

## 4.2

**ERF 1944, 24 PUREN WAY, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA:  
APPLICATION FOR SUBDIVISION: MESSRS DAVID HELLIG AND ABRAHAMSE ON  
BEHALF OF EAM BUHR****1944 GPB (4839/2024)****SW van der Merwe****2 June 2025****(028) 313 8900****Hermanus Administration**

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**1. EXECUTIVE SUMMARY**

An application, in terms of Section 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) was received on 16 October 2024 from Messrs David Hellig and Abrahamse on behalf of EAM Buhr for the **subdivision** of Erven 1944, Pearly Beach into two portions, namely Portion A approximately 806m<sup>2</sup> in extent and a Remainder approximately 951m<sup>2</sup> in extent.

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, and the Subdivision Plan is attached as Annexure C.

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

**3. BACKGROUND / SITE HISTORY**

Erf 1944, Pearly Beach measures 1757m<sup>2</sup> each and is zoned for Residential Zone 1: Single Residential purposes. The property comprises the consolidation of former Erf 1942 and Erf 1943, Pearly Beach. The property is developed with a dwelling house with access from Puren Way.

The application entails subdivision in two portions to re-instate the former erven, namely a Remainder of  $\pm 806\text{m}^2$  and Portion A of  $\pm 941\text{m}^2$  thereby facilitating development to the property's full potential.

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

Only the main points of motivation are summarised as follows (the detailed report is attached as Annexure B):

- Approved building plans has been submitted in respect of existing buildings imposing on the street building line as well as the lean-to rear of the property.
- Access to the dwelling remain from Puren Street. Portion A will be accessed from Perlemoen Street.
- The title deed does not contain restrictive conditions that prohibit subdivision.
- The subdivision will re-instate the previous status quo, which would have informed municipal planning with reference to bulk services.
- The primary rights pertaining to Residential Zone 1 will be retained.
- The OMGMS proposes incremental densification through subdivision, thus consistent.
- The property is situated within the urban edge and designated for residential use, thereby consistent with the SDF.

## PLANNING PRINCIPLES

Spatial Justice

Spatial imbalances not applicable. Subdivision presents opportunity to develop for residential purposes.

Spatial Sustainability

Proposed subdivision will recreate the boundaries of the property as before and originally planned. Being situated within the urban edge it will not lead to urban sprawl or impact agricultural land or biodiversity rich area.

Efficiency

Service provision was included for the additional land parcel prior to subdivision. Proposal provides for improved use of existing services.

Spatial Resilience

The proposal fits in the character of the area and does not deviate from what was originally planned for in the area.

Good Administration

Application submitted will followed the required planning procedures, and the required public participation process.

- Proposal is not in conflict with character of the area.
- Two separate land units will be created, consistent with property extent and land uses in the surrounding area.
- Proposed subdivision will result in two smaller erven that will more easily and functionally be maintained, creating a neat environment contributing to upliftment and value of the area.
- Contribute to densification in line with densities in the area.
- The property was consolidated in the past. The proposal will reinstate the original erf layout.
- Subdivision will enable erven to be owner separately.
- Subdivision will enable development of the property to its full potential.
- Subdivision will result in compact residential area within the urban edge, limiting urban sprawl.
- The application proposes for improved use of existing resources.

**5. ADMINISTRATIVE COMPLIANCE**

Methods of advertising		Date published	Closing date for comments
e-mail Notices and Notice board on-site	Yes	27 November 2024	24 January 2025
Internal Departments	Yes	27 November 2024	24 January 2025
Ward councillor	Yes	27 November 2024	24 January 2025
Total comments	<b>NONE</b>		
Total letters of support	<b>NONE</b>		

Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?	<b>Yes</b>
Was the application processed correctly?	<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?	<b>Yes</b>
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?	<b>N/A</b>

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

Name	Date received	Summary of comments
Health	29/11/2024	Supported.
Fire Services	01/12/2024	No objection, subject to compliance with the provisions of SANS 10400-A, SANS 10400-T:2024 and the By-Law relating to fire safety.
Building Department	02/12/2024	No objection. All buildings to comply with all other applicable law.
Waste Management	03/12/2024	No objection.
Engineering Services	05/12/2024	Attached as Annexure F

#### 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

One letter of objection was received from the owner of Erf 2079, M Matthee adjoining the application property. The objection is attached as Annexure D. The applicant's response is attached as Annexure E.

The main grounds of objection are based on loss of sea view from the guest house which views was planned over the rear of Erf 1944, knowing that it will not be developed.

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

The objection does not challenge the merit of the proposed subdivision but is limited to the alleged adverse impact of future dwellings on the vacant portion of Erf 1944 on the current sea views enjoyed by the objector and patrons of the guest house. The applicant states the following in support of the proposal:

- ✚ The existing multi storey dwelling on the application property already obstruct sea views from the objectors' property.
- ✚ Existing multi storey dwelling on Erf 1851 already obstructs sea views from the objectors' property in a south westerly direction.

- ✚ The sea views the objector refers to is from windows and deck on the south-eastern facade through a narrow corridor between Erven 1851 and 1944.
- ✚ Privilege of sea view is not an inherent right of ownership, especially in the context of the planning considerations motivated in the application which are not challenged by the objector.
- ✚ The construction of a second dwelling as a primary right and could already interfere with views.
- ✚ The terrain slopes steeply from Puren- to Perlemoen Streets, thus residences from Puren Street would mostly likely overlook development on the lower portion of Erf 1944.

