

4.2**ERF 3293, 17 PEARL DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA:
PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: MESSRS WRAP
ON BEHALF OF AL AND JA VAN WYK****3293 KBB (2663)****H van der Stoep****16 August 2019****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application was received on 23 October 2018 from Messrs WRAP on behalf of AL and JA van Wyk for the removal of restrictive title conditions with reference to Condition C.5.(b) of Title Deed T2613/2018 applicable to Erf 3293, Betty's Bay in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to allow the owners to establish a flat on the first floor.

The restrictive condition C.5.(b) contained in Title Deed T2613/2018 to be removed reads as follow:

"(b) It shall be used only for the shop purposes only."

A Locality Plan of the property concerned is attached as Annexure A. The proposed Site Development Plan is attached as Annexure B, while the Motivation Report from the applicant in support of the proposal is attached as Annexure C. The Title Deed is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The erf measures 252m² in extent and is located adjacent Pearl Drive within a commercial node between Clarence Drive and Pearl Drive, Betty's Bay (east), also known as Sunny Seas. The commercial node is zoned Business Zone 3.

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation for the removal of the applied condition is as follows:

The subject property is ideally located in an area zoned for commercial purposes. The area possesses enormous potential to become a small mixed use local commercial and residential corridor. The intention is therefore to capitalise on this commercial/residential potential, which exists on the subject property.

The property owner wishes to establish a flat on the first floor and the title deed condition must be removed to allow this, which is a primary right in a Business Zone 3 category. The shop proposed is only 16m², because the subject erf is only 242m², any GLA which would exceed what is proposed would require excessive parking which would not be practical. The flat on the first floor is where the manager would reside.

The proposal is contextually appropriate and will contribute to the enhancement of the built environment through a construction of a building which is aesthetically appealing and contribute to an increase of the number of shops that are available in Betty's Bay, which will provide consumers with a wider variety of consumer items.

The relevant considerations assessed in terms of the requirements of Section 35(4) of the Overstrand By-Law on Municipal Land Use Planning, 2015 the following is applicable:

The financial or other value of the rights

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

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

There are personal benefits which will accrue to the holder of this restrictive title deed condition, namely enable the property owner to have one (1) flat on the property.

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

There is no social benefit if the restrictive condition remains in place. The social benefit, should the condition be removed, is the creation of employment, shops are nodes of interaction and enhance the connectedness among residents as well as the social fabric and construction of the property will increase the value of the property and rates and taxes will be paid to the Municipality.

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

There are no rights which are enjoyed by any member of the community that will constitute a deprivation of rights.

In terms of the zoning, the proposal complies with the development parameters as stipulated.

Services to the property are available and in terms of the sewerage, a conservancy tank will be constructed. Access to the property will be from Pearl Drive.

In terms of the Spatial Planning Documents

Provincial Spatial Development Framework (PSDF)

Business development targets in opening up opportunities for community and business development in targeted areas. The subject property is located in an area which the potential to be a business corridor and can be regarded as a targeted area for community business investment due to the fact that the erven are allocated as Business Zone 3. The proposal entails capitalising on this investment potential and aims to open up small scale business opportunities to the benefit of the residents in the area.

The PSDF promotes economic transition innovation driven economy with low barriers to entry. Small businesses currently face high barriers of entry due to high rents charged and stringent criteria used by landlords.

Integrated Development Framework (IDF)

The IDF promotes integration which entails the following:

It envisages that residential and business communities will effectively be linked allowing all residents to access the services and goods needed to maintain their quality of life. It also promotes the agglomeration of business activities to support and feed off each other.

Spatial Development Framework (SDF)

The promotion of infill development to combat fragmentation of land uses within the Overstrand. The proposal is in line with the maintaining of the village character of Betty's Bay.

Overstrand Municipality Growth Management Strategy (GMS)

The document proposes that the built environment be enhanced. The erf at present is derelict and adds no value to the built environment of the area. The proposal will address the principle of mixed land uses providing for vitality, opportunities and integrated living environments. The erf will comprise of a shop and a residential component, which addresses the aforementioned principle.

Desirability

The economic impact will be realised once the application is approved, building construction phase and operational phase. Each of these phases provides employment opportunities. The implantation will contribute to residents having a wider variety of consumer goods, which have a positive social impact. The adjacent properties are zoned Business Zone 3, which allows shops, offices and first floor flats. The application addresses the improvement of the built environment, since the property will be developed and not be unattended. The shop due to its extent will not draw vast numbers of consumers and thus will have little impact on the area.

The building will only be 7m high and not the permissible 8,5m as per the Zoning Scheme and only 121m² built footprint, which is much less than the average residential dwelling in the area.

Planning Principles**Spatial Justice**

The proposed development will provide employment opportunities for the historically marginalised. The approval and implementation of the proposal will contribute to addressing spatial development imbalances.

Spatial Sustainability

The proposal does not encroach on environmental sensitive, biodiversity rich areas or agricultural viable land. The property is located in a mixed-use environment and will contribute to a functional space economy.

Efficiency

The engineering services will cater to a greater number of people within the engineering service capacity limits of the subject site.

Spatial Resilience

The proposal is aligned with the spatial policies promoting spatial resilience.

Good Administration

The Overstrand Municipality has a good track record of promoting integrated, consultative planning practices with all spheres of government and interested and affected parties to ensure a joint planning approach.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Press	Yes	29 November 2018	25 January 2019
Gazette	Yes	30 November 2018	25 January 2019
Notices	Yes	29 November 2018	28 December 2018
Ward councillor	Yes	29 November 2018	28 December 2018
Total comments	TWO (2)		
Total letters of support	ONE (1)		
Was public participation undertaken in accordance with Section 47 - 50 of the By-law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes
In case of application for removal, amendment or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies?			N/A

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

Name	Date received	Summary of comments	Recommendation
Engineering Services	11/12/2018	See Annexure H.	Supported
Waste Management	29/11/2018	No objection.	Supported
Building Control	07/12/2018	Supported subject to the submission of building plans in compliance with SANS 10400.	Supported

Fire Department	15/01/2019	Fire Safety must be in compliance with requirements of National Fire Protection Regulations SANS 10400T:2011.	Supported
Environmental Management	22/01/2019	No objection.	Supported

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Two (2) objections were received from the Betty's Bay Ratepayers' Association and Mr. FJJ Van der Westhuizen. (See Annexure E.)

The objections can be summarized as follows:

- ❖ The whole of Sunny Seas should have been notified.
- ❖ These commercial properties should be developed as a unit and not piecemeal.

One (1) letter of support was also received from Dr. IR Martin. (See Annexure F.)

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The applicant's response on the objections can be summarized as follows:

- ❖ The development process within a neighbourhood is a gradual process, which a developer undertakes in response to market needs and conditions. No property owner can be forced to develop on his / her property if there is no current need for it.
- ❖ The Overstrand Municipality informs that applicant who should be notified and, in this case, it was not necessary to notify the whole of Sunny Seas as per the interpretation of the Municipality's Legal Services Department.

9. MUNICIPAL ASSESSMENT OF COMMENTS

The Town Planner's response to the objections is as follows:

- ❖ The commercial node in the Sunny Seas Township belongs to different owners, thus will never be able to develop as a unit.
- ❖ The question if the whole of Sunny Seas needed to be notified is clarified as follows:

Clear distinction should be made between third party conditions and the Administrator's conditions. The application is to remove an Administrator's condition and thus normal procedure is followed for the removal of a restrictive contrition. Should it be a third-party condition applicable to all owners of Sunny Seas Township, it would have been distributed to all the owners of Sunny Seas Township.

Dr.IR Martin, owner of Erven 3284 & 3285, supported the application.

Internal Departments

No negative comments were received.

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

The application is not to the detriment of previously disadvantaged groups.

Spatial sustainability

The application is in line with the principles since no environmental sensitive and high potential agricultural land is impeded upon. It will unlock economic opportunity and be beneficial to the community in terms of vacant land to be developed and maintained, thus enhancing safety and security.

Efficiency

Municipal services are available and contribute to economic sustainability through rates and taxes.

Spatial Resilience

The multifunctional building will attribute to the resilience of the development in times of financial difficulty and climate change effects.

Good administration

The application followed due procedure.

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

The application is in line with the planning principles in terms of mixed land use development and utilisation of vacant land to the benefit of the area.

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

The proposal is consistent with the Overstrand Planning policies as discussed under Point 4 of the report.

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

N/A

10.6 Impact on Municipal engineering services

None.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The proposal is in line with the Overstrand Zoning Scheme

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

There is no financial value of rights, since the property was purchased as a business property.

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

The benefit is to establish a shop, with a residential component.

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

The social benefits are the development of a vacant erf, thus limiting safety and security issues. Maintenance of an erf presently not maintained. The shop with a residential component is a transition between strictly commercial and the residential area.

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

The beneficiary is not affected.

12. THE DESIRABILITY OF THE PROPOSAL

The erf is located in a commercial node in the Sunny Seas Township. Due to the limited extend of the erven in this node and the development parameters of the Zoning Scheme, very few of the erven have been developed and lies vacant.

