

4.2

**ERF 333, 9 ARCADIA STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE CONDITIONS AND REZONING:
MESSRS WRAP PROJECT OFFICE ON BEHALF OF AR WHITE****333 GPB (4904/2025)****SW van der Merwe****12 November 2025****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application, in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), has been received on 19 February 2025 from Messrs WRAP Project Office on behalf of AR White, owner of Erf 333, Pearly Beach for the following:

- ❖ **Removal of restrictive title deed conditions** in terms of Section 16(2)(f) of the By-Law for removal of conditions C.4(b), C.4(c) and C.4(d) contained in Title Deed T55455/2024 to accommodate retail shops, and
- ❖ **Rezoning** in terms of Section 16(2)(a) of the By-Law from Business Zone 4: Services Station Zone (B4) to Business Zone 3: Local Business (B3) to accommodate retail shops.

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, the proposed Zoning Plan is attached as Annexure C. The title deed is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 333, Pearly Beach measures 1368m² in extent and is zoned Business Zone 4: Service Station Zone. The property is currently vacant. The property is surrounded by a mixture of business and residential properties. Fuel Street, a gravel road, is incorrectly constructed and currently traverse the property.

The property forms part of a planned business node in Pearly Beach that originates from township establishment. Despite the existing zoning forward planning documents indicate the property adjacent a Local Business Node (N2).

In terms of the title deed the following restrictions are applicable to the property:

“C.4(b) It shall be used for the purpose of erecting thereon a garage and/or service station;

C.4(c) Not more than two-thirds of the area thereof shall be built upon;

C.4(d) No building or structure or any portion thereof except boundary walls, fences, verandahs and balconies shall be erected nearer than 2,36 meters of the street line which forms a boundary of this erf.”

The property owner acquired the property during 2024 with a view to develop retail shops. Application is therefore made for removal of restrictive title deed conditions C.4(b), C.4(c) and C.4(d) applicable to the title deed of Erf 333, Pearly Beach as well as rezoning from Business Zone 4: Service Station Zone to Business Zone 3: Local Business to develop retail shops.

4. SUMMARY OF APPLICANT'S MOTIVATION

THE MOTIVATION CAN BE SUMMARIZED AS FOLLOWS:

- ❖ Property is located within one of the demarcated retail nodes (N2), thus rezoning is in line with future proposals in terms of the SDF.
- ❖ Property already zoned for business use, thus the proposed rezoning is not out of keeping with the character of the area.
- ❖ Proposal to provide well aligned development opportunity that supports the areas growth, i.e. retail shops serving the local community.
- ❖ Proposal aligns with vision for balanced economic development focussing on retail uses that cater to the needs of residents and visitors alike.
- ❖ Proposal provides valuable space for retail goods and services whilst also contributing to job creation and economic growth.
- ❖ Proposal will adhere to the development parameters applicable to Business Zone 3.
- ❖ Municipal services are available and is not anticipated that the proposal will impact existing services.
- ❖ Business properties contribute to stimulation of economic growth, i.e. job opportunities contributing to local economy, increased property value, more investment, rates and taxes.
- ❖ Proposal is consistent with the character of the area.
- ❖ Proposal not predicted to negatively impact the safety and well-being of the surrounding community.
- ❖ The development will not impact heritage resources.
- ❖ Property is situated within an established urban area thus the proposal will not negatively impact the biophysical environment.
- ❖ The proposal is not foreseen to have a significant traffic impact due to the nature of the area.
- ❖ Property is currently vacant, this will have an impact upon views, sunlight and area character, but it is not considered to be significant.
- ❖ Proposal will add economic value.
- ❖ Proposal not considered to adversely affect the surrounding area.
- ❖ Proposal does not trigger NEMA.
- ❖ Property is not situated within the HPOZ or EMOZ.
- ❖ Consistent with the SDF, PSDF, Overstrand Municipal Growth Management Strategy.
- ❖ Proposal is consistent with planning principles in terms of LUPA and SPLUMA.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	14 March 2025	17 April 2025
Gazette	Yes	14 March 2025	17 April 2025
Notices (<i>possibly affected property owners</i>)	Yes	12 March 2025	17 April 2025
Notices (<i>persons mentioned in title deed</i>)	Yes	12 March 2025	17 April 2025
Internal Departments	Yes	14 March 2025	17 April 2025
Ward councillor	Yes	14 March 2025	17 April 2025
Total comments	Six (6) letters of objections		
Total letters of support	None		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly?			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			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?			Yes

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

Name	Date received	Summary of comments
Fire Services	18/03/2025	No objection, subject to compliance with the provisions of SANS 10400-T:2024 and the By-law relating to fire safety.
Building Control	18/03/2025	No objection.
Waste Management	19/03/2025	No objection.
Development Control	17/04/2025	Attached as Annexure G.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The application was duly advertised in the local newspaper and the Provincial Gazette. Notices were e-mailed to surrounding residents in the area and the

applicant's consultant also placed on-site notice board during the public participation period.

Four letters of objection and one letter of support, subject to conditions were received. One late objection was also received after the closing date for comment. See list below:

- ✚ E du Plessis
- ✚ A la Marque (HT Kriel Trust)
- ✚ M Boltman
- ✚ P Reyneke
- ✚ Pearly Beach Conservation (*letter of support, subject to conditions*)
- ✚ JE McLean (*late objection*)

The objections, applicant's response and Municipal Town Planner's response can be summarized as follows (the objection letters are attached as Annexure E and the applicant's response as Annexure F):

POINT OF OBJECTION

Zoning and land use compatibility in the residential area.

RESPONSE FROM APPLICANT

Concerns are raised regarding the land use compatibility of the proposal in the established residential area. The following response is provided:

The subject property, Erf 333 Pearly Beach, is currently zoned as Business Zone 4: Service Station, which already permits the development of a service station, an intensive and potentially more disruptive land use. The proposed rezoning to Business Zone 3: Local Business seeks to enable development of small-scale retail shops that are more aligned with the surrounding character and less intrusive than a service station.

Moreover, the property is located within Local Retail Node 2 (N2) as identified in the Overstrand Municipal Spatial Development Framework (OMSDF), which explicitly supports retail uses in this area. The intention is to provide convenient, small-scale commercial services that benefit the local community without compromising the area's character or tranquillity.

The development will comply with the applicable building height and setback requirements to ensure compatibility with neighbouring properties and will not exceed two storeys, which is in line with residential building parameters in the area.

While the original township layout delineated centralized areas for business activity, subsequent strategic frameworks such as the OMSDF (2020) and the Overstrand Municipal Growth Management Strategy (OMGMS) have evolved to respond to current spatial and economic trends. Erf 333 is identified in these frameworks as a commercial site.

The proposal is not a deviation from the intended character of the area but rather a refinement of the type of commercial activity permitted.

With regard to the previous restaurant use on an adjacent property, it is important to note that business viability is influenced by various factors. This is not necessarily indicative of the demand or suitability of the area for business uses in general.

The proposal seeks to ensure that Erf 333, Pearly Beach is developed in a manner that is economically viable, spatially aligned with municipal planning policies, and compatible with the surrounding environment. The objections have been considered and addressed respectfully, and the application has been motivated accordingly.

RESPONSE FROM TOWN PLANNER

The applicant's comment is noted and agreed with.

POINT OF OBJECTION

On-site parking

RESPONSE FROM APPLICANT

While we take cognisance of the concerns raised regarding the availability and adequacy of on-site parking associated with the proposed rezoning of Erf 333, Pearly Beach. The following clarifies the approach to parking provision and the rationale behind the development framework:

The Overstrand Municipality Land Use Scheme (OMLUS) stipulates that all properties zoned Business Zone 3 must provide a minimum of four parking bays per 100m² of Gross Leasable Area (GLA). This standard will be adhered to at the site development plan (SDP) / building plan approval stage. No development will proceed without municipal approval of on-site parking that complies with these requirements. It is therefore a regulatory requirement that sufficient parking must be accommodated within the boundaries of the erf.

One of the objections raised the concern that removing the title deed restriction (limiting coverage to two-thirds of the site) may exacerbate parking problems. On the contrary, removal of the restrictive title deed conditions allows more flexible site layout options, enabling an optimized balance between building footprint and on-site parking provision. Retaining outdated coverage limitations could hinder the ability to design a layout that meets both building and parking requirements effectively.

The current zoning of Business Zone 4: Service Station also allows high site coverage and typically generates more vehicular traffic and parking demand. The proposed shift to retail shops is expected to result in lower parking demand than a service station and will include a well-integrated parking layout as part of the design process. The layout of the buildings will be guided by the need to maximize on-site parking.

As part of the building plan submission process, vehicle access, turning circles, and pedestrian movement will be addressed on a detailed site development plan in consultation with the relevant municipal departments. The final development design will also take into consideration pedestrian movement along Arcadia Road.

RESPONSE FROM TOWN PLANNER

The applicant's comment is concurred with.

POINT OF OBJECTION

Additional shops in the area.

RESPONSE FROM APPLICANT

Concerns are raised regarding the number of already existing shops in Pearly Beach and the potential oversupply or redundancy of additional retail space. The following response aims to provide context, planning justification, and clarity on the intent of the proposal:

Erf 333, Pearly Beach is located within a designated Local Retail Node (N2) as defined in the Overstrand Municipal Spatial Development Framework (OMSDF, 2020). The OMSDF identifies specific nodes in Pearly Beach where localised, small-scale retail activity is not only supported but encouraged, in order to create walkable, mixed-use neighbourhoods that reduce dependence on travel to more distant centres such as Gansbaai or Stanford. The proposed rezoning aligns precisely with this policy. It is not a deviation from the broader development vision, but rather a refinement of the type of commercial use already anticipated for this erf.

While concerns are raised that there are "enough" shops, the viability of a new shop is a market-driven consideration, not one determined by the land use process. The property owner has conducted preliminary market research and is confident that a small-scale retail development, targeted at local needs, may succeed where more intensive business uses may not.

Furthermore, providing retail in walkable proximity to homes supports aging in place, social inclusion, and convenience, especially for residents without private transport. The proposal enhances local access rather than competing with centralized commercial areas.

It is important to clarify that the property is already zoned for business purposes (Business Zone 4: Service Station). The application seeks to change the type of business activity permitted, not to introduce a new or expanded business area. In fact, the shift from a service station to local retail reduces the intensity and external impacts commonly associated with service stations (for example, fuel delivery, 24-hour operations, and noise).