## 9. MUNICIPAL ASSESSMENT OF COMMENTS

The applicant's comment is noted and agreed with. The title deed of the application does not contain a prohibition (i.e. view corridor servitude etc) to development on the south-eastern portion of Erf 1944.

The primary rights applicable to development of the lower portion of the property is not limited to a second dwelling only and can include outbuildings or even additions to the primary dwelling, subject to compliance with the development parameters applicable to Residential Zone 1.

## 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 considered consistent in the following manner from a town planning perspective:

#### Spatial Justice

The application will not contribute towards the perpetuation of apartheid spatial development imbalances.

#### Spatial sustainability

The application is located within the urban edge and will not lead to urban sprawl.

#### Efficiency

The application will optimise the use of space by reinstating the original erf layout.

#### Spatial resilience

The proposal is not in conflict with spatial planning policies which adhere to the principle of spatial resilience.

Good administration

The application followed the required planning procedures, and the required public participation process has been followed.

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

Same as Point 10.2 above.

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

The proposal is consistent with the SDF.

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

N/A

**10.6 Impact on Municipal engineering services**

The existing services are available and have been viewed positively by the Engineering Department.

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

The application does not trigger any listed activities in terms of NEMA, nor Section 38 of the National Heritage Resources Act.

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

The zoning remains Residential Zone 1: Single Residential.

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

N/A

**12. THE DESIRABILITY OF THE PROPOSAL**

The zoning of the property remains Residential Zone 1.

The proposed subdivision will re-instate the original erf layout prior to consolidation and is in keeping with the erf sizes and character of the area. The proposal will facilitate optimal use of existing land within the urban edge and result in two more manageable properties.

As stated in the evaluation of the objections, sea views is not a right and cannot be sited as an objection to the application. The objector did not put forward a substantive case demonstrating that the undesirability of the proposed subdivision.

The title deed does not contain any restrictive conditions that prohibits the subdivision.

The proposal is considered to be consistent with the SDF and OMGMS that permits densification through incremental subdivision which is not to the detriment to the natural or built environment.

The proposal is considered desirable and recommended for approval.

### 13. RECOMMENDATION

1. that the comment be noted;
2. that the application for **subdivision** of Erf 1944, Pearly Beach in terms of Section 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) into two portions, namely Portion A approximately 806m<sup>2</sup> in extent and a Remainder approximately 951m<sup>2</sup> in extent, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
  - (a) that the approval is only for the subdivision as indicated on *Subdivision Plan dated September 2024, File no. CN29/89* as submitted with the application;
  - (b) that all the conditions in the Services Report (attached as annexure D) be complied with; and
  - (c) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
  - (d) that this approval does not absolve the landowners from compliance with any other relevant legislation;
3. that the applicant / objector be notified of its appeal right in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above decisions.

### 14. REASONS FOR RECOMMENDATION

- ❖ The proposal is consistent with the SDF.
- ❖ The proposal is consistent with the planning principles in terms of LUPA and SPLUMA.
- ❖ The proposal will reinstate the former erf layout.
- ❖ The title deed does not contain restrictive conditions that prohibits subdivision.
- ❖ The character of the area will not be adversely impacted.
- ❖ The proposal will not be to the detriment of vested rights of adjoining properties.

### 15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Subdivision Plan
Annexure D:	Objection
Annexure E:	Applicants' response on objection
Annexure F:	Services Report

**SIGNATURES****REGISTERED PLANNER**

Name:

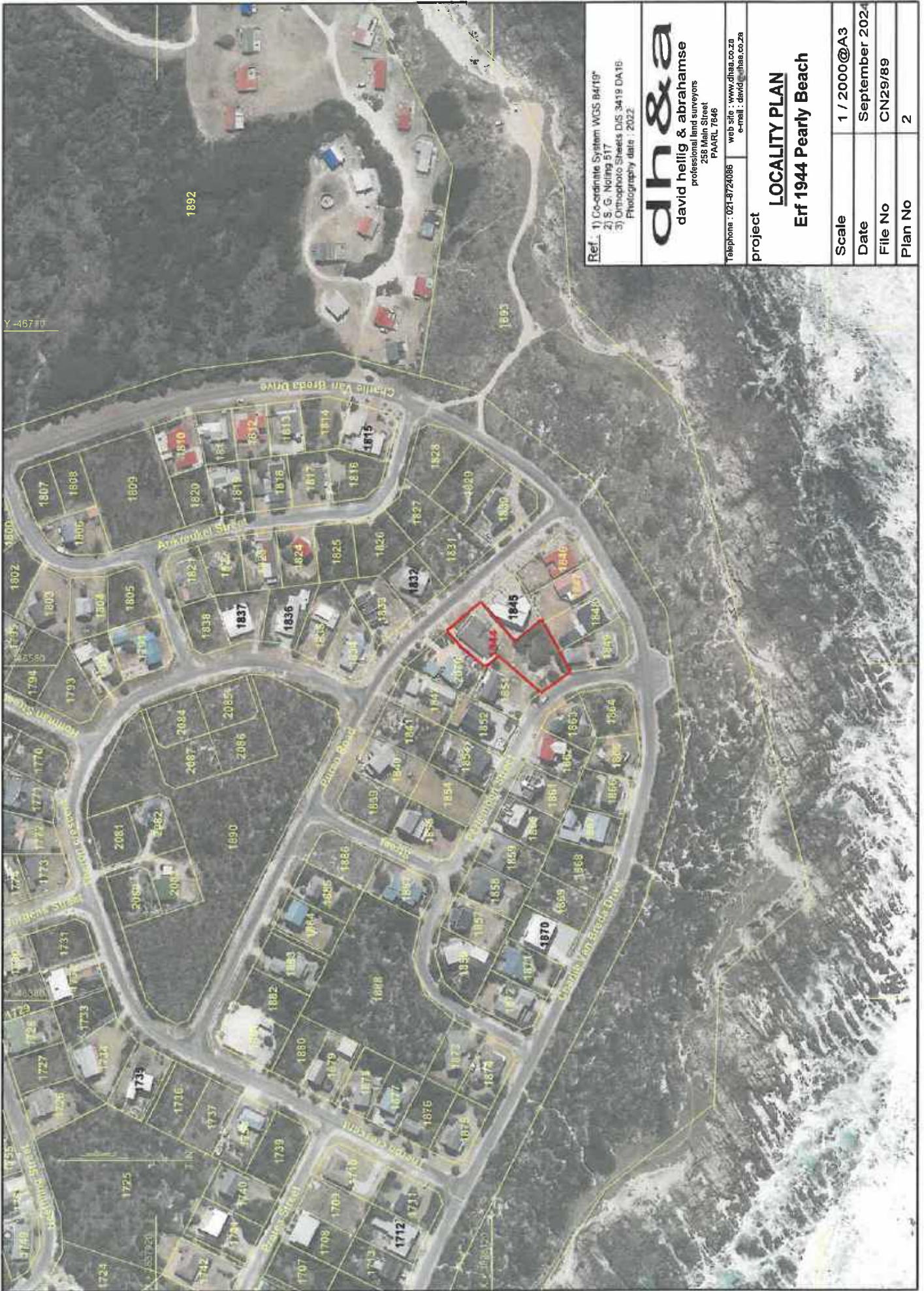
**S VAN DER MERWE**

SACPLAN Reg No:

**A/1850/2014**

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

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



Ref: 1) Co-ordinate System WGS 84/19°  
 2) S. G. Noring 517  
 3) Orthophoto Sheets DIS 3419 DA.1B  
 Photography data : 2022

**dh&a**  
 david heilig & abrahamse  
 professional land surveyors  
 258 Main Street  
 FAARL 7846

Telephone : 021-8724086 web site : www.dhaa.co.za  
 e-mail : david@dhaa.co.za

project	
<b>LOCALITY PLAN</b>	
<b>Erf 1944 Pearty Beach</b>	
Scale	1 / 2000@A3
Date	September 2024
File No	CN29/89
Plan No	2

**PLANNING REPORT**

**PROPOSED SUBDIVISION OF  
ERF 1944 PEARLY BEACH**

**OUR REF:CN29/89(24)**



**Compiled by:  
David Hellig and Abrahamse Land Surveyors**

**OCTOBER 2024**

## 1. INTRODUCTION

Erf 1944 Pearly Beach, the subject land unit, in Pearly Beach Township Extension No. 3 is situated between Puren Road and Perlemoen Street as laid out on General Plan No. 8145 (SG No. 8318/1970), The subject land unit comprises of an existing dwelling, constructed on the northeastern point of the land unit, accessed via Puren Road, with the balance being undeveloped.

The purpose of this application is for the subdivision of the subject land unit into two portions to facilitate the future development of the subject property to its full potential.

## 2. PROPERTY DETAILS

SUBJECT LAND UNIT				
PROPERTY DESCRIPTION	EXTENT	REGISTERED LANDOWNER	DEEDS OF TRANSFER	EXISTING ZONING
Erf 1944	1 757 square metres	Erna Anna Marie Buhr	T3893/1990	Residential Zone 1: Single Residential (SR1)

## 3. LOCATION

The location of the subject land unit is circled in red in the figure below.



Figure 1: Location of the subject land unit

#### 4. PREVIOUS APPROVALS AND BUILDING PLANS

The following documents are enclosed with this application

- Approved building vide Ref 15/4/1/4 dated 10-03-1993 with respect to the extension of the building adjacent to Puren Road within both the 5m street building line imposed in respect of the Title Deed conditions and the 4m street building line in terms of the Zoning Scheme.
- Land Use Departure approval vide Ref Erf 1944, Pearly Beach dated 08-12-2005 with respect to the relaxation of the building line to accommodate the lean-to constructed at the rear of the existing dwelling together with accompanying building plans.

From the above information, it is clearly evident that the existing dwelling represents a lawful non-conforming land use together with any applicable deemed building line relaxations both in terms of the Title Deed conditions and current applicable Land Use Scheme to regularise the existing dwelling in its current configuration.

#### 5. APPLICATION PROPOSAL

##### A. SUBDIVISION:

Application is hereby submitted in terms of **Chapter IV Section 16(2)(d)** of the Overstrand Municipal Land Use Planning By-Law, 2020:

1. The Subdivision of Erf 1944 Pearly Beach into two portions:
  - a) **Portion A**, measuring approximately 806 square metres in extent, comprising the existing dwelling house.
  - b) **The Remainder of Erf 1944 Pearly Beach**, measuring approximately 951 square metres in extent, which is currently undeveloped.

