

## 4.2

**ERF 2129, 4 GREEB ROAD, BETTY'S BAY: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE: GJ MAREE ON BEHALF OF DEON MAREE FAMILY TRUST**

2129 KBB (3911)

H van der Stoep

5 March 2018

(028) 313 8900

Hermanus Administration

**1. EXECUTIVE SUMMARY**

An application has been received on 24 January 2018 from GJ Maree on behalf of the Deon Maree Family Trust on Erf 2129, Betty's Bay for the following:

- ❖ Application for a removal of restrictive title conditions with reference to Clauses D.I.(a), D.I.(b) and D.I.(c) of Title Deed T65399/1996 applicable to Erf 2129, Betty's Bay in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to accommodate a second dwelling unit on the property.

The restrictive conditions Clauses D.I.(a), D.I.(b) and D.I.(c) contained in Title Deed T65399/1996 to be removed, read as follows:

*“(a) That the erf be used for residential purposes only, but no building other than one dwelling, together with such outbuildings as are ordinarily required to be used therewith, may be erected on thereon.*

*(b) That not more than one-half of the area of this erf be built upon.*

*(c) That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 meters to the street line which forms the boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf.”*

- ❖ Application for a departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to relax the western lateral building line with Erf 2108 from 2m to 0m to accommodate a garage and the street building line from 4m to 2,92m to accommodate a stoep.
- ❖ Application for a departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to exceed the 9m restriction of a building on one (1) specific boundary to accommodate a security wall and proposed garage.

The application was complete on 4 April 2018.

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

An application for a departure for a three (3) bedroom guesthouse was approved in 2006, however the approval was taken on appeal in terms of Section 44 of the Land Use Planning Ordinance (LUPO) by an objector. The Department of Environmental Affairs and Development Planning dismissed the appeal in 2008 and a guest house limited to three (3) rooms was approved.

The applicant lodged an application during 2006 for a second dwelling to be utilized as a self-catering unit. The application was not approved in 2007, and the applicant lodged an appeal against the decision. The Section 62 Appeal Committee dismissed the appeal and reaffirmed the decision of 2007.

## 4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation is as follows:

The application is to enable a second dwelling and make use of the primary uses as per the Zoning Scheme such as home occupation, guest rooms and a day care centre.

The relaxation of the lateral building line to 0m is to enable a garage for the proposed second dwelling, since there is no vehicle storage facility for the proposed unit. There is not enough space for a double garage and a tandem garage is proposed. The placement of the proposed garage is directly alongside the staircase leading to the proposed second dwelling, it is the most logical and practical place for the structure. The placement will enable direct access to the proposed unit and will ensure safety and security.

The departure of the solid structure over the building line in the excess of 9m and or a third of the boundary is due to the fact that the garage is longer than a normal single garage to make provision for a trailer. The extension of the western wall of the garage is to serve as a safety wall. This is necessary to combat the wind effect created by the proposed garage onto buildings. This wall will also partly screen off the proposed water storage tank.

The relaxation of the lateral building line to 0m is to erect a water tank on a built brick platform. This will enable the better management of rain water from the roof.

Relaxation of the street building line is to accommodate a covered porch in front of the entrance for the second dwelling to protect the entrance from adverse weather.

The proposed land uses are very much compatible with other properties in Betty's Bay. The size of the current structures, with the proposed extension, will only be increased with approximately 50m<sup>2</sup>. The proposed extension will be a continuation of the style and architecture of the existing building.

The western wall of the proposed garage is a solid parapet brick wall with additional water proofing and without windows and no rainwater will flow directly onto the

neighbouring Erf 2018. The placement of the water tank will specifically serve to help the rainwater from the roof of the garage.

The proposed enclosure of the current open balcony on the western side will eliminate the present view onto Erf 2018.

The application for the restrictive conditions is in line with the National and Provincial Policies of Densification and Efficiency of Land Use, because of the need to create settlements that optimise use of space, energy, infrastructure resources and land are achieved in this application.

The application is in line with the Overstrand Policies in terms of densification and a second dwelling is seen as an acceptable method of densification. The second dwelling will remain part of the same cadastral unit and will not detract from the character and appearance of the area.

The personal and financial benefits are not disregarded.

## 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Press	Yes	10 May 2018	15 June 2018
Gazette	Yes	11 May 2018	15 June 2018
Notices	Yes	10 May 2018	15 June 2018
Ward councillor	Yes	10 May 2018	15 June 2018
Total comments	<b>SEVENTEEN (17)</b>		
Total letters of support	<b>ONE (1)</b>		
Was public participation undertaken in accordance with Section 47 - 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	Recommendation
Fire Department	18/06/2018	Must provide a 60 minute (230mm) fire wall on western boundary as garage wall. No openings permitted.	Supported

Building Control	28/05/2018	In principle stoeps over street building lines are not supported as it closes down the streetscape. This however is only 1,68m <sup>2</sup> and will have minimal impact. Supported subject to the submission of building plans in compliance with SANS 10400.	Supported
Engineering Services	23/05/2018	See Annexure H.	Supported

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

A total amount of seventeen (17) objections and one (1) support letter have been received.

- I Meisenholl (Erf 2098)
- M Louw (Trustee – Francois Louw Snr Family Trust) (Erf 2131)
- JL Le Roux (Erf 2110)
- G Norton (Erf 2104)
- Y King (Erf 2109)
- PN Johnston (Erf 2087)
- TM Townsend (Erf 2103)
- MJ & JH van Wyk (Erf 2108)
- C Cuthbert (Erf 2105)
- BG Mouton (Erf 2134)
- SE & JC Coetzee (Erf 2155)
- B & J Liebenberg (Erf 2149)
- P Meyer (Erf 2128)
- EY Bates (Erf 2140)
- I Murray (Erf 2047)
- L Robinson (Erf 2112)
- JH Hugo

The support letter was received from the Betty's Bay Ratepayers Association. (See Annexure G.)

The objections are summarised as follows:

### 1. I Meisenholl

#### Objection

- *The erf is located in a quiet residential area with gravel roads with low traffic volumes. The application will negatively impact on properties due to an increase in business activities, noise levels and traffic volumes and buildings that are close to border lines.*

- *The guest room business will increase noise levels and traffic volumes since the guest rooms may have visitors, which will elevate noise levels in conjunction of the use of an outside braai.*
- *To exceed the 9m on the border is extremely unfair and not reasonable on the adjacent affected neighbour. There is not enough space for the extension on the property.*
- *The water tank cannot be used to manage the flow of rain water when full. What happens to the overflow?*
- *The proposed use of the property for densification will not necessarily improve safety.*

#### **Town Planner's response**

The guest rooms can be utilized for long or short term purposes. It is not foreseen that the two (2) rooms would have a major impact on the area due to the fact that the owners have to stay on the property. Yes there may be visitors, but any owner also has visitors. The objection with regard to the 9m building on the boundary will be discussed under desirability. The second dwelling proposed is located in the existing building and densification on Residential Zone 1 erven is restricted to a second dwelling that may not be alienated to ensure character of the area remains intact.

#### **2. M Louw:**

##### Objection

*Most residents bought into a residential area and a "business" will definitely influence the value of properties, additional traffic that will influence the quietness of the area.*

#### **Town Planner's response**

The application is not for a business, but two (2) guest rooms. There is no application for business, only what the Overstrand Zoning Scheme allows.

#### **3. JL le Roux**

##### Objection

*The property is a very large building of which certain sections are already being sub-let. The proposed building work and sub-letting will influence my property value.*

#### **Town Planner's response**

The application is not for self-catering and the influence on the property value has not been proven.

#### **4. G Norton**

##### Objection

*The applicant is already subletting and most houses in the area are owner occupied and not let out at all.*

**Town Planner's response**

The application is not for self-catering and the influence on the property value has not been proven. Betty's Bay has on the website Air B&B, an amount of thirty two (32) houses being used for tourism accommodation purposes and that is not including other web platforms. Thus it is imperative to note that accommodation is alive and well in Betty's Bay.

**5. Y King:**Objection

*The applicant built his house and immediately flouted the regulations by building several units and advertises it on his website as self-catering units. There are continually noisy tenants. The applicant still had more than one (1) tenant staying at various times in his house. The applicant already has three (3) units which are rented out and has become a commercial activity. The braai area is a broken down set of bricks and is totally irrelevant to the argument.*

*The proposed extensions over the building lines will have a massive impact on Erf 2029. The erven in the area is for single family occupation and the increase of people living on the erven that will impact the privacy and the single residential use for what it was planned for. The applicant has already proven in the past that he does not abide by municipal regulations. The majority of the people living in the area are retired and permanent residents, which lives will be impacted upon. The influx of people will put unnecessary strain on municipal services.*

**Town Planner's response**

The application is not for self-catering and thus can it only be used as per the primary rights. Any additional land uses will entail an application. The aspect of noisy tenants is noted and should the owner let out his house or second dwelling as a self-catering, this aspect must be addressed by an application in terms of the Zoning Scheme.

**6. PN Johnston**Objection

*The objection is with relation to a second dwelling and guest rooms. The application will create unneeded densification, additional traffic, noise and disturbance to neighbours. The departures open the door for all manner of undesirable property development, which will detract from the character and ambience of the area which has been carefully maintained and safeguarded to date.*

**Town Planner's response**

It should be noted that the second dwelling is located within the existing dwelling and will not be a new structure.

**7. TM Townsend**Objection

*An application for apartments is not acceptable in the area. The area is not conducive to hectic tourist and business activities.*

**Town Planner's response**

An application was not submitted for a guest house and/or self-catering. There was no application for a business. The primary right for a home occupation is related to the owner and restricted to three (3) persons and cannot be rented out.

**8. MJ & JH van Wyk**Objection

*The application for a second dwelling, guest rooms and home occupation is not acceptable. The applicant has since 2004 had a dwelling and two residential units, each with its own private entrances with a complete kitchen, bathrooms, rooms and built-in braais. These units have been rented out since 2004 to 2009. A complaint was lodged due to the noise pollution, beer cans and other objects thrown on my roof. The sewage tank is not sufficient, due to raw sewerage overflow on my property. In a letter dated 2008, the illegal conversion of the applicant's home should have been rectified within three months, this was never done.*

*The applicant is staying in one of the units, whilst the other is rented out. I bought my house in a quiet residential area with no commercial activities in the area. It is requested that the building inspector conduct an investigation to see whether the building plan complies with the existing situation.*

**Town Planner's response**

The second dwelling is located in the existing structure. The guest rooms and home occupation is a primary right. It should be noted that only the owner may operate a home occupation, which is limited to three (3) people, the owner included. The guest rooms are restricted to rooms and not a self-catering unit. It is clear that the applicant in the past may have transgressed the rules and regulations of the Zoning Scheme. The Building Inspector did do an inspection of the building and the house is interleading and not separate units.

The aspect of sewerage overflow is part of management from the owner and will be addressed.

**9. C Cuthbert**Objection

*The area is a quiet residential area and any business premises will be to the detriment of the area due to noise pollution.*

**Town Planner's response**

An application for business premises has not been received.

**10. BG Mouton**

Same as 9 above

**11. SE & JC Coetzee**Objection

*There are already two units on the property and the application will add a third unit. This is not acceptable and no mention was made on the capacity of the existing sewerage capacity in this regard.*

**Town Planner's response**

The present dwelling is interleading and thus forms one (1) unit and not two (2) units. The proposed second dwelling will be the second unit in terms of the approved building plan.

**12. B & J Liebenberg**Objection

*The units may give rise to unruly behaviour and noise to the detriment of a quiet residential neighbourhood.*

**Town Planner's response**

It should be noted that the abovementioned is a managerial aspect. Betty's Bay have more than thirty (30) guest and self-catering houses as advertised on the website Air B&B.

**13. P Meyer**

Same as 12 above

**14. EY Bates**Objection

*The densification in the area is unnecessary, since it does not qualify as a suburban and/or urban area. Betty's Bay is located in a World Heritage Site and the spiritual essence of the place does not seem to be considered in town planning.*

**Town Planner's response**

The Title Deed makes provision for a dwelling and outbuildings normally associated with the primary use. An outbuilding includes an employee unit, which in terms of the Zoning Scheme constitute a second dwelling. The

reasoning is that such units were erected in the past and to ensure that owners that have already taken up this right, not qualify for the second dwelling. This will have the consequence that a Residential Zone 1 erf may end up with three (3) units.

Due to the locality of Betty's Bay and the relationship with the Kogelberg Biosphere, the Zoning Scheme had to make provision for existing rights, but in the same time restrict future development not in line with the Kogelberg Biosphere Spatial Development Framework. The latter makes provision for various activities deemed acceptable in its environmental sphere.

#### **15. I Murray**

##### Objection

*The extent of erven above 500m<sup>2</sup> does not need the transgression of building lines. The nature of developments in Betty's Bay gives a spacious and rural feel to the village. The erf is big enough to accommodate a second dwelling and thus not necessary to squash a development between Erven 2128 and 2129, Betty's Bay.*

*It was my understanding that only one dwelling may be erected on an erf. If this use is easily relaxed, it may have an influence on surrounding properties.*

##### **Town Planner's response**

The objector's understanding of only one (1) dwelling is partially correct in as far as the Title Deed is concerned. However, the Title Deed makes provision for outbuildings, which include an employee unit, which in effect is strictly is a second dwelling. It should be noted that the second dwelling is located in the existing building.

Any owner of Betty's Bay may lodge an application for a removal of restriction in their Title Deed, which is not an easy and an expensive procedure.