Pearly Beach, like many coastal towns, is experiencing measured residential growth, and land use frameworks are designed to respond proactively to changing demographic and socio-economic needs. The proposal for low-impact, appropriately scaled shops is part of a broader approach to ensure that as the town grows, essential goods and services remain accessible to all residents, current and future, without compromising the character of Pearly Beach.

Rather than being detrimental, small-scale retail offerings may foster local employment, entrepreneurship, and economic resilience, particularly in a remote

settlement where dependence on other towns for daily needs can be inconvenient or exclusionary.

RESPONSE FROM TOWN PLANNER

The applicant's comment is concurred with. It should further be noted that Pearly Beach is under supplied as far as a range of commercial activities are concerned. The main business node at the entrance is developed with only a shop and take-away, restaurants and a shop at Pearly Beach Resort and an Estate Agents office. The proposed retail shopping development will enable provision of a range of retail facilities current only available in Franskraal or Gansbaai such as shops, hairdresser, laundrette, doctor / professional practice, accountancy offices etc as example.

POINT OF OBJECTION

Noise and lights

RESPONSE FROM APPLICANT

The objection raises concerns regarding potential noise and light pollution arising from the proposed development, especially given its proximity to residential properties. The following response is provided:

Noise

The proposed rezoning presents a downgrade in land use intensity. A service station, which is currently permitted, typically operates for extended hours, with higher traffic volumes, lighting, and noise levels due to fuel deliveries, mechanical repairs, and vehicle activity.

In contrast, retail shops under Business Zone 3 are more passive in nature, typically operating only during normal business hours and generally not associated with excessive noise or lighting.

While all urban development generates some level of activity, the design and management of the future development will prioritise minimising disturbance to surrounding residents. At building plan stage, further conditions may be imposed by the municipality to mitigate potential disturbances.

Lights

The concerns about light and noise pollution are noted; however, it is important to highlight that no detailed layout or building plans have yet been submitted. This application seeks to establish land use rights only. The proposed rezoning reflects a lower-impact use than the current zoning, and concerns related to light and noise, will be proactively managed through design, planning conditions, and municipal oversight. The applicant commits to implementing best-practice measures to respect the residential character of Pearly Beach and will seek to balance development with community well-being.

RESPONSE FROM TOWN PLANNER

The applicant's comment is concurred with.

POINT OF OBJECTION

Traffic and infrastructure impact.

RESPONSE FROM APPLICANT

Concerns have been raised regarding the potential impact of the proposed retail development on local traffic, pedestrian safety, and infrastructure durability, particularly at the intersection of Arcadia- and Charlie van Breda Streets. In response, the following clarification is provided:

This application relates only to the change in zoning and removal of restrictive title deed conditions. No building plans or access layouts have been approved or submitted. All details related to traffic flow, parking design, pedestrian access, and servicing will be reviewed and assessed at the building plan and / or site development plan (SDP) stage, where additional conditions can be imposed if necessary.

Concerns regarding the deterioration of road surfaces due to increased traffic are noted. The scale of the proposed retail use is small and localised, aimed at servicing nearby residents. As such, it is not expected to generate traffic volumes that would significantly degrade the road surface. While the proposed use of the property will introduce some additional traffic, it will be of a lesser intensity than what is already permitted under the current zoning.

RESPONSE FROM TOWN PLANNER

The applicant's comment is concurred with.

POINT OF OBJECTION

Environmental and Biodiversity impact

RESPONSE FROM APPLICANT

Concerns are raised relating to the potential environmental impacts of the proposed development, particularly in the context of Pearly Beach's natural character and proximity to green public open spaces. In response, the following clarification is provided:

Erf 333 is a vacant site within the established urban footprint of Pearly Beach. It is not located within any Environmental Management Overlay Zone (EMOZ), nor does it fall within a listed critical biodiversity area or formally protected habitat. The proposed rezoning does not introduce any greater environmental threat than what is already permissible under the existing zoning.

The property owner fully supports measures to prevent the use of alien invasive plants and is committed to responsible, sustainable landscaping.

The suggestion to rezone the property as a “green” property to allow for a public park to preserve the town’s ambience is noted. However, the property has historically been zoned for business use and the property forms part of a designated Local Retail Node (N2) and has not been identified or reserved as public open space in any municipal planning policy or environmental strategy.

By allowing well-managed infill development within the existing urban edge, the municipality supports efficient land use and helps limit urban sprawl into ecologically sensitive areas. Erf 333 is a suitable site for low-impact, neighbourhood-serving development that complements the built environment.

RESPONSE FROM TOWN PLANNER

The applicant’s comment is concurred with.

POINT OF OBJECTION

Bottle store

RESPONSE FROM APPLICANT

A concern is raised relating to the establishment of a bottle store on Erf 333, along with the associated concerns regarding crime, litter, and anti-social behaviour. This concern is noted; however, it is important to clarify the facts in relation to this application.

A bottle store is not proposed or permitted under this application. Under the Overstrand Municipality Land Use Scheme (OMLUS), a bottle store is not a primary use right within Business Zone 3. It is available as a consent use, which means it cannot be established without a separate, formal land use application, including full public participation and municipal approval thereof.

At present, no such application for a bottle store has been submitted, nor is one being contemplated by the property owner. The objection appears to be based on a hypothetical scenario that does not reflect the intent or content of the current application.

There are no plans to operate a bottle store on the subject property, and therefore the concerns raised are not relevant to the land use rights currently being applied for.

RESPONSE FROM TOWN PLANNER

The applicant’s comment is concurred with.

8. SUMMARY OF APPLICANT’S REPLY TO COMMENTS

Refer to paragraph 7 above.

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

Refer to paragraph 7 above.

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 proposal for business will enhance economic growth, provide employment and will not add or further perpetuate apartheid spatial imbalances.

Spatial sustainability

Spatial sustainability relates to planning proposals that results in communities that are viable. The proposal will not impact on agricultural land or the natural environment, whilst ensuring optimal use of the property and ensure optimal use of the property within existing service capacities.

Efficiency

The proposal will maximise the use of the property to its full potential, ensuring optimal and efficient utilisation of the property.

Spatial Resilience

The proposal is not in conflict with spatial planning or other municipal regulations which adheres to the principle of spatial resilience.

Good administration

The application followed the required planning procedures to ensure that land use activity is in line with municipal By-Laws and the public 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 proposed development is consistent with the SDF and OMGMS that earmarks the area for urban development purposes and densification purposes. The application property is a commercial erf, which rights originate from Township Establishment allowing uses of motor repair garage and / or service station. In terms of the SDF, the proposals map indicates the property directly adjacent to a local business node and economic opportunity. Given its primary rights to conduct higher impact business, the proposal is considered consistent with the vision of the area pertaining to proposals for the development and enhancement of Node 2 in Pearly Beach.

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 will not be impacted by the proposal and is supported by the municipal engineering services department.

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

The proposed development does not trigger the provisions of NEMA or Section 38 of the National Heritage Resources Act.

10.8 Existing and proposed zoning comparisons and considerations

The existing Business Zone 4 : Service Station Zoning proposal in accordance with the title deed will permit development of a service station which in terms of the Overstrand Land Use Scheme is defined as follows:

“service station means a property for the retail supply of fuel and includes trading in motor vehicles, oil, tyres or motor spares, general motor repairs to motor vehicles, exhaust fitment, washing of vehicles, and a shop of which the floor area does not exceed 50% of the total floor space of all buildings on the land unit but does not include spray painting, panel beating, black smithery or body work”.

The title deed and current zoning therefore permit a garage / service station / vehicle repairs / car showroom / shop as a right.

The proposed rezoning from Business Zone 4 to Business Zone 3: Local Business will temper the current primary rights to predominant retail rights with a lesser impact with primary rights being, shops, offices, restaurants with residential above.

10.9 ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

The title deed T55455/2024 applicable to property contains the following restrictions proposed for removal namely:

“C.4(b) It shall be used for the purpose of erecting thereon a garage and/or service station;

C.4(c) Not more than two-thirds of the area thereof shall be built upon;

C.4(d) No building or structure or any portion thereof except boundary walls, fences, verandas and balconies shall be erected nearer than 2,36 meters of the street line which forms a boundary of this erf.”

In terms of Section 39 (5) of LUPA the application for removal is motivated as follows:

The financial or other value of the rights

No person or entity will be affected financially by the removal of these restrictive conditions.

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

The restrictive conditions were imposed by the Administrator. No person is personally benefitting as the condition is only restricting the owner.

The owner will be gaining from the removal of the restrictive condition as it will facilitate the rezoning enabling the owner to create / operate a retail business premises.

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

There will be no social benefit for the retention or removal of the restrictive conditions.

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

The no subdivision clause will remain.

11. THE DESIRABILITY OF THE PROPOSAL

The application property is zoned for Business Zone 4: Service Station purposes. In accordance with the zoning and title deed the primary rights permits the following by means of a building plan submission, namely: retail supply of fuel, trading in motor vehicles, oil, tyres or motor spares, general motor repairs to motor vehicles, exhausted fitment, washing of vehicles and a shop of which the floor area does not exceed 50% of the total floor space of all buildings on the land unit.

The proposed rezoning from Business Zone 4: Service Station Zone to Business Zone 3: Local Business Zone will permit development of retail shops. Primary uses are shops, dwelling unit and flats above ground floor, offices, restaurant, caretaker's accommodation and self-catering.

The proposed Business Zone 3 zoning is considered a lessor impact zoning in terms of permitted uses compared to the primary rights in terms of the current zoning which is more likely to be a source of nuisance, disturbance and traffic impact, open for extended hours, compared to the more restrictive uses of the proposed zoning, namely shops, offices, restaurants and residential above ground.

Both the Growth Management Strategy as well as the SDF indicate the subject property sitting abutting an Local Business Node and not within as motivated by the applicant. Given the current zoning that already permits higher impact business on the property the property is considered to be located within a business node,

therefore the proposal is considered consistent with the Growth Management Strategy and SDF. The proposal is not considered out of keeping with the character of the business node.

Currently Pearly Beach has a business node at the entrance of town, which largely remains under developed. Commercial activity in this node comprises a small shop / take away, brewery restaurant as well as a restaurant at the Pearly Beach Hengelklub. There are no other retail services found on commercial erven in Pearly Beach.

The property size of 1368m² with roads on three sides make it ideal for development purposes. Development will have to demonstrate compliance with the land use scheme parameters.

The proposal is supported by the relevant internal municipal departments. No objection is raised from a municipal services point of view, subject to conditions.

The objections to the proposed rezoning are noted. Fact of the matter is the property comprises a developable erf, with vested development rights for business i.e. a service station. Should the objectors require the erf to be preserved as an open space, they are welcome to buy the property and submit an application to a more restrictive private open space / conservation zoning.

