



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

MINUTES

**DATE:
VENUE:
TIME:**

**26 AUGUST 2021
VIRTUAL / GLASKAS
10:00**

OVERSTRAND
MUNICIPAL PLANNING TRIBUNAL
MINUTES OF A MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL,
HELD IN THE GLASKAS / VIRTUAL ON
26 AUGUST 2021 AT 10:00

PRESENT:

MEMBERS:

Ms H Janser, Directorate Development
Management
Mr S Müller, Director : Infrastructure & Planning
Mr H Blignaut, Deputy Director : Engineering
Services
Ms R Louw, Senior Manager : Strategic Services

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

ABSENT WITHOUT LEAVE:

Mr S Madikane, Director : Economic Development
& Tourism

MUNICIPALITY



MUNISIPALITEIT

**MUNICIPAL PLANNING TRIBUNAL
ATTENDANCE REGISTER**

Date: **26 AUGUST 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	Absent
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	
R LOUW	MPT MEMBER OVERSTRAND MUNICIPALITY	Joined via Teams
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, Ms H Janser, 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 1 July 2021****RESOLVED:**

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

4. ITEMS FOR CONSIDERATION

4.1

ERF 4336, 305 THIRD STREET, VOËLKLIP, HERMANUS: APPLICATION FOR DEPARTURE: MESSRS PLAN ACTIVE TOWN- AND REGIONAL PLANNING ON BEHALF OF M BEYLEVELDT

4336 HVK (2020)

P Roux

26 May 2021

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 12 February 2020 from Messrs Plan Active Town- and Regional Planning on behalf of M Beyleveldt on Erf 4336, Hermanus (Voëlklip) in terms of Section 16(2) of the Overstrand By-Law on Municipal Land Use Planning, 2015 (By-Law) for a departure to relax the following:

- ❖ eastern lateral building line from 2m to 0m to accommodate a covered stoep;
- ❖ eastern lateral building line from 2m to 0,959m and 0,879m respectively to accommodate the existing timber deck and column;
- ❖ eastern lateral building line from 2m to 0m to accommodate the change of use from braai room to deli foods preparation and dry room, and
- ❖ western lateral building line from 2m to 1,459m to accommodate the extended double garage to be used as a cold room.

RESOLVED:

1. that the comments received be noted;
2. that the application in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 on Erf 4336, Hermanus for a departure of the eastern lateral building line from 2m to 0m to accommodate the change of use from braai room to deli foods preparation and dry room, **not be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 on Erf 4336, Hermanus for departure for the following:
 - to relax the eastern lateral building line from 2m to 0m to accommodate a covered stoep;
 - to relax the eastern lateral building line from 2m to 0,959m and 0,879m respectively to accommodate the existing timber deck and column, and
 - to relax the western lateral building line from 2m to 1,459m to accommodate the extended double garage to be used as a cold room,

be approved, in terms of the provisions of Section 61 of the By-Law,

that the approvals in Point 3. above be subject to the following conditions:

- (a) that this approval is only for the development as indicated on the plan dated 01/02/2020, as submitted with the application;
 - (b) that building plans be submitted to the Building Department for approval, and that all conditions of the Building- and the Fire Department be complied with at that stage;
 - (c) that the use of the braai room revert back to an outbuilding / braai room as per approved plan and not be utilised for the preparation of meat products or for home occupation purposes;
 - (d) that the walk-in fridge only be used for domestic purposes;
 - (e) that all the conditions in the Services Report be complied with.
 - (f) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (g) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
4. that the applicant/persons who commented be notified of their right of appeal in terms Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conclusion.