#### **16. L Robinson**

##### Objection

*Object to the construction of an additional unit, which will lead to three units on the property.*

##### **Town Planner's response**

The application for a second dwelling is not a new construction, but the establishment of a second dwelling in the existing building.

#### **17. JH Hugo**

##### Objection

*The application requested the primary rights of a second dwelling, guest rooms, etc., which will elevate the car users and the area is renowned for its open space atmosphere.*

*It is the same aspects that motivate the applicant to reside in Betty's Bay. The statements of impact on the environment and peacefulness and quality of life are concepts that are subjective to the objector itself and did not indicate how the application will influence the aforementioned. The erf does not lend itself to a guest house, since limited parking is available. To allow higher densities will undermine Betty's Bay open spaces and holiday home ethos.*

*The proposed design pertaining to the garage will have an 80% built form of the front of the house. A better option is to build the garage at the back of the property thus lessen the impact on the lateral and street fronts. Parking should be limited to the back of the property.*

*Having open space around the building will ensure fire safety and lessen the noise pollution by guests. The proposed structure is too big, unsightly and does not blend in with the surrounding area. The fire and noise risks have not been assessed in the application. The application in its present format is not supported.*

#### **Town Planner's response**

The application is not for a guest house. The higher densities are not applied for. It is agreed that the garage is not necessary at the present location. It should be mentioned that the owner can built up to 50% of the property, whilst the present development is only at 29% including the proposed additions.

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

The applicant summarised the objections under four (4) headings and are as follows:

#### **❖ Objections relating to quietness, peacefulness, heritage site and quality of life**

The inferences and assumptions made by the objectors do not present logic arguments or prove any casual connection between the three (3) applications. Complainants did not elaborate on their statements and no arguments were offered to substantiate the claims and/or concerns. The complainants could not prove that the development and the departures from the building lines will negatively influence their peaceful living style.

#### **❖ Residential zoning and land use related objections concerning business activities**

The primary rights of two (2) guest rooms, home occupation and a second dwelling is available to all the residents in the Overstrand, including Betty's Bay. There is a misconception with regard to the application. The proposed expansions only involve the closure of an open stair case, pergola and a garage. The existing dwelling remains intact. The devaluation of properties has not been substantiated. The primary rights of the erf will be taken up and only constitutes 27% coverage compared to the 50% that is allowable. The second dwelling on a large erf will not have any detrimental effect on the density of Betty's Bay.

The proposed application in fact ensures the sustainability of the erf, which entails social and economic well-being. The application will enable the owner to

use the erf more efficiently and will ensure sustainability. The objections did not address any issues by demonstrating non-compliance with the principles as per Section 42 of SPLUMA.

❖ **Objections pertaining to the removal of restrictions and departure of the By-Law in order to relax the building lines:**

The removal of the conditions is for no other reason than to make use of the primary rights of the Zoning Scheme. The proposed application is to ensure sustainability of the erf, which entail the social and economic well-being of not only the erf, but to the residents as well. The owner of Erf 2019 did object that her privacy will be compromised however, the distance between the existing buildings are more than 15m away from her house. The proposed garage is more than 30m away and the argument does not represent a logical argument. National and Provincial Planning Policies seek to achieve more densification and efficiency of land use. Thus the need to create settlements that optimise the use of space, energy infrastructure resources and land are achieved with this application.

The relaxation of the western building line is for the erection of a water tank and garage. The relaxation of the street building line is to accommodate a stoep that will ensure that the entrance to the second dwelling is protected. The design of the proposed stoep is to complement the existing stoep on the eastern side of the building and is part of the view scape.

The application will enable the applicant to optimise his assets should it be necessary due to economic and or financial reasons. The possibilities of executing the primary rights will add value to the property. The social benefit is to ensure tourism accommodation in the area.

The application is for a second dwelling, home business and guest rooms.

❖ **Miscellaneous**

The applicant has no problem with the investigating compliance with the approved building plan. The enclosure of the staircase and open balcony will be beneficial for the adjacent neighbour, Erf 2108, as it will provide more privacy. The allegations of rowdy guests are unfounded and no proof to the extent has been given.

The residence has been let to upmarket tenants for the past nine (9) years and no formal or informal complaints have been received.

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

The Town Planner's response to the objections received was discussed under Paragraph 7.

**Internal Departments**

No objection was raised by the Departments with regard to technical input.

## 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.

#### Spatial Justice

Not applicable. None of the previously disadvantaged groups are affected by the application.

#### Spatial sustainability

Sustainability is to enhance the quality of life and reduce the environmental impact. The application will ensure that the applicant can ensure the maintenance of the property and due to the fact that the second dwelling is located in the existing building, the environmental impact is minimal.

The additional structures requested will be discussed under desirability of the application.

#### Efficiency

The existing infrastructure is being used and no additional capacity is required and the optimal uses of services are therefore ensured.

#### Spatial Resilience

Resilience is how prepared the area and/or erf is to whether shocks and disasters. The proposed use of a second dwelling in an existing approved building and compliance with the National Building Regulations is to ensure resilience in terms of built structures.

#### Good administration

The application went through the process as prescribed.

### 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

Same as Point 10.2 above.

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

Not applicable.

**10.6 Impact on Municipal engineering services**

None

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

An application for the removal of restrictive conditions was applied for.

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

The existing zoning remains in place.

**11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS****The financial or other value of the rights**

The applicant may have a benefit of adding value in terms of primary rights acquired. The property value loss for the neighbour should the restrictions be removed is not measurable.

**The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal**

The application for the removal is a personal benefit.

**The social benefit of the restrictive condition remaining in place, and/or being removed / amended**

The social benefit is that the owner will have the option to accommodate a carer should be required and/or generate income to maintain the erf which is to the benefit of the wider community.

**Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights**

The application for the removal does not indicate a clear impact on the community as a whole.

**12. THE DESIRABILITY OF THE PROPOSAL**

An application for a departure for a three (3) bedroom guest house was approved in 2006. In 2007 an application for a consent use for a second dwelling to be used as a self-catering unit was not approved by the Mayoral Committee. The applicant lodged an appeal, which was dismissed by the Section 62 Appeal Committee during 2008. An internal memorandum for Law Enforcement dated 2009 indicated that all guest house activities were stopped.

However, it seems according to the websites that the property is still let out as self-catering units, although the owner indicated that the house is let on a long-term basis.

The application for a second dwelling is to be located in the existing dwelling as per approved building plan. The building inspector did a site inspection and found that

the house is interleading and thus complies with the Zoning Scheme i.e. a residential dwelling for the occupation for a single family. The guest house rights have lapsed, since it was only valid for five (5) years and thus may not be used as such. The applicant does not really address the accusation of letting out three (3) units and or sewerage spills onto the neighbouring erf. However, the latter is a management issue that needs to be addressed by the applicant and he should take full responsibility in terms of polluting the neighbouring erf in terms of possible e-coli contamination. No self-catering facility is allowed or can be advertised as such, since the applicant did not request additional rights.

In terms of the Overstrand Zoning Scheme a residential dwelling has the primary land uses right of letting out two (2) guest rooms, home occupation, second dwelling and a day care centre. The guest rooms must be rooms in the house and may not be self-catering, thus no prep bowls and/or kitchens are allowed in the rooms. The home occupation is restricted to the owner or long tenant of the house and is limited to three (3) people, owner included. This relates usually to professional services and thus has a limited influence on the area. The second dwelling is to provide for carers or employees associated with the upkeep of the erf or a long term tenant. The one land use, day care centre, is limited up to five (5) children and may have a direct influence on the area due to increase of traffic and noise pollution, however it can assist elderly to earn an additional income towards their pension.

Due consideration is given to the existing rights, which includes a residential dwelling and associated outbuildings. The latter has reference to employee quarters, thus in effect is a second dwelling. The Overstrand Zoning Scheme has a restriction that should an erf have such a quarter, it is deemed as a second dwelling to eliminate the possibility of three (3) units on the property.

It is evident that times have changed and that the erven of Betty's Bay are not for holiday purposes anymore, but has permanent residence. This is confirmed by the objectors in their comments. The World Health Organization, advocates Global Age-friendly Cities: It has found that the world population growing older and that this trend worldwide is not addressed in the planning policies. The AARP (American Aging Retired Persons) has a toolkit for promoting "Aging in Place", which is simply a matter of preserving the ability for people to remain in their home or neighbourhood as long as possible. This entails not only the physical built form, but social interaction, economic possibilities and a healthy environment. The primary rights of a single residential erf are to enable the Aging in Place. The second dwelling as a primary right is to make provision for carers and or a secondary income should pensioners not be able to afford the upkeep of their residences. This will enable them to remain in their area and the shock of forced relocation is lessened. The second dwelling is supported.

The departures will now be dealt with. The departure of the street building line to accommodate an enclosed entrance is in line with the Scheme Regulations that makes provision for a covered pedestrian entrance of less than 5m<sup>2</sup> and not higher than 3m. The application is for a cover entrance of approximately 2m<sup>2</sup> transgressing the Title Deed building line of 4,72m and the 4m Scheme street building line to a proposed new 2m street building line, thus in line with the Scheme Regulations.

The departure for a garage over the lateral building lines of the Title Deed and the Scheme is not supported.

The erf measure 1239m<sup>2</sup> in extent and there is no reason why the garage has to transgress any building line. The only reason is for convenience and is therefore not evaluated in a positive light. If the garage is not necessary, the application for a departure for a water tank is also not relevant. The departure over the lateral building lines can be accommodated elsewhere on the property and thus eliminate the massing of structures on the boundary with Erf 2108.

The enclosure of the staircase and balcony is possible without an application since it is within the erf and do not transgress any building lines. This will assist in more privacy for the adjacent owner.

The removal of the restrictive Title Deed conditions will enable the applicant to have a second dwelling that can be used as an employee residence or leased on a long-term basis or occupied by the owners. The applicant did not request a self-catering unit and thus will not be able to advertise it as such. The two (2) rooms that can be let in terms of the Zoning Scheme are to make provision for additional income whether it is on a short and/or long-term basis. This is to assist in the up keeping and maintenance of the erf as well as for security reasons should the owner be single.

The possibility of a home occupation relates to professional services such as a bookkeeper, etc. It should be noted that the aforementioned land uses can and may only be taken up, if sufficient parking is available on-site and it involves the owner as part of the occupation. It cannot be advertised or rented out to an outsider or individual who is not the owner of the property.

The applicant indicated a braai be approved as per the building plan, however since it does not transgress the building line, there is no need for the request.

### 13. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title conditions Clauses D.I.(a), D.I.(b) and D.I.(c) of Title Deed T65399/1996 applicable to Erf 2129, Betty's Bay, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(b) of the above By-Law on Erf 2129, Betty's Bay for a departure in order to relax the street building line from 4,72m and 4m respectively to 2,92m to accommodate an enclosed stoep, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the approval in Points 1. and 2. be subject to the following conditions:
  - (a) that the approval for the departure is only for the building line relaxation as indicated on Plan Numbers 1/001 Rev 07 dated 23 October 2017, (excluding the garage);
  - (b) that building plans be submitted to the Building Department for approval, and that all conditions of the Building- and the Fire Department be complied with at that stage;
  - (c) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;

- (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation, and
  - (e) that all the conditions in the Services Report (attached as Annexure H), be complied with.
4. that the application in terms of Section 16(2)(b) of the above By-Law read with the Overstrand Zoning Scheme, 2013, Section 16.1 (b)(iii) on Erf 2129, Betty's Bay for a departure in order to exceed the 9m restriction of a building on one (1) specific boundary to accommodate a security wall and proposed garage, **not be approved**;
  5. that the application in terms of Section 16(2)(b) of the above By-Law on Erf 2129, Betty's Bay for a departure in order to relax the western lateral building line with Erf 2108 from 2m to 0m to accommodate a garage and water storage tank, **not be approved**, and
  6. that the applicant and objector be notified of its 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.

#### 14. REASONS FOR RECOMMENDATION

##### REASONS FOR APPROVAL

- The application for the departure of the street building line is in line with the Zoning Scheme and is only 1,68m<sup>2</sup> in extent, which is a minor structure with very little impact on the streetscape of the area.
- The second dwelling is located in an existing dwelling as per building plan, dated 2006. The second dwelling is viewed in a similar manner as an outbuilding for employees as a primary right in terms of the Title Deed and Zoning Scheme. However, in terms of the Zoning Scheme an employee unit is regarded as a second dwelling to ensure that there is at no stage a third dwelling on the property. The enclosure of the staircase, balcony and outside landing will create privacy for the adjacent Erf 2128.

##### REASONS FOR NON-APPROVAL

- The erf is 1239m<sup>2</sup> in extent and the house is located in such a manner that there is ample space for a garage on the property. Should the garage move, there is no reason to have a water storage tank transgressing the lateral building line.
- No reason was given at the present location of the garage, but for convenience argument.