Given the development rights attached to the property the main question to consider is whether the proposed rezoning will adversely impact vested rights of properties in the area to a greater extent than compared to the current permitted rights.

Refer to the summary in the table below:

Zoning comparison	Business Zone 3	Business Zone 4
Primary rights	Shops, dwelling unit (above ground floor) in accordance with 6.3.2, flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering	Service station and caretaker's accommodation
Floor factor	1,5	1
Maximum coverage	75%	75%
Setback from centreline of abutting public street	at least 6,5m	at least 8m
Height	8,5m	8,5m from baselevel
Storeys	Two storeys	No limit (subject to compliance with floor factor)
Street building line	0	5
Side building line	0	0
Rear building line	3	0

From the table it is clear that the current primary rights have potential to have a greater impact on residential properties in the vicinity in terms of traffic generation, hours of operation, type of uses, noise and disturbance.

The proposed rezoning will introduce primary rights with a lesser impact, such as shops, office or restaurant with residential on the upper floors. Hours of operation is likely to be shorter than a Business Zone 4 site, whilst the height under Business Zone 3 is restricted to two storeys. Thus, the proposed zoning development will have a lesser visual impact as the current zoning permits an 8,5m high building without a storey restriction, subject to compliance with the floor factor requirement.

Having had regard to the analysis above, although development will introduce a visual impact as the property is currently vacant, the proposal is not considered to have a greater impact considered against the primary rights of the current zoning.

Pearly Beach does not have a range of business services and facilities, i.e. hairdressers, doctors, laundromat, professional services all of which could be accommodated under the proposed zoning.

The proposal will contribute to employment opportunities, i.e. short-term during construction and longer term in the form of permanent employment. The business enterprise will have a positive impact on the local economy, especially since local job opportunities are scarce in the area.

The removal of restrictive title condition is considered a value add, to facilitate a less impact business / commercial opportunity at a scale compatible with the character of the area. It will enable development in accordance with the provisions of the scheme regulations.

A bottle store, which was a concern of one of the objectors, is not a primary right and does not form part of the proposal to establish retail shops on the property.

The objectors did not put forward any substantive reasons demonstrating how the development will impact on existing vested rights.

Having had regard to the evaluation above, the application is considered desirable.

12. RECOMMENDATION

1. that the objections / comments be noted;
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), for the **removal of restrictive title deed conditions** C.4(b), C.4(c) and C.4(d) as contained in title deed T55455/2024 applicable to Erf 333, Pearly Beach, **be approved**;
3. that the application in terms of Section 16(2)(a) of the By-Law for **rezoning** of Erf 333, Pearly Beach from Business Zone 4 (B4): Service Station to Business Zone 3: Local Business (B3), **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the approvals in paragraphs 2. and 3. above be subject to the following conditions:

- (a) 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;
 - (b) that all the conditions in the Services Report (attached as Annexure G), be complied with;
 - (c) that all other development parameters as prescribed in the relevant Zoning Scheme, and
 - (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
5. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 with regard to the above conditions of approval.

13. REASONS FOR RECOMMENDATION

Reasons for approval

- ❖ The application has followed due procedure.
- ❖ The development is consistent with the applicable strategic policy documents.
- ❖ The development is consistent with the planning principles.
- ❖ The development does not detract from the character of the surrounding area.
- ❖ The development does not unacceptably detract from the vested rights of adjoining property owners.

14. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed T55455/2024
Annexure E:	Objections and support letters received
Annexure F:	Response from applicant
Annexure G:	Services Report

SIGNATURE

REGISTERED PLANNER

Name: **SW VAN DER MERWE**

SACPLAN Reg No: **A/1850/2014**

Signature: _____

Date: _____

1. Locality Plan Erf 333 Pearly Beach

Plan prepared by: Veronica Jansen

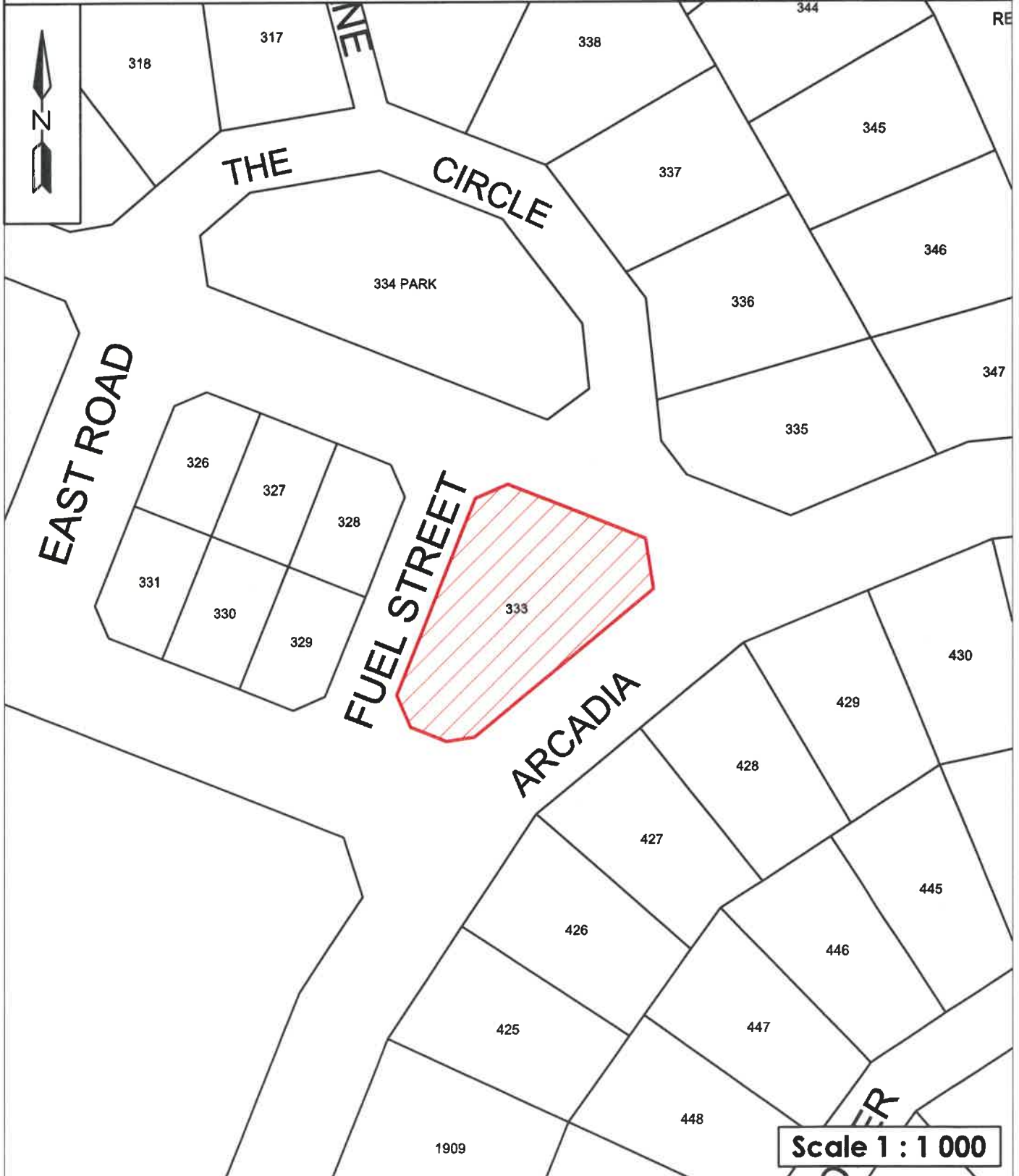
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Project Office
Town Planning & Project Management



Scale 1 : 1 000



MOTIVATION

1. ABBREVIATIONS

OM	Overstrand Municipality
OMLUS	Overstrand Municipality Land Use Scheme, 2020
BY-LAW	Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020
PSDF	Western Cape Provincial Spatial Development Framework, 2014
LUPA	Western Cape Land Use Planning Act, 2014.
OMSDF	Overstrand Municipality Spatial Development Framework, 2020
B3	Business Zone 3: Local Business
B4	Business Zone 4: Service Station
GLA	Gross Leasable Area

2. PROPERTY DETAILS

Erf Number	Erf 333 Pearly Beach
Extent	1 368m ²
Zoning	Business Zone 4: Service Station

3. BACKGROUND AND INTENT

The subject property, Erf 333 Pearly Beach, occupies a distinctive location, surrounded by streets in Pearly Beach with a mix of business- and residential properties. (refer to **Plan 1 - Locality Plan**). It is evident from **Plan 2 – Aerial Plan** and **Figure 1** below that Fuel Street has been incorrectly constructed over the subject property and is herewith brought to the attention of the Municipality.



Figure 1: Fuel Street constructed over the subject property



MOTIVATION

The owner bought the property recently with the intent to develop the vacant property with a centre consisting of small shops. Due to its favourable position, the property presents an excellent opportunity for rezoning as it is located within one of the demarcated Local Retail Nodes of Pearly Beach, namely Local Retail Node 2 (N2). Therefore, the proposed rezoning is in line with the future development proposals envisioned by the OMSDF. The owner appointed WRAP Project Office to submit the land use application on her behalf and subsequently provided their consent (refer to **Annexure A - Power of Attorney**).

To achieve the owner's intent, approval of two applications is required, which includes removal of restrictive title deed conditions that restricts the property from being used for the proposed business uses as mentioned above. The property is proposed to be rezoned to allow shops rather than the present zoning which allows a service station.

4. PROCEDURE TO ACHIEVE THE DEVELOPERS' INTENT

WRAP compiled this report to ensure the owner's vision is achieved. The following is proposed:

4.1 Removal of restrictive title deed conditions to accommodate the proposed rezoning.

There are three title deed conditions that prohibit the land use rights required for the proposal. The rationale for the removal of these conditions is discussed below:

Restrictive Title Deed Condition
Condition (C.)(4.)(b) – "It shall be used for the purpose of erecting thereon a garage and/or service station."

The abovementioned condition prohibits the approval of the proposal to rezone the property. It is important to note that the area in which the property is located has been identified as a Local Retail Node. Retail is defined as 'to sell in small quantities directly to the ultimate consumer', and 'the activity of selling goods to the public, usually in shops.' This condition is therefore not aligned with the future framework for the area and the rezoning is required to allow shops rather than a services station.

Restrictive Title Deed Condition
Condition (C.)(4.)(c) – "Not more than two – thirds of the area thereof shall be built upon."

