



**MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL
(MPT)**

MINUTES

DATE:	29 APRIL 2021
VENUE:	GLASKAS
TIME:	10:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE GLASKAS ON 29 APRIL 2021 AT 10:00

PRESENT:

MEMBERS:

Ms H Janser, Directorate Development
Management
Mr S Müller, Director : Infrastructure & Planning
Mr S Madikane, Director : LED
Mr H Blignaut, Deputy Director : Engineering
Services

OFFICIALS:

Ms H van der Stoep, Senior Town Planner
Mr S van der Merwe, Senior Town Planner
Mr H Olivier, Town Planner
Mr A Volkwyn, Town Planner
Ms S Swart, Council Support Services

APOLOGIES:

Mr R Kuchar, Senior Manager : Town & Spatial
Planning
Ms R Louw, Senior Manager : Strategic Services




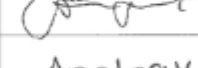



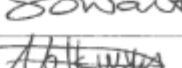
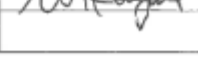
MUNICIPAL PLANNING TRIBUNAL

ATTENDANCE REGISTER

Date: 29 APRIL 2021

I, the undersigned, hereby declare:

- that I will make known details of any personal or other interest in respect of matters on the agenda and whether I have been approached by any party prior to the meeting
- that I have read all the information on the agenda

NAME	DEPARTMENT / SECTION MUNICIPALITY	SIGNATURE
H JANSER	CHAIRPERSON DIR: DEV MANAGEMENT	
S MÜLLER	VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	
S MADIKANE	MPT MEMBER OVERSTRAND MUNICIPALITY	
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	
R LOUW	MPT MEMBER OVERSTRAND MUNICIPALITY	Apology
R KUCHAR	AUTHORISED OFFICIAL OVERSTRAND MUNICIPALITY	Apology
S VAN DER MERWE	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	
H VAN DER STOEP	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	
P ROUX	TOWN PLANNER OVERSTRAND MUNICIPALITY	
H OLIVIER	TOWN PLANNER OVERSTRAND MUNICIPALITY	
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	
A Volkmyn	Town Planner	

1. OPENING

The Chairperson, Ms H Janser, opened the meeting and welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr R Kuchar

RESOLVED:

that the above-mentioned application for leave of absence, **be granted.**

Ms R Louw

RESOLVED:

that the above-mentioned application for leave of absence, **be granted.**

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 1 April 2021****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **1 April 2021, be confirmed.**

4. ITEMS FOR CONSIDERATION

THE CHAIRPERSON, MS H JANSER, INFORMED THE MEETING THAT SHE WAS INVOLVED IN COLLECTING INFORMATION FOR THE FOLLOWING APPLICATION ON BEHALF OF HER DIRECTORATE, BUT THAT THERE IS NO CONFLICT OF INTEREST AS HER DIRECTORATE IS NOT THE DECISION-TAKING AUTHORITY. THE MUNICIPAL PLANNING TRIBUNAL MEMBERS UNANIMOUSLY CONSENTED TO THE DISCUSSION OF THIS ITEM WITH MS JANSER AS CHAIRPERSON

4.1

PORTION 1 OF THE FARM KLEINRIVIER NO. 646, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURE AND CONSENT USE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF BIZ AFRIKA 62 (PTY) LTD

1/646 RCAL**P Roux****17 February 2021****(028) 313 8900****Hermanus Administration**

EXECUTIVE SUMMARY

An application was received on 27 June 2018 from Messrs WRAP Project Office on behalf of BIZ Afrika 62 (Pty) Ltd on Portion 1 of the Farm Kleinrivier No. 646, Division Caledon for the following:

- departure in terms of Section 16(2)(b) to accommodate a farm store on the property, and
- consent use in terms of Section 16(2)(o) to utilise twelve (12) holiday housing units as permanent residence by the shareholders, tourist facilities (lecture room and gift shop), restaurant and place of assembly (clubhouse).

