



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

## **A G E N D A**

<b>DATE:</b>	<b>27 FEBRUARY 2020</b>
<b>VENUE:</b>	<b>TOWN PLANNING COMMITTEE ROOM HERMANUS</b>
<b>TIME:</b>	<b>10:00</b>

# OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT  
Civic Centre  
HERMANUS  
7200

**5 February 2020**

**TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

**CONVENING NOTICE : SESSION OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)**

**NOTICE IS HEREBY GIVEN** that a meeting of the **Municipal Planning Tribunal (MPT)** will go into session on **Thursday, 27 February 2020 at 10:00, Town Planning Committee Room, 16 Paterson Street, Hermanus**, to consider the attached agenda.

**S MÜLLER**  
**CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL**

**Distribution:**

1. Mr S Müller (Chairperson)
2. Mr R Williams (Vice Chairperson)
3. Mr S Madikane (Member)
4. Ms D Arrison (Member)
5. Ms H Janser (Member)
6. Mr R Kuchar (Authorised Official)
7. Mr S van der Merwe (Senior Town Planner)
8. Ms H van der Stoep (Senior Town Planner)
9. Secretariat

**MUNICIPAL PLANNING TRIBUNAL  
(MPT)**

27 February 2020

**I N D E X**

**ITEM**

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**APPLICATIONS FOR LEAVE OF ABSENCE**

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| <b>4.2</b> | <b>ERF 2861, WHALE COAST MALL, BERGSIG STREET, SANDBAAI: APPLICATION FOR CONSENT USE AND DEPARTURE: MESSRS WARREN PETTERSON PLANNING ON BEHALF OF WHALE COAST VILLAGE MALL PROPRIETARY LIMITED, THE SANDBAAI DEVELOPMENT TRUST AND HCI-PROPC07 PROPRIETARY LIMITED</b>                   | <b>26</b> |

**1. OPENING**

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

**3. CONFIRMATION OF MINUTES**

**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 23 January 2020**

**4. ITEMS FOR CONSIDERATION**

**4.1 ERF 1405 AND 1406, 18 BRANDERDRAAI, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CLOSURE OF PUBLIC PLACE, REZONING, CONSOLIDATION AND AMENDMENT OF GENERAL PLAN: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF NJ & JL HENZEN, J MARQUART AND JS BROUWER**

Report attached.

**4.2 ERF 2861, WHALE COAST MALL, BERGSIG STREET, SANDBAAI: APPLICATION FOR CONSENT USE AND DEPARTURE: MESSRS WARREN PETTERSON PLANNING ON BEHALF OF WHALE COAST VILLAGE MALL PROPRIETARY LIMITED, THE SANDBAAI DEVELOPMENT TRUST AND HCI-PROPC07 PROPRIETARY LIMITED**

Report attached.

**4.1**

**ERF 1405 AND 1406, 18 BRANDERDRAAI, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CLOSURE OF PUBLIC PLACE, REZONING, CONSOLIDATION AND AMENDMENT OF GENERAL PLAN: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF NJ & JL HENZEN, J MARQUART AND JS BROUWER**

**1405 & 1406 HSB (3196)****H van der Stoep****9 December 2019****(028) 313 8900****Hermanus Administration**

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**1. EXECUTIVE SUMMARY**

An application has been received on 24 May 2019 from Messrs Plan Active Town and Regional Planners on behalf of NJ & JL Henzen, J Marquart and JS Brouwer applicable to Erven 1405 and Erf 1406, Sandbaai for the following:

- ❖ closure in terms of Section 16(2)(n) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) of Public Open Space Erf 1406, Sandbaai;
- ❖ rezoning in terms of Section 16(2)(a) of the By-Law of Erf 1406, Sandbaai from Open Space Zone 2 : Public Open Space to Residential Zone 1 : Single Residential;
- ❖ consolidation in terms of Section 16(2)(e) of the By-Law of Erven 1406 and 1405, Sandbaai; and the
- ❖ amendment in terms of Section 25(2) of the By-Law of General Plan No. TP 9192 Sandbaai Township Ext. No. 2 by the creation of the Public Place Erf 1406, Sandbaai to be closed, as an ordinary erf.

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, and the proposed Consolidation Plan is attached as Annexure C.