Restrictive Title Deed Condition
Condition (C.)(4.)(d) – "No building or structure or any portion thereof except boundary walls, fences, verandahs and balconies shall be erected nearer than 2,36 metres of the street line which forms a boundary of this erf"

The owners will be using the property for the purposes of shops which is in line with the proposed zoning. The development parameters within the OMLUS allows a coverage of up to 75% and street building lines of 0 meters. Therefore, it is evident that the above title deed conditions are more restrictive than what will be allowed in the OMLUS. The



MOTIVATION

rationale for the removal of the restrictive title deed conditions is to enable the owner to achieve her intent highlighted in *Section 3* of this report. The reasoning for the removal of these restrictive title deed conditions will be discussed in detail in *Section 7* of this report.

4.2 Rezoning of Erf 333 Pearly Beach from Business Zone 4: Service Station to Business Zone 3: Local Business

The proposal is to rezone the property to a local business zone, which will permit the owner to develop shops. The primary use right of a Business Zone 3: Local Business zoning will allow the property to be developed as envisioned.

The development will comply with the applicable OMLUS development parameters of the proposed zoning, ensuring that the design and scale are in line with the character of the area.

The proposed use of the subject property can be classified as use for 'shop' which is defined by OMLUS as: *'...a property or part of a property used for the retail sale of goods, items and services to the public, including a retail concern where goods which are sold are manufactured and repaired, provided that the floor space relating to such manufacture or repair shall not exceed 50% of the floor space of the shop; it excludes an industry, service trade, motor repair garage, service station, adult entertainment business or sale of alcoholic beverages, and if such uses are included on the property, they shall be regarded as separate uses subject to such separate development parameters as may be determined by the Municipality.'*

Due to the property already being zoned for a business use and being in line with the future framework of the area, the proposed zoning is not out of character with the area. The proposal will offer a well-aligned development opportunity that supports the area's growth while maintaining consistency with the broader planning framework. The rezoning to B3 would allow for shops that would serve the local community, which is consistent with a Local Retail Node. The proposed zoning aligns with the OM's vision for balanced economic development, focusing on retail uses that cater to the needs of residents and visitors alike.

Additionally, the proposed shops will not only provide a valuable retail space for goods and services but also potentially contribute to local job creation and economic growth, benefiting the community of Pearly Beach. Given that the property is already zoned for a business use and is situated within the established Local Retail Node, the rezoning proposal is in harmony with the area's character and development framework.

5. LAND USE ENVIRONMENT

The surrounding area of the subject property may be considered as a mixed-use area as depicted in **Plan 3** (Status Quo Zoning Plan), showcasing various types of land uses coexisting within the area where the subject property is situated.

This indicates that the proposal for a B3 zoning within the area would align with the existing character, considering that the subject property is situated within the Pearly



MOTIVATION

Beach Local Retail Node as outlined in the OMSDF. For a detailed in-depth review of how the application aligns with regulating policies, refer to *Section 10* of this report.

6. TITLE DEED

6.1	<p><u>Title deed restriction</u> Condition (C.)(4.)(b) – <i>"It shall be used for the purpose of erecting thereon a garage and/or service station."</i></p>
	<p><u>Motivation</u></p> <p>The rationale for the proposed removal The subject property is vacant and recently acquired by our client. The property has seen a shift in owners' intent towards a scale and nature of use that exceeds the current zoning regulations applicable. The sought-after business use is incongruent with the existing condition, necessitating its removal.</p> <p>Title deed condition background The title deed condition was initially aimed to ensure that the property will only be used for a garage and/or service station.</p> <p>This title deed condition was formulated at the time when the Township of Pearly Beach was approved. The property was selected for a service station, but the needs of the community are changing over time, and the need of the current owner is for a different use of the property.</p> <p>Current development trend The once-relevant service station-only condition, conceived in 1989, now conflicts with the contemporary reality of Pearly Beach's dynamic blend of residential and commercial uses, rendering it outdated.</p>
6.2	<p><u>Title deed restriction</u> Condition (C.)(4.)(c) – <i>"Not more than two – thirds of the area thereof shall be built upon."</i></p>
	<p><u>Motivation</u></p> <p>The rationale for the proposed removal The condition stipulates that no more than two - thirds of the area of the property may be built upon. However, the zoning regulations outlined in the OMLUS permit a coverage of up to 75% for properties zoned as B3. Adherence to this condition would therefore impede any future development on the property that conforms to the zoning guidelines. Hence, the removal of this condition is imperative to enable future development in accordance with the permissible coverage set by the zoning regulations outlined in the OMLUS.</p> <p>Title deed condition background This title deed condition was inserted at the time of approving the Pearly Beach township. This condition was intended to protect the residential character of Pearly Beach by only allowing a garage or service station to be built on two-thirds of the subject property.</p>



MOTIVATION

6.3	<p>Title deed restriction Condition (C.)(4.)(d) – “No building or structure or any portion thereof except boundary walls, fences, verandahs and balconies shall be erected nearer than 2,36 metres of the street line which forms a boundary of this erf”</p>
	<p>Motivation The rationale for the proposed removal The subject property is proposed to be used for shops. The condition states that the area between the road boundary and the 2,36m building line may only be used for boundary walls, fences, verandas and balconies which does not align with the OMLUS development guidelines for B3 zoning and therefore, requires removal.</p> <p>The owner will be using the property for the purposes of shops which is in line with the proposed zoning. The development parameters within the OMLUS allows street building lines of 0 meters. Therefore, it is evident that the above title deed condition is more restrictive than what is allowed in the OMLUS. The area will therefore be built upon and not be considered a boundary wall, fence, veranda or balcony and the reason for the removal.</p> <p>Title deed condition background This title deed condition was inserted at the time of approving the Pearly Beach township. This condition was intended to protect the residential character of Pearly Beach by only allowing boundary walls, fences, verandas and balconies to be erected nearer than 2,36 meters of the street boundary of the subject property.</p>

In terms of the requirements of LUPA, the following is addressed in terms of Section 39(5)(a-f):

LUPA, Section 39(5) (a-f)	
<i>(a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;</i>	No person or entity will be affected financially by the removal of these restrictive title deed conditions.
<i>(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>	No person is personally benefitting from this condition as this condition is only restricting the owner.
<i>(c) the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended;</i>	The owner will be gaining from the removal of the restrictive conditions as it will allow her to rezone the property and operate a business premises on the property.
<i>(d) the social benefit of the restrictive condition remaining in place in its existing form;</i>	These restrictive conditions do not provide social benefits.

**MOTIVATION**

<i>(e) the social benefit of the removal, suspension or amendment of the restrictive condition; and</i>	
<i>(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.</i>	There is no specific beneficiary of these conditions, and no person or entity will be affected if this is removed.

7. ZONING

The property is zoned as Business Zone 4: Service Station and requires approval of a rezoning to be able to accommodate the development. The proposal requires the zoning to be Business Zone 3: Local Business. The following zoning parameters were therefore assessed in conjunction with the B3 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (a) of the OM By-Law:



MOTIVATION

BUSINESS ZONE 3: LOCAL BUSINESS (B3)		
Land Use Restrictions		
Parameters	Proposal	Comply/ deviate
Primary use	Shops	Applied for and motivated
Consent uses which may be applied for	n.a.	Comply
Coverage	The maximum coverage for all buildings on the land unit is 75% .	Comply
Floor Factor	The maximum floor factor is 1.5.	Comply
Height	<ul style="list-style-type: none"> i. The maximum height of a building, measured from the base level to the top of the structure, is 8,5 m. ii. The maximum number of storeys is 2. 	Comply
Setback	<ul style="list-style-type: none"> i. The Municipality 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, the Municipality may require a greater setback. 	Comply
Building Lines	<ul style="list-style-type: none"> i. The street building line is 0 m, provided that a 5,0 m building line applies where fuel pumps are erected; ii. The side building line is 0 m, provided that where any Business Zone 3 abuts another zone, the side building line is 3,0m; iii. The rear building line is 3,0 m, provided that where any Business Zone 3 abuts another zone, the rear building line is 3,0m; and 	Comply



MOTIVATION

	iv. Provided that the Municipality 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.		
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.</p> <p>ii. Any portion of the building which contains a door or window onto a side or rear boundary shall be at least 1,5 m away from such boundary.</p>	Noted.	Comply
Parking and access	<p>According to section 17.1 of the OMLUS:</p> <p>Four bays per 100m² GLA are required.</p> <p>Flats: 1,5 bays for a 1-bedroom flat</p>	Noted.	Comply
Loading Bays	The minimum off-street loading must be provided to the satisfaction of the Engineering Department.	Noted.	Comply



MOTIVATION

8. SERVICES

The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

8.1 Electricity, Water and Solid Waste

The subject property is connected to the existing networks in the area, which include electricity, water and sewage. The proposal of this application is not anticipated to impact on existing services.

8.2 Access, egress, and parking

Due to the property being vacant, vehicular access and egress to the subject property will be determined at the time of building plan submission.

9. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be illustrated as follow:

Need and desirability.

The need for the application arose from the vision of the owner to be able to unlock the maximum value of the property.

Socio-economic impact	<p>Business properties stimulate economic growth by generating employment opportunities. With the establishment of shops on the subject property, job opportunities are created, contributing to the local economy. The creation of new jobs enhances household incomes and boosts consumer spending, further driving economic growth and prosperity within the region.</p> <p>This increased economic activity leads to higher property values and attracts more investment and development, ultimately benefiting OM through higher property taxes and potentially increasing wealth for property owners.</p>
Compatibility with surrounding uses	The proposal is deemed to be consistent with the character of the surrounding area as illustrated in Plan 4 (Proposed Zoning Plan).
Impact on the external engineering services	<p>Refer to <i>Section 8</i> of this report.</p> <p>The Overstrand Municipality's Engineering Department will review the application to ensure that service capacities are adequate.</p>
Impact on safety, health and wellbeing of the surrounding community	It is not predicted that the proposal will have a negative effect on the safety, health, and well-being of the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.



MOTIVATION

Impact on the biophysical environment	The property is located within an established urban area and is therefore not predicted that the proposal will have an impact on the biophysical environment.
Traffic impacts, parking, access and other transport related considerations	The proposed use is not expected to have a large impact on traffic, as the expected traffic generation is not substantial due to the nature of the area.

Impact on views, sunlight and character of the area

As the property is vacant, it is expected that development of the property will have an impact on views, sunlight and character of the area, but the impact will not be significant. The height restriction is two storeys, which is the same for residential properties in the immediate surrounding area. The owner will take great care during the design process to not significantly impact on the views, sunlight and character of the area.