REASONS FOR NOT APPROVING THE USE CHANGE OF THE OUTBUILDING/BRAAI ROOM

- The proposed alteration will not comply with the parameters of home occupation. The outbuilding where the meat is processed is not considered a dwelling unit and as per the Zoning Scheme parameters a home occupation must be operated from a dwelling unit and not an outbuilding.
- The scale of a home occupation on site was increased and the property altered in order to sustain the additional processing capacity for the meat, this was done to meet the demand of the products at the deli in the Hermanus CBD.
- It is not clear whether the property owner has a business licence for the preparation of food related products. If no business licence was obtained, then the preparation of food items is done in contravention with the Business Act.
- The use as indicated by the applicant is not considered to be compatible with the residential area/suburb. The outbuilding is converted to fully be utilised for the processing of meat products. The certificate obtained by the Health Department

states that meat will be prepared, packaged and stored on the property. The uses such as the processing of meat are usually conducted from a business or industrial site such as a butchery where the type of use is more in line with the character of the area and has the required infrastructure.

- Objections received from the adjacent property owners regarding the activity are indicative that the activities have an influence on the character of the area.

REASONS FOR THE RECOMMENDATION FOR THE RETENTION OF THE ILLEGAL ADDITIONS

- The covered stoep is considered a minor encroachment as the use of the area will remain as intended and the impact of the structure is non-intrusive on the amenity of the neighbouring property.
- The only property owners truly affected by the encroachment of the deck over the lateral building line is situated on Erf 7183 who did not object to the structure. Erf 7183 is developed with a double storey and that the deck on Erf 4336 faces towards the western elevation of the double storey building on Erf 7183 and not a private garden space. In view of the aforesaid the deck is considered to have a minor impact which can be supported.
- The encroachment of the extension to the garage itself is considered minor as the garage length and height will be compatible with the character of the area and the parameters for garages over lateral boundaries. Due to the home occupation not being supported on the property the walk-in fridge can only be used for domestic use and not for commercial use/home occupation use.
- The application has followed due procedure.
- The proposal is compliant with the spatial policies contained in the SDF.
- The proposal is consistent with the spatial principles as set out in SPLUMA and LUPA.

RESPONSIBLE OFFICIAL :

P ROUX

4.2

**MOUNT PLEASANT IRDP INFILL RESIDENTIAL HOUSING PROJECT (AREA 8)
ON A PORTION OF REMAINDER ERF 243, HERMANUS AT HEIDE STREET,
MOUNT PLEASANT: APPLICATION FOR DEVIATION FROM THE OVERSTRAND
MUNICIPALITY SPATIAL GROWTH MANAGEMENT STRATEGY, SUBDIVISION,
REZONING AND EXEMPTION TO EXCLUDE AN APPLICATION FOR THE
NAMING OF STREETS: MESSRS NUPLAN AFRICA ON BEHALF OF
OVERSTRAND MUNICIPALITY**

Rem Erf 243 HMP

H van der Stoep

8 April 2021

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 7 September 2020 from Messrs NuPlan Africa on behalf of the Overstrand Municipality applicable to a portion of Remainder Erf 243, Hermanus at Heide Street, Mount Pleasant (the property) for:

- ❖ **deviation** from the Overstrand Municipality Spatial Growth Management Strategy, 2010 in terms of Section 10 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), as well as the provisions of the Municipal Systems Act, 2000 (Act 32 of 2000) in order to allow for the subdivision of the property to accommodate infill urban development on an area earmarked as a Sensitive Development Area;
- ❖ **subdivision** in terms of Section 16(2)(d) of the By-Law of the property in two (2) portions, namely Portion A (±5,35 ha) in extent and a Remainder;
- ❖ **rezoning** in terms of Section 16(2)(a) of the By-Law of the above Portion A from Residential Zone 1: Single Residential (SR1) to Subdivisional Area;
- ❖ **subdivision** in terms of Section 16(2)(d) of the By-Law of the above Portion A into 94 Residential Zone 1 (SR1) erven, 3 Open Space Zone 2: Public Open Space (OS2) erven, 1 Utility Zone: Utility Services (US) erf, and 1 Transport Zone 2: Road and Parking (TR2 B) public road reserve; and for
- ❖ **exemption** in terms of Section 101 of the By-Law to exclude the application in terms of Section 96 of the By-Law that deals with the naming of streets as part of the land use planning application.