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

**3. BACKGROUND / SITE HISTORY**

Erf 1406, Sandbaai is situated in Extension 2 of the Sandbaai Township and is reserved as a public place in terms of the approved General Plan for the said extension. The property's zoning status is Open Space Zone 2 : Public Open Space and it is 198m<sup>2</sup> in extent. The owners of the adjacent Erf 1405, Sandbaai applied to Council to purchase the property for consolidation with their property. The applicable resolution of Council is quoted as follows:

**“MINUTES: ORDINARY MEETING OF THE COUNCIL 28 FEBRUARY 2018****5.2****TRANSFER OF ERF 1406, SANDBAAI (±198M2 IN EXTENT) TO JL & NJ HENZEN, S BROUWER AND J MARQUART FOR SECURITY AND GARDENING PURPOSES****(ITEM 2, PAGE 104: INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING: 28 FEBRUARY 2018)****RESOLVED (SUPPORTED BY 23 COUNCILLORS):**

1. *that the transfer of Erf 1406, Sandbaai (198m<sup>2</sup> in extent) to JL & NJ Henzen, S Brouwer and J Marquart for the amount of R63,500.00 (SIXTY THREE THOUSAND FIVE HUNDRED RAND) (VAT excluded) for security and gardening purposes, be approved;*
2. *that it be noted that the direct transfer is possible as Erf 1406, Sandbaai is classified as a non-viable property;*
3. *that it be noted that a condition for transfer will be that Erf 1406, Sandbaai must be consolidated with the adjoining property of JL & NJ Henzen, S Brouwer and J Marquart, being Erf 1405, Sandbaai;*
4. *that the transfer of Erf 1406, Sandbaai be subject to obtaining the necessary closure, rezoning and consolidation approvals;*
5. *that all the costs pertaining to the transaction, e.g. application cost, valuation cost, consolidation, closure of public space, rezoning, transfer and related costs, advertisements, etc., be paid by the Applicants; and*
6. *that it be noted that the municipal property envisaged to be transferred is not required for the provision of the minimum level of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003)."*

The aim of the application is to give effect to the above point 4.

**4. SUMMARY OF APPLICANT'S MOTIVATION**

Due to the comprehensive nature of the Motivation Report only the main points of motivation are summarised as follows (the detailed report is attached as Annexure B):

- ❖ The public open space is a non-viable open space due to its small size.
- ❖ The property appears to be a passage to the beach, but does not provide access to the beach since the open space abuts the boundary fence of the Habonim Resort that is located to the west of the subject erven.
- ❖ The property is not being utilised as a functional public open space.
- ❖ In terms of the sales agreement no buildings or structures may be constructed on Erf 1406 after consolidation except for a boundary wall or fence.
- ❖ The proposal will be beneficial to surrounding landowners from a security point of view and it will also take away the burden from the Municipality to continuously upkeep the open space.

- ❖ The proposal will not change the primary land use of Erf 1405 as the open space will be used as an extension of the garden of Erf 1405. The impact on the residential character of the area will therefore be minimal.
- ❖ The values of surrounding properties will not be negatively affected by the proposal.
- ❖ All services already exist and no additional services are required.
- ❖ No new access points are proposed.
- ❖ No additional erven are proposed and the impact on traffic flow in the area will remain unchanged.
- ❖ The properties are not earmarked for heritage conservation purposes.
- ❖ The proposal does not trigger any listed activities in terms of NEMA.
- ❖ The proposal adheres to the spatial planning policies for the area.
- ❖ The Municipality gains capital due to the fact that Erf 1406 is purchased from the Municipality at market value.

#### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local Newspaper	Yes	4/9/2019	11/10/2019
Gazette	Yes	6/9/2019	11/10/2019
Notices	Yes	4/9/2019	11/10/2019
Ward councillor	Yes	4/9/2019	11/10/2019
Total comments	<b>Ten (10)</b>		
Total letters of support	<b>None</b>		
Was public participation undertaken in accordance with Section 46 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

#### 6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Building Control	5/09/2019	No objection: Any proposed structure and/or building requires a building plan application compliant with all applicable law.
Heritage and Aesthetics Committee	10/09/2019	No objection.
Electro Technical Services	4/09/2019	No comments on proposal.
Fire Department	16/09/2019	No objection.

Environmental Management	1/10/2019	No objection.
Engineering Services	6/11/2019	Annexure F.

