

**OVERSTRAND MUNISIPALITEIT**  
**'N GEDEELTE VAN RESTANT ERF 3048, BETTYSBAAI EN ERF 3196, PEARLYRYLAAN 1, BETTYSBAAI: AANSOEK OM ONDERVERDELING, GEDEELTELIKE SLUITING VAN 'N PUBLIEKE PLEK, HERSONERING, KONSOLIDASIE EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: PLAN ACTIVE STADS- EN STREEKBEPLANNERS NAMENS OVERSTRAND MUNISIPALITEIT EN LR MC CANN**

Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Gewysigde Verordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening), asook Artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiëlebestuur (Wet 56 van 2003) (die Wet) word hiermee kennis gegee van die volgende aansoeke van toepassing op 'n gedeelte van Restant Erf 3048 Bettysbaai en Erf 3196 Bettysbaai, naamlik, die:

1. (a) **onderverdeling** van Restant Erf 3048 Bettysbaai ingevolge Artikel 16(2)(d) van die Verordening om 'n onderverdeelde gedeelte van ongeveer 155m<sup>2</sup> in grootte te skep;
- (b) **gedeeltelike sluiting van publieke plek** ingevolge Artikel 16(2)(n) van die Verordening om die sluiting van 'n openbare plek te akkommodeer (onderverdeelde gedeelte van ±155m<sup>2</sup>);
- (c) **herosnering** ingevolge Artikel 16(2)(a) van die Verordening van die onderverdeelde gedeelte (155m<sup>2</sup>) vanaf Vervoersone 2: Pad en Parkering (TR2) na Residensiële Sone I: Enkelresidensiële (SR1);
- (d) **konsolidasie** ingevolge Artikel 16(2)(e) van die Verordening van die onderverdeelde gedeelte (±155m<sup>2</sup>) met Erf 3196 Bettysbaai om 'n enkelresidensiële eiendom van ± 1779m<sup>2</sup> in grootte te skep; en
- (e) **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir ongemagtigde boulynoorskredings op die eiendom.
2. die Raad se voorneme ingevolge Artikel 14 van die Wet om die onderverdeelde gedeelte van Restant Erf 3048 Bettysbaai in 1. hierboort te dra aan LR Mc Cann met die volgende besonderhede:

**Koper:** LR Mc Cann  
**Ligging:** 'n Gedeelte van Restant Erf 3048 Bettysbaai  
**Grootte:** ±155m<sup>2</sup>  
**Koopsom:** R350.00/m<sup>2</sup> (BTW uitgesluit)  
**Doel:** Om deel te vorm van enkelresidensiële Erf 3196 Bettysbaai wat in privaat besit is, om sodoende die kwessie van ongemagtigde boulynoortredings reg te stel sowel as tuin- en omheiningsdoelendes.

Volle besonderhede rakende die voorstel in **paragrafe 1.(a), (b), (c) en (d)** hierbo is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die **Departement: Stads- en Streekbeplanning**, Patersonstraat 16, Hermanus en by die **Bettysbaai Biblioteek**, Clarencerylaan, Bettysbaai. Enige kommentare moet skriftelik wees, u naam, adres, en kontakbesonderhede bevat, sowel as u belang in die aansoek en die redes vir kommentaar, welke kommentaar die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (epos) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) moet bereik voor of op **18 Oktober 2024**. Telefoniese navrae kan gerig word aan die **Senior Stadsbeplanner, Me. H van der Stoep** by 028 313 8900.

Volledige besonderhede rakende die voorstel in **paragraaf 2** hierbo is per afspraak beskikbaar gedurende weksdae tussen 08:00 en 16:30 by die **Eiendomsbestuur Afdeling**, h/v Molteno- en Viljoenstraat, Onrustrivier. Enige kommentaar moet skriftelik wees, u naam, adres, en kontakbesonderhede bevat, sowel as u belang in die aansoek en die redes vir kommentaar, welke kommentaar die Munisipaliteit (h/v Molteno- en Viljoenstraat, Onrustrivier / (f) 0283163721 / (epos) [wurtz@overstrand.gov.za](mailto:wurtz@overstrand.gov.za)) moet bereik voor of op **18 Oktober 2024**. Telefoniese navrae kan gerig word aan die **Senior Klerk, Mej. W Murtz** by 028 316 5601.

Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persone wat nie kan lees of skryf nie kan bogenoemde toepaslike Munisipale Afdelings besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.

**Dr. DGI O'Neill**  
**MUNISIPALE BESTUURDER**  
 Overstrand Munisipaliteit  
 Posbus 20  
**HERMANUS**  
 7200

Kennisgewing nr. 146/2024

**OVERSTRAND MUNICIPALITY**  
**A PORTION OF REMAINDER ERF 3048 BETTY'S BAY AND ERF 3196, 1 PEARL DRIVE, BETTY'S BAY: APPLICATION FOR SUBDIVISION, PARTIAL CLOSURE OF A PUBLIC PLACE, REZONING, CONSOLIDATION AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF OVERSTRAND MUNICIPALITY AND LR MC CANN**

Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), as well as Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003) (the Act) of the following applications applicable to a portion of Remainder Erf 3048 and Erf 3196 Betty's Bay, namely, the:

1. (a) **subdivision** of Remainder Erf 3048 Betty's Bay in terms of Section 16(2)(d) of the By-Law to create a subdivided portion of approximately 155m<sup>2</sup> in extent;
- (b) **partial closure of a public place** in terms of Section 16(2)(n) of the By-Law to accommodate the closure of a public place (subdivided portion of ±155m<sup>2</sup>);
- (c) **rezoning** in terms of Section 16(2)(a) of the By-Law of the subdivided portion (±155m<sup>2</sup>) from Transport Zone 2: Road and Parking (TR2) to Residential Zone I: Single Residential (SR1);
- (d) **consolidation** in terms of Section 16(2)(e) of the By-Law of the subdivided portion (±155m<sup>2</sup>) with Erf 3196, Betty's Bay to create a single residential property of ± 1779m<sup>2</sup> in extent; and
- (e) **determination of an administrative penalty** in terms of Section 16(2)(q) for unauthorised building line encroachments on the property.
2. the Council's intention in terms of Section 14 of the Act to transfer the subdivided portion of Remainder Erf 3048 Betty's Bay in 1. above to LR Mc Cann with the following details:

**Purchaser:** LR Mc Cann  
**Locality:** A Portion of Remainder Erf 3048 Betty's Bay  
**Size:** ±155m<sup>2</sup>  
**Purchase Price:** R350.00/m<sup>2</sup> (VAT excluded)  
**Purpose:** To form part of privately owned single residential Erf 3196 Betty's Bay, intended to rectify the matter of unauthorised building line encroachments as well as garden and a fence.