Economic impact

The vacant subject property, currently, has no economic impact on the surrounding area, but the proposed development would allow the subject property to add economic value.

The proposed development will provide several employment opportunities. The proposed development of the subject property will stimulate further economic growth to occur within the surrounding area and ensure economic contribution to Pearly Beach.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or forgoing valued land use rights of interested and affected parties when an application is approved. The proposed use of the subject property is not predicted to adversely affect the surrounding area as the use proposed is not a use that emanates a lot of noise or any noxious trades.

Environmental impact

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

10. POLICIES AND REGULATIONS

10.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The property is not located within the EMOZ.

10.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The property is located not located within the HPOZ.

10.3 Spatial Planning Policies

The consistency and inconsistency of this proposal with the applicable spatial development policies will herewith be illustrated. The spatial policies which are pertinent to the submitted proposal are the following:



MOTIVATION

PSDF

The PSDF is a product of a provincial inter-departmental and inter-governmental collaboration under the guidance of the inter-departmental steering committee in collaboration with the private sector, academia, and non-governmental organisations. This broad participatory process has created a shared spatial vision that is intended to inform spatial development patterns in urban and rural areas in the province.

Throughout the PSDF, economic development is a widespread term used and focussed on. Economic development is an aspect that is important to ensure the Provincial economy has a large impact on the National economy.

The continual growth of the Provincial economy means that economic activity should be stimulated in lower spheres of the government. This application to allow a business use is in line with the proposal to add value to the Pearly Beach area which in turn will have a positive impact on the Overstrand Municipality. The application relates to the development of economic activity which is in line with the PSDF.

Overstrand Municipal Growth Management Strategy, 2010 (OMGMS)

Although repealed, the Overstrand Municipal Growth Management Strategy is used as a guideline document to the municipality. The subject property is located in Planning Unit 3 of the OMGMS which is an area that consists of the current Pearly Beach built-up area. No further discussion is made under Planning Unit 3 regarding business facilities (OMGMS, 2010:92). According to the Local Spatial Development and Growth Management Principles, appropriate infill development of vacant portions of land already demarcated for urban development should be promoted. It is important to consider that the OMGMS was compiled during a period of slower growth, unlike the current situation. A review of the OMGMS and other spatial policies of the OM indicates that this shift in growth should be considered.

The owner has done market research and found it more viable to establish shops on the subject property. The proposal is found to be viable and will fit in seamlessly with the immediate surrounding area while still being a business-related use. This careful planning ensures that the development does not deviate from the established norms and maintains the character and cohesiveness of the Pearly Beach area. The proposal is not considered out of the ordinary and be aligned with the growth strategy of the OMGMS.

The subject property is situated within the development node according to Plan E & F of the OMGMS for Pearly Beach. The subject property is situated in the nodal development C area, further categorized within area C3. Area C nodal development is described as follows:

*"An urban design framework should be formulated for the potential node at the point of entry into Pearly Beach where limited densification could occur (C1).
Similarly, a design framework should be formulated for the potential node at the coastal edge. (C2)."*

It is evident from the above that area C3 is not elaborated on but for both C1 and C2 areas, a design framework was proposed, and it may be assumed that it would be similar for area C3. The subject property has been included in the development node as "retail areas" and the proposal is to still develop the property as a commercial property



MOTIVATION

proposed that will be used for retail, refer to **Figure 2** below. The property is, however, not proposed as a service station as per the current zone, but for the retail as earmarked which fits into the area as earmarked.

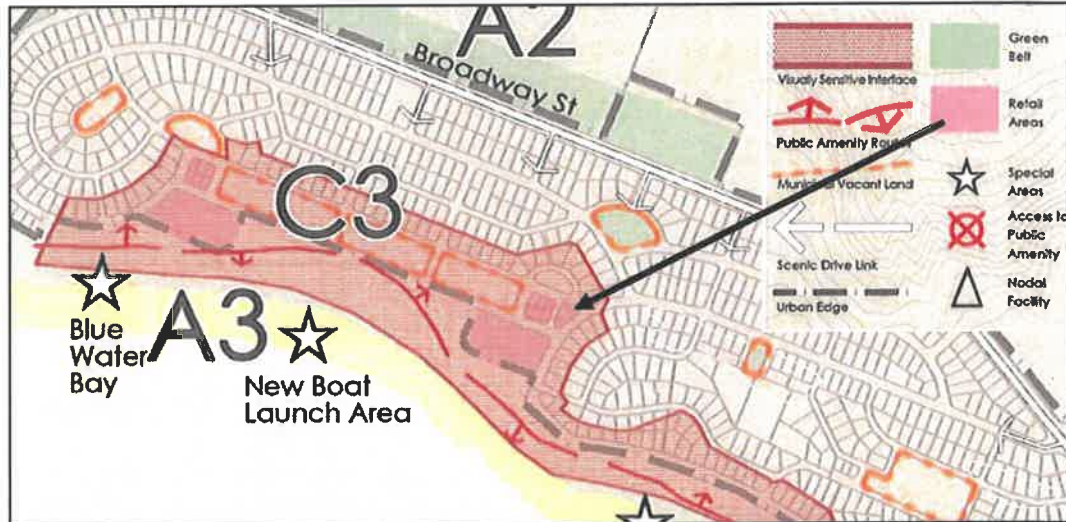


Figure 2: Nodal development C3 – Subject property earmarked as a retail area

MSDF

The MSDF's purpose is to ensure compliance with national, provincial and district legislation policies and principles. The MSDF aims to provide sufficient guidance regarding what constitutes appropriate spatial development land uses and direction within the urban edge. The MSDF was drafted after considering input from other state departments and the public and provides a shared spatial vision which the development proposal should ideally attempt to synchronise with.

To ensure compliance with the principles and objectives set out by the PSDF and the National Development Plan, the MSDF was synthesised through the influence of these policies and frameworks. Ensuring economic development take place in the OM would ensure sustainable growth of the municipal area.



MOTIVATION

From reviewing the OMGMS, it is evident that that the property was classified as a commercial property, although the MSDF outlines in *Plan 68*, the spatial proposal for Pearly Beach, that the subject property is proposed as a business zone, refer to **Figure 3** below. Therefore, the proposal to rezone the property to a different business zone is consistent with the MSDF proposal for Pearly Beach.

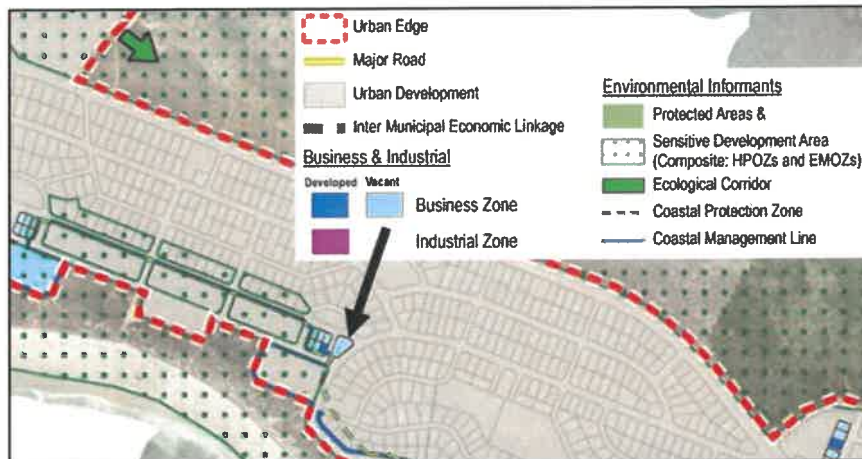


Figure 3: Pearly Beach Spatial Proposal 2020 – Plan 68 (MSDF 2020:230)

The MSDF further states that existing commercial land should be encouraged to be densified, and that decentralization of commercial development should not be permitted. Therefore, the proposal to keep the subject property as a business zoned property for business related uses is in line with the MSDF (pg. 231).

Even though the subject property is proposed to not be used as a service station, it will benefit the community of Pearly Beach as the property has been vacant and not used for a service station. The property owner bought the subject property with the intention to develop it when approval is received.

The area where the subject property is located, falls adjacent a Local Retail Node (N2) as identified within the MSDF's 2050 Vision: Pearly Beach. Refer to *Figure 4* for a visual illustration of the Retail Nodes and a visual representation where the subject property is located.

This property together with the properties indicated within the N2 Local Retail Node are all zoned for business use and are the only properties in this area zoned as such. The proposal does not necessarily deviate from the MSDF as it is still proposed to be used for business as per *Plan 68: Pearly Beach Spatial Proposal 2020 (MSDF, 2020:230)* and as illustrated in **Figure 4** of this report.



MOTIVATION



Figure 4: Pearly Beach Retail Node (N1) and Local Retail Node (N2 & N3) areas (OMSDF, 2020:228)

Although located adjacent to the Local Retail Node, the subject property has always been zoned and earmarked for commercial activity, as clearly identified in the OMGMS, 2010. The proposal seeks only to alter the type of commercial activity on the property from a service station to shops. As the property is already a business property but not located within the Local Retail Node, it does not deviate from the MSDF, as it was earmarked for business use prior to the adoption of the MSDF in 2020. It is motivated throughout *Section 10* of this report that the proposal will not be out of character with the adjacent area.

11. PLANNING PRINCIPLES

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

Spatial justice

Spatial justice refers to planning proposals which do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal for a business premises would encourage economic growth that in turn could employ less fortunate and not add to the perpetuate apartheid spatial development imbalances.

Spatial sustainability and Efficiency

Spatial sustainability refers to planning proposals which result in communities that are viable. This proposal is intended to increase the economic power of the Pearly Beach area in the OM, this will aid that the Pearly Beach area is staying in contact with the ever-changing character.



MOTIVATION

Spatial resilience

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

Good administration

The OM has a reputation for conducting effective public participation as part of its land use planning process. This process is an essential component of land use planning, as it allows people who may be affected by the development to provide feedback and raise any concerns or suggestions for improvement. This ensures that the development is in line with the needs and desires of the community.

All comments and feedback received during the public participation process will be carefully reviewed and considered by the relevant authorities. Any issues or concerns raised will be addressed, and suggestions for improvement will be considered where possible. This approach ensures that the final outcome benefits both the community and the property owner.



EVALUATION AND RECOMMENDATION

12. EVALUATION

The owner has enlisted the services of WRAP Project Office to determine the 'highest and best use' of the property within the provisions of the relevant policies, legislation, and development parameters of the proposed zoning.