The proposal is in line with the Zoning Scheme and has the restriction of the limitation of shop only. The residential component ensures that there is always a presence on the property, thus enhancing safety and security. It also provides an amicable transition of strictly commercial to a mixed land use between this commercial node and the residential area, thus ensuring that the node does not form a "dead" zone within a predominantly residential area.

The requirements of the development parameters in terms of parking, height and coverage are adhered to. The building will only be 7m high, less than the residential dwellings in the area, which is mostly built to a height of 8m. The engineering services are available and will be to the satisfaction of the Operational Department.

The shop is linked to the activities of the adjacent bakery, which is an established business in Betty's Bay and will not be to the detriment of the area. Betty's Bay is at present a dormant residential town in the process of transforming into a more vibrant town. The proposal will be able to cater for a wider consumer demand in the future.

At National and Provincial level, the aspects of mixed land uses, employment are emptied in the planning policies. The Overstrand area is identified as a major tourism attraction and has a high potential developing the tourism and hospitality sectors to contribute not only the Municipality, but the Overberg region on and the Western Cape economy.

The development of the commercial node will unlock the economic viability of the erven and contribute to a vibrant liveable town to the benefit of all residents and visitors.

13. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Erf 3293, Betty's Bay for the removal of restrictive Condition C.5.(b) of Title Deed T2613/2018, **be approved** in terms of the provisions of Section 61 of the By-Law in terms of the following conditions:
 - (a) that the approval for the proposal as indicated on plans submitted with the application Drawing No AvW2018-3293-02 to 04 and AvW2018-3293-05 to 09 dated 15 October 2018;
 - (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.
2. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- The application provides a transition between business and residential.
- The proposal will enhance security in the area.

- The proposal is linked to an existing business with a good track record.
- The property will be maintained and enhance the area.

15. ANNEXURES

Annexure A: Locality Plan
Annexure B: Motivation Report
Annexure C: Site Development Plan
Annexure D: Title Deed T2613/2018
Annexure E: Objections received
Annexure F: Support letter
Annexure G: Applicant's response to objections received
Annexure H: Services Report

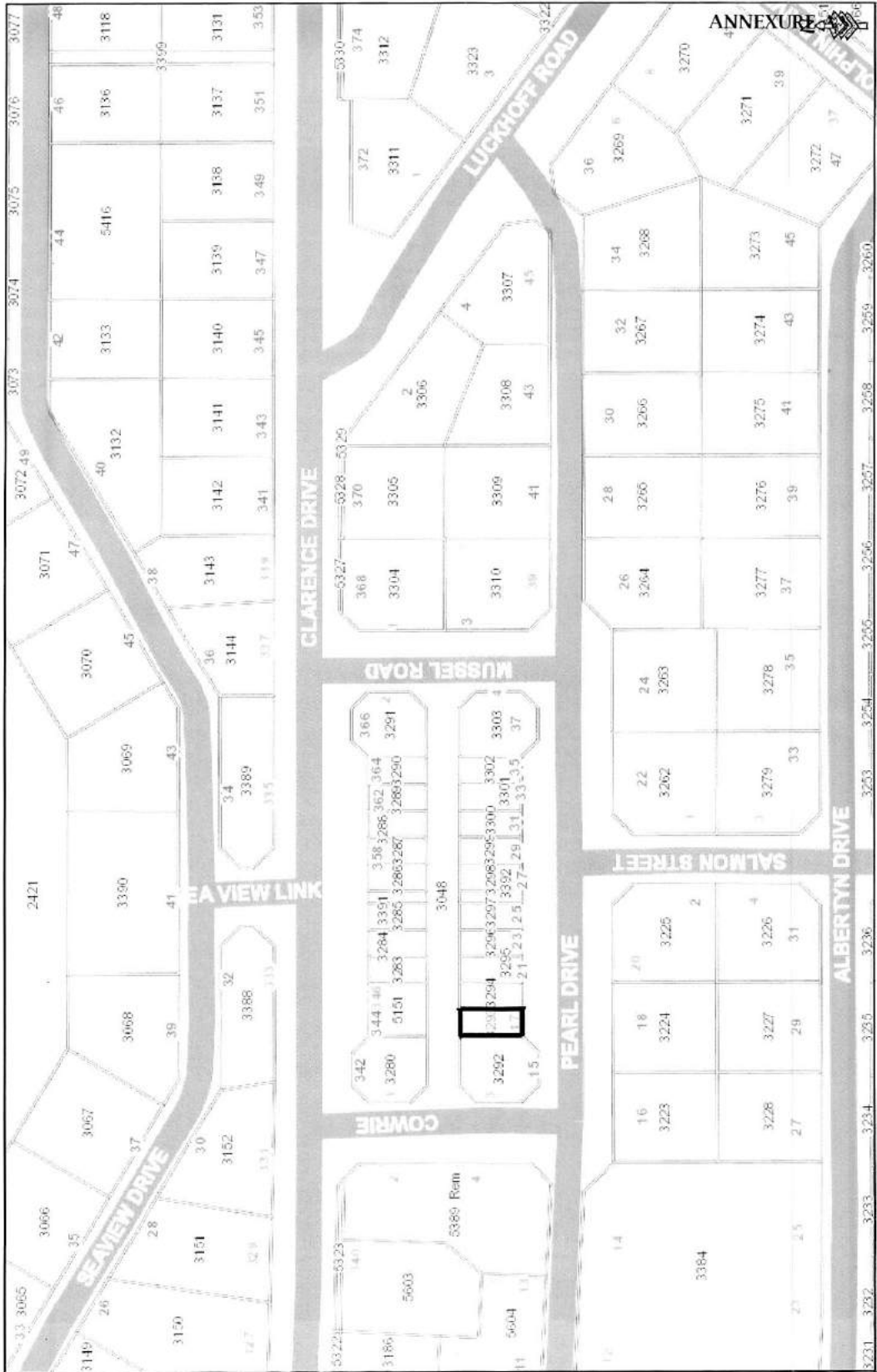
SIGNATURES**REGISTERED PLANNER**

Name : **H VAN DER STOEP**

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

Signature : _____

Date: _____



Locality Map
Erf 3293 Betty's Bay

Date: 2019-08-26





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7. URBAN FABRIC

The urban fabric within a 120m radius from the subject property reveals that there are 2 properties used for commercial purposes which are a pottery as well as a pub and grill. The other properties which are zoned for commercial purposes are vacant. There are also dwellings which have a variety of housing typologies. The approval and implementation of this proposal is aligned with the prevailing logic and valued urban fabric in Bettys Bay.

8. TITLE DEED CONDITION PROPOSED FOR REMOVAL

The following title deed restriction is proposed for removal.

Title deed restriction	• Condition C.5(b) "it shall be used for shop purposes only."
Motivation	<p>The proposal is for a shop on the ground floor and a flat on the first floor. This restrictive title deed condition needs to be removed to permit the flat on the first floor.</p> <p>Background The subject restrictive title deed condition was inserted in the title deed in 1958 when the prevailing development trend was for properties to have exclusive single uses which is out of harmony with the current mixed land uses which are promoted within the urban edge.</p> <p>Status quo The prevailing trend in urban development promotes contextually appropriate mixed use and densification which promotes pedestrianisation and reduces the need for relying on cars. The shop and flat on the first floor are aligned with this prevailing urban development trend which was absent in 1958 and justifies the removal of this restrictive title deed condition which is not relevant in the current context of Bettys Bay as it could potentially lead to the stifling of complementary mixed uses in the area.</p>

Requirements for the amendment, suspension or removal of restrictive conditions:

Section 35(4) of the Overstrand By-Law on Municipal Land Use Planning, 2015, highlights the relevant Municipal considerations for the removal, suspension or amendment of restrictive title deed conditions. Herewith are the relevant considerations assessed in conjunction with this proposal.

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

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



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

There are no personal benefits which accrue to the holder of this restrictive title deed condition.

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

The removal of this restrictive title deed condition will enable the property owner to have 1 flat on the first floor.

(d) The social benefit of the restrictive condition remaining in place.

There is no social benefit if the restrictive condition remains in place.

(e) The social benefit of the removal of the restrictive condition.

The social benefits which will be derived if this proposal is approved and implemented are the following:

- Shops are also nodes of interaction and enhance the connectedness among residents as well as the social fabric;
- The construction of the of the subject building will increase the value of the property and the rates and taxes which will be paid to the Municipality. This will subsequently contribute to an increase in the rates and taxes paid to the Municipality for service delivery; and
- Employment will be created during the construction and operation phase of the subject development.

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

There are no rights which are enjoyed by any member of the society and the removal of this restrictive condition does not constitute a deprivation of rights.

9. ZONING

The following zoning parameters of the subject property were assessed in conjunction with the proposal.

