

- (xiii) all advertising and signage conforming to Council's approved Outdoor Advertising Policy and being submitted to the Executive Director: Human Settlements for approval in terms of that policy;
- (xiv) compliance with the Liquor Act (Act 10 of 2003) as amended or replaced;
- (xv) compliance with the Business Act (Act 71 of 1991) as amended or replaced;
- (xvi) the Council may suspend or cancel the permit : With immediate effect, if it is believed that it is urgently necessary to do so to eliminate or reduce a significant risk to public posed by the tavern activities;
- (xvii) the permission granted may be subject to termination without compensation after suitable notice is served on the land owner in the event of non-compliance with any of the above conditions.; and
- (xviii) the remaining conditions pertaining to the "Residential 1" zone as contained in the Port Elizabeth Zoning Scheme applying.

10. SUBJECT: REZONING AND HYBRID SUBDIVISION
ERF: 325, THEESCOMBE
SITUATION: MERLE ROAD
APPLICANT: METROPLAN
OWNER: A SCRIBANTE
FILE: CF30/00325 (E Erasmus) (N Jantjies)

EXECUTIVE SUMMARY

Subject	Rezoning and Hybrid Subdivision		
Property Description	Erf 325, Theescombe		
Applicant/Owner	Metroplan obo Scribante		
Existing	Undetermined		
Proposed	125 Residential 1, 1 Residential 2, 4 Public Open Spaces, Transportation		
Objections	7 Letters of Objection		
Ward Councillor	No comment		
Application support	SUPPORTED		
Comments			
File	CF30/00325		

INTRODUCTION:

The applicant proposes to subdivide Erf 325, Theescombe into 125 Residential 1 portions measuring an average of $\pm 696\text{m}^2$, 1 Residential 2 portion measuring $\pm 15\,916\text{m}^2$, 4 Public Open Space portions measuring a total of $\pm 43\,584\text{m}^2$ and a Transportation portion 1 (Road Reserve) measuring $\pm 27\,873$.

APPLICANT:

The applicant is Metroplan on behalf of A Scribante, the registered owner of the subject property.

SUBJECT PROPERTY:

Erf 325, Theescombe is zoned Undetermined in terms of the Port Elizabeth Zoning Scheme and measures 17,4386 ha.

A print of a Locality Plan and Sub divisional Plan no. 6072_The-08, showing the locality of the subject property and the proposed subdivisions are attached to the Agenda marked **Annexures "J1" and "J2"**.

MOTIVATION:

The applicant's motivation is attached to the Agenda marked **Annexure "J3"**.

OBJECTIONS:

The application has been advertised in the prescribed manner and 7 objections were received from, the registered owners as follows:

1. Janet Cherry/Ken Pinchuck - Owners of Erf 324, Theescombe
2. Mrs C Delponte - 32 Blumberg Road, Providentia
3. Gwilym Wilkins - Owner Erf 1288, 4 Merle Road, Providentia
4. Janet Cherry - Chairperson Sardinia Conservancy
5. K and J Lodge
6. Mrs VJ Griesel - Owner Plots 349 and 2017, Theescombe
7. Dr Hotness - 11 Michelangelo Avenue, Pari Park

Objections:

The issues raised by the objectors are summarised as follows:

1. Janet Cherry/Ken Pinchuck:
 - Higher density development.
 - Threat to privacy, erven too close to boundary.
 - Threat to the character of the area defined as rural residential and compromise rural lifestyle.
 - Fencing of area will restrict movement of pedestrians and wildlife.
 - Dense urban development not going to be in harmony with residents of Lovemore Park.
2. Mrs C Delponte:
 - Objects to transportation zoning and linkage of roads to surrounding roads and Blumberg road which is currently a cul-de-sac, it will also increase traffic.
 - Quality of life will change if cul-de-sac is changed.
 - Will affect the value of our property for the worst.
3. Gwilym Wilkins:
 - Traffic congestion on major routes and roads in disrepair.
 - Smaller erven planned than average existing erven in the area will reduce overall value of the area.
4. Janet Cherry - Sardinia Conservancy:
 - Object the fencing of Erf 325, Theescombe, because it will restrict the movement of wildlife in the area.
5. K and J Lodge:
 - Object to major subdivision to maintain the original layout of Lovemore Park.
6. Mrs VJ Griesel:
 - Impact on traffic volumes.
 - Subdivision will set precedent and impact on services which are currently inadequate.
 - Area is a conservancy and large plots protect flora and fauna.
7. Dr Hotness:
 - No transition in density.
 - High density development and property size out of character with area.
 - Linking proposed roads to cul-de-sac will increase traffic.
 - Destruction of remaining section of critically endangered habitats and impact on biodiversity corridor.
 - Allows urban sprawl into adjacent rural area.
 - Development is a change to the Lovemore Park Scheme.
 - Property should remain under its rural zoning.

