



MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

MINUTES

DATE:	25 APRIL 2019
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	10:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM, HERMANUS, ON 25 APRIL 2019, AT 10:00

PRESENT:

MEMBERS:

Mr R Williams, Director : Community Services
Mr S Madikane, Director : LED
Ms D Arrison, Director : Management Services
Ms H Janser, Directorate Development
Management







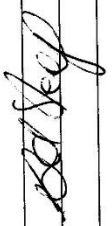

OFFICIALS:

Mr R Kuchar, Senior Manager : Town Planning &
Property Management
Ms H van der Stoep, Senior Town Planner
Ms S Swart, Council Support Services

APOLOGIES:

Mr S Müller, Director : Infrastructure & Planning

ATTENDANCE REGISTER : MEETING OF MUNICIPAL PLANNING TRIBUNAL : 25 APRIL 2019 AT 10:00

NAME	DESIGNATION	ORGANISATION	TEL. NO.	E-MAIL ADDRESS	SIGNATURE
S MULLER	CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8019	smuller@overstrand.gov.za	
R WILLIAMS	VICE-CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8029	rwilliams@overstrand.gov.za	
S MADIKANE	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8066	smadikane@overstrand.gov.za	
D ARRISON	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8004	darrison@overstrand.gov.za	
H JANSER	MPT MEMBER	DIR. DEV MANAGEMENT	021 483 3544	Helene.Janser@westerncape.gov.za	
R KUCCHAR	AUTHORISED OFFICIAL	OVERSTRAND MUNICIPALITY	028 313 8087	rkuchar@overstrand.gov.za	
S VAN DER MERWE	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8938	svandermerwe@overstrand.gov.za	
H VAN DER STOEP	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8906	hvandersioep@overstrand.gov.za	
P ROUX	TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8900	proux@overstrand.gov.za	
H OLIVIER	TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8900	holivier@overstrand.gov.za	
S SWART	COUNCIL SUPPORT	OVERSTRAND MUNICIPALITY	028 313 8006	sswart@overstrand.gov.za	

1. OPENING

The Acting Chairperson, Mr R Williams, opened the meeting and welcomed those present. Director S Madikane joined the meeting at 10:10.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr S Müller, Director : Infrastructure & Planning

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 1 March 2019****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **1 March 2019**, be confirmed.

3.2 Minutes of a Municipal Planning Tribunal Meeting held on 28 March 2019**RESOLVED:**

that the approval of the Minutes of the Municipal Planning Tribunal Meeting held on **28 March 2019**, stand over until the next meeting.

4. ITEMS FOR CONSIDERATION

4.1 PORTION 47 OF 559, HANGKLIP, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF MR J DE JAGER ON BEHALF OF THE TRIO DATA SECURITY SERVICES BK

EXECUTIVE SUMMARY

An application was received on 26 June 2018 from Messrs Plan Active Town and Regional Planners on behalf of Mr J de Jager on behalf of the Trio Data Security Services BK on Portion 47 of the farm Hangklip No. 559 for the following:

- ❖ Removal of restrictive title conditions with reference to Clauses D.(b), D.(d), D.(e), D.(i), D.(n), D.(o), D.(r), E.(i), E.(ii) and E.(iii) of Title Deed T3920/2017 applicable to Portion 47 of the Farm Hangklip No. 559, in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015.

The restrictive conditions contained in Title Deed T3920/2017 to be removed read as follows:

“Clause D. :

- (b) *No wood and iron buildings or works of any description shall be erected nor shall corrugated iron be used for roofing purposes.*
- (d) *All buildings and other constructional works, including all fences and garden or other gates, shall be of good design and sound construction and plans thereof must be approved by the Seller before construction is commenced. In the event of a breach of this Clause the Seller shall have the right to require the Purchaser to demolish such unauthorised buildings or works and/or shall have the opinion to re-purchase the land upon payment of the cost price thereof without compensation for improvements.*
- (e) *No signs, advertisements, advertisement hoardings or other lettering shall be erected on the land hereby sold and purchased, nor shall any advertisements, signs or lettering be painted on any buildings, walls or fence erected or to be erected on the said land save and except with the written approval of the Seller.*
- (i) *No Person other than the registered owner and his immediate family shall camp overnight or light open fires on the said land save with the written consent of the Seller which shall have the right to refuse such*

consent without assigning any reason therefore or to give such consent subject to such conditions as it thinks fit.

- (n) *The land shall be used only for agricultural purposes and the breeding and keeping of domestic animals, poultry and/or bees provided that no goats or pigs may be kept except with the special written consent of the Seller.*
 - (o) *Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land.*
 - (r) *No boarding houses, flats, maisonettes, hotel, shops, public garage or filling station, business premises, canteen, restaurant, bioscope, factory or industrial buildings shall be erected on the land nor shall any such business or entertainment be conducted on the land”*
- E. *ENTITLED to the benefit of the conditions referred to in the Servitude Endorsements appearing on said Certificate of Registered Title No. T5789/1957 which said endorsements are dated and read as follows:*

(i) 17th December 1959:

By D.T. No 18344/59 dd. This day Portion 59 thereby conveyed is subject to conditions relating to (a) buildings (b) restriction against erection of signs, advertisements etc. (c) restriction against trade (d) prohibition against making of bricks, tiles and pipes € prohibition against deposit of debris, scrap, etc. (g) camping (h) access (i) sewerage (j) water (k) sub-division, and (use of land i.f.s. the remainder of within within portion 45 meas. 250,8309 hectares held hereunder. As will more fully appear on reference to the said D.T.”