Business Zone 3: Local Business (B3)			
	Parameters	Proposal	Comply/ deviate
Primary use	shops, flats (above ground floor), offices	Shop and parking on the ground floor and a 2 bedroom flat on the first floor.	Comply
Consent use	bottle store, business premises, clinic, conference facility, flats (on ground floor), town housing, guest house, hotel, informal	N/A	N/A

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	trading, institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, restaurant, rooftop base station, sale of alcoholic beverages, service station, service trade, transmission tower.		
Land Use Restrictions			
Coverage	The maximum coverage for all buildings on the land unit is 75%. The definition of coverage is the following "Coverage" means the total area or percentage area of a land unit which may be covered by buildings and covered by a roof.	The erf is 242m ² and the proposed building is 121m ² = 50% Coverage	Comply
Floor factor	The maximum floor factor is 1.5 = 363m ²	121m ² proposed	Comply
Height	(i) The maximum height of a building measured from the base level to the top of the roof is 8,5 m; (ii) The maximum number of storeys is 2; and (iii) Earth banks and retaining structures shall comply with 16.6.	(i) 7m; (ii) 2 storeys; and (iii) Comply	Comply
Setback	(i) Council may require that all buildings and structures on the property are set back at least 6,5 m from the centre line of the street; (ii) Where special circumstances exist, Council may require a wider setback; and (iii) The general provisions of 16.2 apply.	(i) Subject to the request of Council; (ii) Subject to the request of Council; and (iii) Comply	Comply
Building lines	(i) The street building line is 0 m; provided that a 3,5 m building line applies where fuel pumps are erected; (ii) The side building line is 0 m provided that where any	(i) 7m from the southern street boundary and 3,960m from the northern street boundary;	Comply

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	<p>Business Zone 3 abuts another zone, the side building line is 3,0 m;</p> <p>(iii) The rear building line is 3,0 m; provided that where any Business Zone 3 abuts another zone, the rear building line is 4,5 m;</p> <p>(iv) Provided that Council may require more restrictive building lines in the interests of public health or safety or the environment or in order to enforce any applicable law or right; and</p> <p>(v) The building line exemptions in 16.1 apply.</p>	<p>(ii) 0 m on both side boundaries;</p> <p>(iii) Not applicable as there is no rear boundary;</p> <p>(iv) Subject to the request of Council;</p> <p>(v) N/A</p>	
Window and door placement	<p>(i) Where a 0 m building line applies and where a wall of a building is erected 1,0 m or less from the side or rear building line, no door or window shall be permitted in the wall concerned; and</p> <p>(ii) Any portion of the building which contains a door or window onto a side or rear boundary, shall be placed at least 1,5 m away from such boundary. The portion of the building that is required to be set back shall include the door or window, together with such additional length of wall as is required to make up a total of 3,0 m.</p>	There are no windows where the property is located up to 0m from the side boundary.	Comply
Parking and access	<p>Parking and access shall be provided on the land unit in accordance with 17.1.</p> <p>Shops 6 bays per 100m² of GLA</p> <p>Flats 2 bays per 2 and more bedroom dwelling units</p> <p>GLA is defined as follows:</p>	<p>16m² for the shop = 1 parking bay</p> <p>2 bedroom flat = 2 parking bays</p> <p>3 parking bays are provided.</p> <p>P1 as indicated on the attached SDP (refer Plan 3) is</p>	Comply

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	<p>"Gross leasable area" means the area of a building designed for, or capable of, occupancy and control by owners or tenants, measured from the centre line of the joint partitions to the inside finished surface of the outside walls, and shall exclude the following:</p> <ul style="list-style-type: none"> (i) All exclusions from the definition of floor space; (ii) Toilets; (iii) Lift shafts, service ducts, vertical penetrations of floors; (iv) Lift motor rooms and rooms for other mechanical equipment required for the proper functioning of the building; and (v) Interior parking and loading bays. 	<p>proposed to be used by the customers of the subject shop.</p> <p>P2 and P3 are proposed to be used by the occupants of the flat on the first floor.</p>	
Loading Bays	<p>Loading bays must be provided on the land unit in accordance with 17.2.</p> <p>The minimum off-street parking loading requirements are 1 bay per 500 m² for the first 1 000 m² of GLA, thereafter 1 bay per 1 000 m².</p>	<p>The shop of 16m² and would not reasonably require a loading bay.</p>	Comply
Screening	<ul style="list-style-type: none"> (i) The Council may require screening in accordance with 16.7; and (ii) Where a Business Zone 3 abuts a residential zone, Council may require a suitable wall of no less than 1,8 m in height to be erected on the common boundary. 	<ul style="list-style-type: none"> (i) Subject to the request of Council; (ii) N/A 	Comply
Site development plan	<p>Council may require that a site development plan be submitted for approval in accordance with 16.3.</p>	<p>An SDP is submitted with the application.</p>	Comply

10. SERVICES**10.1 Electricity**

The proposed building will connect to the existing electricity network in the area.

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10.2 Water

The proposed building will connect to the existing water network in the area.

10.3 Sewage

There will be a conservancy tank on the subject property.

10.4 Access and egress

Access and egress can be gained to the subject property from Pearl Street. There is sufficient parking and manoeuvring space on the property for the vehicles which will enter and egress the subject property.

11. DESIRABILITY

Section 66(1)(c) of the OM By-Law as indicated below highlights that desirability is a relevant consideration which must be addressed in a town planning application in accordance with the guidelines issued by the Provincial Minister.

DEADP issued the "Provincial support document on Relevant Considerations 2015" which should be considered before the Municipality makes a decision. The desirability guideline in the document will be used to assess the desirability of the approval and implementation of this proposal.

Element for consideration	Motivation of the impact of the approval and implementation of this proposal.
Economic impact	The economic impact will fully be realised once the application is approved, building constructed and during the operation phase of the shop. Each of these phases will have a variety of employment/economic opportunities which will benefit the residents of Bettys Bay.
Social impact	The implementation of this proposal is projected to contribute to more shops being available in Bettys Bay and subsequently contribute to the residents having access to a wider variety of consumer goods. This will be a positive social impact.
Scale of the capital investment	The construction of the subject building will signify the financial commitment of the property owner's contribution towards the improvement of the built environment in Bettys Bay.
Compatibility with surrounding uses	The neighbouring properties are zoned for commercial purposes which allow shops and offices on the ground floor and flats on the first floor. This proposal is therefore compatible with the land uses and permissible zoning rights present on the surrounding properties.
Impact on safety, health and wellbeing of the surrounding community;	The small size of the shop will also not attract excessive crowds of customers which will therefore not lead to an adverse increase in traffic in the area. This therefore will ensure that the likelihood of vehicle accidents is reduced

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	<p>in Bettys Bay and safeguard the safety which the residents in the area enjoy.</p> <p>The biscuits will also comply with all prescribed minimum health standards.</p> <p>A shop which is related to the biscuit industry does not constitute a noxious land use and will not impact on the wellbeing of the surrounding property owners.</p>
Impact on heritage	Bettys Bay is not a heritage sensitive area and the approval and implementation of this proposal will not in any way have any heritage impact.
Whether the imposition of conditions can mitigate an adverse impact of the proposed land use	<p>The following conditions of approval may be imposed to ensure that the rights of adjacent land owners are not compromised.</p> <ul style="list-style-type: none"> • That all signage comply with the Overstrand Municipality By-Law on Signage. This will ensure that all signage will not be visually intrusive; • That all development parameters in the B3 zoning and other title deed restrictions be complied with. This will ensure that the scale of the subject development remains within reasonable bounds; • That building plans be submitted to the Building Department for approval as that will ensure that building is designed in accordance with prescribed legislation; • That all prescripts of the fire department be complied with to ensure that the subject building does not become a fire risk to the occupant as well as clients; • That commercial rates and service tariffs be paid as prescribed in the annual budget. This will ensure that the operations in the subject building are a financial asset to the OM; • That all land uses on the subject premises not interfere with the peace, comfort or become an unbearable nuisance to surrounding property owners; and • That all other relevant legislation be complied with.
Aspects which impact on quality of life (including views, sunlight, privacy, visual impact, character)	The proposed building is 7m high which is in harmony with most buildings in the surrounding area and will not be visually imposing or deprive neighbours of any privacy which is enjoyed. Due to the building not being very high, the neighbouring properties will not be deprived of any sunlight which is enjoyed. The proposed building only has a footprint of 121m ² which will minimally impact on the surrounding environment.

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12. SPATIAL PLANNING DOCUMENTS

Spatial planning documents

This proposal was assessed in terms of the existing spatial planning documents. This is to ensure that this proposal is in harmony with the urban form and urban fabric which is envisaged by the local and provincial authorities.

PSDF

The aim of the PSDF is to give spatial expression to the national and provincial development agendas and serves as a basis for coordinating, integrating, and aligning ground delivery of national and provincial departmental programmes. The framework also aims to communicate the government's spatial development intentions to the private sector and civil society.