Full details regarding the proposal in **paragraphs 1.(a), (b), (c), (d) and (e)** above are available for inspection during weekdays between 08:00 and 16:30 at the **Department: Town & Spatial Planning**, 16 Paterson Street, Hermanus and at the **Betty's Bay Library**, Clarence Drive, Betty's Bay. Any comment must be in writing, quoting your name, address and contact details, as well as your interest in the application and the reasons for comment, which comment must reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (email) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) on or before **18 October 2024**. Telephonic enquiries can be made to the **Senior Town Planner, Ms. H van der Stoep** at 0283138900.

Full details regarding the proposal in **paragraph 2.** above are available per appointment for inspection during weekdays between 08:00 and 16:30 at the **Property Management Division**, c/o Molteno and Viljoen Street, Onrustrivier. Any comment must be in writing, quoting your name, address and contact details, as well as your interest in the application and the reasons for comment, which comment must reach the Municipality (c/o Molteno and Viljoen Street, Onrustrivier / (f) 0283163721 / (email) [wurtz@overstrand.gov.za](mailto:wurtz@overstrand.gov.za)) on or before **18 October 2024**. Telephonic enquiries can be made to the **Senior Clerk, Ms. W Murtz** at 028 316 5601.

The Municipality may refuse to accept comments received after the closing date. Any persons who cannot read or write may visit the above appropriate Municipal Divisions where a Municipal official will assist them in formulating their comment.

**Dr. DGI O'Neill**  
**MUNICIPAL MANAGER**  
 Overstrand Municipality  
 P O Box 20  
**HERMANUS**  
 7200

Notice No. 146/2024

**UMASIPALA WASE-OVERSTRAND**  
**INKALENYE YENDAWO YESIZA ESINGU-ERF 3048 BETTY'S BAY NESIZA ESINGU-ERF 3196, 1 PEARL DRIVE, BETTY'S BAY: ISICELO SOKWAHLULUHULA, UKUVALA INKALENYE YENDAWO KAWONKEWONKE, UKUCANDA KWAKHONA, UYONDELELANISO NENGIKHELELO YOBHALISO LOMDLIWO: NGABAKAWAPLAN ACTIVE TOWN & REGIONAL PLANNERS EGAMENI LKAMASIPALA WASE-OVERSTRAND NO-LR MC CANN**

Kukhutshwe isaziso esimayela nemiba yeSoloty lama-47 nelama-48 loMthethwana kaMasipala waseOsisiHlomelo oSisiHlomelo soMthethwana weZicwanciso Zokuseyenziswa koMhlaba kaMasipala ku2020 (Umthethwana), kwikaunye neSoloty le-14 loMthetho WoRhulumente BaseKahya ngoLawulo LwezeMali (Umthetho 56 ka2003) osebenzalkwezi zicelo zilandelayo nezisebenziseka kwiNalenyeyi eyiNtsalela yeSiza esingu- Erf 3048 neSiza esingu- Erf 3196 Betty's Bay, esaziwa ngolu hlobo:

1. (a) **ukwahlulahlula** iNtsalela yeSiza esingu- Erf 3048 Betty's Bay ngokweSoloty le16(2)(d) loMthethwana ukwakha inkalenyeyi eyahlulahlulwe yangumlinganiso ozizikwemitha eziyi 155m<sup>2</sup> ubungakanani;
- (b) **Ukuvala inkalenyeyi yendawo kawonkewonke** ngokweSoloty le16(2)(n) loMthethwana ukulungiselela ukuvala indawo kawonkewonke (eyinxalenye eyahlulahlulwe ibezizikwemitha eziyi ±155m<sup>2</sup>);
- (c) **ukucanda kwakhona** ngokwemiba yeSoloty le16(2)(a) loMthethwana wenxalenye eyahlulahlulweyo (±155m<sup>2</sup>) ukusuka kwiZowuni yeZothutho iZowuni 2: indlela neNdawo Yokupaka (TR2) ukuya kwiZoni yeNdawo Yokuhlala I: indawo Enye Yokuhlala aAbantu (SR1);
- (d) **uyondelelaniso** ngokwemiba yeSoloty le16(2)(e) loMthethwana ongokwahlulahlula inkalenyeyi eyahlulahlulweyo (±155m<sup>2</sup>) neSiza esingu- Erf 3196, Betty's Bay ukwakha indawo enye yokuhlala abantu kumhlaba ozizikwemitha eziyi- ± 1779m<sup>2</sup> ngokomlinganiso kunye
- (e) **nengikhelelo yomdlwio wobhaliso** ngokwemiba yeSoloty le16(2)(q) lokuphumela komgqawesakhiwo ngagunyaziswanga nongekho mthethweni.
2. injongo yeBhunga ngokwemiba yeSoloty la-14 loMthetho ongokukhuphela inkalenyeyi eyahlulahlulweyo yeNtsalela yeSiza esingu- Erf 3048 Betty's Bay ku 1. ngentsalela koLR Mc Cann onezinkcukacha zilandelayo:

**Umthengi:** LR Mc Cann  
**Ingingqi:** Inkalenyeyi eyiNtsalela yeSiza u-Erf 3048 Betty's Bay  
**Isayizi:** ±155m<sup>2</sup>  
**Ixabiso Lokuthenga:** R350.00/m<sup>2</sup> (VAT ayifakwanga)  
**Injongo:** Ukuba yinxalenye yobunini babucala bezindlu zokuhlala abantu kwindawo enye kwisiza esing- Erf 3196 Betty's Bay, enenjongo yokulungisa umgca wesakhiwo ngagunyaziswanga ukuphumela kungca wesakhiwo ongekho mthethweni kunye negadi ncingo.