#### 15. ANNEXURES

- Annexure A: Locality Plan
- Annexure B: Motivation Report
- Annexure C: Site Development Plan
- Annexure D: Title Deed T65399/1996
- Annexure E: Objections received

Annexure F: Applicant's response to objections received  
Annexure G: Letter of support – Betty's Bay Ratepayers Association  
Annexure H: Services Report

**SIGNATURES****REGISTERED PLANNER**

Name : **H VAN DER STOEP**

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

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

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



ANNEXURE B 1/15

2129 Greeb Street  
Betty's Bay

3 April 2018

TP-A Theat  
(HvdStoop)**OVERSTRAND TOWN PLANNING****For Attention: H van der Stoop** (Senior Town Planner)

FILE NO:	EL 2129
	Betty's Bay ✓
SCAN NO:	KBB 2129
COLLABORATOR NO:	1145314

Good day

**FILE REFERENCE: 2129 KBB PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE APPLICATION**

Your letter received on 13 March 2018 requesting additional information, has reference. Please consider the following motivations and discussions on the above request as additional information to add to paragraph 3.2.2 of my motivational report for the application concerning erf 2129, Greeb Road, Betty's Bay, Overstrand municipal area:

Proposed Building is longer than 9,0m of erf boundary line due to the following reasons:

**1. Safety wall:**

There is an essential and practical reason why this safety wall is a necessity:

- 1.1 The extension of the western wall of the proposed garage, (into a southerly direction) serves as a safety wall.
- 1.2 Between the southwestern corner of the proposed garage, and the existing structure on erf 2108 (which is built over the boundary line, and even unto erf 2129), a narrow cavity funnel of +-400mm will be created after the proposed garage is built;
- 1.3 During a north-west rain and wind storm, this cavity funnel will create a potential dangerous situation for whatever is on the other side of this funnel; a strong south-Easter wind will create the same, vice versa dangerous effect. The force of a strong north-western storm wind, when forced through such a narrow funnel could have devastating effects for whatever is on the other side of such a funnel type of cavity.

2. Further, the proposed garage on the western boundary line is 8,8-m long for two reasons:



TP - 7 APR 2018

- 2.1 The garage is longer than a single garage to accommodate at least one vehicle and a trailer;
- 2.2 Although a double garage would have been more practical but for better esthetical lines and architectural features, the southern wall of the garage is kept down to 8,80m to form a straight/continuous line with the southern wall of this part of the current structure. Please note, the garage itself is thus still under the 9,0m maximum length;

**3. The safety wall, also an esthetical desirability:**

- 3.1 South of the proposed garage, against the western boundary line, a concrete platform is proposed for the placement of a rainwater storage tank;
- 3.2 As this rainwater storage tank is on the boundary of neighbouring erf 2108, the aesthetics of such a feature is most probably not 100% desirable, and therefore the proposed safety wall will also serve as a screening wall for this rainwater tank.

**4. Conclusion:**

Although the aesthetics of the "screening off", a vehicle plus a trailer to fit into the garage, the desired architectural lines, play their own motivational roles, the overarching motivation and concern remains the funnel-effect cavity which ought to be closed.

Trust you find this motivation in order.

Yours sincerely



**G.J. MAREE OBO "DEONMAREEFAMILIETRUST."**  
079 9977 394  
E-mail: [dr.deonmaree@gmail.com](mailto:dr.deonmaree@gmail.com)

## 1. SUMMARY OF THE APPLICATION

The owner of erf 2129 Betty's Bay wishes (in terms of the Overstrand Zoning Scheme Regulations 2013) to make use of certain primary uses on the property namely:

- 1) Guest rooms
- 2) Home occupation
- 3) Second dwelling unit

### 1.1 Title deed restrictions to be amended

In order to make use of the "second dwelling unit" use, as in the Overstrand Zoning Scheme Regulations 2013, the owner must first have restricted title deed conditions removed/amended (see Annexure G).

### 1.2 Changes & extensions to existing structure

Furthermore, the owner wants to make changes and erect extensions to the existing structure that have bearing on the (to be established) second dwelling unit.

### 1.3 Departures from building lines

As these proposed extensions encroach on the building lines of the property, the owner must also apply for departures from the relevant Scheme Regulations for this property.

### 1.4 Application for primary uses

The primary uses to be utilised are guest rooms, home occupation and second dwelling unit on the property 2129 Betty's Bay.

The applications for:

- 1) an amendment, suspension or deletion of restrictive conditions in respect of a Land unit;

- 2) a permission required in terms of the zoning scheme;
- 3) Departures from the relevant Scheme Regulations on this property;
- 4) Proposed extensions/changes to the existing structure, etc.
- 5) the use of primary uses, namely: guest rooms, home occupation and second dwelling unit on the property 2129 Betty's Bay,

are being done and motivated in terms, amongst others, of the stipulations, requirements, provisions and rights of the following legislation:

- ✓ Overstrand Municipality By-Law on Municipal Land Use Planning,
- ✓ OVERSTRAND MUNICIPALITY ZONING SCHEME 2013,
- ✓ Integrated development plan, including the municipal spatial development framework,
- ✓ Provincial spatial development framework;
- ✓ Regional spatial development framework in section 18 of SPLUMA and LUPA or provincial regional spatial development framework,
- ✓ Spatial Planning and Land Use Management Act, 2013 (ACT 16 of 2013) (SPLUMA) and
- ✓ Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA)

The following specific policies, principles, planning and development norms and criteria were studied and taken into consideration:

- ✓ Section 6 of the Overstrand Zoning Scheme Regulations;
- ✓ Section 42 of the Spatial Planning and Land Use Management Act, 2013 (ACT 16 of 2013) (SPLUMA);
- ✓ Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA);
- ✓ The Overstrand Spatial Development Framework (2006);
- ✓ The Overstrand Growth Management Strategy (2010);
- ✓ The provincial Land Use Management Act (Act 3 of 2014)(LUPA), CHAPTER VI, LAND USE PLANNING PRINCIPLES, application of land use planning principles, section 59;
- ✓ Section 41 (1) (b) of Spatial Planning and Land Use Management Act (Act 16 of 2013) (SPLUMA);
- ✓ Section 41, 42 and 52 of Spatial Planning and Land Use Management Act (Act 16 of 2013)(SPLUMA);
- ✓ Chapters V and VI and thus also section 53 of Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA); and

- ✓ Section 35 of Western Cape Land Use Planning Act 3 of 2014 and more specifically with the requirements for amendment, suspension or removal of restrictive conditions as in (4) (a) (b) (c).

The applicant hereby confirm that the policies, principles, planning and development norms and criteria as set out in the abovementioned laws and documents were taken into consideration and that the proposed application is in compliance with them.

## 2. THE SPECIFIC APPLICATIONS

I, Gideon Johannes Maree, (see a copy of I.D. document as Annexure A), as the legally authorised person of the DEON MAREE FAMILIETRUST, (see Affidavit and letter of authorization as Annexure B), in order to establish a second dwelling unit on a specific place on the property (see site plan as Annexure C, Proposed Site Development Plan (building plans) as Annexure H and Plan of to be established second dwelling unit as Annexure D), hereby apply on behalf of the DEON MAREE FAMILIETRUST, (see a copy of the trust document as Annexure E), the owner of property 2129 Betty's Bay (2129 Greeb road Betty's Bay) for the following:

**2.1 The removal/amendment of restrictive title conditions of Title Deed** applicable to Erf 2129, Betty's Bay (see copy of the relevant title deed as Annexure F) and see the specific restrictions to be removed/amended as Annexure G.

**2.2 Departures from the relevant Scheme Regulations on Erf 2129, Betty's Bay.** (Note that the property is developed with an existing dwelling and is zoned Residential Zone 1 and the property measures 1 239m<sup>2</sup> in extent.

2.2.1 Relax the western lateral building line to accommodate:

- 1) A garage - relax the western lateral building line with erf 2108 to 0.0m to have space for the construction of the proposed 1.5 garage for the (to be established) second dwelling unit in terms of Overstrand Zoning Scheme Regulations 2013, section 16. (Please note: the written consent of the owner of erf 2108 is as yet not obtained and the effect of Overstrand Zoning Scheme Regulations 2013, section 16.1.1 (b) (ix) will most likely be necessary).
- 2) Placement of a water storage tank - relax the western lateral building line with erf 2108 to 0.0m to construct a concrete platform for the placement of a water storage tank in terms of Overstrand Zoning Scheme Regulations 2013, section 16 (see Annexure C site plan "tereinplan" and the proposed site development plan as Annexure H).
- 3) The street building line - relax the street building line from the current Overstrand Scheme street building line of 4000mm to 2800mm in order to construct a porch of 1.68sm in front of the proposed new entrance of the (to be established) second dwelling unit (see site plan "tereinplan" called Annexure C and proposed site Development plan called Annexure H).

### **2.3 Extensions/changes to the existing structure**

- 2.3.1 To enclose and bring under roof the existing outside landing, staircase and balcony on the north-western side of the current structure (see proposed site development plan called Annexure H).
- 2.3.2 To enclose porch (see photograph of porch to be enclosed as Annexure M).
- 2.3.3 To furnish the kitchen area of the (to be established) second dwelling unit with a proper functioning kitchen, including a stove and sink.
- 2.3.4 To have an existing outside braai near the eastern boundary of the property approved as part of the site plan "tereinplan" of the property (see site plan as Annexure C).

### **2.4 Application for an extra water supply with meter to erf 2129**

The applicant hereby apply for the supply and installation of an additional water supply with meter to erf 2129 for the use of the (to be established) second dwelling unit on the property.

### **3. MOTIVATIONS AND DISCUSSIONS OF THE APPLICATIONS**

#### **3.1 Motivations and discussions on the removal of restrictive title conditions of the Title Deed of erf 2129 Greeb road Betty's Bay.**

The Title deed applicable to Erf 2129, Betty's Bay, as applied for in paragraph 2.1. This application is necessary in order to make use of the primary uses (amongst others, a second dwelling unit) as allowed for in section 6 of Overstrand Zoning Scheme Regulations 2013. The specific clauses that must be removed include all restrictive title deed clauses.

#### **3.2 Motivations and discussions on departures from the relevant Scheme Regulations on Erf 2129, Betty's Bay.**

##### **3.2.1 The proposed 1.4 garage as applied for in paragraph 2.2.1.1:**

The proposed garage will be a semi-tandem-shaped garage of +-8800mm long between the western side of the current structure and unto the lateral boundary with neighbouring erf 2108 (see proposed site development plan called Annexure H).

##### **Motivational discussion:**

- Currently there are no vehicle storage facilities (garage) for the (to be established) second dwelling unit;
- There is also not a wide enough space on the mentioned area for a double garage and therefore the longer tandem-shaped garage;
- Because the placement of the proposed garage is directly alongside the staircase leading to the (to be established) second dwelling unit, it is the most logical and practical place for such a structure;

- In this way the proposed garage will allow direct under roof access into the (to be established) second dwelling unit;
- Because of the influence of adverse weather conditions, such a configuration therefore makes this placing of the proposed garage extremely necessary;
- To have direct under-roof access from the proposed garage into the (to be established) second dwelling unit, creates also a very important security necessity;
- Because the placement of the proposed garage is on the boundary line where an 1 800mm high boundary wall exist, the proposed garage will be erected alongside this existing boundary wall;
- The boundary wall will thus remain in its current position. Thus the garden configuration of the neighbouring erf 2108 will thus stay intact;
- To ensure the correct placement of the proposed garage, the applicant had requested a land surveyor to confirm the boundaries of the erf, confirm structures that is on the boundary lines, as well as the placement of the existing structure on erf 2129 (see Annexure J named Land Surveyor Report).

3.2.2 A platform for the placement of a Water storage tank as applied for in paragraph 2.1.2.3:

Relax the western lateral building line with erf 2108 to 0.0 mm to construct a brick and concrete platform for the placement of a water storage tank.

This water storage tank will serve to accommodate the rainwater from, amongst others, the roof of the proposed garage.

Motivational Discussion:

- The amount of rain water from the proposed garage is most likely to be so much that it can accumulate in the corner, (formed by the proposed garage and the boundary with neighbouring erf 2108.

Background information: Noteworthy is the placement of a structure by the owner of the neighbouring property, erf 2108. A part of the structure of neighbouring erf 2108 is built onto the boundary line and even across the boundary line of erf 2129 (see the report of a land surveyor called Annexure J; see Annexure K called photographic view on ground level, in a western direction, directly unto this 'construction built on and over the boundary line unto erf 2129; see Annexure L a photographic view from

the ground level of erf 2129, in a western direction, directly unto this structure built on and over the boundary line unto erf 2129).

- The water tank will result in a better managing of the rain water from the roof of the proposed garage.

### 3.2.3 Proposed porch, as applied for in paragraph 2.1.2.3:

in order to accommodate a covered area in front of the proposed entrance to the (to be established) second dwelling unit, it is necessary to relax the street building line to accommodate a 1 400mm x 1 200mm a porch. This structure will thus be 1 200mm closer to the street line as is the case with the current structure (see Annexure C – site plan “tereinplan” and Annexure H - proposed site development plan).

#### Motivational discussion:

- The proposed covered porch in front of the new entrance to the (to be established) second dwelling unit is only 1.68 square meter.
- The proposed porch serves mainly to protect the mentioned new entrance from adverse weather conditions.

### 3.3 Motivations and discussions on extensions/changes to the existing structure

3.3.1 Existing outside landing, staircase and balcony - to enclose and bring under roof the landing of the outside staircase, the staircase itself as well as the balcony. The purpose with this proposed extension/change is to create an under-roof entrance hall, under-roof staircase and access to this part of the existing upstairs structure. This part of the upstairs structure will form a part of the (to be established) second dwelling unit (see Annexure D plan of second dwelling unit).

#### Motivational discussions:

- To create direct access from the proposed garage into the new formed entrance hall for the (to be established) second dwelling unit.

3.3.2 Enclose porch by removing the current window and install it on the outside of the porch (see Annexure M named photographic image of under-roof stoep to be enclosed).

3.3.3 To furnish the kitchen area of the (to be established) second dwelling unit with a functional kitchen, including a stove and zinc.

