



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

MINUTES

DATE:	29 APRIL 2025
VENUE:	VIRTUAL
TIME:	15:00

OVERSTRAND
MUNICIPAL PLANNING TRIBUNAL
MINUTES OF A MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL,
HELD VIRTUALL ON
29 APRIL 2025 AT 15:00

PRESENT:

MEMBERS:

Mr S Müller, Chief Engineer : Infrastructure Services
Mr H Blignaut, Principal Engineer : Civil
Infrastructure Planning
Ms R Louw, Divisional Manager : Strategic Support
Services

OFFICIALS:

Mr R Kuchar, Divisional Manager : Town & Spatial
Planning
Mr H Olivier, Town Planner
Ms S Swart, Senior Committee Officer

APOLOGIES:

Ms H Janser, Directorate Development
Management

ALSO PRESENT:

Mr P Doble



**MUNICIPAL PLANNING TRIBUNAL
ATTENDANCE REGISTER**

Date: 29 APRIL 2025

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	Apology
S MÜLLER	VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	Present
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	Present
R LOUW	MPT MEMBER OVERSTRAND MUNICIPALITY	Present
R KUCHAR	AUTHORISED OFFICIAL OVERSTRAND MUNICIPALITY	Present
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	Present
B MINNAAR	TOWN PLANNER OVERSTRAND MUNICIPALITY	
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	Swart
P DOBLE		Present

1. OPENING

The Vice-Chairperson, Mr S Müller, opened the meeting and welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Ms H Janser

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 1 April 2025****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **1 April 2025, be approved.**

4. ITEMS FOR CONSIDERATION

4.1

ERF 4586, 25 HARMONY AVENUE, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF W & SK LOOTS

4586 HNC (4544/2023)

**H van der Stoep
8 April 2025**

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

The **initial application** was received on 6 December 2023 from Plan Active Town & Regional Planners on behalf of W & SK Loots on Erf 4586, Hermanus in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Determination of Administrative Penalty** in terms of Section 16(2)(q) of the By-Law for the determination of an administrative penalty for the illegal additions on the property.
- ❖ **Removal of a Restrictive Title Deed Condition** in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed conditions C.I.2. and C.I.4. of Title Deed no. T7972/2018 of the property to:
 - Accommodate the main dwelling position on the 4,5m Street building line.
 - Accommodate the existing second dwelling unit (change of use of the approved double garage to a habitable area):
 - a. To allow more than one dwelling unit on the subject property.
 - b. To address the encroachment of the second dwelling unit over the 4,72m title deed street building line (positioned 4,352m from the erf boundary).

The above application initially addressed the unlawful proposed second dwelling unit. Following the public participation period, it was evident that the property owner's intent for the subject property was to provide tourist accommodation rather than a second dwelling unit. It was decided that the best way forward was to apply for a consent use to accommodate a guesthouse on the subject property and not a second dwelling. A few alterations to the As Built structures will create a larger interleading dwelling house on the subject property. It is then proposed to make four (4) bedrooms available to guests on short-term rental basis.

A **revised application** was subsequently received on 16 May 2024 from Plan Active Town & Regional Planners on behalf of W & SK Loots on Erf 4586, Hermanus in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Removal of a Restrictive Title Deed Condition** in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed condition C.I.1. and C.I.4. of Title deed no. T7972/2018 of the property to:
 - Accommodate the approved main dwelling's change of use to guesthouse positioned on the 4,5m Harmony Avenue and Mossie Avenue Street building line;
 - Accommodate the extended main dwelling (change of use of the approved double garage and main dwelling to guesthouse):
 - a. To allow a four-bedroom guesthouse on the subject property;
 - b. To address the encroachment of the proposed guesthouse (change of use from approved double garage to guesthouse) over the 4.72m title deed street building line (positioned 4.352m from the Mossie Avenue erf boundary).

The restrictive title deed conditions read as follows:

“C. SUBJECT FURTHER to the following conditions contained in Deed of Transfer No T5340 dated 27th April 1945:

- I. Imposed by the Administrator of the Cape Province when approving the establishment of Hermanus Township Extension No 4 in terms of Ordinance No 33 of 1934 namely:*

AS being in favour of the registered owner of any erf in the Township and subject to amendment or alteration by the Administrator under the provisions of Section 18(3) of Ordinance No 33 of 1934:

- 1. That this erf shall be used for residential purposes only.*
- 4. That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 2,36m metres of the lateral boundary common to any adjoining erf.”*

- ❖ **Consent Use** in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to accommodate a four (4) bedroom guesthouse on the property.

- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to allow a second access point from Mossie Avenue to accommodate the parking layout for the proposed guesthouse.
- ❖ **Determination of Administrative Penalty** in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the determination of an administrative penalty for the illegal additions on the property.

RESOLVED:

1. that the objections **be noted**;
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 4586, Hermanus for the **removal of restrictive title deed condition** C.I.1. and C.I.4. of Title deed no. T7972/2018 of the property to:
 - Accommodate the approved main dwelling's change of use to guesthouse positioned on the 4,5m Harmony Avenue and Mossie Avenue Street building line;
 - Accommodate the extended main dwelling (change of use of the approved double garage and main dwelling to guesthouse):
 - a. To allow a four-bedroom guesthouse on the subject property;
 - b. To address the encroachment of the proposed guesthouse (change of use from approved double garage to guesthouse) over the 4.72m title deed street building line (positioned 4.352m from the Mossie Avenue erf boundary).

be approved in terms of the provisions of Section 61 of the By-Law,
3. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 4586, Hermanus for a **consent use** to accommodate a four (4) bedroom guesthouse on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the application in terms of Section 16.(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 4586, Hermanus for a **departure** to allow a second access point from Mossie Avenue to accommodate the parking layout for the proposed guesthouse, **be approved** in terms of the provisions of Section 61 of the By-Law;

5. that the approvals in points 2 - 4 above be subject to the following conditions:
- (a) that this approval is only for the development as indicated on the site plan DWG No 1.1C dated 29 April 2024, as submitted with the application;
 - (b) the manager and/or owner shall reside in the main dwelling (excluding outbuildings) on the property;
 - (c) that a maximum of four (4) bedrooms (8 persons) on the property may be used for paying transient guests;
 - (d) that guest rooms may not be converted to or used as separate dwelling units;
 - (e) that meals only be provided to bona fide guests on the property;
 - (f) that the residential character must be retained;
 - (g) that adequate provision be made to manage the behaviour of patrons (both inside and outside the building);
 - (h) that, subject to obtaining a liquor licence, alcoholic beverages may only be sold to resident guests for consumption with meals on site;
 - (i) that home occupation will not be permitted on the same property as a guest house;
 - (j) that a place of entertainment shall not be permitted;
 - (k) that no more than three (3) staff members shall be employed in support of the establishment at any given time;
 - (l) that no advertising sign shall be displayed without the written approval of the Municipality other than a single, un-illuminated sign or notice affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand Signage By-Law at any given time;
 - (m) 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;
 - (n) that no activities constituting a source of public nuisance shall be carried out;
 - (o) that no disturbance from loud music and other sources be allowed after 22:00;

- (p) that the Overstrand Municipality retains the right to enforce any relevant legislation, as well as law and order on the premises, on the landowner/s;
 - (q) that no cooking facilities or prep bowl may be provided in the guest room;
 - (r) that building plans be submitted to the Building Department reflecting this approval for approval, and that all conditions of the Building and the Fire Departments be complied with at that stage;
 - (s) that all conditions imposed in the Services Report be adhered and be complied with; and
 - (t) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
6. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 4586, Hermanus for the illegal additions on the property over the Title Deed building lines as stipulated above, **be imposed**, and that an administrative penalty fee of **R2643,00** be payable within thirty (30) days of the final decision; and
7. that the applicant and objectors be notified of their right of appeal in terms Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decisions.

REASONS FOR THE RESOLUTION:

- ❖ The application is in line with forward planning documentation.
- ❖ Guest houses on Residential Zone 1: Single residential is allowed and the application does comply with the development parameters.
- ❖ No additional services are required by the application.
- ❖ Parking complies with the land use scheme and Overstrand parking requirements.
- ❖ Internal departments supported the application.
- ❖ The application makes provision for a manager that needs to be on site permanently to manage the facility.
- ❖ The administrative penalty relates to building work over Title Deed building lines and not use, since the property is not being used as a guesthouse at present.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP****The meeting adjourned at 15:53**