Iinkcukacha ezipheleleyo mayela nesi siphakamiso **kumhlathi 1.(a), (b), (c), (d) and (e)** ongetla ziyafumaneka ukuze zihlowe kwiintsuku zaphakathi evelini phakathi kwentsimbi ye-08:00 neye-16:30 kwiSebe: **izicwanciso ngeDolophu neNdawo**, 16 Paterson Street, Hermanus nase**Betty's Bay Library**, Clarence Drive, Betty's Bay. Izimvo ezibhalwe phantsi phantsi, uchaze igama lakho, idilesi neenkcukacha ofumaneka kuzo, kunye nomdla wakho kwesi sicelo nezizathu zakho zokuhlomla, izimvo zakho mazifike kwaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (email) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) ngomhla okanye ngaphambi kwama-18 **Okthobha 2024**. Imibuzo ngefowuni ingathunyelwa ku**Mwancisi Omkhulu weDolophu**, Nkszn. **H van der Stoep kwa-** 0283138900.

Iinkcukacha ezipheleleyo mayela nesi siphakamiso **kumhlathi 2.** ngentsalela ziyafumaneka ngokwenzisa idinga ukuze zihlowe kwiintsuku zaphakathivelelani phakathi kwentsimbi ye-08:00 neye-16:30 kwiCandelo **Lolawulo Lomhlaba neZindlu**, c/o Molteno neViljoen Street, Onrustrivier. Naziphi na izimvo mazibhalwe phantsi, uchaze igama lakho, idilesi neenkcukacha ofumaneka kuzo, kunye nomdla wakho kwesi sicelo nezizathu zakho zokuhlomla, zimvo ezo mazifike kwaMasipala (c/o Molteno and Viljoen Street, Onrustrivier / (f) 0283163721 / (email) [wurtz@overstrand.gov.za](mailto:wurtz@overstrand.gov.za)) ngomhla okanye ngaphambi komhla wama-18 **Okthobha 2024**. Imibuzo ngefowuni ingathunyelwa **Mabhalana Omkhulu**, Nkszn. **W Murtz ku-** 028 316 5601.

UMasipala angala ukwamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwazi ukufunda nokubhala angahambela wiCandelo likaMasipala elibhalwe ngentsalela nelifanelelekyo apho igosa likaMasipala liza kumceda ukubhala izimvo nokuhlomla ngokusemthethweni.

**Dr. DGI O'Neill**  
**UMPHATHI KAMASIPALA**  
 Overstrand Municipality  
 P O Box 20  
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 7200

Inothisi Nmb. 146/2024





**PROPOSED SUBDIVISION, PARTIAL CLOSURE  
OF A PUBLIC ROAD, REZONING,  
CONSOLIDATION AND THE DETERMINATION OF  
AN ADMINISTRATIVE PENALTY**

**ERF 3196 AND REMAINDER ERF 3048  
BETTY'S BAY**

**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

Mr. L. McCann, the owner of Erf 3196 in Betty's Bay, and Mrs. Anja Le Roux, representing the Overstrand Municipality, the owner of the remainder of Erf 3048 in Betty's Bay, have engaged Plan Active Town and Regional Planners to apply for the following:

- Subdivision of the remainder of Erf 3048 in Betty's Bay.
- Closure of a portion of the public road at the corner of Rockway Drive and Pearl Drive.
- Rezoning of a portion of the remainder of Erf 3048 in Betty's Bay (a portion of the public road).
- Consolidation of a portion of the remainder of Erf 3048 in Betty's Bay with Erf 3196 in Betty's Bay.
- Determination of an administrative penalty.

Mr. L. McCann, the owner of Erf 3196 in Betty's Bay, has applied to purchase a 155m<sup>2</sup> portion of the remainder of Erf 3048 (public street) from the Overstrand Municipality. The Council, during its meeting on 28 June 2023, resolved to sell this portion of the public street (at the corner of Rockway Drive and Pearl Drive) to Mr. McCann. A copy of the decision letter dated 7 July 2023 and the Deed of Sale are attached.

Mr. McCann intends to acquire this portion of the road, which encroaches due to a dwelling built over the building and boundary lines. The 155m<sup>2</sup> portion available for acquisition is situated at the corner of Rockway Drive and Pearl Drive, specifically a part of the remainder of Erf 3048 in Betty's Bay.

The portion to be subdivided, rezoned, and consolidated with Erf 3196 is part of a road reserve. Due to its location, shape, intended use, and size, this portion cannot be developed independently and is classified as a non-viable property. This section of the public road (remainder of Erf 3048 in Betty's Bay) is not included in future road planning upgrades for the area. It will be rezoned to Residential Zone 1 and consolidated with Erf 3196 Betty's Bay.

## 2. **APPLICATION DETAILS**

The application is made in accordance with:

- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the subdivision of the remainder of Erf 3048 in Betty's Bay.
- Chapter 4, Section 16(2)(n) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the closure of a portion of the public road at the corner of Rockway and Pearl Drive.
- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the rezoning of a ±155m<sup>2</sup> portion of the remainder of Erf 3048 in Betty's Bay from Transport Zone 2 to Residential Zone 1.



- Chapter 4, Section 16(2)(e) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the consolidation of Erf 3196 in Betty's Bay with a portion of the remainder of Erf 3048 in Betty's Bay.
- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty.

### **3. GENERAL APPLICATION INFORMATION**

#### **3.1 PROPERTY DESCRIPTION**

Erf 3196 in Betty's Bay is located at 1 Pearl Drive, Betty's Bay. This property covers an area of 1624m<sup>2</sup> and is situated in a predominantly single residential environment.