3.3.4 To request approval of an existing outside braai on the northern side of the property approved as part of the site plan "tereinplan" of the property (see Annexure C named site plan "tereinplan").

Motivational Discussion:

- This braai structure was already erected on the property before the current owner bought and developed the property.

**3.4 Additional water supply with meter to erf 2129**

Application is made for the supply and installation of an additional water supply with a water meter to erf 2129 for the use of the (to be established) second dwelling unit on the property.

**4. DISCUSSION ON ACCESSIBILITY TO AND PARKING ON THE PROPERTY**

**4.1 Access to the property**

- The proposed additional driveway/access to the (to be established) second dwelling unit on the property is indicated on the site plan "tereinplan" called Annexure C.
- The proposed access to the property currently exists as a parking bay on the property.
- The effect of additional traffic, because of the proposed second dwelling should have such a minimum effect on the roads and is therefore not even worth mentioning;
- No possible effect on the environment is expected.

#### **4.2 Parking bays**

Enough parking bays exist on erf 2129 to meet the requirements of Overstrand Zoning Scheme Regulations 2013, section 17 (see Annexure C named site plan "tereinplan").

### **5. DESIRABILITY OF THE PROPOSED UTILISATION AND CHARACTER OF THE ENVIRONMENT**

- 5.1 The sizes of the surrounding properties are more or less the same as erf 2129. The proposed land use is very much compatible with other properties in Betty's Bay and also with the properties immediately surrounding erf 2129.
- 5.2 In terms of the size of the current structure as well as the proposed structure of erf 2129, it can be mentioned that the surrounding structures represent a variety of sizes. Some properties are more or less the same size as the structure on erf 2129, and some are smaller.
- 5.3 It is also noteworthy that the size of the current structure will, with the proposed extension, only be increased with approximately 50 square meters.
- 5.4 The benefit, and therefore also the desirability of this application and utilizing of the property as set out in this application, will furthermore, simply because of the principle of densification, increase the security of erf 2129 and also the properties in the immediate vicinity of erf 2129.

## **6. STREET SCENES, VIEWS AND PHOTOGRAPHS**

- 6.1 The proposed extension to the property will be a continuation of the style and architecture of the existing building on the property and will thus not have any detrimental influence on the surrounding properties (see Annexure C called site plan "tereinplan").
- 6.2 The architect used the same development parameters (information of previous plans) of the original structure.
- 6.3 Furthermore, the proposed extension will make no difference to the residential character of the area, since it represents a continuation of the style and architecture of the existing structure. The street scenes and views will therefore be complimentary to the existing views.

## **7. PRIVACY OF NEIGHBOURS AND FURTHER PHOTOGRAPHS**

- 7.1 No extra noise and disturbance at night or day time in close proximity to any bedrooms of the neighbouring erf 2108 could be realistically expected;
- 7.2 The western wall of the proposed garage (to be erected on the lateral boundary line with neighbouring erf 2108 is a solid parapet brick wall with additional cladding for water proofing purposes and without any windows;
- 7.3 No rain water from the roof of the proposed garage will flow directly onto the neighbouring erf 2108;
- 7.4 The proposed placement of a water storage tank will specifically serve to help with the rain water from the roof of the proposed garage (See Annexure C called site plan "tereinplan");

7.5 The proposed solid brick wall on the western side of the current open balcony with its existing view onto erf 2108, will thus in totality disappear as no windows will be in this mentioned western wall, (see Annexure M called photograph view from the current balcony in a western direction unto neighbouring erf 2108; Also see the western view on the proposed development plan called Annexure H.

7.6 The window in the propose enclosed open balcony will not have any impact of any neighbouring properties; Please note, the current balcony have open view in different directions and it is this view (in a south western direction) that will be significantly decreased; But as the south-western view does not encroach on anyone's privacy, it is nevertheless an improvement in privacy (see Annexure N called photograph view from the current balcony in a south-western direction unto neighbouring properties).

#### **8. AMENDMENT, SUSPENSION OR DELETION OF RESTRICTIVE CONDITIONS**

Amongst others, this paragraph serves as a discussion applicable to stipulations in "LUPA", "SPLUMA", Overstrand Municipality By-Law on Municipal Land Use Planning and Overstrand Municipality Zoning Scheme 2013:

8.1 The removal/changes of the restrictive title deed condition as applied for, is supported as the proposal is in line with National- and Provincial Planning Policies that seek to achieve more densification and efficiency of land use because thus the need to create settlements that optimise the use of space, energy, infrastructure resources and land are achieved with this application. Inherent in the above, the need to promote densification and urban development (as opposed to suburban) typologies are met).

8.2 The aforementioned principle is also in line with the:

- Overstrand Spatial Development Framework (2006) as well as
- The Overstrand Growth Management Strategy (2010) that encourages, amongst others, residential densification.

- 8.3 The utilizing of a primary use on this property in the form of a second dwelling unit is deemed to be an acceptable form of densification;
- 8.4 Since the second dwelling unit remains part of the same cadastral unit it will thus not detract from the character and appearance of the surrounding area;
- 8.5 Section 6 of the Overstrand Zoning Scheme Regulations also permits the use of a second dwelling unit, (together with the utilization of the two other already mentioned primary rights to be utilized), as a primary right;
- 8.6 With the commencement of the new national Spatial Planning and Land Use Management Act (Act 16 of 2013) (SPLUMA) and The provincial Land Use Management Act (Act 3 of 2014) (LUPA), the municipality is regarded as the Administrator and has become the competent authority to decide on this matter;
- 8.7 The restrictive Title Deed conditions under discussion in the title deed must thus be removed.
- 8.8 This application supports the principles that land development should optimise the use of existing resources, infrastructure, land and facilities as in the provincial Land Use Management Act (Act 3 of 2014)(LUPA), CHAPTER VI, LAND USE PLANNING PRINCIPLES, Application of land use planning principles, section 59.
- 8.9 This application further more supports the principle to remove, amend or suspend a restrictive condition as stipulated in section 41. (1) (b) of Spatial Planning and Land Use Management Act (Act 16 of 2013) (SPLUMA).
- 8.10 This application is not in conflict, and is in compliance with the requirements of section 41, 42 and 52 of Spatial Planning and Land Use Management Act (Act 16 of 2013)(SPLUMA) and chapters V, vi and thus also section 53 of Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA);
- 8.11 This application furthermore is in compliance with section 35 of Western Cape Land Use

8.12 This application meets the under mentioned three requirements as follows (Planning Act 3 of 2014 and more specifically with the Requirements for amendment, suspension or removal of restrictive conditions as in (4) (a) (b) (c)):

8.12.1 The financial or other value of the rights in terms of the restrictive condition/s enjoyed by a person or entity, are not disregarded by the amendment, suspension or removal of restrictive conditions as is sought for in this application;

8.12.2 The personal benefits which accrue to the holder of rights in terms of the restrictive condition/s are not being disregarded by this application;

8.12.3 The personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed, will in fact be achieved through an application of this nature.

8.12.4 Application for removal of restrictions D/ (a) and (c) of the Title Deed is hereby made.

**9. THE IMPACT OF THE LAND USE AS SET OUT IN THIS APPLICATION ON MUNICIPAL ENGINEERING SERVICES**

As applied for in paragraph 2.4 the applicant requests the supply and installation of an additional water supply with meter to erf 2129 for the use of the to be established second dwelling unit on the property.

Signed at Betty's Bay on this 23<sup>rd</sup> day of January 2018.



**G.J. MAREE ON BEHALF OF THE "DEON MAREE FAMILIETRUST"**

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**ALGEMENE NOTAS:**  
 1. ALLE METINGEN EN AFMETINGEN ZIJN IN METERS EN DECIMALEN.  
 2. ALLE AFMETINGEN ZIJN IN DE RIJKE VAN DE TEGENWOORDIGE TOEGANG TOT DE GROND.  
 3. ALLE AFMETINGEN ZIJN IN DE RIJKE VAN DE TEGENWOORDIGE TOEGANG TOT DE GROND.  
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**REVISIES:**

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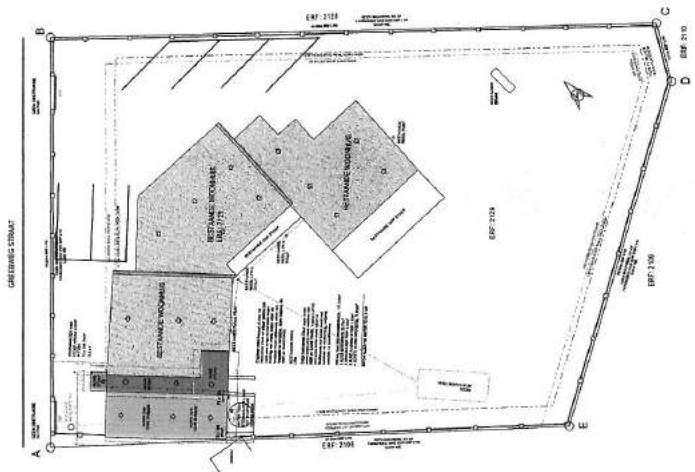
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**PRINT SIZE | A1**

**VENSTER & DEUR SKEDULE**

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66	D65	1800 x 2100	D65
67	D66	1800 x 2100	D66
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72	D71	1800 x 2100	D71
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84	D83	1800 x 2100	D83
85	D84	1800 x 2100	D84
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87	D86	1800 x 2100	D86
88	D87	1800 x 2100	D87
89	D88	1800 x 2100	D88
90	D89	1800 x 2100	D89
91	D90	1800 x 2100	D90
92	D91	1800 x 2100	D91
93	D92	1800 x 2100	D92
94	D93	1800 x 2100	D93
95	D94	1800 x 2100	D94
96	D95	1800 x 2100	D95
97	D96	1800 x 2100	D96
98	D97	1800 x 2100	D97
99	D98	1800 x 2100	D98
100	D99	1800 x 2100	D99
101	D100	1800 x 2100	D100

**VENSTER & DEUR SKEDULE**

**DAK & TERREIN PLAN: BESTAANDE HUIS MET NUWE DAK**

**GRONDVOER: BESTAANDE HUIS MET NUWE AANBOUING**

**EERSTE VLOERPLAN: BESTAANDE HUIS MET NUWE AANBOUING**

**SUID AANSIG**

**NOORD AANSIG**

**WES AANSIG**

**Material Legend:**

- WAL: 200mm x 200mm
- WAL: 250mm x 250mm
- WAL: 300mm x 300mm
- WAL: 350mm x 350mm
- WAL: 400mm x 400mm
- WAL: 450mm x 450mm
- WAL: 500mm x 500mm
- WAL: 550mm x 550mm
- WAL: 600mm x 600mm
- WAL: 650mm x 650mm
- WAL: 700mm x 700mm
- WAL: 750mm x 750mm
- WAL: 800mm x 800mm
- WAL: 850mm x 850mm
- WAL: 900mm x 900mm
- WAL: 950mm x 950mm
- WAL: 1000mm x 1000mm

SNS/TLAUBSCHER EW

**14**Van der Spuy  
en Vennote

Tel: 419-3622

ANNEXURE D 1/5  
Opgestel deur myTransportbesorger  
J KAT

SECRET	R.....
POCI FEE	R. 75,00

OPERATOR	28/8	Operator
RENTAAR/VEERDIE	29/8	

T 65399196

**TRANSPORTAKTE**

HIERMEE WORD BEKEND GEMAAK DAT

~~ANDRE GERHARD VAN DER SPUY~~ELSJE JACOBA JOHANNA DERCKSEN *R*

Transportbesorger, voor my, Registrateur van Aktes in Kaapstad, verskyn het, behoorlik daartoe gemagtig deur 'n volmag ten gunste van hom/haar geteken te Bettysbaai op 30 Julie 1996 deur

**EDUARD WIUM LAUBSCHER**

Identiteitsnommer 230901 5017 00 0

Getroud buite gemeenskap van goed

**EN** die komparant aldus gemagtig het verklaar dat

**NADEMAAL** die ondervermelde eiendom verkoop is aan die hiernagemelde transportnemer/s op 26 JULIE 1996;

**NOU DERHALWE** sedeer en transporteer die gemelde komparant, in sy hoedanigheid voormeld, hiermee in volkome en vrye eiendom aan en ten gunste van

**DIE TRUSTEES INDERTYD VAN DIE  
DEON MAREE FAMILIETRUST  
Nr IT 7071/96**

hul opvolgers in titel of regverkrygendes:

**ERF 2129 BETTYSBAAI**

in die Munisipaliteit Hangklip/Kleinmond  
Afdeling Caledon, Provinsie Wes-Kaap

**GROOT** eenduisend tweehonderd nege en dertig (1 239) vierkante meter

**AANVANKLIK** oorgedra kragtens Transportakte nr T14133/1945 met kaart nr 3443/45 wat daarop betrekking het en gehou kragtens Transportakte nr T13221/1972.

- A. **ONDERHEWIG** aan die voorwaardes waarna verwys word in Sertifikaat van Dorpstitel nr T12276/1941.
- B. **ONDERHEWIG** verder aan die voorbehoud ten gunste van die Staat van alle regte op myne van goud, silwer en edelgesteentes soos genoem in artikel 4 van die Proklamasie van Sir John Cradock gedateer 6 Augustus 1813.
- C. **GEREGTIG** op die voordeel van die voorwaardes waarna verwys word in die serwituuwendossement gedateer 24 Junie 1940 p Sertifikaat van Verenigde Titel nr T3720/1937 wat as volg lees:

2

By Deed of Transfer no. 6068/40 dated 24 June 1940, certain conditions relating to (a) ..... (b) prohibition of petrol station on land, (c) ..... (d) wood and iron buildings, (e) slaughter poles, cattle kraals and manufacture of bricks, tiles, etc. have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title to the remainder of the property held hereunder, as will more fully appear on reference to the said deed of transfer.