After careful analysis and assessment of the property, it has been determined that the proposal is in line with the policies and legislation, as evaluated throughout this report. As per the OMSDF, the area has been identified as a retail node that will allow smaller localized businesses, which aligns with the intent of the proposal.

Furthermore, the proposed land use is not out of context with the surrounding area and is not seen as an undesirable proposal. The development aims to maintain the character of the area and is not expected to significantly impede views or sunlight.



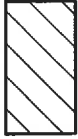




In conclusion, the proposed development is a viable option that aligns with the policies and legislation of the OM. The owner will take the necessary steps to ensure that the proposal is planned and executed in a sustainable manner, and it is expected that the vision of the owner will contribute positively to the economy of the area.

13. RECOMMENDATION

Based on the motivation, it is recommended that the following is approved:

- 13.1 Removal of restrictive title deed conditions** to accommodate the proposed rezoning in terms of Section 16(2)(f) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020; and
- 13.2 Rezoning** from Business Zone 4: Service Station to Business Zone 3: Local Business in terms of Section 16(2)(a) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.

4. Proposed Zoning Plan Erf 333 Pearly Beach

-  Residential Zone 1: Single Residential
-  Open Space Zone 2: Public Open Space
-  Transport Zone 2: Road and Parking
-  Business Zone 4: Service Station
-  Business Zone 3: Local Business
-  Open Space Zone 1: Nature Reserve
-  Subdivisional Area

Plan prepared by: Veronica Jansen

All distances are approximate and subject to a survey

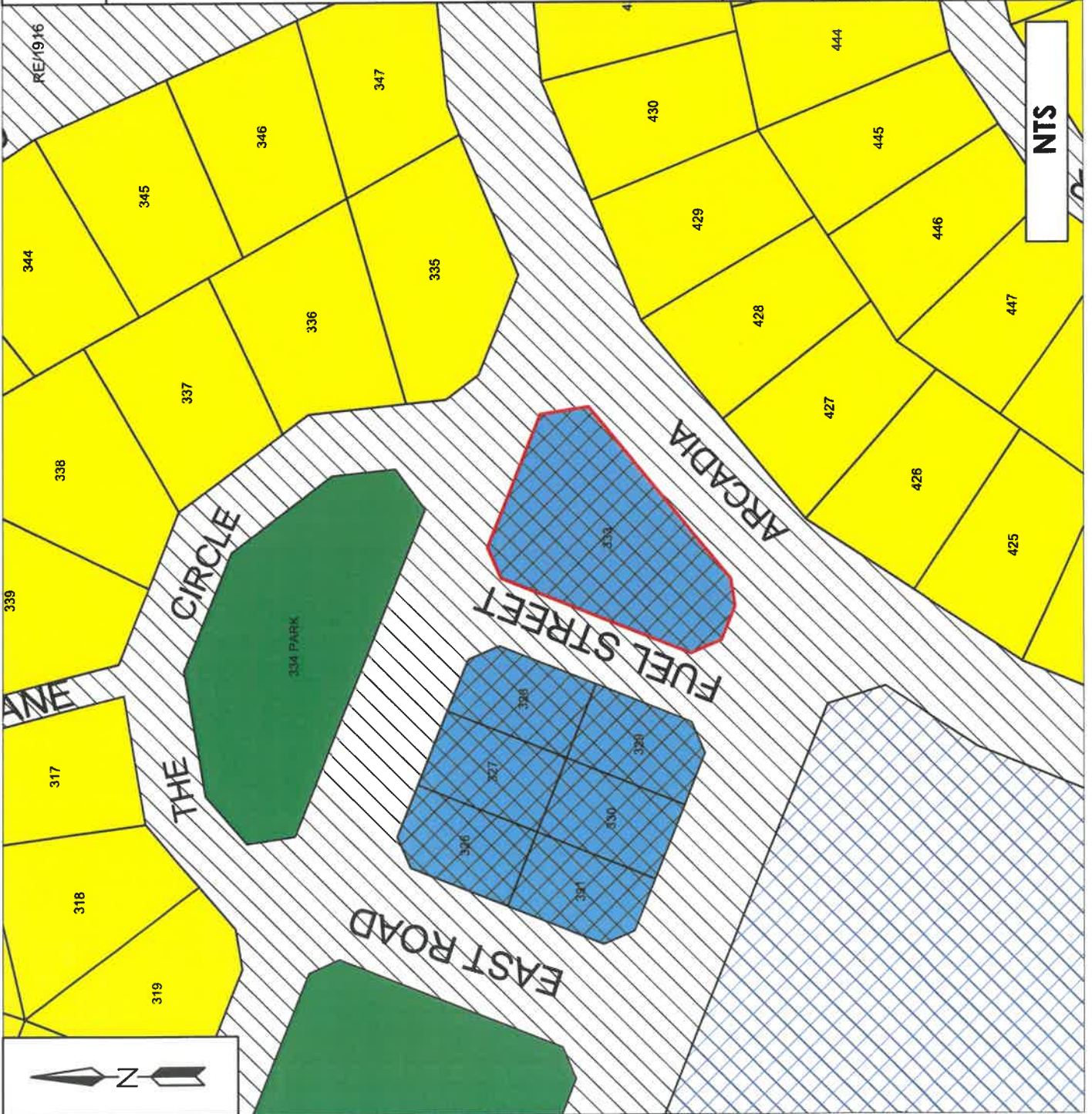
Tel: 028 313 1411

Email: admin@wrapgroup.co.za

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



Project Office
Town Planning & Project Management



10

Prepared by me

Fee endorsement		Amount	Office fee
Purchase price/Value	R. 900 000,00		R. 1374,00
Mortgage capital Amount	R. _____		P. _____
Reason for exemption	Cit. _____	Exempt Lt. q. section _____ Ad. _____	

CONVEYANCER
 LOUIS FRANCOIS ALBERTS (LPCM
 57320)

T 000055455 / 2024

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

HANNELI LE ROUX **LPCM 92162**

DATA / VERIFY
 06-09-2024
 NOTARY AT YAMBA

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said HANNELI LE ROUX being duly authorised thereto by a Power of Attorney granted to him/her by

JACOBUS JOHANNES KLAASSEN
 Identity Number 740721 5010 08 3
 Married out of community of property

which said Power of Attorney was signed at BLOEMFONTEIN on 16 JULY 2024.

And the appearer declared that his/her said principal had, on 16 May 2024, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

ANNETTE RUTH WHITE
Born on 6 August 1957
Unmarried

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

ERF 333 PEARLY BEACH, in the Overstrand Municipality, Division Bredasdorp, Province Western Cape

IN EXTENT 1368 (ONE THOUSAND THREE HUNDRED AND SIXTY EIGHT) Square metres

FIRST TRANSFERRED by Deed of Transfer T27738/1970 with Diagram No. 4474/1970 relating thereto and held by Deed of Transfer T84173/2007

- A. SUBJECT to the conditions referred to in the Deed of Transfer Nos. 6412/1910 and 5397/1917
- B. SUBJECT FURTHER to the conditions contained in the said Deeds of Transfer Nos. 6412/1910 and 5397/1917 relating to a reservation in favour of the State of rights to mining of gold, silver and precious stones as contained in Section 4 of Sir John Cradock's Proclamation dated 6th August, 1813.
- C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer no. 27738/1970 imposed by the Administrator of the Cape in terms of Ordinance No. 33/1934 at the time of approval of the said Township and contained in the said Deed of Transfer No. T10405/1989, namely,
1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial 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 even 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.

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Page 3

4. This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the Administrator after consultation with the Township 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 he may impose:

(a) It shall not be subdivided;

(b) It shall be used for the purpose of erecting thereon a garage and/or service station;

(c) Not more than two - thirds of the area thereof shall be built upon;

(d) No building or structure or any portion thereof except boundary walls, fences, verandahs and balconies shall be erected nearer than 2.36 metres of the street line which forms a boundary of this erf

D. SUBJECT FURTHER to the following conditions contained in Deed of Transfer T27738/1917 imposed by PEARLY BEACH STRANDOORD (PROPRIETARY) LIMITED as owner of the remainder of portion 7 now the remainder of PEARLY BEACH TOWNSHIP by virtue of Deed of Transfer No. 17254/1963 for the benefit of the said company and its successor in title as owner of any erven in the said Township and contained in the said Deed of Transfer No. T10405/1989, namely:

2. The registered owner or any occupant of the said land shall not permit or suffer to be erected or displayed thereon any hoardings or advertisements whatsoever except only a bona fide notice that that property is for sale, notices in connection with his trade or business carried on on the premises and any sale of dealing in intoxicating liquor in the said land is likewise prohibited."

LN

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

JACOBUS JOHANNES KLAASSEN, Married as aforesaid


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

ANNETTE RUTH WHITE

her Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R900 000,00 (NINE HUNDRED THOUSAND RAND).

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

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 3 September 2021



q.q.

In my presence



REGISTRAR OF DEEDS

Handwritten marks at the bottom left corner.



13 MAR 2025

DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

Alida Conradie

TP- A Theart
(Syld Merwe)

From: Eben du Plessis @ Rustenburg Herald
Sent: Wednesday, 12 March 2025 17:58
To: 'WRAP'
Cc: Alida Conradie
Subject: RE: NOTICE OF AN APPLICATION IN DE KELDERS - You are regarded as a potentially affected property owner

Vir wie dit mag aangaan -

Neem asb kennis dat ek namens EJ Kellerman van 45 Ridgeweg Pearly Beach beswaar aanteken teen die opheffing van die titel voorwaardes -

Die eindom is geleë in 'n hoofsaaklike woongebied

Die toevloei van verkeer gaan 'n negatiewe uitwerking op die padoppervlak hê

'n Bottelstoor het gewoonlik 'n baie groot invloed van mense wat nie in daardie besondere area woon nie wat kan lei tot 'n toename in inbrake in die area en nabygeleë woongebiede

Maar word baie gemors in en om bottelstore en baie kere word daar op die sypaadjie ge-eet en gedrink wat 'n gesondheids gevaar inhou

EJ du Plessis
 100% power of attorney

From: WRAP <admintp@wrapgroup.co.za>
Sent: Wednesday, 12 March 2025 15:11
To: WRAP <admintp@wrapgroup.co.za>
Subject: NOTICE OF AN APPLICATION IN DE KELDERS - You are regarded as a potentially affected property owner
Importance: High

Good day

As instructed by the Overstrand Municipality, notice is hereby given to all identified interested and affected parties regarding the following application:

ERF 333, 9 ARCADIA STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND REZONING: MESSRS WRAP PROJECT OFFICE ON BEHALF OF AR WHITE

You are regarded as a potentially interested and affected party.