RESPONSE TO OBJECTIONS:

The objection was referred to the applicant who has responded thereto in the following summarised manner.

The applicant's response to the objections as contained in the letter dated 29 April 2013 has been noted. It is held that the applicant has adequately responded to all the main issues raised by objectors.

In addition to the applicant's response, it is important to note the following:

- (i) High density development within an Urban Edge is deemed desirable from Town Planning point of view considering the fact that it will provide housing opportunities closer to communities. On the other side, the current global environmental challenges continuously influence the need for change in spatial patterns. Compact development is thus encouraged in order to create efficient and sustainable city.
- (ii) The Lovemore Town Planning Scheme was formulated many years ago, and it was formulated on the basis of the then spatial vision. It is important to note that a lot has changed, and the spatial pattern of the Lovemore area is likely going to be greatly influenced by the current spatial plans applicable in the subject area, such as SDF.
- (iii) The question of the value of properties in the vicinity being negatively affected by the proposed development remains a speculation. There is no proof that the proposed development can negatively affect the value of residential properties in the vicinity.
- (iv) It is held that the objectors assumed that the applicant will fence off Erf 325 and create a 'Gated Community'. However, the applicant is not creating a 'Gated Community', only a Portion zoned "Residential 2" will be enclosed for the development of cluster housing. It is therefore unlikely for the proposed development to restrict movement of wildlife.

COMMENTS:**(a) Spatial Planning:**

All in all, this sub-directorate has noted the changes made on the layout are not significant. The proposed Residential 1 units are still above the minimum subdivision size. The most important thing is that the applicant has incorporated the recommendations of the obtained ROD. Consequently, this sub-directorate has no objection on the amended layout plan.

It is important to note that the land in question is currently zoned "Undetermined" in terms of Lovemore Park Town Planning Scheme. The applicant had initially submitted an application for the subject property to be excluded from Lovemore Park Town Planning Scheme and be incorporated into the Port Elizabeth Scheme.

From a Spatial Planning point of view, the subject property is located within an Urban Edge. An area whereby the MSDP aims to achieve the objectives of an integrated structure in functional and socio-economic terms, improved accessibility to employment and services, efficiency in use of resources, optimal utilization of existing infrastructure, protection of agricultural land and other natural resources. The spatial planning principles that support the achievement of the above objectives includes densification, infilling, compact urban structure, combating urban sprawl, phasing and management of development and land use management.

Having said that, this sub-directorate is of the view that the planning and management of land for development should avoid damage to the natural environment and must strive to protect ecologically sensitive areas. It has been noted that the applicant has restarted the processes of acquiring environmental authorization from the relevant authority. Consequently, this directorate supports the applicant's proposal subject to the applicant obtaining an ROD from the relevant authority.

In the event that the ROD comes with recommendations which may lead to changes/alterations occurring on the layout design, the onus shall fall on the applicant to amend the layout accordingly and submit it for consideration by Council.

(b) Land Matters:

There are no restrictive conditions in the Title Deed.

The application is being dealt with in terms of Provincial Circular LDC/GOK 9/1988.

The Ward Councillor was advised of the application on 1 March 2013 and no comment was received. A copy of the letter to the Councillor is attached to the Agenda marked **Annexure "J4"**.

RECOMMENDATION:

- (a) That, notwithstanding the objections received and in terms of Provincial Circular LDC/GOK 9/1988, the Lovemore Park Zoning Scheme be amended (TPA 8478) by way of a Substitution Scheme in terms of Section 14.4 of the Land Use Planning Ordinance (Ordinance 15 of 1985) by the rezoning of Erf 325, Theescombe from Undetermined to Residential 1, Residential 2, Public Open Spaces, Transportation (Road Reserve) purposes, subject to the standard conditions pertaining to such uses:
 - (i) the street names allocated in consultation with the Ward Councillor and as shown on Subdivision Plan no. 6072_The-08 Rev. 4, be approved in terms of Section 129(b) of the Municipal Ordinance no. 20 of 1974;
 - (ii) the applicant obtaining environmental authorisation from the relevant authority;
 - (iii) the applicant submitting the environmental authorisation before the subdivision and rezoning rights take effect;
 - (iv) in the event that the environmental authorisation comes with recommendations which may lead to changes/alterations occurring on the layout design, the onus shall fall on the applicant to amend the layout accordingly and submit it for consideration by Council;
 - (v) standard subdivision conditions being applicable;
 - (vi) standard "Residential 1", "Transportation 1" and "Public Open Space" conditions as contained in the Port Elizabeth Zoning Scheme being applicable on the relevant portions of Erf 325, Theescombe;
 - (vii) the 10m wide right-of-way servitude (eastern boundary of Erf 129) to be kept intact;
 - (viii) the developer at his expense preparing a Traffic Impact Assessment in respect of the full site for evaluation and approval by the Executive Director: Infrastructure and Engineering;
 - (ix) the developer shall include site access and parking layout information on the Site Development Plan to be submitted to the Executive Director: Infrastructure and Engineering and the District Roads Engineer of the Province Department of Roads and Public Works for approval;
 - (x) transportation development levy is payable in respect of related traffic accommodation costs. This levy is to be determined the Executive Director: Infrastructure and Engineering;
 - (xi) consultants submitting a water reticulation design to the Executive Director: Infrastructure and Engineering for approval;
 - (xii) sewer's comments as per report done by Jaco Spies dated 9 October 2009;
 - (xiii) a 3m wide sewer servitude must be registered in favour of the Municipality over the 150mm diameter sewer that traverse Erf 325, Theescombe;
 - (xiv) all sewer costs associated with the above shall be at the owner's expense;

- (xv) a Development plan being submitted accompanied by a report/designs from a Consulting Engineer detailing all on site service designs, all services traversing the erf and the interaction of such services with the surrounding municipal services, including the disposal of concentrated or non-concentrated stormwater and subsoil water being discharged from the surrounding catchment area [municipal roads, the abutting properties, etc.] onto the erf, being submitted at the developers expense, and to the satisfaction of the Executive Director: Infrastructure and Engineering;
- (xvi) any stormwater and/or road modifications and/or alterations being at the applicant's expense and to the satisfaction of the Executive Director: Infrastructure and Engineering;
- (xvii) the development being implemented at the owner's expense in accordance with Engineer Jaco Spies' stormwater report dated 4 October 2005;
- (xviii) Roads and Stormwater Sub-Directorate reserve the right to impose further conditions at development stage;
- (xix) the applicant complying to any stormwater masterplans for the area;
- (xx) substation(s) may be required. The developer/owner must obtain approval from the Executive Director: Electricity and Energy regarding the location of the substation(s), which must be accessible to municipal staff;
- (xxi) an electricity supply can be made available to the erf at the owner/developer's expense and at a cost to be determined once a final layout, erven unit densities, capacities and exact locations of such supplies are confirmed in writing. Written details, together with an approved final layout, must be provided to the Executive Director: Electricity and Energy. Notice periods of up to nine (9) months, before an electricity supply is available, can be required in some instances;
- (xxii) compliance with Waste Management By-laws;
- (xxiii) Residential 1: Roads must be constructed to accommodate refuse collection vehicles, i.e. turning circles, width and weight of the refuse compactors;
- (xxiv) the protection of the critically endangered Bushy Park Indian Forest and the vulnerable Sardinia Bay Forest Thicket will be highly appreciated;
- (xxv) a maximum height restriction of 2 storeys applying;
- (xxvi) a maximum density of 40 units per hectare being applicable;
- (xxvii) building lines : 5m if fronting onto existing streets or 2m if fronting onto new streets within the site, 1.5m side and rear spaces;
- (xxviii) on-site parking being provided in terms of Regulation 13 (Department of Transport's standards) of the Port Elizabeth Zoning Scheme;
- (xxix) vehicular access being to the satisfaction of the Executive Director: Infrastructure and Engineering;
- (xxx) the submission and approval of a site development plan for the approval by the Executive Director : Human Settlements prior to the submission of building plans. If considered necessary, the Executive Director : Human Settlements may at the time of assessing the site development plan request the construction of a 2,4 m brick high wall to protect the amenity of adjacent properties, and also request landscaping measures to be implemented on the property;
- (xxxi) in terms of the National Building Regulations and before the new use rights are exercised, building plans showing the use of the building and the layout of the parking area being submitted for approved by Executive Director: Human Settlements;