D. ONDERHEWIG verder aan die volgende spesiale voorwaardes vervat in Transportakte nr T14133/1945 by goedkeuring van Silver Sands Dorp, naamlik:

- I. Synde ten gunste van die geregistreerde eienaar van enige erf in die dorp en onderhewig aan wysiging of verandering deur die Administrateur kragtens die bepalings van artikel 18(3) van Ordonnansie 33 van 1934:
  - (a) That this erf be used for residential purposes only, bu no building other that one dwelling, together with such outbuildings as are ordinarily required to be used therewith, may be erected on there-on.
  - (b) That not more than one-half of the area of this erf be built upon.
  - (c) That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf.
- II. Synde ten gunste van die Administrateur:
  - (d) That this erf be not subdivided except with the consent in writing of the Administrator.
- III. Synde ten gunste van die plaaslike owerheid:
  - (e) That the owner of this erf shall be obliged to allow the drainage and sewerage of any other erf to be conveyed over this erf if deemed necessary by the local authority.
  - (f) That the owner of this erf shall be obliged to receive material to give a proper slope to the bank if this erf is below the level of the adjoining street, and if this erf is above the level of the adjoining street, he shall in like manner permit a safe slope to the bank, unless in either case he shall elect to build retaining walls to the satisfaction of the local authority and within a period to be determined by the local authority.
  - (g) That pending the establishment of a local authority for this township, the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic tank on

this erf if the nature of the soil permits of the use of a septic tank, otherwise to a properly constructed vacuum tank serving one or more erven. On the establishment of such local authority, the owner of any erf or erven served by a septic or vacuum tank, shall, if required by such local authority, be obliged without compensation to remove the septic or vacuum tank, after three months' notice in writing has been given by such local authority.

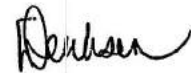
E. ONDERHEWIG verder aan die volgende voorwaardes vervat in Transportakte nr T14133/1945 opgelê deur en vir die voordeel van Hangklip Beach Estates Limited as eienaars van die restant van die dorp gehou kragtens Sertifikaat van Dorpstitel nr T12276/1941, en vir die voordeel van die eienaar van enige erf in die dorp, naamlik:

- (a) .....
- (b) No wood and iron buildings of any description shall be erected on this erf, nor shall corrugated iron be used for roofing purposes.
- (c) No slaughter poles, cattle kraals, pig-sties or cow-sheds shall be erected or carried on by any person whomsoever on this erf.
- (d) Save with the consent in writing of the company and of any local authority, the owner shall not have the right to make or cause to be made upon the erf for any purpose whatsoever any bricks, tiles or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon.
- (e) No building shall be erected on this erf at a cost of less than R800,00 exclusive of the cost of the land.
- (f) No noxious trade or noxious business shall be carried on on this erf.
- (g) No garage or service station may be erected or carried on on the land hereby conveyed.

**WESHALWE** die komparant afstand gedoen het van alle eiendoms- en ander regte wat die gesegde transportgewer/s tot op hede op gemelde vaste eiendom gehad het en gevolglik ook erken dat hy/sy/hulle/dit daarvan heeltemal onteien is, en geen eiendoms- en ander regte daarop besit nie; en dat, kragtens hierdie akte, die gesegde trusteees indertyd van die transportnemer trust, hul opvolgers in titel of regverkrygendes tans is en voortaan op die volle eiendomsregte daarvan geregtig sal wees, ooreenkomstig plaaslike gebruik, onder voorbehoud nogtans van die regte van die Staat; en eindelijk erken het dat die volle koopprys ten bedrae van R88 000,00 behoorlik betaal of verseker is.

**TEN** bewyse waarvan ek, die genoemde Registrateur, saam met die komparant, q.q. hierdie akte onderteken het en die ampeël daarop laat aanbring het.

**ALDUS** gedoen en uitgevoer in die kantoor van die Registrateur van Aktes te Kaapstad op *26 Augustus* 1996.



q.q. Sy Prinsipaal

In my teenwoordigheid



**REGISTRATEUR VAN AKTES**

## ANNEXURE E 1/21

PO Box 296  
Betty's Bay  
7141  
Cell: 0833252295  
6 June 2018

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

Municipal Manager  
Overstrand Municipality  
PO Box 20  
HERMANUS  
7200

RE: ERF 2129, 4 Greeb Road, Betty's Bay: Proposed removal of restrictive conditions and departure. (Municipal Notice No. 62/2018)

**Objection to the application by the Dean Maree Family Trust**

Dear Sir/Madam

I, Isabella Gordon Meisenholl (ID no 5702060081086), hereby confirm that I am the registered owner of ERF 2098, Easy Road Betty's Bay and has been a permanent resident of the said property since July 2009.

I received the Municipal Notice No. 62/2018 per registered post on 18 May 2018.

As an opening statement, I would like to comment as follows: Erf 2129 is in a quiet residential area and there are only gravel roads with relative low traffic volumes. The relaxation and or change of restrictive conditions, rules and regulations on a property will have a negative impact on existing owners due to an increase in business activities, noise levels and traffic volumes and buildings that are too close to border lines.

Specific comments on this application to:

1. Apply for a removal of restrictive title conditions in order to accommodate a second dwelling unit on the property.
2. Apply for a departure from By-Law in order to relax the building lines as stated in the application.
3. Apply for a departure from By-Law in order to exceed the 9m restriction of a building on one specific boundary.

**Respect thy neighbour; a principle that must be applied in all communities.**

Zoning, building lines and building restrictions are in place amongst other to inform a potential buyer and protect an existing property owner. Any changes thereof must be considered with care and



circumspection in order to protect existing owners in the area and more specifically the direct neighbours of the said property.

I am of the opinion that this application is not beneficial to the direct neighbours and residents in the specific area for the following reasons; in no specific order:

- a. A "quest room" business will result in an increase in noise levels and traffic volumes. The principle is: "quest room" occupants will have visitors and a group of people make more noise. The outside braai facility will further increase noise levels.
- b. This will become worse if additional "quest rooms" are used. An increase in quest rooms will normally be required to ensure the financial viability of a "quest room business".
- c. It is worth mentioning increased traffic volumes. Roads leading to ERF 2129 are all gravel and some of the access roads around ERF 2129 are narrow. An increase in business activity in the area will have an impact on traffic volumes. This increase in traffic volumes is in addition to the increase in traffic due to more houses built in Betty's Bay.
- d. To exceed the 9m building restriction on a borderline of any building should never be allowed. It is unfair, not reasonable and disrespectful to the person on the other side of said building.
- e. On physical inspection of the property, it is clear that there is not sufficient space for the proposed extension.
- f. A water tank can not be used to manage the flow of rain water. The tank will be full after one or two rain falls. What happens to the over flow?
- g. The fact that another owner exceeded a building line cannot be a motivation to also do it.
- h. The proposed use of the property and the principle of densification will not necessarily improve security. Look at high density areas in Cape Town – did not help with security.
- i. The overall size of the proposed building is acceptable. The position of the building on the property is not.

In conclusion; based on the above, the proposed application will have a negative impact on existing property owners in the area and I therefor **object** to the application by the Deon Maree Family Trust.

Kind regards



Isabella Meisenholl

Collab. ANNEXURE E 3/21

**Loretta Gillion - ERF 2129 GREEBWEG BETTYSBAAI**

**From:** "Mariette Louw" <mariette@flouw.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 05/06/2018 04:21 PM  
**Subject:** ERF 2129 GREEBWEG BETTYSBAAI



TP-A Theart  
(M. J. J. Steep)

Aan wie dit mag aangaan:

Ek het n brief ontvang re voornemende aanbouing en of goedkeuring van nog n wooneenheid Op erf 2129. Na deeglike oorweging en bestudering van die dokumente is ek nie ten gunste van die versoek nie.

Ons is seker een van die "oudste" inwoners van die area – met die erf en huisie wat reeds In 1967 gekoop en gebou is.

Bettys baai was nog altyd n "groen" area met die mooiste fynbos en die meeste van ons Probeer om "deel" van die natuur te raak/ bly. Dit is n residensiele gebied en ek sal Dit graag so wil hou.

Ek kan verstaan dat van die ander inwoners nog meer verontrief sal word as daar nou N "besigheid" bedryf word - ek dink nie dit was deel van die aanvanklike idee om In n residensiele gebied te koop nie. Dit sal beslis die waarde van die ander eiendomme In die area beïnvloed en ek dink nie een van ons wil dit he nie.

Daar sal beslis n toeloop van ekstra voertuie wees en ek is baie seker dat die Rustigheid van die woonbuurt negatief beïnvloed sal word . Meer mense beteken Nie noodwendig meer sekuriteit nie.

Ek sal dit waardeer as julle my op hoogte kan hou van die verwickelinge

( ek sal vanaf 28/6/18 tot 18/7/18 in die buiteland wees)

Kontak my gerus indien u verdere inligting verlang

Baie dankie

Mariette Louw - Trustee Francois Louw Snr Familie Trust

Grege straat – ERF 2131

Sel: 082 77 23 777



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

FILE NO:	EL 2129
SCAN NO:	Bettys Bay
COLLABORATOR NO:	KBB 2129
	1165632

ANNEXURE E 4/21

**Loretta Gillion - ERF 2129 GREEBWEG BETTYSBAAI: OPHEFFING VAN BEPERKENDE VOORWAARDES EN AFWYKING: G J MAREE**

**From:** "Johnita" <johnita@mweb.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 2018/05/30 09:13 AM  
**Subject:** ERF 2129 GREEBWEG BETTYSBAAI: OPHEFFING VAN BEPERKENDE VOORWAARDES EN AFWYKING: G J MAREE

TP - A Theart  
(Huid Stoep)



Heil die leser:

Ek, Johnita Louw le Roux, eienaar van Erf 2110 Heathweg Bettysbaai, wil hiermee beswaar aanteken teen die verdere ontwikkeling van ERF 2129 GREEBWEG BETTYSBAAI.

Laasgenoemde eiendom bevat reeds 'n buitengewoon groot bousel waarvan dele onderverhuur word.

Verdere aanbouings en uitverhurings sal die pastorale atmosfeer waarvoor ons in hierdie woonbuurt kom vestig het, ondermyn.

Dit sal ook die geldwaarde van my aangrensende eiendom verlaag.


Ek maak ten sterkste kopsie teen sulke aftakeling van die voorwaardes waarop hierdie residensiële gebied tans volgens wet in 'n beeldskone biosfeer berus.

Met dank vir u begrip en samewerking.

Johnita Louw le Roux

Heathweg 2110  
Bettysbaai

Tel: 028 272 9068

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

FILE NO: EL 2129 - KBB ✓
SCAN NO: KBB 2129
COLLABORATOR NO: 1163482

0105174108

TR A T... ANNEXURE E 5/21  
C H vld Stoep

Loretta Gillion - OBJECTION : ERF 2129 GREEB WAY BETTY'S BAY : REMOVAL OF LIMITATIONS AND REGULATIONS : GJ MAREE

From: "Grant Norton" <grant@metnor.co.za>  
To: <loretta@overstrand.gov.za>  
Date: 28/05/2018 09:44 AM  
Subject: OBJECTION : ERF 2129 GREEB WAY BETTY'S BAY : REMOVAL OF LIMITATIONS AND REGULATIONS : GJ MAREE  
Cc: "Grant Norton" <grant@metnor.co.za>

Good Morning.

I am the owner of 2104 Heath road Bettys Bay. Owned under the company name Kew Consulting Pty Ltd

It has come to my attention that a Mr GJ Maree of ERF 2129 has applied to build additional residences on his ERF. From what I understand he already sublets on his property. I strongly object to all future developments proposed as we have invested in Bettys bay for a number of reasons, mainly being the large secluded plots offered in our area, as well as the privacy. Most houses in our area are owner occupied and not let out at all.

Please contact me if there is anything more formal to be filled in.

Kind Regards,  
Grant Norton | CEO

C: +27 83 236 5822 | T: +27 21 905 2980 | F: +27 086 509 7344 | [www.metnor.co.za](http://www.metnor.co.za)

Check out our new website!



FILE NO:	EL 2129
	Betty's Bay
SCAN NO:	KBB 2129
COLLABORATOR NO:	1162663

20 MAY 2018

FILE NO:	EL 2129
SCAN NO:	Betty's Bay
CO-ORDINATOR NO:	KBB 2129
LABORATOR NO:	1152359

TRAT ANNEXURE E 6/21  
C H Jd Steep

**RE: ERF 2129 GREEB WAY BETTY'S BAY : REMOVAL OF LIMITATIONS AND REGULATIONS : GJ MAREE**



From: "Spencer King" <ybking@mweb.co.za>  
To: <loretta@overstrand.gov.za>  
Date: 24/05/2018 12:06 PM  
Subject: RE: ERF 2129 GREEB WAY BETTY'S BAY : REMOVAL OF LIMITATIONS AND REGULATIONS : GJ MAREE

#### TO WHOM IT MAY CONCERN

I am the owner of Erf 2109 in Betty's Bay and have the house has been in my family since it was originally built in about 1962.