Attached, please find two documents for the two respective applications which contains the following:

- Notice
- Locality Plan
- Motivation
- Aerial Plan
- Status Quo Zoning Plan
- Proposed Zoning Plan

FILE NO.	Erf 333 - GPB
SCAN NO.	
COLLABORATOR NO.	2625534

TP

13 MAR 2025

Alida Conradie

From: Collaborator
Sent: Thursday, 20 March 2025 12:08
To: Alida Conradie
Subject: REZONING ERF 333 PEARLY BEACH - OBJECTION: Incoming Correspondence - Determine Process (Routine Enquiry vs Statutory Process)

Importance: High

From Marna Mao Chela
To **Alida Conradie**
Correspondence 2628024 - REZONING ERF 333 PEARLY BEACH - OBJECTION
Due Date 23/03/2025 12:56
Task [T5588835 - Incoming Correspondence - Determine Process \(Routine Enquiry vs Statutory Process\)](#)
Subject REZONING ERF 333 PEARLY BEACH - OBJECTION
Author
E-mail Message

Good day,

We, the trustees of the HT Kriel Trust which owns Erf 333 (11 The Circle) as well as Erf 425 (425 Arcadia Street), hereby strongly object to the proposed re-zoning of Erf 333 for retail purposes.

Having owned our properties since 1975 we have witnessed the expansion of the town and have over the past 50 years experienced the increased traffic along Arcadia Street first hand.

Arcadia Road is a major route for pedestrians living in the area to get access to the beach. Vehicles often come over the blind rise in Arcadia Street from the beach without noticing the pedestrians. Having a retail shop on Erf 333 will amplify the problem as vehicles will slow down and/or park alongside the roads surrounding the property. The size of the property in our minds is also too small for retail space as there will not be enough space for parking.

The intersection of Arcadia and Central streets being adjacent to the said property will also cause congestion adding to safety of pedestrians.

Furthermore, having experienced the rate at which properties are being developed in Pearly Beach, we would like to propose that this property be re-zoned as a "green" property to allow for a park to maintain the ambience of the town.

We also do not see the need for additional shops in Pearly Beach. Having the main shop at the resort as well as the additional shop on the main entry road to the Town is ample.

Yours sincerely
 Alexandra la Marque
 Trustee HT Kriel Trust

-----Original Message-----

From: "WRAP" <admintp@wrapgroup.co.za>
Sent: Wednesday, 12 March, 2025 15:08
To: "WRAP" <admintp@wrapgroup.co.za>

OVERSTRAND MUNICIPALITY 3/9
REKORDBEHEER
03 APR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

TP - A Theart
(S v d Merke)

Alida Conradie

From: Marion Boltman <marion@overstrand.gov.za>
Sent: Thursday, 03 April 2025 10:34
To: Alida Conradie
Subject: [CAUTION: SUSPECT SENDER] RE: Erf 333 Pearly Beach

Dear Alida

We object to the rezoning of ERF 333 as the long-term impact on changing the demographics of Pearly beach and the impact on traffic etc. will be detrimental to the village.

There are enough retail stores and we are not in favour of the rezoning and hereby object.

Yours sincerely,

Mr & Mrs Boltman
 70 Church Street, Pearly Beach, Gansbaai

From: Alida Conradie <alida@overstrand.gov.za>
Sent: Tuesday, 01 April 2025 14:31
To: Marion Boltman
Subject: Erf 333 Pearly Beach

FILE NO. Erf 333-GPB
SCAN NO.
COLLABORATOR NO. 2638604

Dear Mrs Boltman

It is the intention of the owner or remove restrictive title deed conditions contained in the title deed of the property and the rezoning of the property from Business Zone 4: Service Station to Business Zone 3: Local Business in order to accommodate retails shops on the property.

In terms of the Overstrand Municipality Zoning Scheme Regulations the primary rights applicable to Business Zone 3: Local Business are as follows:

"Primary uses are: shops, dwelling unit (above ground floor), flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering."

Any other uses for example, bottle store, clinic, conference facility, hotel, institution, place of entertainment, will be subject to a planning application.

For the consideration of the land use application, it is not a requirement that the applicant/owner to provide details of the which retail shops are proposed.

If the application is approved, it will be a requirement that building plans be submitted for consideration by the municipality.

You are welcome to submit your concerns/objections on the proposed rezoning on or before 17 April 2025.

Kind Regards

Alida Conradie
 Administrative Officer, Town- and Spatial Planning
 Directorate: Planning & Development, Overstrand Municipality, Hermanus

TP

TP. A. Theart

REZONING OF ERF 333, ARCADIA STREET 9

PEARLY BEACH

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
08 APR 2025
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

Introduction

I refer to the notice regarding the rezoning of erf 333, Arcadia street 9, Pearly Beach.

In the original planning of Pearly Beach, the developers identify the central part of Pearly Beach (Hoofweg -Short Market – Law street etc) as a business area where businesses will function. Business will be conducted from this area while the greater part of Pearly Beach will be a residential area with many open public areas. The general character of Pearly Beach is to be near to nature.

Provision was however made for a “Hotel” property (erf 332) that was later rezoned with limitations.

Objection

The restaurant that was built between East and Fuel street was not a success and is a “white elephant” which is now used as a residential house and no longer for business purposes.

To develop retail shops on erf 333 in the middle of the residential area is not acceptable. To keep the original limitation that two – thirds of the property can be developed do not provide enough space for many shops, including parking on the property. With the proposed rezoning and lifting the limitation to build on 75% of the property will create even still a bigger parking problem. Parking in the road will create a huge traffic problem.

No detail regarding the retail shops is provided and it can be assumed that noise and light pollution will eventually be part of the development, and that in a residential area.

FILE NO. ERF 333
Pearly Beach
SCAN NO.
COLLABORATOR NO.
2641167

P

Conclusion

In the centre of Pearly Beach retail and other shops was developed. Keep the business development in the centre of the town and keep the residential area as it was planned to be.

I as owner of property erf 344, Crest street 86, Pearly Beach oppose strongly the rezoning of erf 333, Arcadia street 9, Pearly Beach.

PG Reyneke

TP - A. Theart

Alida Conradie

From:
Sent: Friday, 04 April 2025 15:14
To: Alida Conradie
Cc: 'Susanne Fuchs'
Subject: Erf 333, 9 Arcadia Street, Pearly Beach

Dear Alida

On behalf of the Pearly Beach Conservancy I would like to comment on the application for the removal of the restrictive title deed conditions of Erf 333. As the zoning stays Business, we do not have any objections, but as the erf is very close to the public open spaces and green area, we would like to request that no alien trees, plants or grass, like kikuyu, be permitted, as this can easily spread into the adjacent green areas. And then we would also like to see that enough on site parking spaces be provided, as the erf is located on a very busy corner, corner of Arcadia and Charlie van Breda. We would also like to request that outside lights be kept to the minimum and that all outside lights should be faced downwards, as the erf lies in the line of sight of all adjacent residential erven.

Regards,

Jirina Versfeld
 Secretary/Sekretaris Pearly Beach Conservancy Bewarea
 Posbus/P O Box 60, Pearly Beach 7221

m



FILE NO. ERF 333
Pearly Beach
SCAN NO.
COLLABORATOR NO.
2639996

J

Alida Conradie

From:
Sent: Monday, 28 April 2025 16:17
To: Alida Conradie
Subject: FW: NOTICE OF AN APPLICATION IN DE KELDERS - You are regarded as a potentially affected property owner

From: WRAP <admin@wrapgroup.co.za>
Sent: Thursday, 24 April 2025 10:29
To:
Subject: Re: NOTICE OF AN APPLICATION IN DE KELDERS - You are regarded as a potentially affected property owner

Good morning

Your below email refers.

Please note that objections should not be submitted to our office.

Kindly follow the instructions as per the Notice that was sent.

Vriendelike Groete / Kind Regards,

Veronica Jansen

PROFESSIONAL TOWN PLANNER

Email: admin@wrapgroup.co.za

T: +27 (28) 313 1411

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

PostNet Hermanus Suite 170, Private Bag X16

Hermanus, 7200

www.wrapgroup.co.za



From:
Sent: Monday, April 21, 2025 4:00 PM
To: WRAP <admin@wrapgroup.co.za>
Subject: RE: NOTICE OF AN APPLICATION IN DE KELDERS - You are regarded as a potentially affected property owner

From J E McLean 352 Pearly Beach 17 April 2025

Dear Sirs ,

I strongly object to either a garage or retail shops being built in this quiet residential area of Pearly Beach . It will spoil the peaceful ,natural environment in which we have chosen to live .There is a large shop and garage at die ord as well as shopping centres at nearby Gansbaai ,
There is no need to destroy the ecology of this tranquil environment .

Sincerely

JE McLean

From: WRAP <admintp@wrapgroup.co.za>

Sent: Wednesday, 12 March 2025 16:06

To:

Subject: NOTICE OF AN APPLICATION IN DE KELDERS - You are regarded as a potentially affected property owner

Good day

ERF NO.	NAME
PEARLY BEACH 352 JE	MCLEAN
PEARLY BEACH 353 AS	MCLEAN
PEARLY BEACH 354 JE	MCLEAN

You are regarded as a potentially interested and affected party.

As instructed by the Overstrand Municipality, notice is hereby given to all identified interested and affected parties regarding the following application:

ERF 333, 9 ARCADIA STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND REZONING: MESSRS WRAP PROJECT OFFICE ON BEHALF OF AR WHITE

Attached, please find two documents for the two respective applications which contains the following:

- Notice
- Locality Plan
- Motivation
- Aerial Plan
- Status Quo Zoning Plan
- Proposed Zoning Plan

Kindly note that the Overstrand Municipality is publishing similar notices in the **Gans-Berg Nuus** on 13 March 2025 and in the **Official Gazette** on 14 March 2025.

Objections must be submitted to Overstrand Municipality by **17 April 2025**.

Yours faithfully,

Veronica Jansen

PROFESSIONAL TOWN PLANNER

Email: admin@wrapgroup.co.za

T: +27 (28) 313 1411

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

PostNet Hermanus Suite 170, Private Bag X16

Hermanus, 7200

www.wrapgroup.co.za





Project Office

Town Planning & Project Management

Our Reference: 24/76
Your Reference: 4904/2025

2 May 2025

The Municipal Manager
Overstrand Municipality
PO Box 20
Hermanus
7200

Attention: Mr SW van der Merwe



ERF 333, 9 ARCADIA STREET, PEARLY BEACH: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND REZONING: MESSRS WRAP PROJECT OFFICE ON BEHALF OF AR WHITE

Your letter dated 28 April 2025 refers.