RESOLVED:

1. that the objections be noted;
2. that the deviation from the Overstrand Spatial Growth Management Strategy be noted and supported with reference to the reasons listed under the 'Reasons for the Resolution';

3. that the application for subdivision in terms of Section 16(2)(d) of the By-Law of Remainder Erf 243, Hermanus in two (2) portions, namely Portion A ($\pm 5,35$ ha in extent) and a Remainder, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the application for rezoning in terms of Section 16(2)(a) of the By-Law of the above Portion A from Residential Zone 1: Single Residential (SR1) to Subdivisional Area, **be approved** in terms of the provisions of Section 61 of the By-Law;
5. that the application for subdivision in terms of Section 16(2)(d) of the By-Law of the above Portion A to 85 Residential Zone 1: Single Residential (SR1) erven, 3 Open Space Zone 2: Public Open Space (OS2) erven, 1 Utility Zone: Utility Services (US) erf, and 1 Transport Zone 2: Road and Parking (TR2 B) public road reserve, as indicated on layout plan B 2.002 – S1 – 10 dated 11 March 2021, **be approved** in terms of the provisions of Section 61 of the By-Law;
6. that the application for exemption in terms of Section 101 of the By-Law to exclude the application in terms of Section 96 of the By-Law that deals with the naming of streets as part of the land use planning application, **be approved** in terms of the provisions of Section 61 of the By-Law;
7. that the decisions in paragraphs 2. - 6. above be subject to the following conditions:
 - (a) that an ad hoc analysis of water and sewerage be done by the Municipality's masterplan consulting engineers and the recommendation be implemented by the Municipality;
 - (b) that all the conditions in the Traffic Impact Assessment, Engineering Services, Environmental Management, Eskom, Department of Public Transport & Works, Department of Agriculture, CapeNature and Breede-Gouritz Catchment Management Agency must be complied with;
 - (c) that the provision of street names and numbers be finalised before transport of any properties;
 - (d) that the approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (e) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.

8. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 regarding the above decisions.

REASONS FOR THE RESOLUTION:

- ❖ The application complies with the principles as set out in SPLUMA and LUPA.
- ❖ The application complies with the Overstrand Zoning Scheme.
- ❖ The application will provide the opportunity for affordable housing in a sustainable way, in line with the aims of the Overstrand Municipality SDF, 2006 and latest SDF, 2020 and the IDP.
- ❖ The development will not impact negatively on the character of the area.
- ❖ The development will not be on environmentally sensitive land or land with heritage value.
- ❖ The objections received were adequately addressed, and
- ❖ The application is desirable.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP**

4.3

ERF 454, 21 ANDRIES PRETORIUS STREET, SANDBAAI: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURE AND THE DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS PLAN ACTIVE ON BEHALF OF RF SANTANA

454 HSB

H van der Stoep

(028) 313 8900

Hermanus Administration

2 August 2021

EXECUTIVE SUMMARY

An application was received on 20 October 2020 from Messrs Plan Active on behalf of RF Santana applicable to Erf 454, Sandbaai for the following:

- ❖ Removal, in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law), of restrictive title deed conditions C.(a), C.(c) and C.(d) as contained in Title Deed T55849/2018 to accommodate the existing second dwelling unit, as well as to be in line with the primary rights and development rules as contained in the relevant Zoning Scheme Regulations.

The restrictive conditions read as follows:

- “C.(a) *That the above erf or erven be used for residential purposes only.*
- (c) *That not more than one dwelling together with the necessary outbuildings and accessories be erected on any of the above erven be built upon.*
- (d) *That no building shall be erected on the above erf or erven within 4,72m of the boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not be built upon.”*

- ❖ Departure in terms of Section 16(2)(b) of the By-Law for the following:
 - the relaxation of the rear building line from 2m to ±1m to accommodate the existing wendy type garden shed;
 - the relaxation of the rear building line from 2m to ±0,970m to accommodate a portion of the existing second dwelling unit;
 - the relaxation of the southern lateral building line from 2m to ±0,940m to accommodate a portion of the existing second dwelling unit;
 - the relaxation of the northern lateral building line from 2m to ±1,230m to accommodate a portion of the existing braai room; and
 - the relaxation of the northern lateral building line from 2m to ±1m to accommodate a portion of an existing pizza oven; and

- ❖ Determination of an Administrative Penalty in terms of Section 16(2)(q) of the By-Law for an illegal land use and structures that encroach the relevant building lines without the necessary municipal approvals.