Mr Maree built his house on Erf 2129 and immediately flouted the regulations of the Overstrand Municipality by building several units contained in the one building, each with its own kitchen and bathroom (against the building regulations) and then proceeded to advertise on his website "self-catering units" for which he had no permission to do so. We were continually disturbed by noisy tenants and objected then in a letter to the Overstrand Municipality and the building inspector agreed with those of the neighbours who objected at the time.

Since then he has still had more than one tenant staying at various times in his house.

I now gather that Mr Maree has made application to the municipality to build **two MORE** units on his property and the rent them out and thus become a commercial entity, and to run it as a business. I am totally against this as we live in a residential area, and he already has 3 units on this erf, for which I doubt he has permission.

The braai area that he mentions is a broken down set of bricks, which is no longer functional, and is totally irrelevant to his argument.

I very very strongly object to the prospective extensions/alterations which have been applied for. Any relaxation of boundary lines or building lines will have a massive impact on my property, not only from a privacy point of view, but also from a property value. Are we now going to have neighbours living on top of one another in a holiday town?

The plots in this area are old and therefore deliberately large enough to enable residents to have privacy, the reason for which they currently reside in the area. It is certainly not fair for anyone to bring more families onto one residential plot, and to allow private dwellings to be used for numerous tenants. Imagine if everyone in the area followed suit? Imagine the increase in the number of people living on single plots, not ever designated for multiple families? Imagine the pressure on municipal service such as water, sewerage, waste removal and roads? What about additional dogs and kids creating a nuisance and an increased noise level? Are you going to allow over 15 plus people living on one plot on a permanent basis, on long term leases? Is Betty's Bay going to become a residential area for multiple families to take over private residences?

Lastly, Mr Maree has proved in the past that he does not abide by municipal regulations, and I certainly do not trust him to do so in the future.

If you approve his application, you are going to open up a can of worms, and can expect massive repercussions from neighbours.

28 MAY 2018

file:///C:/Users/loretta/AppData/Local/Temp/XPgrpwise/5B06AAB3HermanusMunpo... 2018/05/28

## ANNEXURE E 7/21

The majority people living in the area are retired people and permanent residents, and this will have a massive effect on their quality of life, the quiet and peacefulness and the nature of the area.

I object in the strongest possible terms.

Yours sincerely

YVONNE KING (Mrs)  
083 2703026

ANNEXURE E 8/21

TR A Theart  
(Huld stoep)**Loretta Gillion - ERF 2129 GREEB Road Betty's BAY.**

**From:** "Paul Johnston" <pauljohnston@mweb.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 23/05/2018 05:02 PM  
**Subject:** ERF 2129 GREEB Road Betty's BAY.



Good day. I am the owner of Erf 2087 Lovers Walk, and I am writing in response to the registered letter concerning Proposed Removal of Restrictive Conditions for Erf 2129. I am strongly opposed to the expansion of the buildings to include an additional dwelling unit and guest rooms. This is a single unit residential area and homeowners chose this area for peace and tranquillity. Erf 2129 will create unneeded densification, additional traffic, noise and disturbance to neighbours. The suggested departures open the door for all manner of undesirable property development which will strongly detract from the character and ambience of the area which has been carefully maintained and safeguarded to date. To the extent that the owners wish to increase their property portfolio I would recommend that they consider many of the houses and plots for sale in Betty's Bay in relatively close proximity.

PN Johnston

Mobile: 083 6320383

Landline: 021 7124894

Email: pauljohnston@mweb.co.za

FILE NO:	ET 2129
	Betty's Bay ✓
SCAN NO:	JOHNSTONE
COLLABORATOR NO:	1162376

23 MAY 2018

ANNEXURE E 9/21

TP-ATheart  
(Hvd Stoep)

**Loretta Gillion - ERF 2129 Greeb Road. application to build further appartments for rental**



**From:** Trevor Townsend <townsendt75@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 23/05/2018 10:51 AM  
**Subject:** ERF 2129 Greeb Road. application to build further appartments for rental

To: The Overstrand Municipality Planning Department.

Dear Sirs,

It has been brought to my attention that an application has been made to build appartments in addition to the existing very large houses on ERF 2129

We live in an area where normal residential houses enjoy peace and quiet. This is not an area where hectic tourist and business activity is encouraged.

In fact we have every wish to maintain the existing status quo.

With the above comments in mind, we wish to record our objection to this application for further development.

Yours faithfully

T M Townsend **ERF 2103 Heath Road, Bettys Bay**

FILE NO:	ERF 2129
SCAN NO:	Betty's Bay ✓
COLLABORATOR NO:	TOWNSEND
	1161689

TP 23 MAY 2018

ANNEXURE E 10/21

TR A Theart  
(H Jd Stoop)

**Loretta Gillion - ERF 2129 KBB : OPHEFFING VAN BEPERKENDE VOORWAARDES EN AFWYKING : GJ MAREE : 04 APRIL 2018 : MUNISIPALE KENNISGEWING 62/2018.**



**From:** Martin Van Wyk <mjvwonline@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 21/05/2018 03:12 PM  
**Subject:** ERF 2129 KBB : OPHEFFING VAN BEPERKENDE VOORWAARDES EN AFWYKING : GJ MAREE : 04 APRIL 2018 : MUNISIPALE KENNISGEWING 62/2018.

Die Senior Stadsbeplanner.

1) Ons, MJ en JH van Wyk. Erf 2108 Posbus 122 Bettysbaai tel 028 2729693 en 0822291549, aangrensend aan die westekant van erf 2129 in Greebweg Bettysbaai, maak ten sterkste beswaar teen die opheffing van beperkende voorwaardes en afwykings.

2) Maree doen aansoek om "guest rooms, home occupation and second dwelling", terwyl hierdie kompleks reeds sedert 2004 beskik oor 'n volledige woonhuis asook twee wooneenhede, een op grondvlak en een op die eerste vloer. Elk met private toegang van buite en elk toegerus met 'n volledige kombuis, bad en toiletgeriewe en slaapkamers, asook ingeboude braaiplekke.

3) Hy het hierdie wooneenhede vanaf 2004 tot 30 April 2009 onwettig as selfsorg eenhede verhuur. Daar was soms ongewenste elemente wat gehuur het. Drank was misbruik en onnodige geraas gemaak. Bierblikke en ander voorwerpe was op my dak gegooi. Ek verwys u na 'n ongenommerde skrywe, gedateer 12 November 2008 van die voormalige Burgemeester, TB Beyleveldt. Ek haal die laaste paragraaf aan : "Mnr Maree se onwettige bedrywighede,-- regstappe, ensovoorts".

4) Dit is ook duidelik dat die riooltenk onvoldoende is. Dit het tydens die verhuring van die eenhede male sonder tal oorgeloopt en rou riool op my eiendom gestort.

5) Ek verwys u graag na 'n skrywe KBB 2129 gedateer 29 November 2008 vanaf die Munisipale Bestuurder aan Maree en wel paragraaf 2 van die tweede gedeelte van die skrywe. Daarin was hy kennis gegee om binne 3 maande die huis terug te verander na die goedgekeurde plan. Hierdie opdrag was nooit uitgevoer nie.

6) Let ook asseblief op die inhoud van KBB 2129 gedateer 7 April 2009, waar Maree gedagvaar was ten opsigte van onwettige verhuring van wooneenhede.

7) Hy en sy vrou bewoon tans die een wooneenheid terwyl die hoofwoning verhuur word. Ons vermoed dat hulle, wanneer die huurders die hoofwoning ontruim, daar sal intrek en weer hierdie wooneenhede verhuur en dus 'n kommersiële gebou bedryf.

8) Ek wil beklemtoon dat toe ons my erf, 2108 op 15 Februarie 1983 gekoop het, ons seker gemaak het dat hierdie 'n residensiële gebied is en dat geen besigheidsperseel in die omgewing as sulks gesoneer is, of in die toekoms so gesoneer sou word, en afbreuk doen aan die stil, en rustigheid van die omgewing en die natuur nie.

FILE NO:	ERF 2129
	Betty's Bay
SCAN NO:	Van Wyk
COLLABORATOR NO:	1161486

TP

23 MAY 2018

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## ANNEXURE E 11/21

9) Ek stel voor dat 'n inspekteur die perseel besoek met die oorspronklike huisplan byderhand, en hom of haarself vergewis van omstandighede, voordat enige besluite geneem of toestemming aan hom verleen word.

MJ / JH VAN WYK.

ANNEXURE E 12/21

Loretta Gillion - ERF 2129. Greeb Rd. Betty's Bay

TRA Theart  
(H vld Stoop)

**From:** Carol Cuthbert <carolm.cuthbert@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 23/05/2018 09:05 AM  
**Subject:** ERF 2129. Greeb Rd. Betty's Bay  
**Cc:** <ccuthbert@ufh.ac.za>



Good morning

I, Carol Mary Cuthbert, am the owner of erf 2105, Shell Rd, Betty's Bay. I strongly object to the planned additions of dwelling space on erf 2129.

This is a residential area. I bought property in this area because there are no business premises existing in the area, and because of the peaceful environment. I also envisaged that no properties in the area would conduct business on their premises.

This particular property already has 3 dwelling places and we don't want more development. If this application to operate a business is approved it will disturb the peace and tranquility of the area and spoil the natural environment. If this application is approved, other properties in the area will also be tempted to open businesses, and that can't be allowed to happen. I enjoy the peace and quiet of the area and the fact that it is not densely populated. If this business is approved the noise in the area is bound to increase.

I object in the strongest way to this proposed development as it will probably influence the value of my property and those in the surrounding areas.

Yours sincerely  
 Carol Cuthbert  
 ID: 6201130038084  
 Cell: 0822003423

FILE NO:	EL 2129
	Betty's Bay
SCAN NO:	KBB 2129
COLLABORATOR NO:	1161456

TP

23 MAY 2018

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ANNEXURE E 13/21

TR-ATheart  
(H Jd Steep)



ERF 2129 KBB : OPHEFFING VAN BEPERKENDE VOORWAARDES EN AFWYKING.

Ek BG Mouton van erf 2134 Greebweg Bettysbaai, maak beswaar teen die beoogde aanbouing of goedkeuring van wooneenhede op erf 2129.

Ons woon permanent in Greebweg en geniet die rustigheid en stilte van die area.

Hierdie is 'n residensiële gebied. Ek het destyds die eiendom gekoop juis omdat daar geen besigheidspersonele in die omgewing is nie.

Ek is bevrees dat die eienaar van 2129 sy eiendom as 'n besigheid sal bedryf.

*BG Mouton*  
BG MOUTON  
071 0746363.

FILE NO:	EC 2129
	Betty's Bay ✓
SCAN NO:	
	MOUTON
COLLABORATOR NO:	
	1161464

TP 23 MAY 2018

ANNEXURE E 14/21

TP A Theun  
(Huidstap)

Loretta Gillion - Munisipale Kennisgewing Nr 62/2018



**From:** Johann Coetzee <johcc101@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 20/05/2018 02:05 PM  
**Subject:** Munisipale Kennisgewing Nr 62/2018

Overstrand Munisipaliteit

Met verwysing na die Munisipale Kennisgewing Erf 2129, Greebweg 4, Bettysbaai

Geagte Heer/Dame

1. Volgens die planne beskikbaar gestel blyk dit dat daar reeds twee wooneenhede op die genoemde eiendom bestaan. Die aansoek soos ingedien sal dus die oprig van 'n derde wooneenheid op 'n residensieele eiendom goedkeur. Ons kan nie hiermee saam stem nie.

2. Daar word geen vermelding in die aansoek gemaak oor die beplande riool voorsiening vir 'n residensieele eiendom met drie wooneenhede nie.

Die uwe

SE en JC Coetzee  
 Erf 2155, Bettysbaai

--

*Dr Johann Coetzee*  
*P O Box 995, Kokanje 0515*  
*M: 0828084766*

FILE NO:	6229
	KBB ✓
SCAN NO:	COETZEE
COLLABORATOR NO:	1161501

TP

23 MAY 2018

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ANNEXURE E 15/21

TR A Theart  
C Huld Stoop)

Loretta Gillion - Application to departure from building restrictions: Erf 2129, Bettys Bay

**From:** Louise Liebenberg <louise.liebenberg02@gmail.com>**To:** <loretta@overstrand.gov.za>**Date:** 19/05/2018 06:52 PM**Subject:** Application to departure from building restrictions: Erf 2129, Bettys Bay

Dear madam,

I am writing on behalf of my in-laws who live at 2149 Easy Road, Bettys Bay. They do not have an email account.

Bobby and Jean Liebenberg would like to express their dismay at the possibility that more living units will be added to the house at 4 Grebe Road (erf 2129) in Bettys Bay. They have lived in Bettys Bay permanently for about 15 years (and part-time before that) and value the natural beauty and peaceful surroundings of their neighbourhood. They feel that more rental units will attract more noise and possible unruly behaviour, as they currently experience from time to time at other houses close by. They personally know the neighbour of the relevant house in Grebe Street and feel that he would be inconvenienced and his privacy threatened by having a living unit right on the property's boundary. They would certainly not like anyone to build right up to their own boundary either.

The Liebenbergs do not approve or recommend that there be any departure from the building regulations that currently govern the town's expansion. They most strongly disagree with the application by the owner of the premises in Grebe Street.

You can contact Bobby and Jean on 083 320 7675.