Policy proposals pertinent to this proposal can be recorded as follow:

Business development targets

Opening-up opportunities for community and business development in targeted areas is cited as essential. The subject property is located in an area which has the potential to be a business corridor in Bettys Bay and can be regarded as a targeted area for community business investment due to the fact that the erven are allocated a B3 zoning. This proposal entails capitalising on this investment potential and aims to open up small scale business opportunities on the subject property to the benefit of the residents in the area.

Business sector

The PSDF cites that urban centres are the main drivers of the Western Cape economy. The subject property is intended to function as a small-scale business and contribute to the urban centres in the Western Cape maintaining the reputation as being the main drivers of the Western Cape economy.

Economic access transition

The PSDF promotes economic transition from business models with high barriers to entry and low productivity and entrepreneurship to an innovation driven economy with low barriers to entry, high productivity and entrepreneurship rates. The small-scale nature of the proposed commercial enterprise will enable a small business to flourish. Small businesses currently face high barriers of entry in the established shopping centres and CBD's due to the high rents charged and stringent criteria used by land lords to accept tenants.

IDF

The IDF addresses specific planning needs identified and not currently addressed within the existing spatial planning context. The integrated approach of the document therefore contributes to combatting the fragmentation within the legislative and policy environment of the Overstrand Municipality.

Policy proposals pertinent to this proposal can be recorded as follow.

Quality of life

The IDF envisages that in 2050 residential and business communities will effectively be linked allowing all residents to access the services and goods needed to maintain their quality of life. The proposed building which comprises of a commercial and residential component is intended to contribute to the future occupants and users of the commercial enterprise having a high quality of life.

Agglomeration of land use patterns

The IDF promotes land use patterns that enable and support the agglomeration of business activities. The zonings of B3 in Bettys Bay are aligned in a linear manner encourage the agglomeration of business activities where the subject property is located with the expectation that the developers/private sector would capitalise on these opportunities which is the intention of this proposal.

Health of local economies

The local economies of the Overstrand Municipality's rural settlements are cited as being healthy as a result of successful local economic development initiatives and the provision of adequate services and facilities. This proposal is a local economic development initiative and there are sufficient services and facilities on the subject property to cater to this proposal.

SDF

The objective of the SDF is to formulate strategic spatially based policy guidelines and proposals where the needs, changes and growth in the area can be managed to benefit the inhabitants and the environment in the Overstrand Municipality. The SDF is guided by a set of objectives and the consistency of this proposal will be assessed with these core objectives.

Policy proposals pertinent to this proposal can be recorded as follow:

Promotion of infill development

Infill development within Bettys Bay is promoted within the existing boundaries. The development of vacant properties within the urban edge earmarked for development is also promoted. This proposal promotes infill development on the subject site as prescribed by the SDF.

Unique village character

The SDF cites that the unique village character of Bettys Bay must be maintained in the current form. The approval and implementation of this proposal will maintain the unique village character of Bettys Bay in the current form.

Urban edge

Development within Bettys Bay is proposed to remain within the demarcated urban edge which this proposal is aligned with.

Spatial proposal plan

The subject property is earmarked for commercial purposes in the spatial proposal plan which this proposal is aligned with as the ground floor is proposed to have a shop.

OMGMS

The purpose of the Growth Management Strategy is to improve the Overstrand Municipalities' overall environmental sustainability by enhancing the quality and efficiency of the built environment. It will be outlined how the proposed development will contribute towards the aims and objectives of this strategy.

Policy proposals pertinent to this proposal can be recorded as follow:

Enhance the built environment

The OMGMS highlights that the built environment in Bettys Bay should be enhanced and well managed. The subject property is currently derelict and adds no value to the built environment in Bettys Bay. The approval and implementation of this proposal would enable construction to occur on the subject property which would contribute to the enhancement of the built environment in Bettys Bay and be well managed.

Mixed land uses

The development of cities which are characterised by mixed land uses are cited as providing for vitality, opportunities and integrated living environments and are to be promoted. This proposal entails the promotion of contextually appropriate mixed-use environment on the property characterised by a shop on the ground floor and flat on the first floor.

Optimal land use planning

The OMGMS promotes optimal land use planning through the efficient use of services and land. This proposal entails the optimal use of services on the subject property to cater to a greater number of people and land uses.

Spatial Proposal Plan

The subject property is earmarked for residential purposes with a density of between 20 and 30 dwelling units per hectare. The subject property already has a commercial zoning and the proposed removal of restrictive title deed conditions does not result in the change of zoning on the premises and does not require a deviation from the OMGMS. There is a flat proposed on the first floor which is aligned with the residential designation of the subject property.

Consistency with the various planning principles

The analysis of the spatial planning documents has provided a clear and complete explanation of the alignment of the proposal with the relevant development frameworks. The proposal is consistent with the PSDF, IDF, SDF and OMGMS can be deemed as encompassing the core objectives of planning as set out in the documents.

13. PLANNING PRINCIPLES

The proposal was analysed for consistency with the planning principles to provide a recommendation to the OM for the application in terms of Section 42 of SPLUMA and Chapter VI of LUPA.

Spatial Justice

The proposed commercial enterprise is intended to provide employment opportunities during the construction and operation phase to the historically marginalised. This will lead to employees having an increased income base which will contribute to promoting equity as the employees will be able to afford access to opportunities such as services, facilities and housing. The approval and implementation of this proposal will therefore contribute to addressing spatial development imbalances caused by apartheid planning and make a meaningful contribution to a more spatially just urban landscape.

Spatial Sustainability

This proposal does not entail the encroachment on environmentally sensitive, biodiversity rich areas or agriculturally viable land. The subject property is located in an area of Bettys Bay which is characterised by a mixed-use environment and the locational setting of the subject property will contribute to a functional space economy.

Efficiency

This proposal entails the optimal utilisation of the subject site by promoting a mixture of residential and commercial land use with parking while not compromising on the practicality of this proposal. The engineering services on the subject property will cater to a greater number of people within the engineering services capacity limits of the subject site.

Spatial Resilience

The PSDF, IDF, SDF and OMGMS have policy proposals which pertain to the subject property promoting spatial resilience. This proposal is aligned with these policy proposals as elucidated in Section 12 of this report. The approval and implementation of this proposal therefore promotes spatial resilience.

Good Administration

The OM has a very good track record of promoting integrated, consultative planning practices with all spheres of government and interested and affected parties to ensure that a joint planning approach is attained through this proposal. The consultative planning approach will also be applied with this application and the comments from the public will be taken into consideration and handled with sensitivity. This is intended to ensure that good administration prevails until the subject application is finalised.

14. EVALUATION**Application**

Removal of title deed restriction condition C.5 (b) from Title Deed T2613/2018 of Erf 3293 Bettys Bay.

Urban fabric

The approval and implementation of this proposal is in harmony with the prevailing urban fabric in Bettys Bay.

Title deed conditions

Criterion	Motivation	Positive or negative impact
Motivation	The subject title deed restriction was inserted in the title deed in 1958 and does not respond to the prevailing urban development pressures of densification.	Positive
Financial value	The restrictive condition has no financial value.	Positive
Personal benefits which accrue	There are no benefits for the holder (public) of the restrictive title deed conditions.	Positive
Personal benefits for the removal of the restrictive title deed condition	The property owner will be able to have a shop and dwelling on the premises.	Positive
Social benefit of the title deed condition	There is no social benefit for the restrictive title deed condition remaining in place.	Positive
Social benefit for the removal of the restrictive title deed condition	The removal of this restrictive title deed condition will enhance interaction in the area, create employment and contribute to increasing the rates base for the municipality.	Positive
Will the removal of the restrictive title deed condition lead to a deprivation of rights	The removal of this restrictive title deed conditions will not deprive and Bettys Bay community member of any land use rights which are enjoyed.	Positive

Zoning

The compliance of this proposal with the development parameters is herewith illustrated:

- A shop and flat on the first floor are a primary right on the property;
- The permissible coverage is 75% and the proposed coverage is 50%;
- The permissible height is 8,5m and the subject building is 7m;
- There are 2 storeys permitted and the proposal is for 2 storeys;
- All prescribed building lines are complied with;
- The 3 required parking bays are provided; and
- No loading bays are required.