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the removal of the restrictive title deed condition C.(c) as contained in Title Deed No. T55849/2018 applicable to Erf 454, Sandbaai to accommodate a second dwelling unit on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16.(2)(f) of the By-Law for the removal of conditions C.(a) and C.(d) as contained in Title Deed No. T55849/2018 applicable to Erf 454, Sandbaai, **not be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(b) of the By-Law for departure for the:
 - relaxation of the rear building line from 2m to ± 1 m to accommodate the existing wendy type garden shed;
 - relaxation of the rear building line from 2m to $\pm 0,970$ m to accommodate a portion of the existing second dwelling unit;
 - relaxation of the southern lateral building line from 2m to $\pm 0,940$ m to accommodate a portion of the existing second dwelling unit;
 - relaxation of the northern lateral building line from 2m to $\pm 1,230$ m to accommodate a portion of the existing braai room; and
 - the relaxation of the northern lateral building line from 2m to ± 1 m to accommodate a portion of an existing pizza oven;**be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the applicant **be exempted** of an administrative penalty in terms of Section 90(4) of the By-Law for the above illegal building line encroachments as set out above that calculates $\pm 21.25\text{m}^2$, as well as the illegal usage of the structure as a second dwelling unit;
5. that the above approvals in 1., 3. and 4. be subject to the following conditions:
 - (a) that the encroachments be restricted to the dimensions as indicated on layout plans No. SAN-01-01 (plan 1 to 4) dated 22 June 2020 that were submitted with the application;

- (b) that building plans be submitted to the Building Department for approval and that all conditions of the Building- and the Fire Department at that stage, be complied with;
 - (c) that the conditions of Engineering Services and Telkom be complied with;
 - (d) that this approval does not absolve the landowners from compliance with any other relevant legislation, and
 - (e) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
6. that the applicant be notified of its appeal right in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the decision.

REASONS FOR THE RESOLUTION:Reasons for the approvals in 1. and 3. above

- ❖ The application has followed due procedure.
- ❖ No objections were received from the public.
- ❖ The application is in line with policy documents.
- ❖ The second dwelling unit will be beneficial for optimization of the erf.
- ❖ The proposal is not undesirable from a town planning point of view.

Reasons for the non-approval in 2. above

- ❖ The lack of clear land use and development proposals by the applicant for the removal of these conditions, thus making it impossible to evaluate the removal of these restrictions from a town planning perspective.

Reasons for the decision in 4. above

- ❖ Due to the facts on record, it is evident that it is not the current landowner who is responsible for the irregularities on the property.
- ❖ The motivation of the applicant for the exemption of an administrative penalty is supported.

RESPONSIBLE OFFICIAL :**S VAN DER MERWE**

4.4

ERF 4164, CHANTECLAIR AVENUE, ONRUSTRIVIER: OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REZONING, CONSENT USE, DEPARTURE AND APPROVAL OF STREET NAME: MESSRS INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF KM DUCCI FOR CAPE DETAIL CONSTRUCTION (PTY) LTD

4164 HON

H Olivier

12 July 2021

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 12 June 2019 from Messrs Interactive Town & Regional Planning on behalf of the property owner on Erf 4164, Onrustrivier in terms of the Overstrand Municipality By-Law on Land Use Planning, 2015 (By-Law) for the following:

- ❖ Rezoning in terms of Section 16(2)(a) of the above-mentioned By-Law from Agriculture Zone 1: Agriculture (AGR1) to General Residential Zone 1: Town Housing (GR1);
- ❖ Consent use in terms of Section 16(2)(o) of the By-Law to accommodate a retirement village on the property with ten (10) units;
- ❖ Departures in terms of Section 16(2)(b) of the By-Law to relax the following building lines:
 - perimeter street building line from 5m to 3m to accommodate the proposed dwelling units and care facility;
 - northern perimeter street building line from 5m to 0m to accommodate the proposed gatehouse, and
 - western perimeter lateral building line from 3m to 2m to accommodate proposed dwelling units.
- ❖ An application in terms of Section 96 of the By-Law to allocate a name to the new internal street that will be created.