Kind regards, Louise Liebenberg

FILE NO:	EL 2129
	Betty's Bay
SCAN NO:	LOUISE
COLLABORATOR NO:	1161198

TP 23 MAY 2018

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ANNEXURE E 16/21

**Loretta Gillion - ERF 2129 GREEBWEG BETTIESBAAI: OPHEFFING VAN BEPERKENDE VOORWAARDES EN AFWYKING VAN DIE BESTAANDE REGULASIES**

*TRH Theart*  
*CHuldstoep*

**From:** "Pieter Meyer" <daysure1@telkomsa.net>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 14 June 2018 02:46 PM  
**Subject:** ERF 2129 GREEBWEG BETTIESBAAI: OPHEFFING VAN BEPERKENDE VOORWAARDES EN AFWYKING VAN DIE BESTAANDE REGULASIES



Die persoon by bogenoemde adres het aansoek gedoen om n verslapping van die bou regulasies om twee addisionele wooneenhede op sy bestaande perseel op te rig met die doel om dit te verhuur.

Soos ek verneem het is daar al reeds eenhede op sy bestaande perseel wat hy uitverhuur en nou wil hy nog bou om dit ook uit te verhuur!

Ons het nou onlangs Bettiebaai toe getrek, om presies te wees, ons het ingetrek op 30 Junie 2018, juis met die doel vir ruse n vrede.

Daarom maak ek ten sterkste beswaar teen die nuwe aansoek wat ons rus en vrede gaan versteur.

Indien die aansoek goedgekeur word sal dit definitief afbreuk maak aan die rustigheid in die omgewing.

Ons kan nie toelaat dat n besigheid in n residensieele gebied bedryf word nie en daardeur die waarde van ons eiendom negatief beïnvloed nie.

Die uwe

Pieter Meyer  
082 956 8709

FILE NO:	EL 2129
SCAN NO:	Betty's Bay
COLLABORATOR NO:	MEYER
	1168525



This email has been checked for viruses by Avast antivirus software.  
[www.avast.com](http://www.avast.com)



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ANNEXURE E 17/21

Bates, AE, BN + EM  
53 First Avenue  
Claremont  
Cape Town

14 June 2018

*TRATHEART  
(C Huld Stoep)*

Overstrand Municipality  
loretta@overstrand.gov.za  
P.O.Box 20  
Hermanus  
7200

Dear Sir/Madam

ERF 2129, 4 GREBE ROAD, BETTYS BAY : PROPOSED REMOVAL OF RESTRICTIVE  
CONDITIONS AND DEPARTURE : G.J.MAREE

I am the life-right usufruct holder of 2140 Grebe Road; the property which I paid for but which is registered in the names of my three children, two who live outside of South Africa and one who lives in Johannesburg. None of them uses the property at Bettys Bay. As the usufructee this property is my entitlement.

As part of the documentation package sent me by Overstrand Municipality is a letter by applicant Maree in which he mentions that the adjoining owner of 2108, against which his (Maree's) proposed building works will extend toward, has previously built over their common boundary. Where is the Plans Examiner and the Building Inspector in all of this? This legal transgression should have been addressed. This fact should in no way relax another law and allow Maree to build onto the boundary line as well as asking for removal of restrictions and bye-laws. Two wrongs do not make a right.

Is Municipality and are property owners at Bettys Bay losing touch with the fact that Bettys Bay is a World Heritage Site? The spiritual essence of the area, the existing small fauna, birds, frogs, flora etc. seem not to be considered in the town planning. Bettys Bay is not an urban or a suburban environment. This area is priceless unique. There should be a different Municipal Land Use Planning which does not permit two dwellings on one erf and building onto boundary lines. Densification is quite unnecessary here.

There is no architectural restriction/design/conformity policy in place at Bettys Bay (such as there is at Thesen's Island) and every owner and their architect runs riot with an assortment of ideas and colours (red, purple, turquoise) trying to outdo adjoining neighbours, pushing for the relaxation of restrictions and legislation.

If the application from 2129/Maree adjoined my property I would employ an attorney and a town-planner to oppose it to the end.

The building regulations of Betty's Bay need to be reviewed as a matter of urgency considering its special and unique environment.

I OBJECT STRONGLY to any relaxation of building regulations in this particular case and in any other in Betty's Bay.

Mrs E.Y.Bates  
53 First Avenue  
Claremont  
Cape Town  
allofus@mweb.co.za  
021-674-0102, 074-491-7380



FILE NO:	EL 2129
	Betty's Bay ✓
SCAN NO:	KBB 2129
COLLABORATOR NO:	1168514



TR-ATheart  
(Huldstoeper)

Overstrand Municipality,  
P O Box 20,  
Hermanus  
7200

Ian Murray  
9 Gulley road,  
Siversands,  
Betty's Bay  
7141

12 June 2018

Dear Sir/Madam,

Erf 2129, Greebweg 4, Betty's Bay

I today received by registered mail your notice 62/2018.

I have the following comments/inputs/concerns:

- The relaxation of building lines to 0 m in densely populated areas may be considered if there are convincing reasons. This would especially be true where in high density residential developments, the erf sizes are under 500 m2.
- The relaxation of a building line in a village such as Betty's Bay, should not be encouraged or required. The nature of the developments in Betty's Bay should (and do in most cases) give a spacious and rural feel to the village. This contrasts with the high density homes in the Cape Town area that the owners flee from over weekends.
- The site plan proposed shows adequate room for a second dwelling if the land between the existing home and erf 2108 is used for access to the unbuilt sections of the erf. There is no need to squash the proposed new dwelling into the narrow section between erf 2108 and erf 2129.

An additional concern that I have is the following:

- I bought my property understanding that there would be only one house allowed on the property.
- As the home next to my property had been erected, I knew that no further development would occur next to me.
- If this rule is relaxed easily, it could affect the value of adjacent properties.

I object to the relaxations proposed as it will create a precedent that could change the quiet and rural ambiance of Betty's Bay. The request should be rejected by the Municipality.

Regards

Ian Murray

FILE NO:	EL 2129
	Betty's Bay ✓
SCAN NO:	KBB 2129
COLLABORATOR NO:	1168118



## ANNEXURE E 19/21

**From:** Lorian Robinson <lolarob9@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 09/06/2018 10:10 AM  
**Subject:** ERF 2129 KBB

I, L Robinson of Erf 2112 Bettysbay am objecting to the proposed construction of additional building to take place on Erf 2129 for it already has more than one full kitchen on its premises. It is already a place of business and I opted to live in a quiet residential area when I built my home. If this were to take place, we would all want to have additions and it would look like a township. I have been lead to understand that there are at least three separate units already on that Erf

Signed

L Robinson

0282729021

Sent from my iPhone

ANNEXURE E 20/21

FROM : JH Hugo  
 P.O. Box 15535  
 Vlaeberg  
 8018  
 Tel. 083 583 2426



FILE NO:	EC 2129
	Betty's Bay
SCAN NO:	KBB 2129
COLLABORATOR NO:	1166939

To: loretta@overstrand.gov.za

Hi

**Your Reference:** Erf 2129 Betty's Bay (MN62 2018) Removal of restrictive conditions  
<https://www.overstrand.gov.za/en/documents/notices/5423-erf-2129-betty-s-bay-mn62-2018-removal-of-restrictive-conditions-departures>

**PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE APPLICATION**

I am opposed to the application for the following reasons:

1. **Second Dwelling:** My concern is that a second dwelling/guest rooms functionality increases the people-and-car density on Erf 2129. A major attraction of Betty's Bay is the open space atmosphere. If the proposed building alteration is approved, a precedent will be created for future high density block developments and it will become very difficult to deny similar applications. I have no objection to a hidden formal second dwelling application if it located at the back of the property but the visual appearance of the proposed design is unsightly and objectionable.

I do not consider the location of Erf 2129 suitable for a massive guest house as the roads are narrow with limited off road parking. If the Trust wishes to create a huge guest house- an alternative commercial site with easy access to main roads should be considered. Erf 2129 was intended for non-commercial residential use.

Allowing higher density developments so close to the beachfront will eventually systematically undermine the attraction of Betty's Bay open spaces holiday house ethos.

2. **The proposed design alterations is not suitable for the width of the plot:**
  - a) Adding the proposed tandem garage will reduce the open space between the house and the adjoining Erf 2108 border- leaving nearly 80% of the front of the plot fully build up. Should other property owners wish to do the same; their applications will have to be approved as the precedent exists. This will undermine the concept of open spaces between dwellings. A much better option will be to build the garage/second dwelling at the back of the plot and minimise the visual impact of a massive structure spanning nearly the entire width of Erf 2129.
  - b) The proposed parking areas should be located out of sight at the back of the plot.

## ANNEXURE E 21/21

- c) Safety Concerns: Having open space around the building complex will provide:
- (i) An alternative escape route in a case of a veld fire- especially if the alternative option is burning.
  - (ii) Access options to adjoining properties in the case of fire.
  - (iii) Open spaces on both sides of the house offers better fire/sound isolation/safety barrier on both sides of the property.
  - (iv) A sound barrier for the adjoining house. If the people density in Erf 2129 was low, the noise risk could be considered low but with a guest house there is a distinct noise risk for the neighbours. Guests will want to socialize and entertain which inevitably implies increased noise levels for the neighbours.
- d) The building structure is already massive for a predominantly holiday resort area. Broadening the building will make it visually inappropriately large and difficult to blend in with the surrounding buildings. Should the guest house fail commercially or current/future owner not have the financial means to maintain the building, the entire complex has the potential to become a future management issue (slum?) for Council.

**In Summary**

1. I am opposed to the current policy deviations as it creates a precedent which will become a legal nightmare in future.
2. The proposed new structure is visually too big, unsightly and too close to the road and does not blend in with the surrounding structures. I also have concerns re the long term financial viability and the risk that the building will eventually become an eyesore. If the restrictive conditions and departures are permitted, I see no reason why a height restriction should continue to apply in Bettys' Bay.
3. The fire and noise risks to the applicant and neighbours have not been addressed in the current application.
4. I am not in favour of huge high density commercial buildings so close to the beachfront. It undermines the ethos of space/privacy between buildings and the general atmosphere in the surrounding beachfront.

**In Conclusion**

1. I oppose the current application:
  - a) Clause D.1(a)-(c) of Title Deed, T65399/1996 of Erf 2129- no second dwelling to be allowed as currently proposed ;
  - b) Section 16(2)(b) no relaxation of the lateral building line from 2 m to 0 and the street building line from 4 m to 2.92m.
  - c) Section 16(2)(b) not to exceed the 9 m building restriction on one boundary.

Please confirm receipt of this email.

Yours faithfully

Jozua H Hugo

08/06/2018



ANNEXURE II 1/6  
TP-A (HvdStoep)

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

Ref no: 2129 KBB(3911)

Director: Infrastructure & Planning  
Overstrand Town Planning



Dear Sir / Madam

**PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS & DEPARTURE – ERF 2129 GREEB ROAD BETTY'S BAY - GJ MAREE (OBO DEON MAREE FAMILY TRUST)**

I herewith submit my written reply to the objections received with regards to the above application.

An explanatory note: The complaints are grouped into specific subject categories and at the end of each category responses are provided.

The following categories represent all the complaints and/or remarks received from the 17 objectors:

**Part 1:** Responses from complainants pertaining to objections of "privacy" and "Betty's Bay being in a "special nature area";

**Part 2:** Responses pertaining to erf 2129 being zoned as residential and general land use concerns;

**Part 3:** Removal of title Deed restrictions and departure from By-Laws in order to relax building lines;

**Part 4:** Miscellaneous remarks/objections;

**Part 5:** Complaints related to further development on erf 2129.

- Part 1: Responses from complainants pertaining to objections of "privacy", "quiet and peacefulness", Betty's Bay being in a "special nature area", "heritage site", "quality of life"** (Received from erven 2140, 2104, 2109, 2110, 2108, 2105, 2131, 2112, 2134, 2149):

**Applicant's response to the above objections:**

The aspects of privacy, quietness, peaceful surroundings and pristine nature of Betty's Bay are also aspects that motivate author to live in Betty's Bay. The inferences and assumptions made by the objectors, however, do not represent logic arguments or prove any causal connection between the three applications the Trust submitted and the negative effects assumed by the complainants. Sweeping statements such as "Indien die aansoek goedgekeur word sal dit definitief afbreek maak aan die rustigheid van die omgewing" represent unfortunately only a wild assumption. Complainants did not elaborate on their statement and no arguments were offered to substantiate the claims/concerns. The phrase "have a massive effect on their quality of life" again represents only the use of hyperbolic terminology and lacks facts, substance and logic argumentation. "Quality of life", in the context of this application, is an irrelevant concept and represents only a case of "in the eye of the beholder." The objectors could not prove that the three primary rights, the removing of title deed restrictions, the further

FILE NO: EL 2129 - KBB
SCAN NO: KBB 2129
117 9325

development and the departures from building lines, as in the application, will negatively influence their peaceful living style. The other remarks of part 1 is further also not substantiated by the complainants.

**2. Part 2. Residential zoning and Land use related objections pertaining to concerns regarding business activities -**

"This is a quiet residential area", "a single unit residential area", "strongly opposed to the expansion of the buildings to include an additional dwelling unit and guest rooms", "geldwaarde verlaag", "dwellings to be used for numerous tenants", "second dwelling/guest rooms functionality increases the people-and-car density" (Received from erven 2098, 2103, 2131, 2109, 2108, 2087, 2105, 2110, 2155, 2103, 2149, 2140, 2112 and 2134).

**Applicant's response to the objections in Part 2:**

The Overstrand Zoning Scheme does make provision for a second dwelling, two guest rooms and home occupation as primary rights, and these rights are available to all the residents in the Overstrand Municipality, including Betty's Bay.