- (xxxii) all advertising and signage shall conform to Council's approved Outdoor Advertising Policy and shall be submitted to the Executive Director : Human Settlements for approval in terms of that policy;
 - (xxxiii) the remaining conditions applicable to the Residential 2 Use Zone in terms of the Port Elizabeth Zoning Scheme applying;
 - (xxxiv) it be recorded that the site development plan and building plans not being approved until such time the applicant has obtained environmental authorisation from the relevant authority and has obtained approval of the pending application *"to exclude Erf 325, Theescombe from the Lovemore Park Zoning Scheme, and incorporate it into the Port Elizabeth Zoning Scheme"*;
 - (xxxv) the developer, in terms of regulations promulgated on 20 July 2001 in terms of the Water Service Act of 1997, installing separate approved water meters and individual stopcocks to each portion for apportioning purposes;
 - (xxxvi) standard sewer Conditions of Hybrid Subdivision shall apply for Residential 2 zone;
 - (xxxvii) Residential 2: A refuse storage chamber must form part of the development and the NMBM guidelines must be taken into consideration during the design thereof but should not be limited thereby (Waste Management by-laws 2010, Chapter 2, Par 2, Section 12(1) and a trade contract should be entered into, with NMBM for the collection of the waste;
 - (xxxviii) a SDP must be submitted to Waste Management for comments.
- (b) That, notwithstanding the objections received Erf 325, Theescombe be zoned (TPA 8478 A1) in a manner permitting subdivision, subject to the provisions of the Lovemore Park Zoning Scheme and being incorporated into the Port Elizabeth Zoning Scheme as they affect the Residential 1, Residential 2, Public Open Spaces, Transportation (Road Reserve) use zone.
 - (c) That, notwithstanding the objections received, the Hybrid Subdivision Application 7266 [a portion of Erf 325, Theescombe (zoned Residential 2)], be approved, as shown on Plan no. 6072_The-08 Rev. 4, subject to the standard Hybrid conditions.

EXECUTIVE DIRECTOR : HUMAN SETTLEMENTS

July 2015

**Proposed Sub
Erf 325 Theescombe
(Nelson Mandela Bay)**

Legend / key notes

Subject Site	Area in m ²	% Allot
Residential 1	87013.00 m ²	49.89%
Residential 2	15916.00 m ²	9.13%
Public Open Space	43584.00 m ²	25.00%
Transportation 1	27873.00 m ²	15.98%
Total	174386.00 m²	100.00 %

07/02/2014
Total Area in Hic: 17.43 Ha
Total Residential 1 Area in Hic: 8.29 Ha
Total Residential 2 Area in Hic: 1.29 Ha
Gross Residential Density: 7.27 Units/Ha
Net Residential Density: 24.36 Units/Ha
Average Erf Size: 696.00 m²

INDIGENOUS VEGETATION - Moderate Sensitivity
INDIGENOUS VEGETATION - High Sensitivity
NO GO AREAS

544

Notes:
1. F.O.S. requirements 125 - 1.71 = 865 m²

3rd Chorded Plan

Drawn by	date	designed by	date
A. Numan	14/03/14	L. Del Monte	14/03/14
scale 1 : 2 500			