RESOLVED:

1. that the comments and objections be noted;
2. that the application in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) received from Messrs WRAP Project Office on behalf of BIZ Afrika 62 (Pty) Ltd on Portion 1 of the Farm Kleinrivier No. 646, Division Caledon for the following:
 - departure in terms of Section 16(2)(b); to accommodate a farm store on the property; and
 - consent use in terms of Section 16(2)(o) to utilise twelve (12) holiday housing units as permanent residence by the shareholders; tourist facilities (lecture room and gift shop); restaurant and place of assembly (clubhouse)

not be approved in terms of the provisions of Section 61 of the By-Law; and

3. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditions of approval

REASONS FOR THE RESOLUTION:

- Only minor details are provided regarding the proposed additional tourism uses on the property. From the information provided the scope of the proposals cannot be adequately discussed and evaluated and therefore the objections regarding the proposal are valid and weigh heavily against the proposal.
- Due to the lack of information in the motivation, the insufficient link between the motivation and the SDP and the objections received, the proposals to depart from the Zoning Scheme and apply for additional public and commercial facilities are not supported from a town planning perspective and are considered undesirable.
- Consent use for holiday housing units will not resolve the main issue which is that the property owner wants to utilise the property on a permanent basis and to add additional units. The definition for holiday housing units as contained in the Zoning Scheme specifies that the units must be used for holiday and recreational use.
- Currently the property is not being utilised for holiday and recreational use other than the existing camp site.
- The inclusion of the additional twelve (12) holiday accommodation units is an attempt to bypass the Zoning Scheme parameters which state that "*holiday housing shall not comprise more than 50% or a lesser percentage as determined by the Council of the units provided on the property concerned*". The applicant fails to provide substantive reasons for the need for the additional twelve (12) holiday accommodation units in the Stanford area other than the reason provided above. This was noted by the objectors.
- The applicant failed to motivate how the resort will function and be developed in line with the Zoning Scheme and land use rights.
- The main purpose of the proposal is based on the principle to legalise a past infringement and to pressurise the Municipality to allow for the establishment of permanent housing units on a property outside of the urban edge. Although the SDF, 2006 promotes tourism in the rural area as stated by the applicant, the SDF also states that non-agricultural development along the Klein Rivier must be restricted and, due to growth pressures, that the urban footprint of Stanford must be contained in a clearly defined urban edge. From the Municipality's point of view and as communicated by DEA&DP the proposal is considered undesirable.
- The character and building materials used for several outbuildings are not considered to be consistent with the formally constructed dwellings.

RESPONSIBLE OFFICIAL :

P ROUX

4.2

**PORTION 228 OF THE FARM NO 575, BENGUELA COVE, HERMANUS:
PROPOSED AMENDMENT OF THE SITE DEVELOPMENT PLAN AND CONSENT
USE: MESSRS WRAP ON BEHALF OF BENGUELA COVE INVESTMENTS (PTY)
LTD**

HBENG 228/575

H Olivier

(028) 313 8900

Hermanus Administration

12 March 2021

EXECUTIVE SUMMARY

An application was received on 20 February 2019 from Messrs WRAP on behalf of Benguela Cove Investments (Pty) Ltd on Portion 228 of the Farm No. 575, Benguela Cove in terms of the Overstrand Municipality By-Law on Land Use Planning, 2015 for the following:

- Amendment of the Site Development Plan in terms of Section 2.(l) for the proposed development of a lodge on Portion 228 of Farm 575, consisting of forty (40) units to be used as tourist accommodation, a boat house, open space for parks and recreation, spa/health bar (restaurant) and pond.
- Consent use in terms of Section 16(2)(o) of the abovementioned By-Law, for forty (40) lodge units to be used as tourist accommodation.

RESOLVED:

1. that the application for a consent use in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 for forty (40) self-catering lodge units to be used for tourist accommodation, **not be approved** in terms of the provisions of Section 61;
2. that the application for the amendment of the Site Development Plan in terms of Section 16(2)(l) of the By-Law for the proposed development of a lodge on Portion 228 of Farm 575, consisting of forty (40) units to be used for tourist accommodation, a boat house, open space for parks and recreation, spa/health bar (restaurant) and pond, **not be approved**, in terms of the provisions of Section 61; and
3. that the applicant and objectors be notified of their 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.

