



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

MINUTES

DATE:	27 AUGUST 2020
VENUE:	GLASKAS/VIRTUAL
TIME:	10:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD BY MEANS OF A VIRTUAL PLATFORM ON 27 AUGUST 2020 AT 10:00

PRESENT:

MEMBERS:

Mr S Müller, Director : Infrastructure & Planning
Mr R Williams, Director : Community Services
Ms D Arrison, Director : Management Services
Mr S Madikane, Director : Economic Development
& Tourism
Ms H Janser, Directorate Development
Management

OFFICIALS:

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

/... MINUTES

MUNICIPALITY



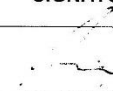
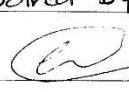


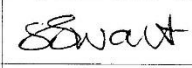
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**MUNICIPAL PLANNING TRIBUNAL
ATTENDANCE REGISTER**

Date: 27 AUGUST 2020

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
S MÜLLER	MPT CHAIRPERSON OVERSTRAND MUNICIPALITY	
R WILLIAMS	MPT VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	Joined by Zoom
S MADIKANE	MPT MEMBER OVERSTRAND MUNICIPALITY	Joined by Zoom
D ARRISON	MPT MEMBER OVERSTRAND MUNICIPALITY	Joined by Zoom
H JANSER	MPT MEMBER DIR: DEV MANAGEMENT	Joined by Zoom
R KUCHAR	AUTHORISED OFFICIAL OVERSTRAND MUNICIPALITY	
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	

1. OPENING

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

2. APPLICATIONS FOR LEAVE OF ABSENCE

None

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 3 August 2020****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **3 August 2020, be confirmed.**

4. ITEMS FOR CONSIDERATION

4.1

ERF 6804, VIOOLTJIE LANE, MOUNT PLEASANT, HERMANUS OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REZONING, SUBDIVISION AND CLOSURE OF PUBLIC PLACE: OVERSTRAND MUNICIPALITY

6804 HMP (3507/2019)

H Olivier

(028) 313 8900

Hermanus Administration

13 July 2020

EXECUTIVE SUMMARY

An application was received on 18 November 2019 from the Municipal Manager on behalf of Overstrand Municipality on Erf 6804, Mount Pleasant, Hermanus for the following:

- ❖ Closure of a Public Place in terms of Section 16(2)(n) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to accommodate the closure of a public place (Violtjie Lane);
- ❖ Subdivision in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to subdivide the existing lane portion from the existing road portion; and
- ❖ Rezoning in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to rezone the public place to Authority Zone.

RESOLVED:

1. that the application in terms of Section 16(2)(n) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Erf 6804, Mount Pleasant, Hermanus for the closure of a Public Place place (portion of Violtjie Lane), **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(d) of the By-Law for the subdivision of Erf 6804, Mount Pleasant, Hermanus into a Remainder and a Portion (Violtjie Lane) measuring 102m², **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(a) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 for the rezoning of a portion of Erf 6804, Mount Pleasant, Hermanus from Transportation Zone II : Road and Parking to Authority Zone, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the approvals in Points 1., 2. and 3. be subject to the following conditions:

- (a) that all prescriptions of the Municipality Zoning Scheme Regulations be adhered to;
 - (b) that this decision does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (c) that all conditions in the Services Report be complied with; and
 - (d) that all the conditions of Telkom be complied with.
5. that the applicant be notified of his/her 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 APPROVAL:

- ❖ The application will address a community request that the lane be closed, which will address the concerns regarding criminal activities in the lane.
- ❖ The portion could in future again be used as a pedestrian lane.
- ❖ No objections were received from municipal departments, state departments and/or parastatals against the application.
- ❖ The development will be in line with the character of the surrounding area.
- ❖ No engineering services will be impacted.
- ❖ No objections were received from the public.
- ❖ The application is desirable.

RESPONSIBLE OFFICIAL :**H OLIVIER**

4.2

REMAINDER OF REMAINDER ERF 6883, 21 FIR CLOSE, EASTCLIFF, HERMANUS: APPLICATION FOR DEPARTURE AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF SM & FM INGLES

6883 HEC (3312/2019)

P Roux

27 July 2020

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 15 August 2019 from Messrs PlanActive Town- and Regional Planning on behalf of SM & FM Ingles in terms of the Overstrand By-Law on Municipal Land Use Planning, 2015 (By-Law) applicable to Remainder Erf 6883, Hermanus for the following:

- ❖ application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions, in order to legalize existing structures, which encroach the building lines of the property; and
- ❖ application for departure in terms of Section 16(2)(b) of the By-Law in order to accommodate the existing structures on the property.