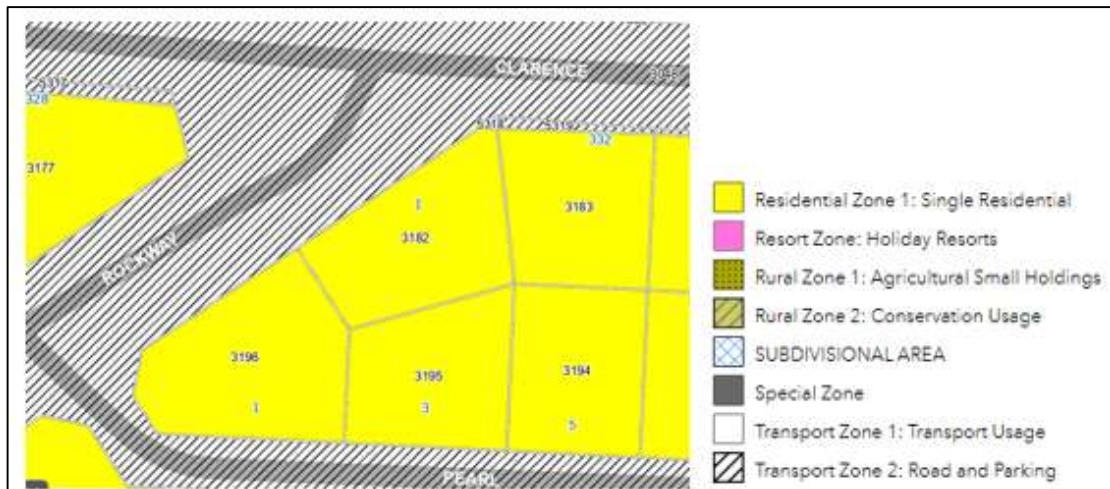
The portion of the remainder of Erf 3048 in Betty's Bay (Road Reserve) that is to be closed is located at the corner of Rockway Drive and Pearl Drive.

Please refer to the enclosed locality map and aerial photograph below:



### 3.2 ZONING

Erf 3196 in Betty's Bay is zoned as Residential Zone I: Single Residential and is utilized accordingly. The relevant portion of remainder of Erf 3048 in Betty's Bay is zoned as Transport Zone 2. Please refer to the abstract of the zoning map below for easy reference.



Surrounding properties are zoned for single residential purposes and public roads.

### 3.3. LAND USE

Erf 3196 in Betty's Bay is used for residential purposes and features a double-storey dwelling.

Access to Erf 3196 is currently obtained from Pearl Drive. The relevant portion of remainder of Erf 3048 in Betty's Bay serves as a public road.

The surrounding land uses are predominantly developed single residential erven.

### **3.4. PROPOSED DEVELOPMENT**

The application is made in accordance with:

- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the subdivision of the remainder of Erf 3048 in Betty's Bay.
- Chapter 4, Section 16(2)(n) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the closure of a portion of a public road.
- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the rezoning of a  $\pm 155\text{m}^2$  portion of the remainder of Erf 3048 in Betty's Bay from Transport Zone 2 to Residential Zone 1.
- Chapter 4, Section 16(2)(e) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the consolidation of Erf 3196 in Betty's Bay with a portion of the remainder of Erf 3048 in Betty's Bay.
- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty.

The owner of Erf 3196 in Betty's Bay has applied to purchase a portion of a public road that was incorporated into the subject Erf without obtaining the required approval from the Overstrand Municipality. The total area of the remainder of Erf 3048 in Betty's Bay (roads and public open spaces) is unknown. However, according to the Council's approval and the signed Deed of Sale, a portion of approximately  $155\text{m}^2$  of this Erf will be subdivided, rezoned, and consolidated with Erf 3196 in Betty's Bay. To fulfil the conditions of the approval for the sale of this unregistered portion of Erf 3048 and the sales agreement, it is now required that an application be lodged for:

- The subdivision of the remainder of Erf 3048 in Betty's Bay to create a portion of approximately  $155\text{m}^2$ .

- The closure of a portion of a public road of approximately 155m<sup>2</sup>, situated at the corner of Rockway Drive and Pearl Drive.
- The rezoning of a portion of the remainder of Erf 3048 in Betty's Bay (a portion of the public road) of approximately 155m<sup>2</sup>.
- The consolidation of a portion of the remainder of Erf 3048, approximately 155m<sup>2</sup>, with Erf 3196 in Betty's Bay.
- The determination of an administrative penalty.

The detail of the subject properties are as follows:

Erf	Size	Zoning	Current Land Use
Erf 3196 Betty's Bay	1624m <sup>2</sup>	Residential Zone 1	Residential
Portion of Remainder Erf 3048 Betty's Bay	Unknown	Transport Zone 2	Public road

As previously mentioned, the relevant portion of remainder of Erf 3048 in Betty's Bay is a public road adjacent to Erf 3196 in Betty's Bay. The portion of the remainder of Erf 3048 being purchased by the owner of Erf 3196 is approximately 155m<sup>2</sup>. This portion of the public road was incorporated into Erf 3196 during the construction phase of the dwelling unit. The owner became aware of the encroachment after the dwelling was constructed. This 155m<sup>2</sup> portion of the remainder of Erf 3048 is an underutilized segment of the public road (road reserve).

The new proposed boundary line was determined by the 4.72m Title Deed street building line as stipulated in Title Deed T60272/2017. This new boundary line will accommodate a small portion of the existing dwelling and provide for the stipulated building line.

To consolidate the 155m<sup>2</sup> portion of the remainder of Erf 3048 with Erf 3196, it is required that the remainder of Erf 3048 be subdivided and a portion to be rezoned from Transport Zone 2 to Residential Zone I, the same zoning as Erf 3196. The closure of this portion of the public road is also required. The consolidated property will then be approximately 1779m<sup>2</sup> in extent.