Services

Service	Availability Yes or No
Electricity	<u>Yes</u>
Water	<u>Yes</u>
Sewage	<u>Yes</u>
Access and egress	<u>Yes</u>

Desirability

Element for consideration	Motivation	Impact Positive of Negative
Economic impact	The employment on the subject property will be a positive economic impact.	Positive
Social impact	This proposal will contribute to the availability of more consumer goods in Bettys Bay.	Positive
Scale of the capital investment	More than R1 million will be invested in the subject property during the construction phase.	Positive
Impact on safety, health and wellbeing of the surrounding community;	The safety, health and wellbeing of the surrounding community will not be compromised.	Positive
Impact on heritage	No heritage areas will be impacted on.	Positive
Whether the imposition of conditions can mitigate an adverse impact of the proposed land use	Several conditions of approval are proposed as a mitigation measure.	Positive

Spatial planning policies

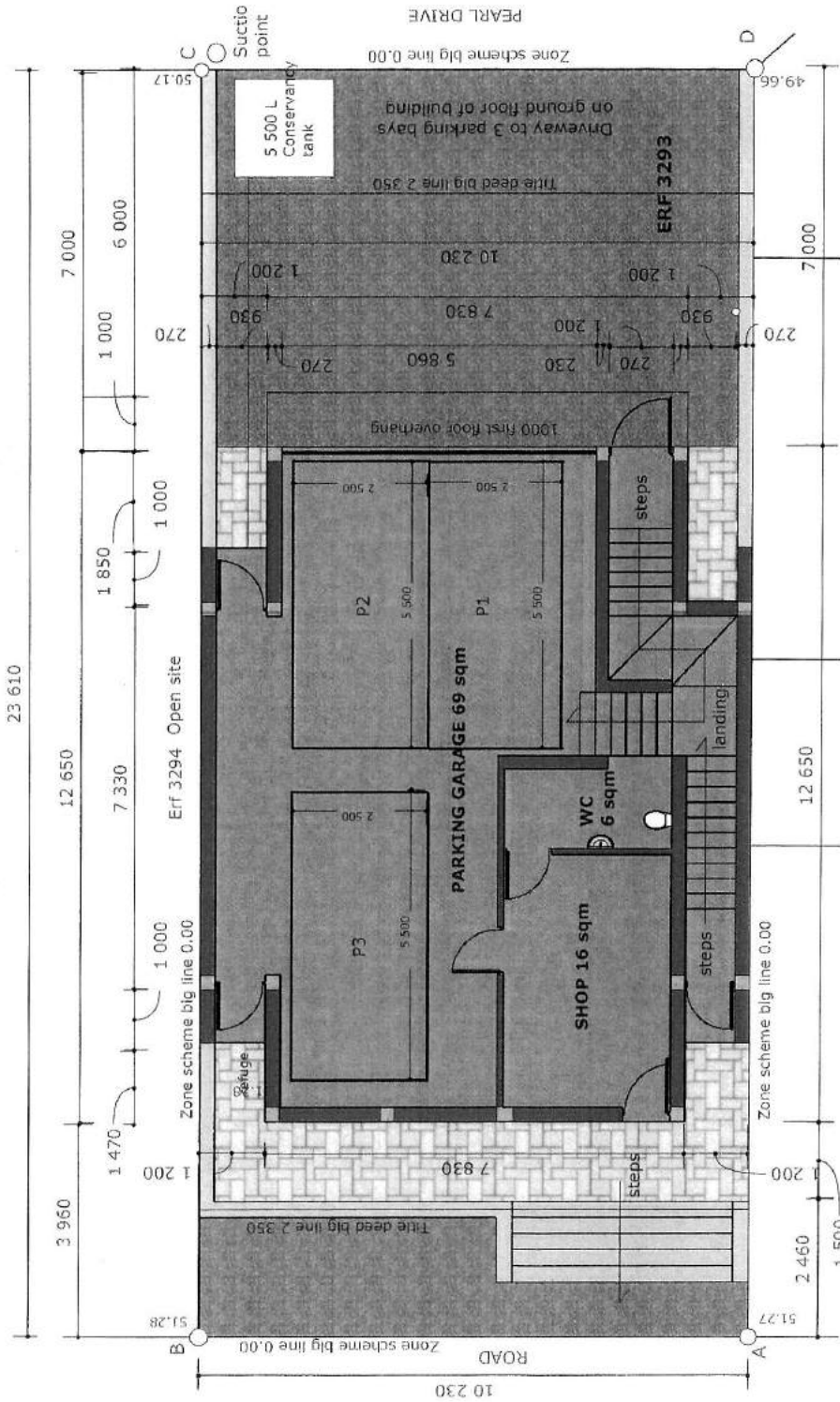
Policy	Motivation	Compliance

PSDF	The approval and implementation of this proposal will achieve the following: <ul style="list-style-type: none"> • Open business and residential opportunities in targeted areas, • Contribute to the urban centres being the main drivers of economic and residential opportunities; and • Allow small enterprises to enter the market which is characterised by low barriers of entry. 	Yes
IDF	The approval and implementation of this proposal will achieve the following: <ul style="list-style-type: none"> • Will contribute to increasing the quality of life in Bettys Bay; • Promote the agglomeration of commercial land uses in Bettys Bay; and • Enable local business initiatives to succeed on the subject property. 	Yes
SDF	The approval and implementation of this proposal will result in the following: <ul style="list-style-type: none"> • Promote infill development; • Maintain the unique village character of the area; • Contain development within the urban edge; and • Is aligned with the spatial proposal plan for the subject property. 	Yes
OMGMS	The approval and implementation of this proposal will result in the following: <ul style="list-style-type: none"> • Enhance the built environment; • Promote mixed land uses; and • Promote optimal land use planning. 	Yes

Planning Principles

Planning Principle	Motivation	Compliance
Spatial Justice	The implementation of this proposal will provide employment opportunities to the historically marginalised.	Yes
Spatial Sustainability	The approval and implementation of this proposal promotes a functional space economy.	Yes
Efficiency	The proposed mixed uses and optimal utilisation of urban infrastructure promote efficiency.	Yes
Spatial Resilience	This proposal is aligned with the policy proposal which pertain to the subject site.	Yes
Good Administration	The prescribed public participation process will be followed to promote good administration.	Yes

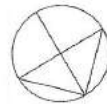
ANNEXURE C 1/7



RAYMOND SMITH

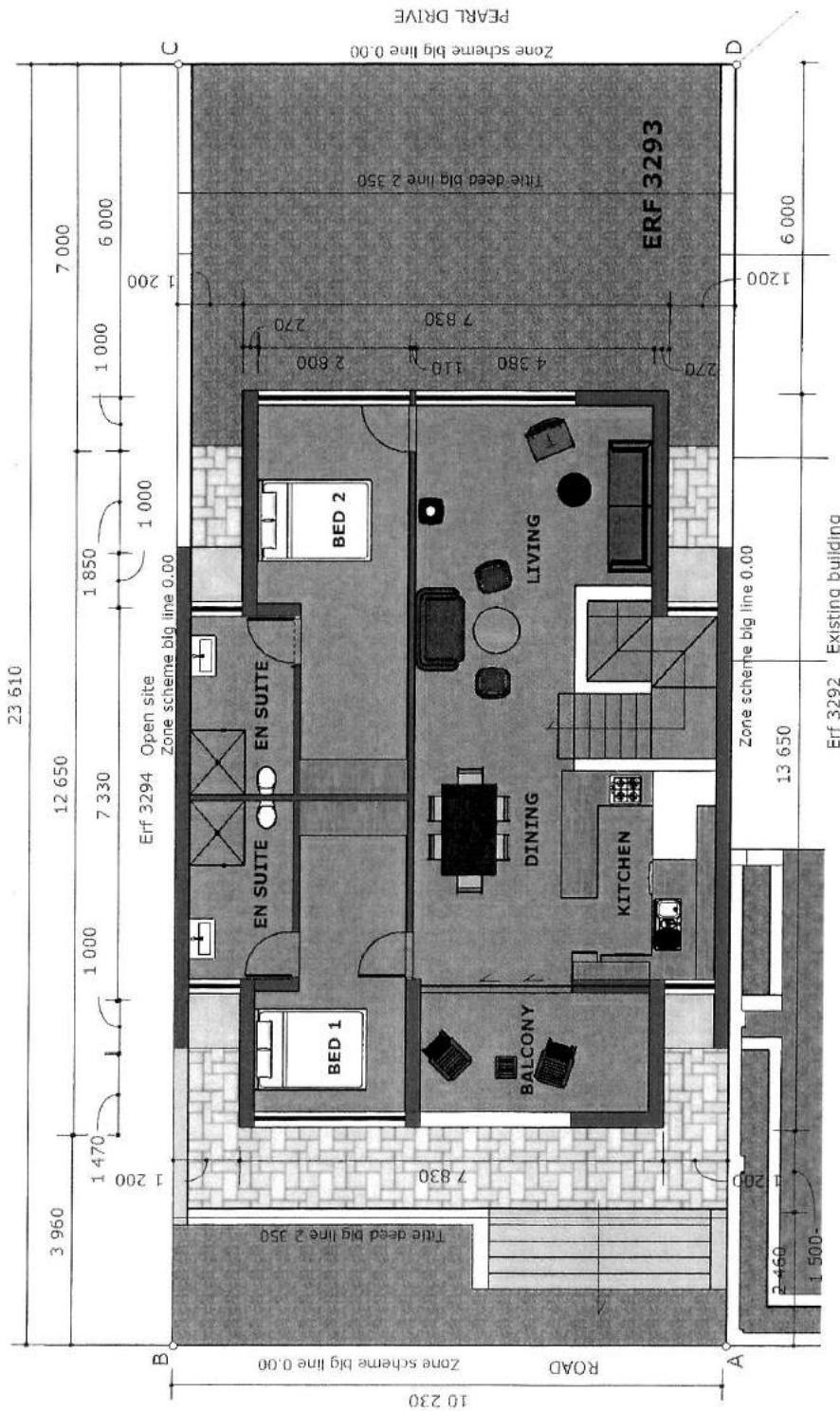
Ground floor gross area: 121 sqm
 Shop = 16 sqm; Parking = 69 sqm
 Toilets = 6 sqm; Stairwell = 12 sqm; Walls = 18 sqm