REASONS FOR THE RESOLUTION:

- ❖ Considering historical documents, it was always the intention to develop a larger hotel type building on the site similar to Arabella, and to create an upmarket

development where persons not owning property in Benguela Cove Estate (BCE), can be accommodated overnight.

- ❖ Thirteen (13) letters of objection were received, with valid objections.
- ❖ The proposal will allow for the development of the whole site with forty (40) units and restaurant/spa. This will entail the construction of internal roads and large parking areas. Considering the character of the area surrounding the site, being larger dwellings constructed on a limited footprint on large plots, with large portions of agricultural land, private open space and nature areas, the proposed built form is not in line with the character of the surrounding area.
- ❖ The development of a hotel with interleading rooms and amenities will be contained in a smaller footprint and mirror the surrounding development with large open spaces around them. Existing residential erven next to the property have a density of approximately 5 units/ha, and other residential pockets as low as 2,6 units/ha, whilst the proposed tourist accommodation self-catering units will have a density of 14 dwelling units/ha. The proposal will have the appearance of a dense residential development, which will not fit in with the surrounding properties in the BCE.
- ❖ Whilst hotels do not typically have braai facilities, private braai facilities are usually the norm with self-catering units. The impact of forty (40) self-catering units utilizing such facilities simultaneously could create significant smoke and noise which would impact negatively on surrounding residents.
- ❖ Guests to self-catering facilities could bring their boats, which would usually not be the case in hotel developments. If the boat yard and slipway are utilized by additional guests, this could create a lot of pressure on the slipway and boat yard, which have limited capacity. This will ultimately create additional noise and nuisance at the boat yard/slipway and will impact on the privacy of surrounding property owners.
- ❖ A hotel development with interleading rooms and amenities within a more confined area, allows for the easier monitoring of the movement and behaviour of guests. With self-catering units, control over the movement and behaviour of guests will be very difficult, and this would create greater security risks in the BCE.

RESPONSIBLE OFFICIAL :

H OLIVIER

4.3

ERF 4413, 4 LACHENALIA ROAD, BETTY'S BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, REZONING, SUBDIVISION AND DEVIATION FROM THE OVERSTRAND MUNICIPAL GROWTH MANAGEMENT STRATEGY, 2010: MESSRS WRAP ON BEHALF OF BS MCLEOD

4413 KBB

H van der Stoep
2 March 2021

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 20 January 2020 from Messrs WRAP on behalf of BS Mcleod on Erf 4413, Betty's Bay for the following:

- Removal of Restrictive Title Deed Conditions in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions B.6, B.7.(a), B.7.(b), B.7.(d), B.8, B.8.(a), B.8.(b), B.8.(c), B.9 and B.10 as contained in Title Deed T5778/2020 to permit the proposed application.

The restrictive title deed conditions read as follows:

- "B.6. *This erf shall be used solely for the purpose of erecting thereon a building comprising shops and business premises with the right to include residential accommodation above the ground floor or such other buildings as the Administrator may, from time to time after reference to the Townships Board and the Local Authority approve, provided that if the erf is included within the area of a Town Planning Scheme, the local Authority may permit such other uses as are permitted by the scheme, subject to the conditions and restrictions stipulated by the scheme.*
- B.7.(a) *No building or structure or any portion thereof above the ground floor, may be entered within 5 meters or half the height of the building, whichever is the greater, from the lateral or rear boundary of the erf, provided that that portion of the lateral boundary which is situated within 13m of a street boundary, shall be exempt from this requirement.*
- B.7.(b) *Not more than 80% of the area of this erf shall be built upon, provided that any floor used wholly or in part for residential purposes shall not have a total floor area of more than half the area of the erf.*
- B.7.(d) *The design and external appearance of the façade of any building erected on this erf shall conform to such canopy and cornice lines as the local authority may prescribe and the materials used in the facing thereof shall be in conformity with standards laid down by the local authority.*