Six letters of objections and comments were received and is addressed below:

FILE NO. Erf 333-GPB
SCAN NO.
COLLABORATOR NO.
2662109

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

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

PostNet Hermanus Suite 170
Private Bag X16, Hermanus,
7200

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



Handwritten signature and date: 14 MAY 2025

Zoning and Land Use Compatibility in the Residential Area

Concerns are raised regarding the land use compatibility of the proposal in the established residential area. The following response is provided:

The subject property, Erf 333 Pearly Beach, is currently zoned as Business Zone 4: Service Station, which already permits the development of a service station, an intensive and potentially more disruptive land use. The proposed rezoning to Business Zone 3: Local Business seeks to enable development of small-scale retail shops that are more aligned with the surrounding character and less intrusive than a service station.

Moreover, the property is located within Local Retail Node 2 (N2) as identified in the Overstrand Municipal Spatial Development Framework (OMSDF), which explicitly supports retail uses in this area. The intention is to provide convenient, small-scale commercial services that benefit the local community without compromising the area's character or tranquillity.

The development will comply with the applicable building height and setback requirements to ensure compatibility with neighbouring properties and will not exceed two storeys, which is in line with residential building parameters in the area.

While the original township layout delineated centralized areas for business activity, subsequent strategic frameworks such as the OMSDF (2020) and the Overstrand Municipal Growth Management Strategy (OMGMS) have evolved to respond to current spatial and economic trends. Erf 333 is identified in these frameworks as a commercial site.

The proposal is not a deviation from the intended character of the area but rather a refinement of the type of commercial activity permitted.

With regard to the previous restaurant use on an adjacent property, it is important to note that business viability is influenced by various factors. This is not necessarily indicative of the demand or suitability of the area for business uses in general.

The proposal seeks to ensure that Erf 333 Pearly Beach is developed in a manner that is economically viable, spatially aligned with municipal planning policies, and compatible with the surrounding environment. The objections have been considered and addressed respectfully, and the application has been motivated accordingly.

On-site Parking

While we take cognisance of the concerns raised regarding the availability and adequacy of on-site parking associated with the proposed rezoning of Erf 333 Pearly Beach. The following clarifies the approach to parking provision and the rationale behind the development framework:

The Overstrand Municipality Land Use Scheme (OMLUS) stipulates that all properties zoned Business Zone 3 must provide a minimum of four parking bays per 100m² of Gross Leasable Area (GLA). This standard will be adhered to at the site development plan (SDP)/ building plan approval stage. No development will proceed without municipal approval of on-site parking that complies with these requirements. It is therefore a regulatory requirement that sufficient parking must be accommodated within the boundaries of the erf.

One of the objections raised the concern that removing the title deed restriction (limiting coverage to two-thirds of the site) may exacerbate parking problems. On the contrary, removal of the restrictive title deed conditions allows more flexible site layout options, enabling an optimized balance between building footprint and on-site parking provision. Retaining outdated

coverage limitations could hinder the ability to design a layout that meets both building and parking requirements effectively.

The current zoning of Business Zone 4: Service Station also allows high site coverage and typically generates more vehicular traffic and parking demand. The proposed shift to retail shops is expected to result in lower parking demand than a service station and will include a well-integrated parking layout as part of the design process. The layout of the buildings will be guided by the need to maximize on-site parking.

As part of the building plan submission process, vehicle access, turning circles, and pedestrian movement will be addressed on a detailed site development plan in consultation with the relevant municipal departments. The final development design will also take into consideration pedestrian movement along Arcadia Road.

Additional Shops in the area

Concerns are raised regarding the number of already existing shops in Pearly Beach and the potential oversupply or redundancy of additional retail space. The following response aims to provide context, planning justification, and clarity on the intent of the proposal:

Erf 333 Pearly Beach is located within a designated Local Retail Node (N2) as defined in the Overstrand Municipal Spatial Development Framework (OMSDF, 2020). The OMSDF identifies specific nodes in Pearly Beach where localised, small-scale retail activity is not only supported but encouraged, in order to create walkable, mixed-use neighbourhoods that reduce dependence on travel to more distant centres such as Gansbaai or Stanford. The proposed rezoning aligns precisely with this policy. It is not a deviation from the broader development vision, but rather a refinement of the type of commercial use already anticipated for this erf.

While concerns are raised that there are "enough" shops, the viability of a new shop is a market-driven consideration, not one determined by the land use process. The property owner has conducted preliminary market research and is confident that a small-scale retail development, targeted at local needs, may succeed where more intensive business uses may not.

Furthermore, providing retail in walkable proximity to homes supports aging in place, social inclusion, and convenience, especially for residents without private transport. The proposal enhances local access rather than competing with centralized commercial areas.

It is important to clarify that the property is already zoned for business purposes (Business Zone 4: Service Station). The application seeks to change the type of business activity permitted, not to introduce a new or expanded business area. In fact, the shift from a service station to local retail reduces the intensity and external impacts commonly associated with service stations (for example, fuel delivery, 24-hour operations, and noise).

Pearly Beach, like many coastal towns, is experiencing measured residential growth, and land use frameworks are designed to respond proactively to changing demographic and socio-economic needs. The proposal for low-impact, appropriately scaled shops is part of a broader approach to ensure that as the town grows, essential goods and services remain accessible to all residents, current and future, without compromising the character of Pearly Beach.

Rather than being detrimental, small-scale retail offerings may foster local employment, entrepreneurship, and economic resilience, particularly in a remote settlement where dependence on other towns for daily needs can be inconvenient or exclusionary.

Noise & Lights

The objection raises concerns regarding potential noise and light pollution arising from the proposed development, especially given its proximity to residential properties. The following response is provided:

Noise

The proposed rezoning presents a downgrade in land use intensity. A service station, which is currently permitted, typically operates for extended hours, with higher traffic volumes, lighting, and noise levels due to fuel deliveries, mechanical repairs, and vehicle activity.

In contrast, retail shops under Business Zone 3 are more passive in nature, typically operating only during normal business hours and generally not associated with excessive noise or lighting.

While all urban development generates some level of activity, the design and management of the future development will prioritise minimising disturbance to surrounding residents. At building plan stage, further conditions may be imposed by the municipality to mitigate potential disturbances.

Lights

The concerns about light and noise pollution are noted; however, it is important to highlight that no detailed layout or building plans have yet been submitted. This application seeks to establish land use rights only. The proposed rezoning reflects a lower-impact use than the current zoning, and concerns related to light and noise, will be proactively managed through design, planning conditions, and municipal oversight. The applicant commits to implementing best-practice measures to respect the residential character of Pearly Beach and will seek to balance development with community well-being.

Traffic & Infrastructure Impact

Concerns have been raised regarding the potential impact of the proposed retail development on local traffic, pedestrian safety, and infrastructure durability, particularly at the intersection of Arcadia- and Charlie van Breda Streets. In response, the following clarification is provided:

This application relates only to the change in zoning and removal of restrictive title deed conditions. No building plans or access layouts have been approved or submitted. All details related to traffic flow, parking design, pedestrian access, and servicing will be reviewed and assessed at the building plan and/or Site Development Plan (SDP) stage, where additional conditions can be imposed if necessary.

Concerns regarding the deterioration of road surfaces due to increased traffic are noted. The scale of the proposed retail use is small and localised, aimed at servicing nearby residents. As such, it is not expected to generate traffic volumes that would significantly degrade the road surface. While the proposed use of the property will introduce some additional traffic, it will be of a lesser intensity than what is already permitted under the current zoning.

Environmental & Biodiversity Impact

Concerns are raised relating to the potential environmental impacts of the proposed development, particularly in the context of Pearly Beach's natural character and proximity to green public open spaces. In response, the following clarification is provided:

Erf 333 is a vacant site within the established urban footprint of Pearly Beach. It is not located within any Environmental Management Overlay Zone (EMOZ), nor does it fall within a listed critical biodiversity area or formally protected habitat. The proposed rezoning does not introduce any greater environmental threat than what is already permissible under the existing zoning.

The property owner fully supports measures to prevent the use of alien invasive plants and is committed to responsible, sustainable landscaping.

The suggestion to rezone the property as a "green" property to allow for a public park to preserve the town's ambience is noted. However, the property has historically been zoned for business use and the property forms part of a designated Local Retail Node (N2) and has not been identified or reserved as public open space in any municipal planning policy or environmental strategy.

By allowing well-managed infill development within the existing urban edge, the Municipality supports efficient land use and helps limit urban sprawl into ecologically sensitive areas. Erf 333 is a suitable site for low-impact, neighbourhood-serving development that complements the built environment.

Bottle Store

A concern is raised relating to the establishment of a bottle store on Erf 333, along with the associated concerns regarding crime, litter, and anti-social behaviour. This concern is noted; however, it is important to clarify the facts in relation to this application.

A bottle store is not proposed or permitted under this application. Under the Overstrand Municipality Land Use Scheme (OMLUS), a bottle store is not a primary use right within Business Zone 3. It is available as a consent use, which means it cannot be established without a separate, formal land use application, including full public participation and municipal approval thereof.

At present, no such application for a bottle store has been submitted, nor is one being contemplated by the property owner. The objection appears to be based on a hypothetical scenario that does not reflect the intent or content of the current application.

There are no plans to operate a bottle store on the subject property, and therefore the concerns raised are not relevant to the land use rights currently being applied for.

In conclusion, the concerns raised through the objection have been carefully considered and addressed in full. Considering the above, it is respectfully recommended that the planning application be approved as submitted.

Yours faithfully



T. JANSEN
PROFESSIONAL TOWN PLANNER (A/2858/2019)

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED
CONDITIONS & REZONING: ERF 333, PEARLY BEACH (4904/2025)**

Electricity	:	Refer to Conditions
Water	:	Refer to Conditions
Sewer	:	Refer to Conditions
Stormwater	:	Refer to Conditions
Roads and traffic	:	Refer to Conditions

Conditions:

1. that the existing water connection to- and sewer conservancy tank on Erf 333 shall be used to service Erf 333;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
3. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
4. that the on-site parking facilities are provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services;
5. that any additional and / or extended vehicle entrances will be for the developer's account;
6. that it should be noted that Fuel Street was constructed incorrectly on the property and needs to be reconstructed in the correct position;
7. that stormwater discharged from higher lying properties and generated in the catchment area of the property be allowed to drain freely through the property;
8. that stormwater reticulation and connection(s) to the municipal system be provided at the owners cost, if required.


RICARDO ANDREW
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL


DATE