Ground Floor Plan - scale 1:100
 Drawing No. AvW2018-3293-02



ERF 3293, Pearl Drive, Betty's Bay | Proposed Van Wyk Building

October 15, 2018



RAYMONDWAY

First Floor Plan - scale 1:100

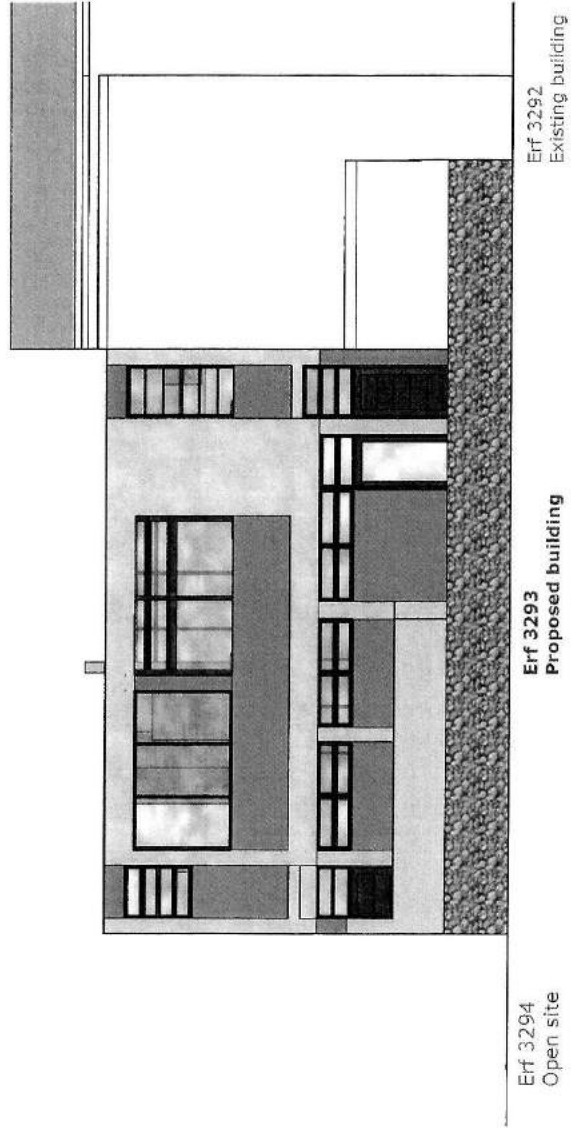
Drawing No Avw2018-3293-03

First floor gross area: 130 sqm

2 Bed apartment = 103 sqm; Stairwell = 9 sqm
Walls = 18 sqm

October 14, 2018

ERF 3293, Pearl Drive, Betty's Bay | Proposed Van Wyk Building

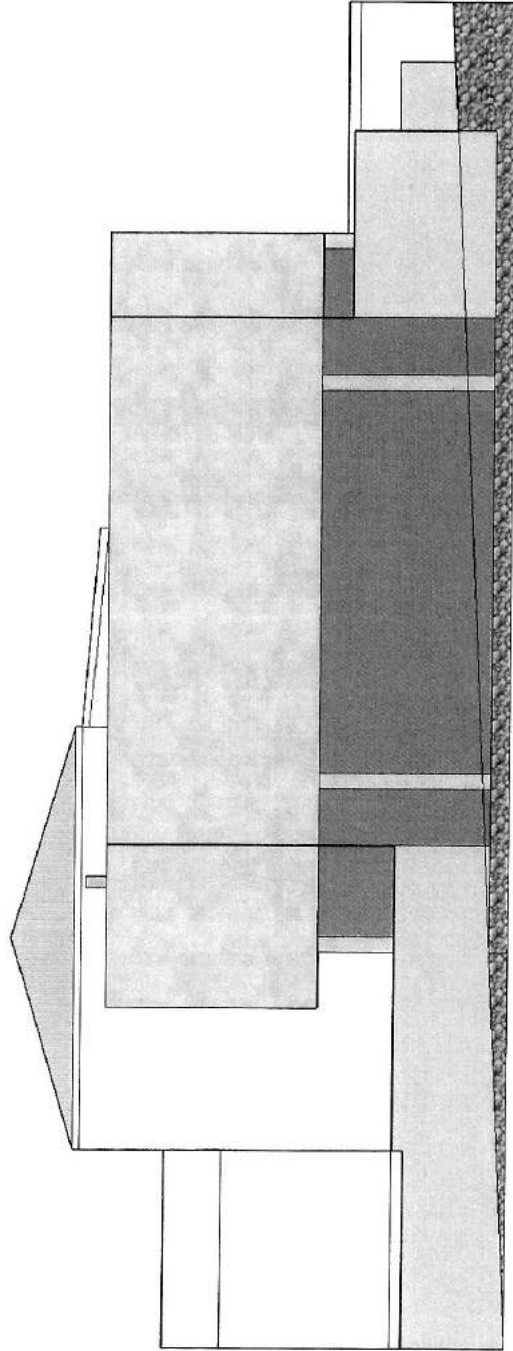


North Elevation - scale 1:100

Drawing No AVW2018-3293-06

October 15, 2018

ERF 3293, Pearl Drive, Betty's Bay | Proposed Van Wyk Building



5/7

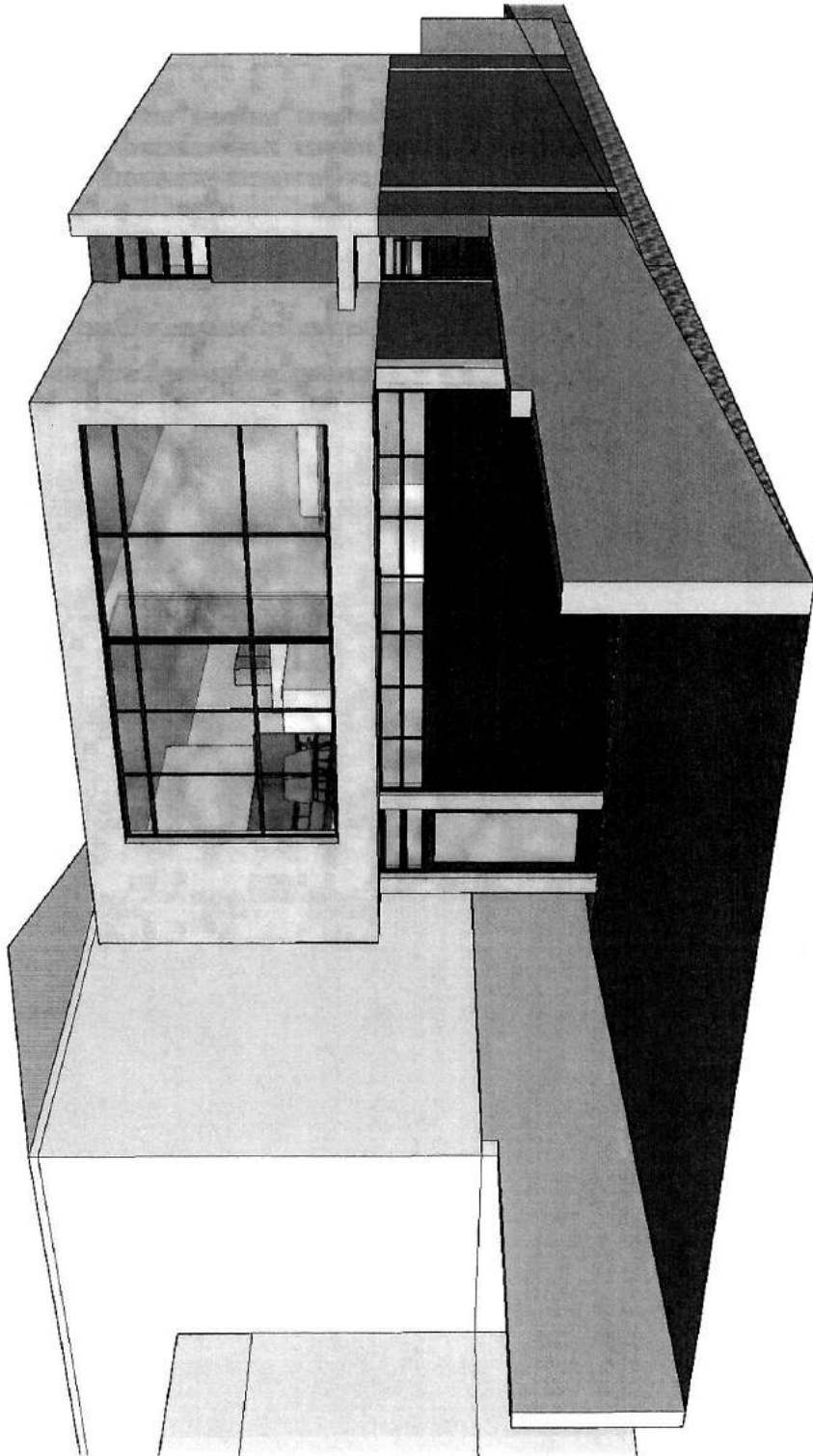
RAYMOND SMITH

East Elevation - scale 1:100

Drawing No A+W2018-3293-07

October 15, 2018

ERF 3293, Pearl Drive, Betty's Bay | Proposed Van Wyk Building



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RAYMOND SMITH

Perspective

Drawing No AvW2018-3293-08

October 15, 2018

ERF 3293, Pearl Drive, Betty's Bay | Proposed Van Wyk Building

RAYMOND SMITH



Perspective

Drawing No AVW2018-3293-09

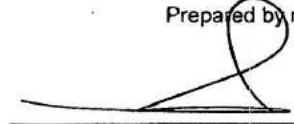
October 15, 2018

ERF 3293, Pearl Drive, Betty's Bay | Proposed Van Wyk Building

213

Venter Goosen Attorneys
 Stellenbosch
 T: 082 325 6060

Prepared by me



 CONVEYANCER

MONIQUE MICHELLE NIEUWOUDT

Fee endorsement		
	Amount	Office fee
Purchase price/Value	R. 165 000,00	R. 1500
Mortgage capital Amount	R.	R.
Reason for exemption	Exempt i.l. o	
	Cat.	section. Act.

✓
✓

T 000002613 / 2018

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

Adam Fletcher Cox

appeared before me, the Registrar of Deeds at Cape Town, the said appearer, being duly authorised thereto by a power of attorney granted to him by

1. CASSANDRA CHERRYNIUCHOU LOTTERING
 Identity Number 670711 0042 08 6
 Unmarried
2. LILY ELIZABETH WALSH
 Born on 23 June 1972
 Unmarried

WENDY FANTL
 28 JAN 2018
 BART / GARYBURE

DATA / VERIFY
 31 JAN 2018
 VAN WYK JENNY

✓

signed at Stellenbosch on 27 November 2017.

And the appearer declared that:

Whereas the Transferors had truly and legally sold the undermentioned property on 22 October 2017 by Private Treaty

Now therefore the Appearer on behalf of the Transferors, did by these presents, cede and transfer to and on behalf of

1. ANDRE LOUIS VAN WYK
Identity Number 510316 5009 08 2
Married out of Community of Property
2. JOHANNA ALETTA VAN WYK
Identity Number 500531 0027 08 5
Married out of Community of Property

their heirs, executors, administrators or assigns, in full and free property

ERF 3293 BETTYS BAY
IN THE OVERSTRAND MUNICIPALITY
DIVISION CALEDON
PROVINCE OF THE WESTERN CAPE

IN EXTENT 242 (TWO HUNDRED AND FORTY TWO) SQUARE METRES

FIRST TRANSFERRED BY DEED OF TRANSFER T17783/1958 WITH DIAGRAM SG NUMBER 9342/1958 RELATING THERETO AND HELD BY DEED OF TRANSFER T12140/2006 IN RESPECT OF A 2/3 (TWO THIRDS SHARE) SHARE AND HELD BY DEED OF TRANSFER T84278/2006 IN RESPECT OF THE OTHER 1/3 (ONE THIRD SHARE)

- A. SUBJECT to the conditions referred to in Certificate of Township Title no. T369/1956.
- B. SUBJECT FURTHER AND/OR ENTITLED to the benefit of the conditions referred to in the following Servitude Endorsements appearing on Certificate of Consolidated Title no. T3720/1937, which said Endorsements are dated and read as follows:
 1. DATED 24 JUNE 1940
"By Deed of Transfer No 6068/40 dated 24/6/40 certain conditions relating to (b) prohibition of Petrol Station on land; (d) Wood and iron buildings; (e) Slaughter poles; cattle kraals; (f) manufacture of bricks, tiles etc., have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the said Deed of Transfer."
 2. DATED 22 OCTOBER 1948
"By D/T No 24234 dated 22.10.48 certain conditions relating to the water supply, type of business that may be carried on, prohibition of petrol station on land, slaughter poles, cattle kraals, wood and iron buildings, non-division, manufacture of bricks and tiles, have been imposed, as will more fully appear on reference to said Deed of Transfer."

3. DATED 18 JULY 1949

"By D/T no. 11915 dd 18.7.1949 the remdr. of the land held hereunder is entitled to a right of way over Erf 487 Betty's Bay (Ext. No. 1) and marked A.E.D. on the diagram thereof. Subject to conditions as will more fully appear on reference thereto."

4. DATED 1 DECEMBER 1950

"By Deed of Transfer No. 18877/50 dated this day, certain conditions relating to water supply, type of business that may be carried on, planting of trees, prohibition of Petrol Station, slaughter poles, cattle kraals, manufacture of bricks, tiles, etc., non-subdivision, have been imposed against and for the benefit of the remaining extent of the property hereby conveyed measuring 5960,6615 ha as will more fully appear on reference to said Deed of Transfer."

5. DATED 28 AUGUST 1951

"By Deed of Transfer No. 14934/51 dated 28.8.51 certain conditions relating inter alia to: prohibition against erection of certain types of building; slaughter poles, cattle kraals, pigstys, cowsheds; manufacture of bricks, tiles, etc., the value of erections; water supply arrangements, etc. have been imposed over the remainder of the land thereby conveyed in favour of the owner and successors in title to the remainder measuring 5955,3544 ha held hereunder, as will more fully appear on reference to said Deed of Transfer."

6. DATED 28 AUGUST 1951