The letter of approval for the purchase of the portion of the remainder of Erf 3048 stipulates that no buildings or structures may be constructed on the 155m<sup>2</sup> portion after consolidation, except for the current encroachment, boundary walls, or fences. Rezoning and consolidating this 155m<sup>2</sup> portion with Erf 3196 will relieve the municipality of the responsibility for its upkeep.

The owner of Erf 3196 successfully applied for the purchase of the encroached portion. We are now applying to formally include this 155m<sup>2</sup> portion of the remainder of Erf 3048 with Erf 3196 through rezoning, subdivision, consolidation, partial closure of a public road, and determination of an administrative penalty.

According to the attached status report obtained from the Surveyor-General, the relevant portion of remainder of Erf 3048 in Betty's Bay has the status of a public road as shown on General Plan TP 794 LD S.G. Diagram No. 8225/1949. Therefore, an application in terms of Chapter 4, Section 16(2)(n) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the closure of a portion of the public road is required. The consolidated property will be approximately 1779m<sup>2</sup> in extent.

The detail of the rezoning of a portion of Remainder Erf 3048 Betty's Bay and the consolidation with Erf 3196 Betty's Bay is as follows:

Erf	Zoning	Extent of property
Erf 3196 Betty's Bay	Residential. Zone 1	<b>1624m<sup>2</sup></b>
Portion of Remainder Erf 3048 Betty's Bay (public road)	Proposed rezoning to Residential. Zone 1	<b>±155m<sup>2</sup> + 1624m<sup>2</sup></b> <b>= ±1779m<sup>2</sup></b>

The proposal will have no impact on the surrounding properties, nor will it affect the existing character or property values of the neighbouring areas.

### 3.5 DETERMINATION OF AN ADMINISTRATIVE PENALTY

As previously mentioned in this report, Mr. L. McCann is the owner of Erf 3196 in Betty's Bay.

Mr. McCann had his building plans drawn up and approved, and subsequently instructed a builder to proceed with the construction of the house according to these plans. However, the builder's work led to an encroachment beyond the building line and boundary line, as depicted by the red line on the plan.



*Area marked in red to be subdivided, rezoned and consolidated*

The owner of Erf 3196 in Betty's Bay intends to rectify the encroachment and resolve the matter through this application, as stipulated in the sales agreement with the Overstrand Municipality.

In accordance with Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, an application is being made for the determination of an administrative penalty for unauthorized land use. According to Chapter 9, Section 90(1) of the By-law, "A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the

Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.”

Furthermore, under Chapter 9, Section 90(3) of the Overstrand Municipality’s Amended By-law on Municipal Land Use Planning, 2020, the applicant must, to the satisfaction of the municipality, provide the following:

### **3.5.1. CRITERIA FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY**

#### **a) The Nature, Duration, Gravity, and Extent of the Contravention**

Mr. McCann became aware of the encroachment only after the construction of the dwelling was completed. The encroachment involves a portion of the building extending beyond the approved boundary line and building line. The nature of the contravention is an unauthorized encroachment onto public road reserve land. The duration of the contravention is limited to the period after the construction was completed, as the encroachment was not discovered until after the dwelling was finished. The gravity of the situation is mitigated by the fact that the encroached area is relatively small, approximately 155m<sup>2</sup>, and does not significantly impact the surrounding environment or land use. The extent of the encroachment is confined to this specific area, and steps are being taken to address it.

#### **b) The Conduct of the Person Involved in the Contravention**

Upon discovering the encroachment, Mr. McCann acted promptly and responsibly. He was informed of the encroachment’s illegality after the dwelling’s completion and took immediate steps to rectify the situation. He engaged Plan Active Town Planners to prepare and submit a formal application to purchase the encroached area. This proactive approach demonstrates Mr. McCann’s willingness to comply with municipal regulations and rectify the issue in accordance with legal requirements.

**c) Whether the Unlawful Conduct Was Stopped**

The unlawful conduct, in this case, refers to the encroachment onto the public road reserve. Mr. McCann's awareness of the encroachment came after the construction was completed. Since discovering the issue, he has taken action to resolve it through the formal application process. The encroachment itself was not intentionally maintained, and the owner has been cooperative in addressing the matter to ensure it is resolved appropriately.

**d) A Report by a Quantity Surveyor in Matters of Unauthorized Building/Construction**

If the Overstrand Municipality determines that an administrative penalty is necessary for the unauthorized encroachment, we will provide a report from a quantity surveyor. This report will detail the unauthorized building work and its value. At this stage, the necessity of such a report is contingent on the decision regarding the penalty. The estimated value of the unauthorized work over the boundary line is approximately R1,500.00. The quantity surveyor's report would be provided to support the assessment of the penalty, if required.

**e) Whether a Person Involved in the Contravention Has Previously Contravened This By-Law or a Previous Planning Law**

Mr. McCann was made aware of the encroachment's illegality after the construction was completed. He has no prior history of contraventions of this By-Law or previous planning laws. This is his first instance of non-compliance, and he has demonstrated a commitment to resolving the issue in accordance with municipal requirements.

**f) Appeal for Consideration**

We respectfully appeal to the Overstrand Municipality to consider the low impact of the encroachment on the surrounding area. The encroached portion is relatively minor and does not substantially affect the surrounding properties or their values. Mr. McCann is prepared to rectify the encroachment by purchasing the affected area at the determined rate of R350.00 plus VAT per m<sup>2</sup>. Given the circumstances and the steps taken to address the issue, we request that the Overstrand Municipality considers waiving or reducing the penalty fee.

**3.5. CHARACTER OF THE ENVIRONMENT**

The proposal will not alter the primary land use of the subject property. This application involves the inclusion of an underutilized portion of public road, approximately 155m<sup>2</sup> in extent, into Erf 3196 Betty's Bay. The area will be used as an extension of the garden space of Erf 3196.

The proposed rezoning of a portion of Remainder Erf 3048 Betty's Bay and its consolidation with Erf 3196 Betty's Bay will not negatively impact neighbouring properties or the residential character of the area. The integration of this portion of the road reserve into the residential property will enhance the property's utility while maintaining the existing character of the neighbourhood.