Client:
Scribante Construction (Pty)Ltd

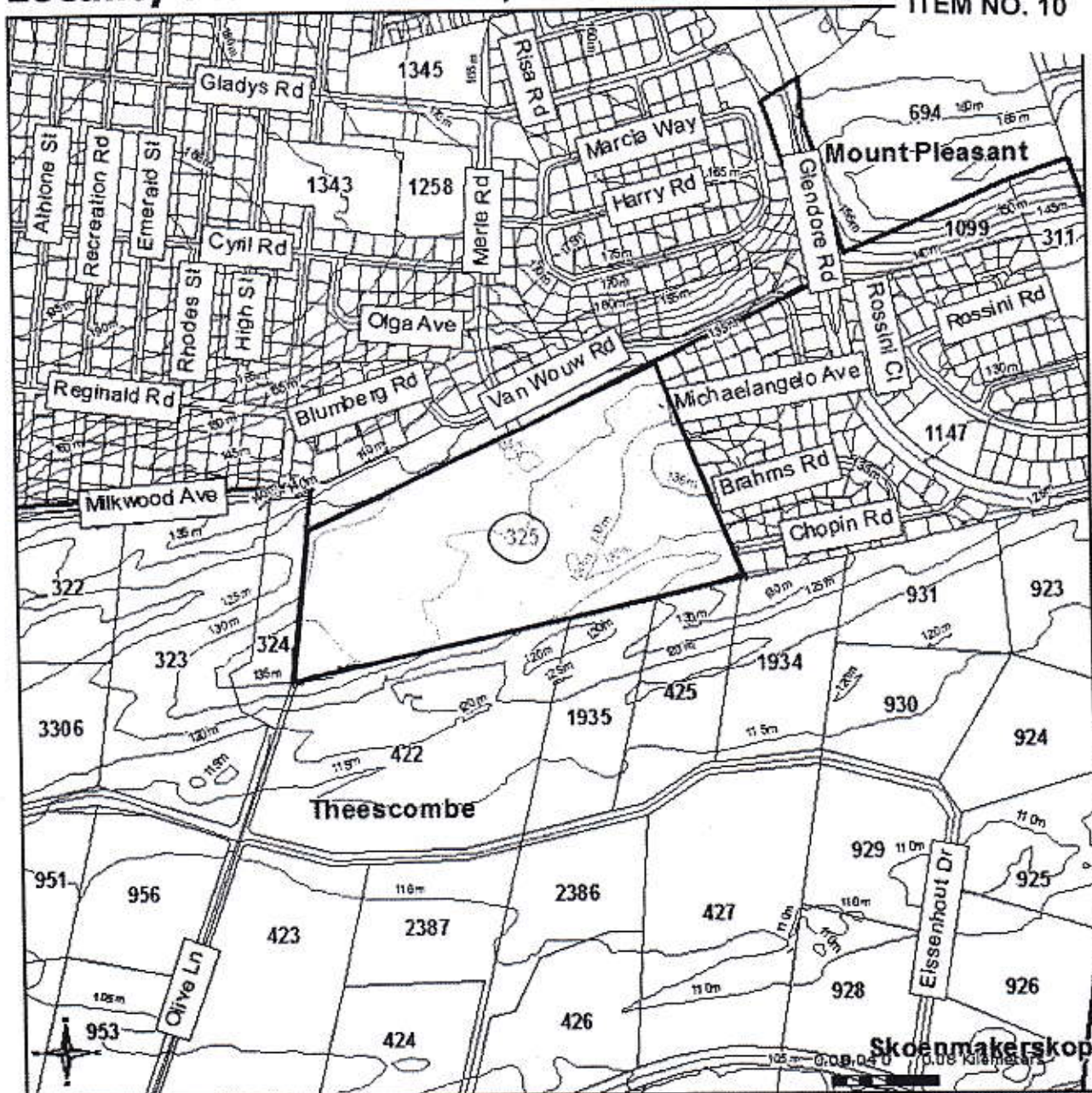
Service provider:
METROPLAN
Township & Regional Planning
P.O. Box 12313, Central Area - 7 Upper Dickens Street, Grahamstown
Port Elizabeth 6001 - Tel: 427 (048) 331 4141
Fax: 427 (041) 313 1838 Email: metroplan@metroplan.co.za

Drawing title:
**Proposed Subdivision of
Erf 325 Theescombe**

Drawing number:
6077 The 00



ANNEXURE "J2"
ITEM NO. 10



☒ BUS; BUS ZONE 1; BUS1

MOTIVATION REPORT

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PROPOSED REZONING AND SUBDIVISION OF ERF 325 THEESCOMBE

1 APPOINTMENT

The Trustees for the time being of C.G.S. Prop Trust (IDNU 2042/98), represented by Mr Aldo Scribante, have appointed Metroplan Town Planners to submit an application to the Nelson Mandela Bay Metropolitan (NMBM) to subdivide and rezone Erf 325 Theescombe from Undetermined to Residential 1, Residential 2, Public Open Space and Transportation 1. Refer to Annexure A and B

2 PREVIOUS PLANNING

In 1997 an application to rezone, subdivide and include Erf 325 Theescombe into the Port Elizabeth urban boundary was submitted to the NMBM but was not finalised. In 2005 Coastal Settlements, on behalf of the client, submitted another rezoning and subdivision application and correspondence relating to this application indicates that the application was circulated and approved by all departments in the municipality subject to the amendment of the layout plan to provide for additional open space.

Metroplan was appointed by the client in August 2006 to take over and finalise the application from Coastal Settlement, by amending the layout to incorporate additional open space. The plan was submitted to the NMBM in September 2006 and circulated to all NMBM departments and finalised by its Development Division in December 2011, but was never sent to Council for approval. The Environmental Authorisation (RoD) was submitted to the Development Division for circulation in September 2011 to assist the finalisation of the application. Despite the protracted application process and the timely submission of the ROD the application was not finalised. However on 12 July 2012 we received correspondence from the NMBM Properties Department stipulating that the application needs to be resubmitted, thus this application. Due to delays experienced in getting approval of the initial application the ROD has since lapsed and our client is in the process of conducting another EIA.