"By Deed of Transfer No. 14935/51 dated 28.8.51 certain conditions relating inter alia to: arrangements re water supply, submission of plans for approval; fencing to be used; planting of trees; use of land for Tea Garden or Room; approval re types of trade to be undertaken; erection of only one building; prohibition against erection of Petrol Service Station and other certain types of buildings, slaughter poles, cattle kraals, pigsty, cowsheds, manufacture of bricks, tiles, etc., subdivision without permission, etc., which conditions are imposed in favour of the owner and successors in title to the remainder measuring 5954,9428 ha held hereunder, as will more fully appear on reference to said Deed of Transfer."

C. SUBJECT FURTHER to the following condition referred to in Deed of Transfer No. T79233/1991:

(i) Imposed by the Administrator of the Province of the Cape of Good Hope when approving of the establishment of Sunny Seas Township in terms of Ordinance No. 33/1934 as amended and contained in Deed of Transfer No. T.17783/1958, namely:

1. Any words and expressions used in the following condition shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No. 401 dated 17th October 1935, and in the memorandum which accompanied the said regulations.
2. The owner of this erf shall, without compensation be obliged to allow electricity and water mains and the sewage and drainage including stormwater of any other erf or erven within or without this subdivision to be conveyed across this erf, if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order

to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.

3. The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the Local Authority.
 5. This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator after consultation with the Townships Board and the Local Authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as may be imposed:
 - (a) It shall not be subdivided;
 - (b) It shall be used only for the shop purposes only;
 - (c) Not more than two-third of the area thereof shall be built upon;
 - (d) No building or structure or any portion thereof, except boundary walls and fences, verandahs and balconies, shall be erected nearer than 2,35 metres to the street line which forms a boundary of this erf;
 - (e) In the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above then the provisions of such scheme shall apply.
- (ii) Imposed by Hangklip Beach Estate Limited as being applicable to all erven in Sunny Seas Township as being in favour of the registered owner of any erf in the Township and contained in Deed of Transfer No. T.17783/1958, namely:
- (b) No wood and/or iron buildings of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes.
 - (c) No cattle, horses, sheep, goats, pigs or poultry shall be kept on this erf without written consent of the Company.
 - (d) Save with 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 (excluding outbuildings) shall be erected on this erf of a superficial area of less than 99 square metres.
 - (f) No noxious trade or noxious business shall be carried on this erf.
 - (g) The Transferee shall not camp overnight or light fires on the erf save with the written consent of the Company, nor shall he permit any other person so to do.

- (h) No garage or service station may be erected or carried on this erf, provided that this condition shall not apply to erven Nos 1 and 263.
- (j) That the company or its successors in title shall make a charge of R10.00 (Ten Rand) for the connection of water to the nearest point on this erf.
- (k) The buildings, including all fences and garden or other gates, shall be of good design and sound construction and the plans, elevations and the specifications when so approved shall be made without the consent in writing of the Company. The location of the buildings on the site must also be approved by the Company. The buyer shall not commence building operations until he has received the written approval of the Company to his plans, elevations and specifications. In the event of a breach of this clause, the Company shall have the right to interdict the buyer from proceeding with his building operations and shall have the option to repurchase the erf upon payment of the cost price thereof, without compensation for improvements.
- (l) Outbuildings shall not be built upon prior to the erection of the main dwelling or building which shall be a complete building and not one partly built and intended for completion at a later date.
- (m) No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven.
- (n) No canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever (with the exception of boarding houses) shall be opened or conducted on the General Residential erven.
- (o) No signs, advertisements, advertisement hoardings or other lettering shall be erected on this erf, nor shall any advertisements, signs or lettering be painted on any buildings, walls or fence erected or to be erected on the said erf, save and except with the written approval of the Company.
- (p) No debris, scrap or other unsightly material shall be deposited on the said erf nor shall the purchaser or his successors in title deposit or allow to be deposited any debris, scrap or other unsightly material on the said erf without the written consent of the Company first hand and obtained.
- (q) In the foregoing conditions the expression "the Company" shall mean the "HANGKLIP BEACH ESTATES LIMITED, as owner of the remaining extent of the Township" and its successors in title to the whole of such remainder.