A misread of the application, a lack of knowledge and understanding of the relevant laws and by-laws, led to irrelevant comments and do not address the complaint guidelines of sections 51 and 52 of the Overstrand By-law on land use at all. What the Trust has applied for, has no bearing on any of the following objections: "hectic tourist and business activities", "to allow private dwellings to be used for numerous tenants", "the expansion of the buildings to include an additional dwelling unit and guest rooms", "future high density block developments", "huge high density commercial buildings so close to the beachfront", "die oprig van 'n derde wooneenheid", "for a massive guest house", "high density block developments", "allow over 15 people living on one plot on a permanent basis", "a residential area for multiple families to take over private residences", "the build of an outside braai facility", "to build apartments" and "that more living units will be added."

In contrast with the above misconceptions, this application is fully in line with the Overstrand zoning scheme. The proposed expansions do not involve guest rooms, a business area and also not a second dwelling. The expansions or further development, in reality, represents merely a garage and the enclosure of an existing outside stair case and open balcony. The application, in reality, is only being made to utilise the already existing primary rights on the property. The primary right of a second dwelling on a large erf like 2129 will not have any detrimental effect on the density of Betty's Bay, since the ground coverage on this erf will be increased with less than 2.5%, being the proposed garage. The current ground coverage on erf 2129 will go up from +-25% to +-27%, and is thus way below the allowable 50%.

The statements that the Trust's application will cause a decrease in property value, that the noise in the area is bound to increase and that the suggested departures open the door for all manner of undesirable property development, are not elaborated on, no arguments put forward and not substantiated and remain only as empty speculations. It further lacks facts, substance and logic argumentation. The inferences and assumptions made in this part do not prove any causal connection between the three applications the Trust submitted and the negative effects assumed by the complainants.

The proposed application in fact ensures the sustainability of the erf, which entails social and economic well-being. The proposed development will enable the applicant to use erf

2129 more efficiently. The approving of the application (including the utilising of the three mentioned primary rights) will ensure the sustainability of the dwelling and ensure the viability of not only the dwelling but the residents as well. The application followed due process.

Furthermore, the objections did not address any issues by demonstrating non-compliance or compliance with the principles as contained in Section 42 of the Spatial Planning and Land Use Management Act, 2013 (ACT 16 of 2013) (SPLUMA) and Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA) or Overstrand Zoning Scheme Regulations 29 November 2013.

### **3. Part 3. Removal of title Deed restrictions and departure from By-Laws in order to relax building lines:**

#### **3.1 Objections to the removal of title Deed restrictions –**

"Ons maak ten sterkste beswaar teen die opheffing van beperkende voorwaardes en afwykings", "the relaxation and or change of restrictive conditions, rules and regulations on a property will have a negative impact on existing owners due to an increase in business activities, noise levels and traffic volumes and buildings that are too close to border lines", "I object to the relaxations proposed as it will create a precedent that could change the quiet and rural ambiance of Betty's Bay. The request should be rejected by the Municipality" (Received from erven 2109, 2140, 2155, 2098, Gulley Rd).

#### **3.2 Departure from By-Laws in order to relax building lines –**

"Zoning, building lines and building restrictions are in place amongst other to inform a potential buyer and protect an existing property owner. Any changes thereof must be considered with care and circumspection in order to protect existing owners in the area and more specifically the direct neighbours of the said property", "There is no need to squash the proposed new dwelling into the narrow section between erf 2108 and erf 2129", "A departure from By-Law in order to exceed the 9m restriction of a building on one specific boundary is not acceptable", "Any relaxation of boundary lines or building lines will have a massive impact on my property, not only from a privacy point of view, but also from a property value", "Erf 2129 vervat reeds 'n buitengewoon groot bouse!" (Received from erf 2098, 2110, 2109, 2149).

#### **Applicant's response to the objections in Par 3.1 and 3.2:**

The remarks of "Squashed in", "not acceptable", "will have a massive impact on my property", are remarks that do not really allow for sensible comments. The applicant applied for the removal and/or departures from the title deed on erf 2129 for no other reason than to put the Trust in the position to utilise existing "primary rights." Once the restrictive conditions are removed the Zoning Scheme is applicable. The proposed application is to ensure the sustainability of the erf, which entails social and economic well-being. The proposed development will enable the applicant to use erf 2129 more efficiently. The approving of the application including the utilising of the three mentioned "primary rights" will ensure the sustainability of the dwelling and ensure the viability of not only the dwelling but the residents as well. The resident of erf 2109 objected that her privacy will be impacted negatively by the proposed development on erf 2129. The distance between the existing buildings on erf 2129 and that of erf 2109 is approximately 15 meters including an open balcony; and the distance between the **proposed** development (a garage) on erf 2129 will be approximately than 30 meters from erf

2109's existing buildings. Therefore the privacy argument of erf 2109 does not represent a logical argument regarding privacy.

The objections further did not address any issues by demonstrating non-compliance or compliance with the principles as contained in Section 42 of the Spatial Planning and Land Use Management Act, 2013 (ACT 16 of 2013) (SPLUMA) and Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA) or Overstrand Zoning Scheme Regulations 29 November 2013. The removal of the restrictive title deed conditions as applied for is supported as the proposal is in line with National- and Provincial Planning Policies that seek to achieve more densification and efficiency of land use. Thus the need to create settlements that optimise the use of space, energy, infrastructure resources and land are achieved with this application.

Inherent in the above, the need to promote densification and urban development (as opposed to suburban) typologies are met. The aforementioned principle is also in line with the Overstrand Spatial Development Framework (2006) as well as the Overstrand Growth Management Strategy (2010) that encourages, amongst others, residential densification. The utilizing of a primary use on this property in the form of a second dwelling unit is deemed to be an acceptable form of densification. As the second dwelling unit remains part of the same cadastral unit it will thus not detract from the character and appearance of the surrounding area. Section 6 of the Overstrand Zoning Scheme Regulations also permits the use of a second dwelling unit, (together with the utilization of the two other already mentioned primary rights to be utilized), as a primary right.

This application supports the principles that land development should optimise the use of existing resources, infrastructure, land and facilities as in the provincial Land Use Management Act (Act 3 of 2014)(LUPA), CHAPTER VI, LAND USE PLANNING PRINCIPLES, Application of land use planning principles, section 59. This application furthermore supports the principle to remove, amend or suspend a restrictive condition as stipulated in section 41. (1) (b) of Spatial Planning and Land Use Management Act (Act 16 of 2013) (SPLUMA). This application is not in conflict, but is actually in compliance with the requirements of section 41, 42 and 52 of Spatial Planning and Land Use Management Act (Act 16 of 2013)(SPLUMA) and chapters V, VI and thus also section 53 of Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA).

This application furthermore is in compliance with Section 35 of Western Cape Land Use Planning Act 3 of 2014 and more specifically with the requirements for amendment, suspension or removal of restrictive conditions as in (4) (a) (b) (c). It meets the under mentioned three requirements as follows (Planning Act 3 of 2014 and more specifically with the Requirements for amendment, suspension or removal of restrictive conditions as in (4) (a) (b) (c)):

- 1) The financial or other value of the rights in terms of the restrictive conditions enjoyed by a person or entity, are not disregarded by the amendment, suspension or removal of restrictive conditions as is sought for in this application;
- 2) The personal benefits which accrue to the holder of rights in terms of the restrictive condition/s are not being disregarded by this application;
- 3) The personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed, will in fact be achieved through an application of this nature.

The relaxation of the western lateral building line on erf 2129 is only for the accommodation of the garage as well as a platform for the placement of a rain water tank, and for no other structure or land use. The Overstrand Zoning Scheme also makes

provision for outbuildings on the 0m lateral and rear building lines through a departure process like this one and the applicant has simply followed this route. The relaxation and departure of the street building line is to accommodate a stoep that will ensure that the entrance to the proposed second dwelling is protected from adverse weather conditions. In terms of the Overstrand Zoning Scheme Regulations, gatehouses and entrance lobbies are provided for and is viewed in a positive light. This proposed stoep is designed to complement the existing stoep on the eastern side of the building and is part of the view scape of the street and has no detrimental influence on the surrounding properties. The proposed developments will make no difference to the residential character of the area, since the architect did use the same development parameters (previous plans information) of the original structure. The applicant also requested a land surveyor to confirm the boundaries of the erf.

The application is in line with Overstrand land use policies and caters for a better use of the property. The application will enable the applicant to optimise his assets should it be necessary due to economic and or financial reasons. The financial rights will also be to the benefit of the Municipality in terms of rates and taxes due to the added value accrued to the property. The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal, the personal benefit is financial of nature for the applicant since it will add to the value of the property.

Amongst others, the social benefits are the possibility to attract tourists to the area in terms of accommodation that can be provided in the area. The application is for a second dwelling, home business and guest rooms.

#### **4. Part 4. Miscellaneous remarks/objections:**

Although the information in this part do not, in essence, contain objections together with relevant argumentations to substantiate the "concerns" of the objectors. The remarks was nevertheless evaluated. The remarks unfortunately represent a wide variety of allegations, inferences, speculations, misrepresentations, blatant lies and hear-say remarks which do not address the actual application that was submitted by the Trust. But, for the sake of a thorough response, the following miscellaneous remarks are therefore also responded to: 3 dwelling places, increase in noise levels and traffic volumes, water tank cannot be used to manage the flow of rain water, continually disturbed by noisy tenants, to build additional residences, massive guest house, etc:

##### **Applicant's response to part 4:**

The numerous indiscriminate remarks represent a total misread of this application and represent a lack of comprehension of the Trust's true application as well as a lack of knowledge when it comes to new legislation.

In terms of allegations of past or present misuses of the Trust's rights, an application of this nature logically requires inspections and compliance to regulations. I thus welcome the authorities for an inspection of the property. The expansions or further development, in reality, represents merely a garage and the enclosure of an existing outside stair case and open balcony. The enclosure of the existing stair case and open balcony will be beneficial to the adjacent neighbour onto Erf 2108 as he wil enjoy much more privacy than what is now the case. This property consists of a residential zoned house and the proposed 2<sup>nd</sup> dwelling. The Trust is not applying for a "massive guesthouse". The residence is being let to respected, upmarket tenants for the past 9 years now and no informal or formal complaints of disturbances have ever been received during this time.

The question remains if the trust did not want to comply with Overstrand regulations or any other legal requirements, why is it then embarking on this long, difficult and costly application?

**5. Part 5: Objections related to further development on erf 2129:**

"We wish to record our objection to this application for further development", "I strongly object to all future developments proposed as we have invested in Betty's Bay for a number of reasons, mainly being the large secluded plots offered in our area, as well as the privacy", "... proposed development as it will probably influence the value of my property..", "... wil hiermee beswaar aanteken teen die verdere ontwikkeling", "... am objecting to the proposed construction of additional building" (Received from erf 2103, 2104, 2109, 2110, 2112).

**Applicant's response to part 5:**

The application for further development on erf 2129 was made in terms of, and is in compliance with Overstrand regulations of Western Cape Province's guidelines and national legislation. The remark "probably influence the value of my property" represents mere speculation and unfounded fears. To "object to further development" or "object to all future developments proposed ..." only discloses the ignorance of current laws and Overstrand regulations.

**6. Conclusion**

The three applications made by the Trust, are the following:

- Proposed removal of restrictive title deed conditions,
- Departure from building lines, and
- Further development on erf 2129.

This is simply done to make use of the three mentioned "primary rights" on the property. The details of all three these items is 100% in line with Overstrand regulations. The three applications will enable the applicant to use erf 2129 more efficiently. As the objections did not address any legal issues by demonstrating non-compliance or compliance with the principles as contained in Section 42 of the Spatial Planning and Land Use Management Act, 2013 (ACT 16 of 2013) (SPLUMA) and Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA) or Overstrand Zoning Scheme Regulations 29 November 2013, they are not valid and do not address what was in fact applied for.

I trust you find my response to the objections in order and complete.

Yours sincerely



**GIDEON JOHANNES MAREE**  
**OBO Deon Maree Familietrust.**

079 997 7394

ANNEXURE G

Loretta Gillion - Erf 2129, 4 Grebe rd, Betty's Bay

TPA Theart  
(H. J. de Stoep)

**From:** Gerhard Bruce <gerhard@bruce.za.net>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 21/05/2018 08:21 AM  
**Subject:** Erf 2129, 4 Grebe rd, Betty's Bay  
**Cc:** Mr Rudi Perold <rudi@perold.co>



Hi Loretta

PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS &amp; DEPARTURE. GJ MAREE

The BBRA has no objection against this application, as long as:

1. There are no valid objections from the adjacent property owners;
2. Council is satisfied that all legal requirements have been fulfilled.

--

Regards / Ngemibuliso / Groete

Gerhard Bruce

C: [+27.73 346 0037](tel:+27733460037)

FILE NO:	EL 2129
	Betty's Bay
SCAN NO:	BRUCE
COLLABORATOR NO:	1161497

TP 23 MAY 2018

file:///C:/Users/loretta/AppData/Local/Temp/XPgrpwise/5B028188HermanusMunpos... 2018/05/23

## ANNEXURE H

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS & DEPARTURE:  
ERF 2129, BETTY'S BAY (3911)**

Stormwater (SW) : In order  
Electricity : Escom  
Water : In order  
Sewer : In order  
Roads and traffic : In order

**Conditions**

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that should additional services connections be required, the owner will be responsible for the payment of bulk services levies;
3. that stormwater be allowed to discharge through Erf 2129, Betty's Bay, unobstructed;
4. that no on-street parking be allowed.



**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

23 / 05 / 2018  
DATE