#### 4. ACCESS, SERVICES AND PARKING

- The proposed subdivided land units will gain access as follows:
  - a) **Portion A**, directly from Puren Road and;
  - b) **Remainder of Erf 1944 Pearly Beach**, directly from Perlemoen Street.
- Separate engineering services connections in respect of the undeveloped portion will be installed in accordance with municipal standards, where applicable.
- As per the Overstrand Municipality Land Use Scheme, 2020, two (2) parking bays per dwelling house are required. Both proposed land units will easily accommodate this requirement.

- It should also be noted that subject land unit represents a consolidation of the two land units originally created on General Plan No 8145 and the subdivisional proposal essentially aims to re-instate the previous status quo; which would have informed municipal planning with respect to bulk engineering services capacity.

## **5. RESTRICTIONS**

The title deed of the subject land unit contains no restrictive conditions specifically prohibiting the act of subdivision; however noting the following conditions regulating the development of the subject land unit:

- In the event that a Town Planning Scheme is introduced the most restrictive conditions will apply.
- Only one dwelling to be erected, provided that should a Town Planning Scheme be applicable the Local Authority may permit such other buildings as are permitted in terms of the Town Planning Scheme.
- Street building line of 5m, lateral building line of 1,5m and rear building line of 3m are applicable.
- In the event of consolidation and / or subdivision, the deducted or consolidated portions (as the case may be) shall be subject to the title deed conditions as if it were the original erf.

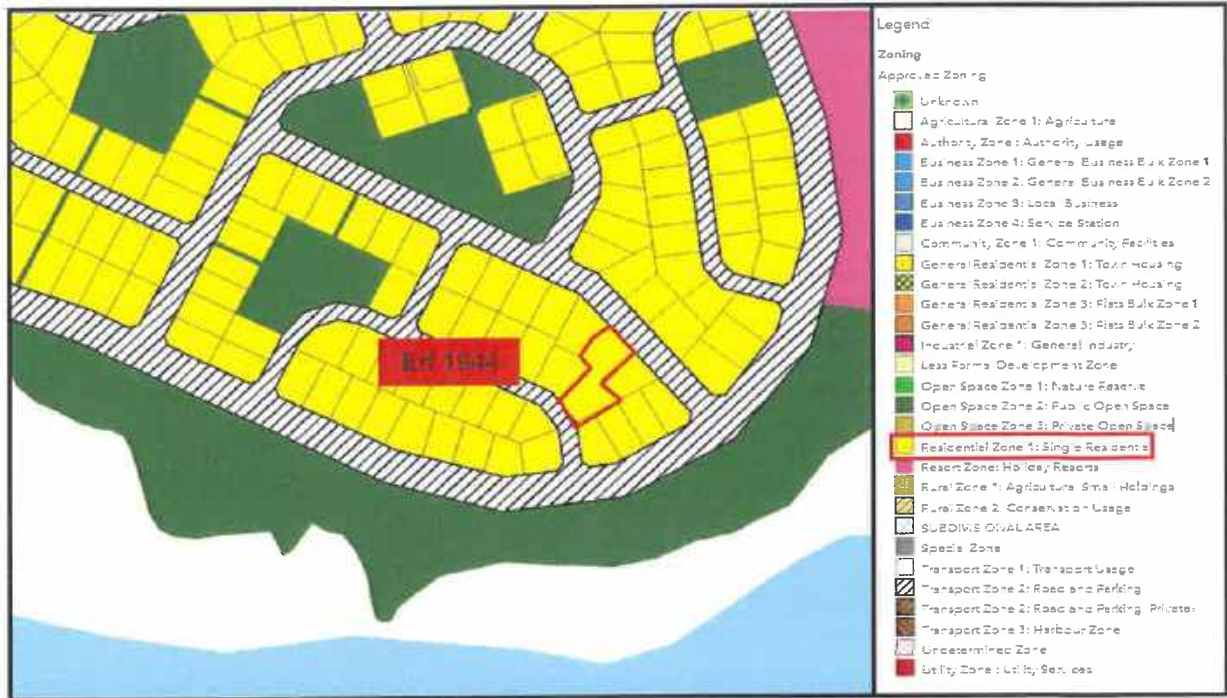
## **6. MOTIVATION**

### **6.1 Overstrand Municipality Land Use Scheme, 2020**

The subject land unit is zoned Residential Zone 1: Single Residential purposes in terms of the Overstrand Municipality Land Use Scheme, 2020 as indicated in the figure below.

## Subdivision of Erf 1944 Pearly Beach

Ref: CN 29/89(24)



**Figure 2: Extract of the Overstrand Municipality Zoning Scheme Map**

With the proposed subdivision application there will be no physical changes to the building infrastructure and/or land uses. The status quo would be maintained as the property would not deviate from the Primary Rights allowed within the Residential Zone 1 zoning.