ANNEXURE E 1/2

Loretta Gillion - Erf 3293, 17 Pearl Drv, Betty's Bay: Removal of restrictive Title Deed conditions

From: Gerhard Bruce <gerhard@bruce.za.net>
To: <loretta@overstrand.gov.za>
Date: 25/01/2019 09:58 AM
Subject: Erf 3293, 17 Pearl Drv, Betty's Bay: Removal of restrictive Title Deed conditions

TPA Theart
(H. vd Stoep)

Dear Ms. vd Stoep

Thank you for the letter dated 29 Nov 2018.

The BBRA objects to the application, for the following reasons:


1. All legal requirements have not been fulfilled. As far as we are aware the residents of Sunny Seas have not been informed as required by the title deed;
2. These commercial properties should ideally be developed as a unit, and not piecemeal. This will improve aesthetics for that area.

--

Regards / Ngemibuliso / Groete

Gerhard Bruce on behalf of the BBRA

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

 Virus-free. www.avast.com



FILE NO:	Erf 3293
	Betty's Bay
SCAN NO:	KBB 3293
COLLABORATOR NO:	1249895

TP 25 JAN 2019

file:///C:/Users/loretta/AppData/Local/Temp/XPgrwise/5C4ADDCFHermanusMunp... 2019/01/25

Tel 0847693580

Posbus 192



7141 BETTYSBAAI

24 Januarie 2019

Smulter

Die Munisipale Bestuurder
Overstrand Munisipaliteit
HERMANUS

FILE NO:	15/3/10/R
SCAN NO:	SUNNY SEAS
COLLABORATOR NO:	25183

Geagte meneer Groenewald

1 Persele nommers 3213 en 3085 Sunny Seas, Bettysbaai.

1.1 Op bogenoemde persele het die Munisipaliteit toegelaat dat houthuise gebou word sonder dat die titelbeperking dat daar nie houthuise op gebou mag word nie opgehef is. In die onlangse brand is beide huise deur die brand verwoes. Indien hierdie houthuise as sulks herbou gaan word, word u versoek om die prosedure soos voorgeskryf in artikels 47 en 48 van die VERORDENING OP MUNISIPALE GROND GEBRUIK BEPLANNING nougeset toe te pas.

2 Indien daar enige ander houthuise in Sunny Seas deur die brand vernietig is en waar die regte prosedure in die verlede nie nagekom is nie word u versoek om die regte prosedure nou te volg indien die huise as houthuise herbou word.

3 Perseel nommer 3293 Sunny Seas, Bettysbaai.

3.1 Die Munisipaliteit het die opheffing van die titelakte beperking, Klousule C.5.(b) van Titelakte T2613/2018 van toepassing op erf 3293, wel in die plaaslike koerant geadverteer maar nagelaat om afskrifte daarvan aan Titelhouders per aangetekende pos te stuur soos voorgeskryf in artikel 48 van die VERORDENING OP MUNISIPALE GROND GEBRUIK BEPLANNING. Ongeveer die helfte van die titelhouders in Sunny Seas woon nie in die Overstrand gebied nie en is derhalwe onbewus van hierdie voorneme. Ek dien hiermee n amptelike klag teen die verantwoordelike amptenaar in en versoek dat die betrokke amptenaar aan n tugverhoor onderwerp word. Indien dit be-oog word om voort te gaan met hierdie projek moet die be-oogde opheffing van die titelvoorwaarde eers per aangetekende pos aan elke titelhouer in Sunny Seas gestuur word.

4 U word versoek om my ingelig te hou insake die bogenoemde aangeleenthede.

Die uwe
[Handwritten Signature]
F J J v d Westhuizen

Titelhouer van erf 3242 Sunny Seas



ANNEXURE F



JRA Theart
(H. vd. Stof)

CREDIT SUISSE

Dr J Martin
Palais de Martine
11 Fourth Avenue
Houghton Estate
Johannesburg 219

Mr R Jankie
Wrap

Email: admin@wrapgroup.co.za December 14th, 2018

Dear Mr Jankie

RE: APPLICATION 3293 BETTY'S BAY

In response to your notice of application dated November 29th, 2018, please note that I have no objection.

I am the owner of 3284 + 3285 Betty's Bay.

I trust the application will be successful.

Yours faithfully
J. R. Martin

DR J. R. MARTIN

FILE NO:	EL 3293
	Betty's Bay
SCAN NO:	08
COLLABORATOR NO:	1241480

TP

14 DEC 2018

18 DEC 2018



WRAP



TP-A Theart
(Hvd Stoop)

ESTABLISHED 2002

Town Planning

Project Management

Liquor Licensing

35 Duiker Street
P O Box 1247
Hermanus
7200

Tel: +27 (0)28 313 1411
Fax: +27 0865083248
Email: admin@wrapgroup.co.za
Web: www.wrapgroup.co.za

Wright Approach Investments 136 CC
Reg No CK 2002/060745/23

Our reference: 18/98
Your reference: 3293 KBB (4222)

13 March 2019

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

FILE NO: EL 3293-KBB
SCAN NO: KBB 3293
COLLABORATOR NO: 1265919

Sir

ERF 3293 BETTYS BAY: PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITION

Objections and a letter of support for the abovementioned were received from:

- Betty's Bay Ratepayers Association (G Bruce);
- FJJ van der Westhuizen; and
- Dr IR Martin

One of the objections is in Afrikaans, however, will be responded to in English as the original application was submitted in English.

Comment/objection	Response
"These commercial properties should ideally be developed as a unit, and not piecemeal. This will improve aesthetics for that area."	The development process within a neighbourhood is a gradual process which developer undertake in response to market needs and conditions. The assertion by the objector that the owners of the vacant commercial erven in Bettys Bay should simultaneously develop commercial enterprises when there is no demand for that is not reasonable as developers would not yield any return on investment. No property owner can be forced to develop on his or her property if there is no current need for it.

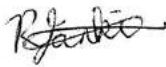
13 MAR 2019 TP

Comment/objection	Response
<p>"Die Munisipaliteit het die opheffing van die titelakte beperking, Klousule C.5.(b) van Titelakte T2613/2018 van toepassing op erf 3293, wel in die plaaslike koerant geadverteer maar nagelaat om afskrifte daarvan aan Titelhouders per aangetekende pos te stuur soos voorgeskryf in artikel 48 van die VERORDENING OP MUNISIPALE GROND GEBRUIK BEPLANNING. Ongeveer die helfte van die titelhouders in Sunny Seas woon nie in die Overstrand gebied nie en is derhalwe onbewus van hierdie voorneme. Ek dien hiermee 'n amptelike klag teen die verantwoordelike amptenaar in en versoek dat die betrokke amptenaar aan 'n tugverhoor onderwerp word. Indien dit be-oog word om voort te gaan met hierdie projek moet die beoogde opheffing van die titelvoorwaarde eers per aangetekende pos aan elke titelhouer in Sunny Seas gestuur word. U word versoek om my ingelig te hou insake die bogenoemde aangeleentheid."</p> <p>"All legal requirements have not been fulfilled. As far as we are aware the residents of Sunny Seas have not been informed as required by the title deed."</p>	<p>The Overstrand Municipality Legal Services Department was contacted by the Overstrand Municipality Town Planning Department to clarify if there was a need for the application to be advertised to all property owners in the applicable township extension. The following legal input was provided by the Overstrand Municipality Legal Services Department:</p> <p>"The giving of Notice requirement was complied with by the Municipality and the Applicant in accordance with LUPA and the By-Law."</p> <p>Considering the above legal input, all legal prescripts have been complied with.</p>

Support for the application	Response
<p>"In response to your notice of application dated November 29th 2018. Please note that I have no objection.</p> <p>I am the owner of Erf 3284 & 3285 Bettys Bay. I trust that the application will be successful."</p>	<p>This is a letter of support.</p>

Cognisance is taken of the content of the objections, but there is however no convincing motivation presented which would justify a refusal of the submitted application.

Yours faithfully



REA JANKIE
TOWN PLANNER (B/8392/2017)

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS: ERF 3293,
BETTY'S BAY (4222)**

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 3293, Betty's Bay, unobstructed;
4. that no on-street parking be allowed.



DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES



DATE

19 DEC 2018