**3.6. POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)**

The portion of Remainder Erf 3048 Betty's Bay, approximately 155m<sup>2</sup> in extent, is better utilized when incorporated with Erf 3196 Betty's Bay as an extension of the garden. This application aims to formalize this integration, as no additional buildings or erven are proposed that would place a burden on municipal services. Instead, the municipality will benefit from the alleviation of the responsibility for maintaining this portion of the public road. By consolidating this area with the adjoining residential Erf



3196 Betty's Bay, it will be effectively utilized as garden space, enhancing the property while reducing the municipality's upkeep responsibilities.

### **3.7. IMPACT ON EXTERNAL ENGINEERING SERVICES**

#### **3.7.1. PROVISION OF SERVICES**

All services for Erf 3196 Betty's Bay are already in place, and the inclusion of a portion of Remainder Erf 3048 Betty's Bay will not necessitate any additional services. Consequently, the impact on municipal services will remain unchanged from that of the existing developed residential Erf 3196 Betty's Bay.

#### **3.7.2. TRAFFIC IMPACT AND ACCESS**

Access to Erf 3196 Betty's Bay is currently via 1 Pearl Drive, as shown on the locality plan. No new access points are proposed; thus, access to Erf 3196 Betty's Bay will remain unchanged. After the consolidation, the portion of Remainder Erf 3048 Betty's Bay will be utilized as an extension of the garden area.

The subject property will continue to be used exclusively for single residential purposes. No additional erven are proposed, ensuring that the impact on traffic flow in the area will remain consistent with the existing conditions.

### **3.8. OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

#### **3.8.1. HERITAGE VALUE**

Remainder Erf 3048 Betty's Bay and Erf 3196 Betty's Bay are located within the Heritage Overlay Zone as outlined by the Overstrand Municipality Growth Management Strategy. Both properties fall within a designated Heritage Area, specifically Zone 3B and LCZ-A1. However, they are not listed for heritage conservation purposes according to the Overstrand Heritage Survey Report (2009).

The subject properties are not connected to any notable individuals, groups, events, or activities of historical significance.

Given this context, the proposed application will not impede any future land use applications for the subject properties. The application is unlikely to have a negative impact on the heritage value of either the subject properties or the broader Betty's Bay area.

### **3.8.2. IMPACT ON THE BIOPHYSICAL ENVIRONMENT**

The proposed application does not trigger any listed activities under the National Environmental Management Act (NEMA), 1998 (Act No. 107 of 1998).

### **3.9. FORWARD PLANNING AND LAND USE DOCUMENTS**

The Overstrand Spatial Development Framework (2020) designates the area including Remainder Erf 3048 Betty's Bay and Erf 3196 Betty's Bay for urban development purposes. Although the proposal involves rezoning approximately 155m<sup>2</sup> of Remainder Erf 3048 Betty's Bay from Transport Zone 2 to Residential Zone 1 and consolidating it with Erf 3196 Betty's Bay, it remains consistent with the framework's urban development objectives. This rezoning and consolidation are in harmony with the broader urban planning goals outlined in the framework.

The Overstrand Municipal Growth Management Strategy (OMGMS, 2010) identifies Remainder Erf 3048 Betty's Bay and Erf 3196 Betty's Bay as part of Planning Unit No. 7, which covers the eastern areas of Betty's Bay. This strategy specifies that no densification is planned for this area. The current application does not propose the creation of additional portions or the construction of new dwelling units on the subject property, ensuring that the density remains unchanged.

Thus, the proposed application is in compliance with the spatial planning policies for the area and aligns with the existing planning framework for Betty's Bay.

### 3.10. **PLANNING PRINCIPLES**

The planning principles of spatial justice and sustainability are not applicable to this application.

**Spatial justice:** Spatial justice refers to the equitable distribution of resources, opportunities, and spatial benefits across different communities and neighbourhoods. It ensures that planning and development practices do not disproportionately disadvantage certain areas or populations but rather contribute to a balanced and fair urban environment.

In the context of the current application involving Erf 3196 Betty's Bay and a portion of Remainder Erf 3048 Betty's Bay, several key factors contribute to spatial justice.

- Overstrand Spatial Development Framework (2020): This framework designates the area encompassing both Remainder Erf 3048 Betty's Bay and Erf 3196 Betty's Bay for urban development. The proposed rezoning and consolidation align with the framework's objectives, supporting the broader urban development goals without introducing new land uses or increasing density.
- Overstrand Municipal Growth Management Strategy (OMGMS, 2010): The OMGMS identifies the properties as part of Planning Unit No. 7, where no densification is planned. The current application respects this designation by not proposing additional portions or new dwelling units. This adherence to existing planning strategies ensures that spatial justice is maintained by preventing unwanted densification and preserving the intended land use balance.
- Utilization of Underutilized Space: The proposed inclusion of approximately 155m<sup>2</sup> of underutilized public road from Remainder Erf 3048 Betty's Bay into Erf 3196 Betty's Bay as an extension of the garden ensures that the space is used more effectively. This approach not only optimizes the use of existing

resources but also alleviates the municipality from the ongoing responsibility of maintaining the public road portion.

- **No Impact on Surrounding Properties:** The proposed rezoning and consolidation will not result in any negative impact on neighbouring properties or the residential character of the area. By maintaining the current density and land use, the proposal respects the spatial and environmental context of the area, supporting spatial justice through careful and considerate planning.
- **No Additional Burden on Municipal Services:** Since all services for Erf 3196 Betty's Bay are already in place and the inclusion of the additional portion will not require new services, the proposal ensures that the impact on municipal resources remains unchanged. This consideration reflects a commitment to equitable resource management and minimizes the strain on public services.
- **Heritage and Environmental Considerations:** The proposed application is consistent with heritage and environmental planning requirements. It does not trigger any listed activities under the National Environmental Management Act (NEMA), 1998, and the properties are not designated for heritage conservation purposes. By adhering to these regulations, the proposal supports spatial justice by ensuring that development does not compromise important environmental or cultural values.