In respect of the Residential Zone 1: Single Residential zoning, the following development parameters would be applicable to the proposed subdivided portions of Erf 1944 Pearly Beach:

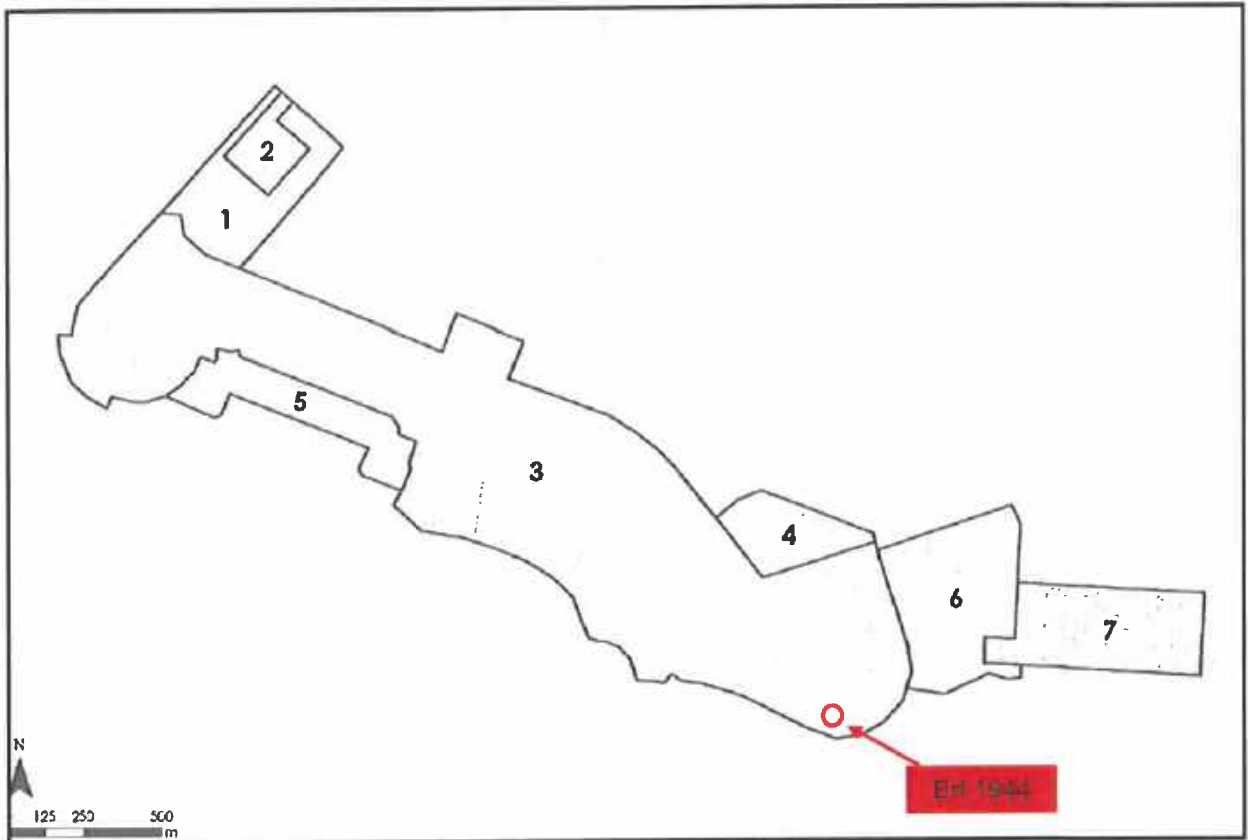
AREA OF LAND UNIT	STREET BUILDING LINES	SIDE AND REAR BUILDING LINES	MAXIMUM COVERAGE	MAXIMUM HEIGHT incl roof
400 m <sup>2</sup> and greater	4,0m	2,0 m	50%	8,0m

## 6.2 Overstrand Municipal Growth Management Strategy, 2010

The concept of the Overstrand Municipal Growth Management Strategy is to promote the longer term sustainability of the municipal area and its sub-region.

As per the Overstrand Growth Management Strategy, 2010, seven planning units have been identified for Pearly Beach. One of the specific interventions that have been proposed for Pearly Beach is incremental densification within the existing residential fabric.

The following image illustrates the seven planning units identified for Pearly Beach:



**Figure 4.: Extract from figure 89 of the Overstrand Growth Management Strategy**

As shown in the figure above the subject land unit is located within Planning Unit 3 of Pearly Beach. Incremental development through subdivision is being proposed for residential densification in this planning unit to allow a second dwelling unit.

The Application complies with the strategies of the Overstrand Growth Management Strategy as it will enable for subdivision within the existing residential fabric of Pearly Beach and promote densification as advocated in the Overstrand Growth Management Strategy.

### **6.3 Overstrand Municipality Spatial Development Framework, 2020 (MSDF)**

The Overstrand Municipality Spatial Development Framework, 2020 (MSDF) was prepared to ensure compliance with the new National (Spatial Planning and Land Use Management Act 16 of 2013) and, Provincial (Western Cape Land Use Planning Act, 2014) and District Legislation, Policies, Principles and Frameworks.

According to the MSDF, the Spatial Development Framework was also prepared as a sectoral component of the Integrated Development Plan (IDP). The MSDF is aimed at providing direction and guidance for decision making for future planning. This is to ensure that

development in the Overstrand Municipality is integrated and sustainable, which creates habitable regions through cities, towns and residential areas.

The MSDF states that the Pearly Beach area is considered to be for a retirement and holiday town located 18km east of Gansbaai. The area where Erf 1944 Pearly Beach is located in was originally developed for residential purposes. The figure illustrates the Pearly Beach Status Quo as extracted from the MSDF.