(ii) Dated 10th May 1960:

“By Deed of Transfer No. 6799/1960 dated this day Portion 62 = 9,2831 hectares thereby conveyed is (A) not entitled to conditions referred to in certain, endorsements and (B) Subject to conditions relating to (a) (b) (c) and (d) buildings and design (e) advertising (f) trade (g) and (h) building materials and scrap (j) camping (k) access to roads (l) sewage (m) use of water (n) subdivision (o) (p) (q) (r) & (s) use of land and buildings in favour of the remainder of Portion 45 = 242,1473 hectares held hereunder, as will mote fully appear on reference to the said Deed of Transfer.”

(iii) Dated 20th of November 1961:

“By Deed of Transfer No. 16184/1961 dd. This day, Portion 58 meas. 9,6944 hectares thereby conveyed is (A) Not entitled to conditions referred to in certain endorsements and (B) Subject to conditions relating to (a) (b) (c) and (d) buildings and design (e) advertising (f) trade (g) & (h) building materials and scrap (j) camping (k) access to roads (l) sewage (m) use of water (n) sub-division (o) (p) (q) (r) & (s) use of land and buildings in favour of the remainder of Portion 45 meas. 232,4530 hectares held hereunder as will more fully appear on reference to the said Deed of Transfer.”

RESOLVED:

that the item **be referred back** to get clarity on court cases mentioned in the objections.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

4.2

ERF 340, 10 PERSPICUA ROAD, ROOIELS: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE: MESSRS PLAN ACTIVE ON BEHALF OF CP HOWARD & RJC TERLIEN**340 KRE (3832)****H van der Stoep****18 March 2019****(028) 313 8900****Hermanus Administration****EXECUTIVE SUMMARY**

An application has been received on 31 October 2017 from Messrs Plan Active Town and Regional Planners on behalf of CP Howard & RJC Terlien on Erf 340, Rooiels for the following:

- ❖ Removal of restrictive title conditions with reference to Clauses F.4.(b), F.4.(d) & F.4.(e) and Clause G.(b) & G.(g) of Title Deed T11086/2017 applicable to Erf 340, Rooiels in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to accommodate a guesthouse and second dwelling on the property.

The restrictive conditions contained in Title Deed T11086/2017 to be removed, read as follows:

“F. SUBJECT FURTHER to the conditions contained in Deed of Transfer Number T20119/1953 and imposed by the Administrator of the Province of Cape of Good Hope when approving the General Plan of Rooi Els in terms of Ordinance 33/1934, namely:

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 Townships Board and the local authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose.

(b) It shall be used only for residential purposes only, but no building other than one dwelling together with such outbuildings as are ordinarily required to be used therewith shall be erected thereon.

(d) No building or structure except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority, and outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion

of which will be used for human habitation may be erected within the above prescribed rear space and provided further that a garage may be erected up to such street line, if in the opinion of the Local Authority the level of the erf is such as to make that necessary;

- (e) *Pending the establishment of a Local Authority for this Township the sewage of this erf shall not be disposed of otherwise than means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf, the owner shall without compensation, be obliged to remove it after three months' written notice served upon his by Local Authority.*

G. *SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T20119/1953 imposed by Hangklip Beach Estates Limited in favour of the registered owner of any erven in the said Rooi Els Township, which conditions read as follows:*

(b) *No wood and iron buildings of any description shall be erected on this erf, nor shall corrugated iron be used for roofing purposes.*

(g) *The Transferee shall not camp overnight or light fires on the erf, save with the written consent of the Company."*

- ❖ Consent Use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to enable the owner to utilize the existing dwelling house on the property as a guesthouse (5 rooms).

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of restrictive title conditions Clauses F.4.(b), F.4.(d) & F.4.(e) and Clause G.(b) & G.(g) of Title Deed T11086/2017 applicable to Erf 340, Rooiels, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 340, Rooiels for a consent use in order to enable the owner to utilise the existing dwelling on the property as a guesthouse (5 rooms), **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the approvals in 1. and 2. above be subject to the following conditions:
 - (a) that the approval be limited to only the five (5) guestrooms;

- (b) that the second dwelling is for the owner/manager's use only;
 - (c) that no self-catering is allowed;
 - (d) that a site development plan be provided indicating the five (5) guest rooms to be utilised for guests, and also clearly showing the seven (7) required parking bays (including garages) as found on-site;
 - (e) that the owner/manager resides on the premises, and that the owner be responsible for the proper management of the guesthouse;
 - (f) that commercial rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (g) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
 - (h) that meals may only be provided for guests;
 - (i) that a single non-illuminated sign that complies with the Municipal By-Law on Signage may be displayed on the premises;
 - (j) that the accommodation facility be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
 - (k) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (l) that building plans be submitted to the Building Department for approval for any proposed amendments;
 - (m) that all the conditions in the Services Report be complied with; and
 - (n) that all conditions imposed by the Fire Department be complied with.
4. that an amended Site Development Plan (dated 12 June 2018, Version 2.2) be submitted indicating the two (2) rooms to be interleading. The latter may not be through a garage, bathroom and bedroom;
5. that the proposed kitchenette be removed in the employee's quarters;
6. that the sewerage system be investigated by the Municipal Engineering Services Department to convert the existing septic tank to a conservancy tank;

7. that the backwash of the pools be dealt with by the filter system as proposed by the applicant; and
8. that the applicant and objectors be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

The meeting adjourned at 10:55