In summary, the proposal for the rezoning and consolidation of Erf 3196 Betty's Bay and a portion of Remainder Erf 3048 Betty's Bay reflects a commitment to spatial justice. It aligns with established planning frameworks, optimizes the use of underutilized space, maintains existing density and land use patterns, and avoids imposing additional burdens on municipal services. This balanced approach ensures that the development supports equitable and sustainable urban growth.

**Spatial sustainability:** Spatial sustainability focuses on ensuring that land use and development practices meet the needs of the present without compromising the ability of future generations to meet their own needs. It encompasses responsible land use, environmental stewardship, and the creation of resilient and adaptable urban

environments. The proposed application for Erf 3196 Betty's Bay and a portion of Remainder Erf 3048 Betty's Bay reflects several principles of spatial sustainability.

- **Efficient Use of Land Resources:** The application seeks to consolidate approximately 155m<sup>2</sup> of underutilized public road space with Erf 3196 Betty's Bay. This approach optimizes the use of existing land resources by integrating an otherwise underused area into the residential property as an extension of the garden. This effective use of land contributes to sustainable urban development by minimizing wastage and ensuring that land is utilized to its full potential.
- **Alignment with Urban Planning Frameworks:** The proposed subdivision, rezoning and consolidation are in line with the Overstrand Spatial Development Framework (2020) and the Overstrand Municipal Growth Management Strategy (OMGMS, 2010). These frameworks emphasize urban development and the maintenance of current density levels, ensuring that changes to land use are managed within established planning objectives. This alignment with strategic plans supports sustainable development by adhering to long-term urban growth strategies.
- **Preservation of Existing Density:** The application does not propose any increase in density or additional dwelling units. By maintaining the existing density and land use, the proposal avoids overdevelopment and ensures that the area remains in balance with the surrounding environment. This preservation of density supports spatial sustainability by preventing the strain on infrastructure and resources that can occur with unchecked growth.
- **No Additional Demand on Municipal Services:** All necessary municipal services for Erf 3196 Betty's Bay are already in place, and the inclusion of the additional portion from Remainder Erf 3048 Betty's Bay will not require new services. By ensuring that the proposal does not place additional demands on municipal infrastructure, it contributes to the sustainable management of public resources.



- **Impact on Environmental and Heritage Values:** The application does not trigger any listed activities under the National Environmental Management Act (NEMA), 1998, and does not affect heritage conservation areas. This consideration reflects a commitment to environmental and cultural stewardship, ensuring that the development does not compromise important ecological or historical values.
- **Reduction of Municipal Maintenance Burden:** By incorporating the portion of Remainder Erf 3048 Betty's Bay into Erf 3196 Betty's Bay, the municipality will be relieved of the responsibility for maintaining this portion of public road. This reduction in maintenance burden supports spatial sustainability by reallocating resources more efficiently and focusing municipal efforts on areas with greater public need.

In summary, the proposal for the subdivision, rezoning and consolidation of Erf 3196 Betty's Bay and a portion of Remainder Erf 3048 Betty's Bay demonstrates a commitment to spatial sustainability. By optimizing land use, aligning with strategic planning frameworks, preserving existing density, avoiding additional demands on services, and respecting environmental and heritage considerations, the proposal supports the creation of a balanced and sustainable urban environment.

**Efficiency:** Efficiency in land use and urban planning involves optimizing resources, infrastructure, and space to achieve the best outcomes with minimal waste. The proposed application for Erf 3196 Betty's Bay and a portion of Remainder Erf 3048 Betty's Bay showcases several aspects of efficiency.

- **Optimal Utilization of Land:** the relevant portion of Remainder Erf 3048 Betty's Bay is currently a public road, and the portion of this road reserve, approximately 155m<sup>2</sup> in extent, is underutilized. By consolidating this portion with Erf 3196 Betty's Bay, the proposal effectively transforms this underutilized area into a functional extension of the residential property's garden. This approach maximizes the utility of land resources by incorporating an otherwise unused public road space into a private residential property, enhancing overall land efficiency.

- **Alignment with Existing Infrastructure:** The existing infrastructure and services for Erf 3196 Betty's Bay are fully developed. The proposed inclusion of the additional 155m<sup>2</sup> from Remainder Erf 3048 Betty's Bay will not necessitate new infrastructure or services. This ensures that the current municipal systems continue to be used efficiently without incurring additional costs or resource demands, reflecting an effective use of existing assets.
- **Relief of Municipal Maintenance Burden:** By incorporating the portion of Remainder Erf 3048 Betty's Bay into Erf 3196 Betty's Bay, the municipality will be relieved from the ongoing responsibility of maintaining this segment of the public road. This shift in responsibility optimizes municipal resource allocation and reduces maintenance costs for the Overstrand Municipality. The inclusion of this road reserve into the private property enhances efficiency by focusing municipal efforts on more critical public areas.
- **Financial Benefit to the Municipality:** The proposed application involves the purchase of the 155m<sup>2</sup> portion of Remainder Erf 3048 Betty's Bay from the Overstrand Municipality at market value. This transaction provides a direct financial benefit to the municipality, adding to the overall efficiency of the proposal. The municipality gains from the sale of this land, which not only alleviates maintenance costs but also provides financial compensation for the land portion being consolidated with the residential property.
- **Adherence to Strategic Planning Frameworks:** The application is in line with the Overstrand Spatial Development Framework (2020) and the Overstrand Municipal Growth Management Strategy (OMGMS, 2010), which outline strategic objectives for urban development and land use. By adhering to these frameworks, the proposal ensures that land use changes are managed effectively within established planning goals, supporting efficient implementation of long-term growth strategies.
- **Preservation of Existing Density:** The proposal does not introduce new dwelling units or increase density. By maintaining the existing density and land use

patterns, the application avoids additional demands on infrastructure and services, thereby ensuring that the current resources are used efficiently.