**Figure 3.: Extract from Plan 39 Overstrand Municipality Spatial Development Framework, 2020**

From the image above it is clear that the property is located within the Urban Development boundary of Pearly Beach and designated for the use that will remain on the subdivided portions of land.

The proposed subdivision is consistent with the principles and objectives contained in the MSDF regarding densification within existing and established urban areas.

**6.4 Spatial Planning and Land Use Management Act 16/2013 (SPLUMA)****A. Spatial Justice**

This principle is not applicable; however land development imbalances are addressed as the southern undeveloped land unit presents an opportunity to be developed for residential purposes, improving the use of land and ensuring that appropriate densification takes place for Pearly Beach as desired and aligned with the densities surrounding the subject land unit.

The proposed subdivided portions are suitably dimensioned to ensure safe vehicular access.

**B. Spatial Sustainability**

The subject land unit was consolidated in the the past and with the subdivision it is proposed to recreate the boundaries on the subdivided portions as it was originally planned for. Therefore, the proposal ensures that it will achieve the desired form of urban densification.

The proposal is located within the existing residential fabric inside the urban edge of Pearly Beach, which will limit urban sprawl outside of the urban edge and protect prime and unique agricultural land and environmental sensitive areas.

**C. Efficiency**

It should be noted that service provision was included for the additional land parcel in the past before it had been consolidated. The application proposal therefore provides for an improved use of existing resources, infrastructure and facilities.

**D. Spatial Resilience**

This principle is already addressed as the proposal fits into the character of its surroundings and that the proposal does not deviate for what was originally planned for the area.

**E. Good Administration**

The principle of Good Administration is being complied with as the proposal is aligned with national, regional and local spheres' policy, frameworks and strategies. An application process is being followed to ensure that all departmental inputs are received for the application to be compliant with the procedures of the Overstrand Municipality.

**6.3 Existing Building, Neighbourhood and Surroundings**

- The proposed subdivision is not in conflict with the character of the surrounding area as no alterations to the existing land uses are proposed.
- The proposed subdivision will result in the creation of two separate land units which are consistent with the property extents and land uses of the surrounding erven in the neighbourhood as intended in the original township layout as per General Plan No 8145.
- Land units with a smaller extent, accommodating independent land uses and infrastructure, can be more easily and functionally maintained, thus creating a neat environment which contributes to the upliftment and value of the area.
- The proposed subdivided portions will each accommodate existing infrastructure viz a dwelling unit and are suitably dimensioned to ensure safe vehicular access and appropriate residential densification takes place for the subject land unit to be aligned with the existing residential density of the land parcels in the surrounding area.
- The existing building has been existence for a number of years and is considered a law non-conforming land use right, should it conflict with any development parameters imposed in terms of either the Title Deed conditions or the Land Use Scheme.

**6.4 Need, Desirability and Demand**

- The proposed subdivision presents the opportunity to provide two land units to accommodate existing building infrastructure on separate erven.
- Erf 1944 Pearly Beach was consolidated in the past and with the subdivision it is proposed to recreate the boundaries on the subdivided portions as it was originally planned for. Therefore, it should be noted that service provision was included for the additional land parcel before it has been consolidated.
- The creation of two land units will enable the erven to be separately owned and therefore promotes the desirable concepts of ownership and security of title with its accompanying benefits.
- With the proposed land units situated within an already well-established residential area, it will achieve the desired form of urban densification.

**6.5 Optimising the Potential of the Land and Opportunity**

- The proposed subdivision will enable the proposed new land units to be utilised to their full potential and ensure the optimal utilisation of the existing services and infrastructure.
- The proposed subdivision will result in a more desirable compact residential area within the urban edge and thus limiting urban sprawl beyond the urban edge.
- The application proposal provides for an improved use of existing resources, infrastructure and facilities. The subdivisional proposal promotes diversity in residential opportunities in the area by providing for smaller land units at an appropriate location.