RESOLVED:

1. that the application in terms of Section 16(2)(a) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) to rezone Erf 4164, Onrustrivier from Agriculture Zone 1: Agriculture (AGR1) to General Residential Zone 1 : Town Housing (GR1), **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 By-Law on Erf 4164, Onrustrivier for a consent use to accommodate a retirement village on the property with ten (10) units, **be approved** in terms of the provisions of Section 61 of the By-Law;

3. that the application in terms of Section 16(2)(b) of the By-Law on Erf 4164, Onrustvriër for departures to relax the following building lines:
- perimeter street building line from 5m to 3m to accommodate the proposed dwelling units and care facility;
 - northern perimeter street building line from 5m to 0m to accommodate the proposed gatehouse, and
 - western perimeter lateral building line from 3m to 2m to accommodate proposed dwelling units,

be approved, subject to compliance with placements of buildings as indicated on the Site Development Plan mentioned in Condition 1.(a), in terms of Section 61 of the By-Law;

4. that the above approvals in Points 1., 2. and 3. be subject to the following conditions:
- (a) that the development be in line with Site Development Plan Number arne2019/4164onrus dated 21 May 2019 providing for ten (10) units and associated buildings;
 - (b) that a minimum of 2 (two) parking bays be provided at each unit, to municipal standards and satisfaction;
 - (c) that the application does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (d) that the Architectural Design Guidelines in line with Zoning Scheme parameters and the indicated unit types, be submitted for the development to address the style of the units that will be constructed, submitted to the satisfaction of the Senior Manager : Town & Spatial Planning in consultation with the Building Control department;
 - (e) that all the conditions of Telkom be complied with;
 - (f) that all the conditions imposed by Eskom be complied with;
 - (g) that all conditions in the Services Report be complied with;
 - (h) that the conditions imposed by the Waste Management Department be complied with;
 - (i) that the refuse area be roofed and limited to a height of 3m;

- (j) that a landscape plan be submitted showing the trees to be planted between the refuse area, visitors' parking area and the complex boundary;
 - (k) that a Body Corporate be established with compulsory membership for all property owners within the development;
 - (l) that the Constitution of the Body Corporate be submitted to the Municipality and that the following aspects *inter alia* be addressed in this document:
 - the approval of building plans by an "estate architect" prior to submission thereof the Municipality, and
 - that the Constitution clarifies at what stage the responsibility would be transferred from the developer to the Body Corporate to deal with approval of plans and all other internal matters.
5. that the application to allocate a street name for the internal street in terms of Section 96 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, **be approved**; and
6. that the applicant and objector 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:

- ❖ The property's location and accessibility make it ideal to be developed for retirement village purposes.
- ❖ The development fits in with the character of the area as there are already retirement villages and group housing developments north of the R43 Main Road in this area.
- ❖ The development will be in line with the SDF, 2006 and GMS, 2010 which earmarks this area for residential use and status quo respectively.
- ❖ The area is fully serviced and there is sufficient infrastructure capacity to accommodate the development.
- ❖ The proposed departures are of such a scale that it would not have a negative effect on the character of the area, nor the surrounding property owners.
- ❖ The application is supported by all relevant state departments, institutions and municipal departments.
- ❖ The applicant duly addressed the objection received and the mitigating factors to move the refuse yard, to roof the refuse yard and to plant screening trees to buffer the objector's property, are considered sufficient mitigating measures.
- ❖ The application is in line with the SPLUMA and LUPA Planning Principles.

RESPONSIBLE OFFICIAL :**H OLVIER**

The meeting adjourned at 12:05