RESOLVED:

1. that the comments received are noted;
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title conditions C.(g) and (f) and D. (d) and (e) as contained in Deed of Transfer T22996/2019 applicable to Remainder Erf 6883, Hermanus, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application for departure in terms of Section 16(2)(b) of the By-Law applicable to Remainder Erf 6883, Hermanus in order to accommodate the existing structures on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the approvals in 2. and 3. above be subject to the following conditions:
 - (a) that this approval only relates to the relaxation of the building lines as indicated on Site Plan, plan description: "H6883/2019", drawn by: CHAMCAD;

- (b) that the removal of the title deed restrictions only relates to Title Deed T22996/2019, [pages 2-4, paragraph C.(g) and (f) and pages 2-3, paragraph D.(d) and (e)];
 - (c) that building plans be submitted to the Building Department for approval, and that any conditions by the Fire and Building Departments be complied with at that stage;
 - (d) prior to the submission of building plans consent is required from the adjacent property owners for additional work on the subject property;
 - (e) boundary walls encroaching right of way servitude to be removed and indicated as such on the building plan submission;
 - (f) that all the conditions of the Engineering Services be complied with;
 - (g) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (h) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
5. that the applicant and persons who commented 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 APPROVAL:

- No HOA (Home Owner Association) was established for the General Residential Zone 1 erven along Fir Close, therefore when building plans are submitted the adjacent property owners must provide consent.
- The main characteristic of the General Residential Zone 1 erven along Fir Close are still maintained by the existing dwelling and structures on Remainder Erf 6883. The proposed encroachments are therefore considered non-invasive.
- The proposal will not have a detrimental impact on the character of the surrounding area.
- The objections and concerns have been addressed in this report and in the conditions of approval.
- The application has followed due process.
- The proposal is compliant with the spatial policies of the SDF.
- The proposal is consistent with the spatial principles as set out in SPLUMA and LUPA.

RESPONSIBLE OFFICIAL :**P ROUX**

4.3

ERF 12257, 4 SEA ROAD, EASTCLIFF, HERMANUS: APPLICATION FOR SUBDIVISION: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF ERF 2825 HERMANUS (PTY) LTD

12257 HEC (2896/2018)

P Roux

14 July 2020

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 19 December 2018 in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) from Messrs PlanActive Town- and Regional Planners on behalf of Erf 2825 Hermanus (Pty) Ltd in order to subdivide Erf 12257, Hermanus into two (2) portions, namely: Portion A ($\pm 1701\text{m}^2$ in extent) and a Remainder ($\pm 5740\text{m}^2$ in extent).

RESOLVED:

1. that the comments be noted.
2. that the application in terms of Section 16(2)(d) of the Overstrand Municipal Land Use Planning By-Law, 2015 (By-Law) for the subdivision of Erf 12257, Hermanus into two (2) portions, namely: Portion A ($\pm 1701\text{m}^2$ in extent) and a Remainder ($\pm 5740\text{m}^2$ in extent), **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that the approval is only for the subdivision as indicated on the Subdivisional Plan (Nr her12257.drw) as submitted with the application;
 - (b) that a 4m street building line be applicable from the western boundary of both portions;
 - (c) that the access right of way servitude be developed in line with the recommendation of the approval of 2013 and that the access servitude be demarcated in a similar manner to that of the demarcation of the Public Open Space and not prohibit pedestrians to cross it;
 - (d) that all damage done to the open space area (Erf 1253) during construction of the right of way, be rectified to the property owner/developer's account;
 - (e) that, prior to the commencing of building work, the right of way servitude is adequately compacted and surfaced in order to limit dust and unsightliness;

- (f) that a servitude be registered against the Title Deed of the property at the costs of the applicant which must specifically indicate that the applicant must attend to the maintenance of the servitude area;
 - (g) that building plans and the demarcation of the access servitude be presented and approved by the following Departments: Town and Spatial Planning, Building Department, Engineering Services and Operational Department, prior to any further earth work;
 - (h) that a Surveyor Diagram (indicating natural ground level, existing ground level, contour lines and access servitudes) be submitted with the building plan application;
 - (i) that the conditions in the Services Report be complied with;
 - (j) that the comments from Overberg District Municipality and DEA&DP: Coastal Management be noted;
 - (k) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation; and
 - (l) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
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 APPROVAL:

- ❖ The application has followed due procedure.
- ❖ None of the relevant departments have any objection.
- ❖ The National Environmental Management: Integrated Coastal Management Act 24 of 2008 does not provide the Overstrand Municipality with the authority to implement a right of way servitude across private property. Further, there is no By-Law adopted by the Municipality as required in terms of the Act.
- ❖ Requests made in the comments are noted and addressed by the applicant.
- ❖ The access servitude to the Remainder of Erf 12257 will be demarcated in a similar manner to that of the demarcation of the Public Open Space and not prohibit pedestrians.
- ❖ Safe and easy access to the coastline is achieved from the eastern side of Poole's Bay and therefore it is not required in terms of this land use application's decision to provide additional access across the Remainder of Erf 12257.

- ❖ The proposed subdivision is in line with the applicable municipal and provincial planning policy and will make more efficient use of brownfield land within the urban edge.
- ❖ It will not negatively impact on existing/vested rights of adjoining property owners.
- ❖ The proposed application fits in with the character of the surrounding area, and is desirable.

RESPONSIBLE OFFICIAL :

P ROUX

The meeting adjourned at 10:30