*Subdivision of Erf 1944 Pearly Beach*

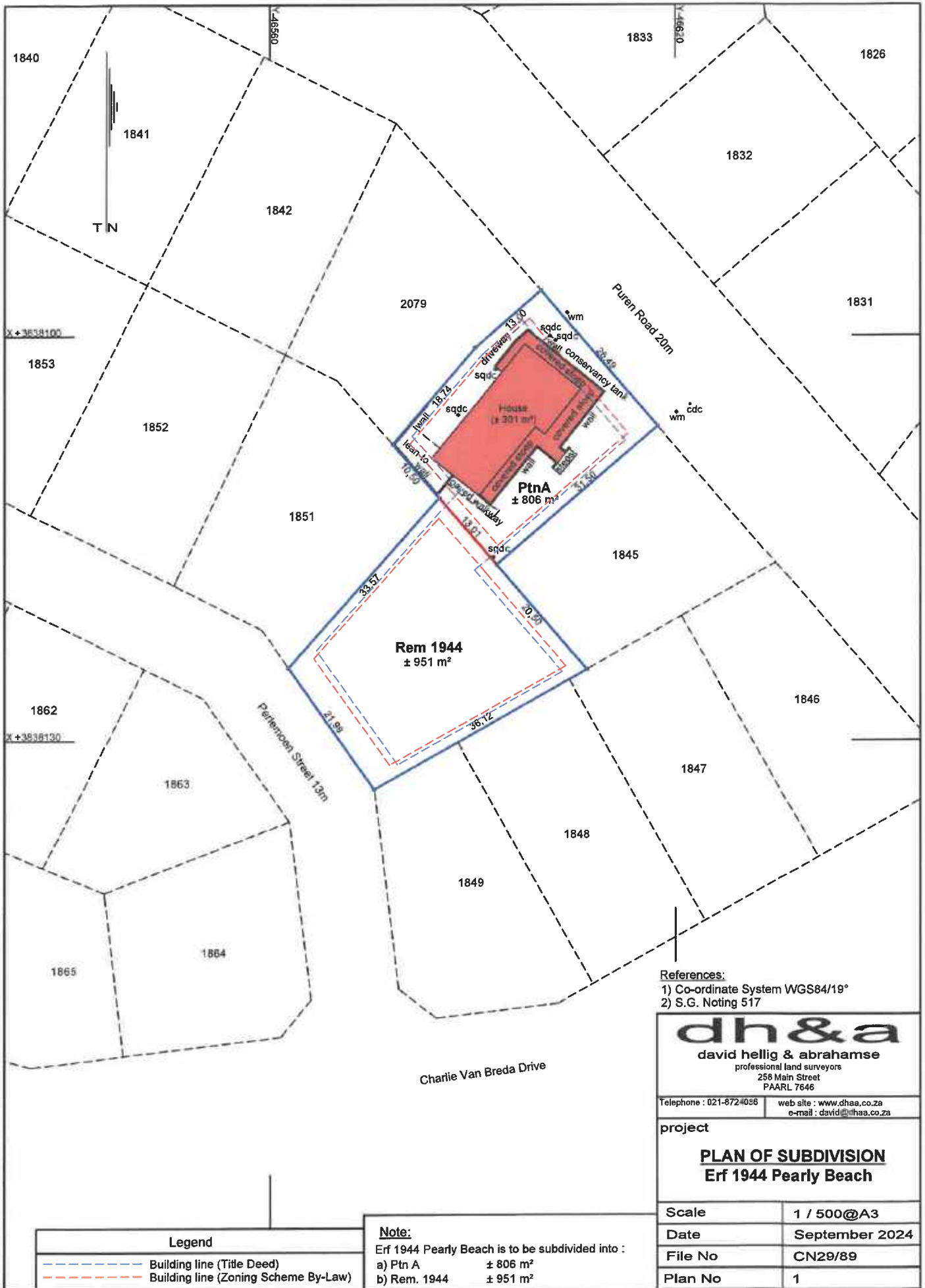
*Ref: CN 29/89(24)*

DAVID HELLIG AND ABRAHAMSE



**PER: HUGO SLABBER**

**01-11-2024**



- References:  
 1) Co-ordinate System WGS84/19°  
 2) S.G. Noting 517

**dh&a**  
 david hellig & abrahamse  
 professional land surveyors  
 258 Main Street  
 PAARL 7646

Telephone : 021-6724086    web site : www.dhaa.co.za  
 e-mail : david@dhaa.co.za

project  
**PLAN OF SUBDIVISION**  
**Erf 1944 Pearly Beach**

Scale	1 / 500@A3
Date	September 2024
File No	CN29/89
Plan No	1

Legend	
	Building line (Title Deed)
	Building line (Zoning Scheme By-Law)

**Note:**  
 Erf 1944 Pearly Beach is to be subdivided into :  
 a) Pt n A                    ± 806 m<sup>2</sup>  
 b) Rem. 1944                ± 951 m<sup>2</sup>

15 JAN 2025

**Alida Conradie**

1944 GPB

**From:** MARIAN MATTHEE  
**Sent:** Tuesday, 14 January 2025 12:09  
**To:** Alida Conradie  
**Cc:** Marlize Miller  
**Subject:** Fwd: ONDERVERDELING VAN ERF 194424 PUREN WEG PEARLY BEACH

TP-A Theart  
(S vld merke)

----- Forwarded message -----

**From:** MARIAN MATTHEE  
**Date:** Mon, Jan 13, 2025 at 3:48 PM  
**Subject:** ONDERVERDELING VAN ERF 194424 PUREN WEG PEARLY BEACH  
**To:** Alida Calitz <alida@overstrand.gov.za>  
**Cc:** <mmiller@overstrand.gov.za>

Geagte Alida

As eienaar van erf 2079, nommer 22 Purenweg, staan ek hierdie onderverdeling tee. Toe ons hierdie eiendom omtrent 10 jaar terug gekoop het, het ons geweet dat daar nie agter erf 1944 gebou gaan word nie en dus is die gastehuis se uitleg beplan rondom hierdie see uitsig vir ons gaste, sowel as walvis kyk gedurende seisoen. Hierdie see uitsig is ook sigbaar vanaf die hoofslaapkamer uit Buhr se huis.

Hierdie onderverdeling gaan dus ons enigste see uitsig wegneem.

Bevestig asseblief ontvangs van hierdie epos.

