWN PLANNER (B/8392/2017)**

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS,  
REZONING, SUBDIVISION & DEVIATION FROM THE OVERSTRAND  
MUNICIPAL GROWTH MANAGEMENT STRATEGY, 2010: ERF 4413, BETTY'S  
BAY**

Stormwater (SW)	:	In Order
Electricity	:	Eskom Area
Water	:	In Order
Sewer	:	In Order
Roads and traffic	:	In Order

**Conditions:**

1. That a Bulk Services Contribution Levy (BICL) be paid by the developer to supplement municipal services and amenities in accordance with the relevant legislation and as determined by the Council. The BICL tariff is adjusted by Council annually. The total BICL payable will be the amount as determined by the BICL Policy and tariff at the date of **actual payment**. BICL amounts quoted in any document will normally be applicable to the particular year in which the document was compiled and Council will not be bound by the quoted amounts.

**1.1 Developments containing Sectional Title Units/ Commercial Buildings**  
(non-free standing properties – property is not to be subdivided)

The BICLs are to be paid in full **prior** to submission of the building plans. Building Plans will not be accepted unless the BICL is paid in full.

**1.2 Developments with free standing properties** (property that is subdivided and plots to be sold individually).

The BICLs are payable **prior** to clearance being issued by the Income Department of the Municipality.

The contribution according to the current policy (2020/2021) is as follows:

**Freehold erven:**

Water	R 23 957.00 x 2	=	R 47 914.00
Sewerage	R 16 153.00 x 2	=	R 32 306.00
Roads	R 7 243.00 x 2	=	R 14 486.00
Stormwater	R 8 357.00 x 2	=	R 16 714.00
Solid Waste	R 1 448.00 x 2	=	<u>R 2 896.00</u>
<b>TOTAL (inclusive of VAT)</b>		<b>=</b>	<b>R 114 316.00</b>

Note:

- 1.3 **The above figures are estimates**
- 1.4 **The above figures do not include evaluation/investigation levies and connection fees**

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2. that each property should have their own water connection and conservancy tanks as per Municipal specification;
3. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
4. that any additional and / or extended vehicle entrances will be for the owner's account;
5. that stormwater be allowed to discharge through the proposed Erven, Betty's Bay, unobstructed;
6. that no on-street parking be allowed.

  
DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES

  
DATE