- **Environmental and Heritage Considerations:** The proposal does not trigger activities requiring assessment under the National Environmental Management Act (NEMA), 1998, and does not impact heritage conservation areas. This adherence to environmental regulations and avoidance of unnecessary impacts further supports efficient resource management and environmental stewardship.

In summary, the proposed subdivision, rezoning and consolidation of Erf 3196 Betty's Bay and a portion of Remainder Erf 3048 Betty's Bay demonstrate efficiency through the optimal use of land, relief of municipal maintenance burdens, financial benefits to the municipality, alignment with existing infrastructure, adherence to strategic planning frameworks, preservation of existing density, and respect for environmental regulations. This approach ensures that resources are utilized effectively, costs are minimized, and the benefits of the development are maximized.

**Spatial resilience:** Spatial resilience in land use planning emphasizes the development of sustainable livelihoods for communities, particularly those vulnerable to economic and environmental shocks. It also involves the flexibility of spatial plans, policies, and land use management systems to accommodate and adapt to these shocks, ensuring that communities can withstand, absorb, and recover from such challenges.

In the context of this application involving Erf 3196 Betty's Bay and a portion of Remainder Erf 3048 Betty's Bay, the principle of spatial resilience, as defined by the United Nations Office for Disaster Risk Reduction (2009), is not directly applicable. The application primarily involves the subdivision and consolidation of a small portion of a public road with an adjacent residential property, rather than addressing broader community resilience or economic and environmental shocks.

Key aspects of the application include:

- **Consolidation of Underutilized Land:** The proposal involves integrating a portion of underutilized public road space into an existing residential property, which will enhance the functionality of the property without introducing new elements that impact broader community resilience.
- **No Direct Impact on Vulnerable Communities:** The application does not involve or impact communities that are economically or environmentally vulnerable. The scope of the application is limited to optimizing land use and does not extend to interventions aimed at enhancing community resilience or addressing socio-economic challenges.
- **No New Infrastructure or Development:** The proposed changes do not involve new infrastructure or additional development that would affect community resilience. The existing infrastructure on Erf 3196 Betty's Bay is already sufficient to accommodate the proposed changes, and the consolidation will not introduce new demands on municipal services or community resources.
- **Focus on Municipal Efficiency:** The primary focus of the application is to optimize land use and reduce municipal maintenance burdens rather than addressing broader spatial resilience concerns. The proposal aims to enhance the efficiency of land use management and financial stability for the municipality, rather than directly impacting community resilience.

In summary, while spatial resilience is a crucial consideration in many land use planning contexts, the specific nature of this application—focused on consolidating a portion of public road space with an adjacent residential property—does not directly align with or address the principles of spatial resilience as they pertain to broader community impacts or resilience to economic and environmental shocks.

**Good administration:** Our company is dedicated to upholding the principle of good administration and will work closely with the Overstrand Municipality to ensure a streamlined and efficient land use planning process. We are committed to adhering to all procedural requirements outlined in the relevant municipal by-laws, as well as

provincial and national land use planning legislation. Every effort will be made to facilitate a smooth and timely process, in compliance with the deadlines established by the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020.

#### **4. RECOMMENDATION**

When this application is evaluated it is important to take note of the following:

- The existing infrastructure on Erf 3196 Betty's Bay is fully equipped to accommodate the proposed inclusion of  $\pm 155\text{m}^2$  from Remainder Erf 3048 Betty's Bay. No new services will be needed, ensuring that the development remains efficient and cost-effective without burdening municipal resources.
- Access to Erf 3196 Betty's Bay from 1 Pearl Drive will remain unchanged, maintaining the current traffic flow and access arrangements. The consolidation of the  $\pm 155\text{m}^2$  portion will not introduce new access points or alter the existing traffic patterns, thereby preserving the current traffic dynamics of the area.
- The proposed consolidation aligns with the prevailing built environment, preserving the residential character and aesthetic of the neighbourhood. The inclusion of the portion into the existing garden area of Erf 3196 Betty's Bay complements the current land use and maintains the visual and functional coherence of the area.
- The integration of the  $\pm 155\text{m}^2$  portion into Erf 3196 Betty's Bay will not negatively affect the surrounding properties or alter their land values. The application supports maintaining the current residential character and contributes positively to the area's overall stability and appeal.
- The municipality stands to gain financially from the sale of the  $\pm 155\text{m}^2$  portion of Remainder Erf 3048 Betty's Bay at market value. This transaction provides



a direct revenue benefit to the municipality, supporting its financial sustainability.

- Incorporating the portion of Remainder Erf 3048 Betty's Bay into Erf 3196 Betty's Bay will alleviate the municipality from the responsibility of maintaining this underutilized portion of public road. This transfer allows the land to be more effectively utilized as an extension of the residential property, thus reducing municipal maintenance costs and responsibilities.
- The application seeks to correct the unintended incorporation of the  $\pm 155\text{m}^2$  portion of Remainder Erf 3048 Betty's Bay with Erf 3196 Betty's Bay. This formalization will address the error and align the land use with the current property boundaries and usage.
- The proposal is in full compliance with the Spatial Planning and Land Use Management Act, 2013 (SPLUMA), and the Land Use Planning Act, 2014 (LUPA). It adheres to the legal and planning requirements, ensuring that the application supports and aligns with established statutory and regulatory frameworks.

Given these comprehensive considerations, it is recommended that the application consisting of the following be approved:

- the subdivision of Remainder Erf 3048 Betty's Bay in order to create a portion that is  $\pm 155\text{m}^2$  in extent;
- the closure of a portion of a public road (corner of Rockway Drive and Pearl Drive);
- the rezoning of a portion of Remainder Erf 3048 Betty's Bay (a portion of a public road) that is  $\pm 155\text{m}^2$  in extent;
- the consolidation of a portion of Remainder Erf 3048 Betty's Bay that is  $\pm 155\text{m}^2$  in extent with Erf 3196 Betty's Bay.

Motivation report

The proposed changes align with efficient land use practices, provide financial benefits to the municipality, and maintain the current residential character of the area, ensuring a balanced and beneficial outcome for all parties involved.