Die Uwe

Marian Matthee

<b>FILE NO.</b> Erf 1944
GPB
<b>SCAN NO.</b>
<b>COLLABORATOR NO.</b>
2588169

# David Hellig and Abrahamse

**Land Surveyors • Landmeters**

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e-mail : [david@dhaa.co.za](mailto:david@dhaa.co.za)

Our Ref: CN29/89(24)  
Your Ref: Application No 4839/2024

03 February 2025

The Municipal Manager  
Overstrand Municipality  
P O Box 20  
HERMANUS  
7200

**Attention: Ms Alida Conradie**

Dear Alida

## MEMORANDUM OF RESPONSE TO OBJECTION

### APPLICATION IN TERMS OF THE OVERSTRAND MUNICIPAL LAND USE PLANNING BY-LAW, 2020: PROPOSED SUBDIVISION OF ERF 1944 PEARLY BEACH

Your e-mail dated 28-01-2025, attaching the objection received from adjoining landowner Ms Marian Mathee on 13-01-2025, refers.

The objection does not challenge the merits of the subdivisional proposal and is strictly limited to the alleged adverse impact of future dwellings to be constructed on the vacant portion of Erf 1944 Pearly Beach abutting Perlemoen Street, resulting from the proposed subdivision, on the current sea views enjoyed by the objector and the patrons of the guest house establishment.

The objector is the registered landowner of Erf 2079 Pearly Beach which is situated to the north east of the existing dwelling unit constructed on Erf 1944 Pearly Beach and fronts onto Puren Avenue, as indicated in the below extracts of the plans included in the land use planning application, photograph of the street façade and Google Earth image :



Photograph of the street view : The objector's residence / guest establishment is to the right of existing double storey dwelling constructed on the subject land unit, noting that the multi-storey residential building is constructed on Erf 1851 Pearly Beach which already obstructs the sea views from the building in a south-westerly direction.



From the above images, it is evident that the sea view to which the objector makes reference to, is from the windows and deck structure situated on the south-eastern façade of the building through a narrow corridor between the existing dwelling units constructed on Erven 1851 and 1944 Pearly

Beach in a southerly direction as indicated by the orientation lines marked in yellow on the above figures, which are limited and only affects the view from one side of the house.

The subject land unit is zoned for Residential Zone I : Single Residential purposes in terms of the current applicable Overstrand Municipality Land Use Scheme, 2020, noting that the construction of a second dwelling, albeit limited to a floor area of 120 square metres, is already permissible as primary right in terms of the development parameters prescribed therein. The applicant could therefore by right build a second dwelling on the undeveloped and vacant portion of land which would already interfere with neighbours views of the ocean without the need to obtain any land use planning approvals or to engage with adjoining landowners.

The terrain also slopes steeply from Puren Street to Perlemoen Street and all residences accessed from Puren Street would more than likely overlook any potential residential development on the lower undeveloped portion of Erf 1944 Pearly Beach.

It is also important to point out the legal premise that the privilege of sea views enjoyed by a particular landowner is considered to be incidental to land ownership but is not considered an inherent right of ownership, especially in the context of the numerous planning considerations motivated in the land use planning application in support of the subdivision, which are not challenged by the objector, and bolstered by the fact that applicant could already construct a second dwelling on the land unit as a primary development right.

For the reasons set out in this Memorandum of Response, I hereby request that the objection be overruled and the application, as submitted, be approved by your Municipality.

Please acknowledge receipt in writing of this letter.

I look forward to hearing from you.

Yours sincerely  
DAVID HELLIG AND ABRAHAMSE



PER : S G DREYER

**COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR:  
APPLICATION FOR SUBDIVISION: ERF 1944, PEARLY BEACH (4839/2024)**

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

**Conditions:**

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

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

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

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

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

The contribution according to the current policy (**2024/2025**) is as follows:

**Freehold erven:**

Water	R 27 598.00 x 1	=	R 27 598.00
Sewerage	R 19 725.00 x 1	=	R 19 725.00
Roads	R 8 845.00 x 1	=	R 8 845.00
Stormwater	R 10 205.00 x 1	=	R 10 205.00
Solid Waste	R 1 769.00 x 1	=	R 1 769.00
Electricity	R 39 247.00 x 1	=	<u>R 39 247.00</u>
<b>TOTAL (inclusive of VAT)</b>		<b>=</b>	<b>R107 389.00</b>

**Please note that the above figures:**

- a) are estimates
- b) do not include investigation and connection fees
- c) are subject to annual tariff adjustments

2. that the existing water connection to Erf 1944 shall be used to service the proposed Portion A or the Remainder of Erf 1944;

3. that any part of the existing water and sewer services on Erf 1944 that crosses the common boundary of Portion A and the Remainder of Erf 1944 shall be disconnected and sealed off;
4. that both the Remainder and Portion A of must be serviced with individual and separate water connections which must comply with the standards of the Division: Civil Engineering Services;
5. that the proposed Portion A and Remainder of Erf 1944 must each be serviced with individual and separate sewer conservancy tanks, which must comply with the standards of the Division: Civil Engineering Services, and to which the sewer services of the individual erven must connect to;
6. that only a standard 60 Amp single phase electricity connection will be available per erf;
7. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
8. that on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Division: Civil Engineering Services;
9. that any additional and / or extended vehicle entrances will be for the owner's account;
10. that no reservation of on-street parking be allowed.
11. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;
12. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if required.



**RICARDO ANDREW**  
**PRINCIPAL TECHNOLOGIST:**  
**DEVELOPMENT CONTROL**

05/12/2024  
DATE