According to the conditions in the Title Deeds and the SG Diagram the subject property is subject to a 538m² right-of-way servitude in favour of Erf 425 Theescombe. The servitude is situated on the south east corner of the site. The servitude is notorally tied and will be accommodated in the layout design of the development. Refer to Annexure D.

3 METROPOLITAN CONTEXT

The subject site is situated along the eastern boundary of the Theescombe Allotment area. Theescombe is flanked by Mount Pleasant and Walmer Heights Allotment areas and situated more than 8km from the CBD. The site falls within the NMBM Urban edge and its southern boundary coincides with the urban edge boundary. Refer to Plan 6072_The-01.

6 PHYSICAL ENVIRONMENT

The geological and environmental characteristics of the site are taken from the Engineering Geological study done for the site.

6.1 Topography

The site occurs within a paleo-dunefield (ancient dunes) and has a resultant undulating topography. The dunes extend south-west to north-east and have an average height of about 5 to 10 metres. The site is situated between 130 and 140 metres above mean sea level.

A sand quarrying operation at the site has altered the natural topography somewhat. Backfilling and rehabilitation have resulted in a slightly flatter topography.

6.2 Drainage

Drainage features do not occur on the site under investigation. The soil is fairly permeable, and precipitation which does not infiltrate the soil will drain by means of sheet-wash to the lowest portions of the site where it will temporarily pond.

6.3 Climate

The climate is representative of a semi-humid, coastal climatic zone. Rainfall varies between 600 and 700 mm per annum, falling throughout the year. Summer and winter temperatures are generally mild. Weinert climatic N number is approximately 3, implying that chemical weathering dominates over mechanical weathering.

6.4 Vegetation

Natural vegetation was removed at the site when sand quarrying operations commenced. Isolated pockets of dune fynbos remain, however. As present, alien tree and grass species occur on site, probably being introduced when the site was rehabilitated. The Port Jackson Willow and Rooikranse predominate.

The layout of the Open Space has taken into account the existing indigenous vegetation, topography and existing servitudes. The large open space on the north-west section of the site will also function as a storm water detention pond.

7.3 Provision of Access

Provision is made for adequate access within the development through a hierarchy of roads. The 20m and 16m roads form the main access routes into the site. These are linked to and in keeping with the standards of the surrounding existing roads. The 10m and 13m roads provide internal access and filter traffic from the main access routes thereby providing access to all sections of the development.

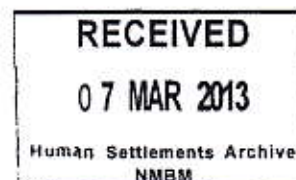
ANNEXURE "J4"
ITEM NO. 10

035330

Your Ref
Our Ref CF30/00325
Date 1 March 2013

DEALS WITH THIS MATTER: B WELGEMOED
LAND PLANNING AND MANAGEMENT SUB-DIRECTORATE
Tel: 506.3212; Fax: 506-3430

NB Please quote Our Ref above in all future correspondence



Dear Councillor S Slabbert

- (1) TOWN PLANNING AMENDMENT 5600; REZONING OF ERF 325, THEESCOMBE
(2) SUBDIVISION APPLICATION 5571 : ERF 325, THEESCOMBE

I wish to advise that the registered owner of Erf, 325 Theescombe, has applied for the rezoning and subdivision of the above erf, to permit it to be developed for Residential 1, Residential 2 Public Open Space and Transportation (Road) purposes, as per the attached plan.

Please note that the application was advertised on a previous occasion but has expired due to the effluxion of time.

This Department has now again advertised the application in accordance with the prescribed procedures

The application may be examined at the office of the Properties and Planning Administration, second floor, Govan Mbeki Avenue, Brister House, during normal office hours.

Kindly note that the advertising of the proposal for objection should under no circumstances be construed as an indication that the proposal is likely to be approved by the City Council.

The proposal will only be considered by Council once the legal requirements have been completed so that any possible objection may also be taken into account.

The closing date for objections herein is 2 April 2013 and you are requested to furnish me with your comment on the application before this date.

Yours faithfully


ACTING EXECUTIVE DIRECTOR : HUMAN SETTLEMENTS

Councillor S M Slabbert
64 Water Road
Walmer
PORTELIZABETH
6070

325C-BW/LK