- B.8. No residential accommodation shall be provided on this erf, unless provision shall simultaneously be made, to the satisfaction of the local authority, for parking bays to accommodate not less than one motor-car for every flat or in the case of other residential accommodation for every two bedrooms contained in the building, provided that.*
- B.8.(a) If situated under the building the said parking area shall not be enclosed for more than 50% of its perimeter.*
- B.8.(b) The said parking area and the access and exit thereto shall be located, hardened and surfaced to the satisfaction of the local authority.*
- B.8.(c) If in erecting his buildings the owner provides lock-up garages on the erf, the required parking area may be reduced by one parking bay for each garage up to a maximum of 75% of the original area required in terms of the foregoing.*
- B.9. On consolidation of this erf or any portion thereof with any abutting erf which is subject to the same conditions as herein set forth these conditions shall apply to the consolidated holding as if it was one erf.*
- B.10. In the event of this erf being subdivided each subdivided portion, other than any portion deducted for road or similar purposes, shall be subject to the conditions herein set forth as if it were the original erf.”*
- Rezoning in terms of Section 16(2)(a) of the By-Law to rezone the property from Business Zone 3: Local Business to Residential Zone 1: Single Residential.
 - Subdivision in terms of Section 16(2)(d) of the By-Law to subdivide the property into 3 portions, namely Portion A ($\pm 602\text{m}^2$), Portion B ($\pm 793\text{m}^2$) and the Remainder ($\pm 818\text{m}^2$).
 - Deviation from Overstrand Municipal Growth Management Strategy, 2010 in terms of Section 10 to deviate from the density prescript of 5,1 dwelling units per hectare to permit the proposed maximum density of 27,1 dwellings units per hectare (additional dwelling units included).

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions B.6, B.7.(a), B.7.(b), B.7.(d), B.8, B.8.(a), B.8.(b), B.8.(c), B.9 and B.10 as contained in Title Deed T5778/2020 to permit the proposed application, **be approved** in terms of the provisions of Section 61;

2. that the application in terms of Section 16(2)(a) of the By-Law to rezone Erf 4413, Betty's Bay from Business Zone 3: Local Business to Residential Zone 1: Single Residential, **be approved** in terms of the provisions of Section 61;
3. that the application in terms of Section 16(2)(d) of the By-Law to subdivide Erf 4413, Betty's Bay into three (3) portions, namely: Portion A ($\pm 602\text{m}^2$), Portion B ($\pm 793\text{m}^2$) and the Remainder ($\pm 818\text{m}^2$), **be approved** in terms of the provisions of Section 61;
4. that the approvals in Points 1., 2. and 3. be subject to the following conditions:
 - (a) that subdivision be in line with Drawing No.19/117 dated December 2019 submitted with this application;
 - (b) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (c) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (d) that all the conditions in the Services Report be complied with.
5. that the applicant and objectors be notified of their 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.

RECOMMENDATION TO COUNCIL :

that the application to deviate from the Overstrand Municipal Growth Management Strategy, 2010 in terms of Section 10 to deviate from the density prescript of 5,1 dwelling units/ha to permit the proposed maximum density of 27,1 dwellings units/ha (additional dwelling units included), **be approved** in terms of the provisions of Sections 10 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015.

REASONS FOR THE RESOLUTION:

- ❖ The objections were noted.
- ❖ The proposed erf sizes are in line with the surrounding erf sizes.
- ❖ The rezoning of the business erf to single residential is more in line with the character of the area than a business erf.
- ❖ The present Title Deed conditions relating to the business erf are more lenient in some instances than the development parameters contained in the Overstrand Zoning Scheme for Residential Zone 1.
- ❖ The present nett density for Betty's Bay Extension 5 is calculated at 15,3du/ ha, which is the same as the application erf. The figure will double should second

dwellings be included. The latter will also be applicable to the existing developed erven should a second dwelling be added.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

The meeting adjourned at 12:20