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Ten (10) comments/objections were received from property owners in the vicinity of the subject properties. Most of the concerns raised are alike and only the main concerns are therefore addressed and not each individual commenter's concerns in order to avoid unnecessary duplication. The main points of the comments are summarised as follows:

- The Public Open Space was used to gain access to the beach and the fence of Habonim that hinders public access to the beach must be removed – it must therefore be reopened.
- The selling of the Public Open Space should have been advertised when the Municipality considered to sell it.
- Should the access point not be opened, this will have negative impacts on property values.
- To allow access to Onrus beach, the Public Open Space may not be sold.

## 8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The applicant did not comment on each individual point of the comments, but in general on the comments that were received. The applicant's replies on the comments are summarised as follows:

- The primary concerns raised by the objectors are that they used Erf 1406, Sandbaai as a pedestrian thoroughfare in the past to gain access to Sandbaai beach.
- The subject properties share boundaries with Erf 1407, Sandbaai and Portion 336 of Farm 581 (Habonim Resort). Erf 1406, Sandbaai does not link with any other open spaces and is not located below the high-water mark.
- The objectors made use of the public place to illegally utilise a portion of a privately owned Resort to gain access to the beach.
- There is no servitude registered over the Resort in favour of the general public to access the property in order to access the beach.
- The Resort has been fenced for security reasons and cannot be used as a thoroughfare via Erf 1406, Sandbaai to gain access to the beach.
- Access to the beach from Branderdraai Street exists via public place (Erf 1297) that is located ±130m to the east of Erf 1406, Sandbaai.
- The objectors have no right to gain access to the beach over the Resort property and they have a passage that forms part of Erf 1297 that can legally be used as access.



## 9. MUNICIPAL ASSESSMENT OF COMMENTS

The Public Open Space was used to gain access to the beach and the fence of Habonim that hinders public access to the beach must be removed – it must therefore be reopened.

Erf 1406, Sandbaai falls within Extension 2 of Sandbaai Township and in terms of the applicable General Plan it is reserved as a Public Place (see extract from General Plan No. TP 9192 attached as Annexure E). There are no right of ways or associated servitudes registered over any portion of the Habonim Resort that allows for public access to the beach. The Public Open Space is therefore confined to its cadastral boundaries and the owners of Habonim Resort therefore have the right to enclose their property with a fence or boundary walls to keep people from trespassing – it is thus private property. There exists a passage between Erven 1302 and 1303 to the east that is a mere approximately 130m from the subject property for the public and the commenters to gain legal access to the beach.

The selling of the Public Open Space should have been advertised when the Municipality considered to sell it.

As set out in the above resolution of the Council, Council confirmed that Erf 1406 is classified as a non-viable property in terms of its Administration of Immovable Property Policy, 2015 which property can, subject to the requirements of the Policy, be directly sold to the owners of Erf 1406. Amongst others, the directly abutting owners are also offered the opportunity to purchase the property, but in this instance they declined the offer and did not object to the proposed sale thereof to the owners of Erf 1460. A notice of the sale therefore only had to be published in the Official Gazette in terms of Section 14 of the Municipal Financial Management Act. In view of the afore-said, it was legally not required to serve notices of the sale on surrounding property owners in the area. The sales agreement has in the meantime already been signed by all the relevant parties.

Should the access point not be opened, it will have negative impacts on property values.

It is the opinion that the essence of this point of comment has already been thoroughly addressed above. Although no substantial proof has been provided that property values would be negatively affected, it is the opinion that any property valuator would be doubtful to issue a certificate to the latter effect considering the above circumstances.

To allow access to Onrus beach, the Public Open Space may not be sold.

It is the opinion that this point of comment has already been thoroughly addressed above.

## 10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

### 10.1 Background

N/A

**10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)**

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

**Spatial Justice**

The application will not perpetuate spatial injustices.

**Spatial sustainability**

The application is located within the urban edge and thus will not lead to urban sprawl. No natural habitat is impacted upon and will have no negative influence on the environment.

**Efficiency**

The application will optimize the use of property in terms of municipal services and infrastructure.

**Spatial resilience**

The application will ensure that the existing resource (land) is used to its maximum in an affordable manner and in line with the Overstrand Municipality's forward planning documents.

**Good administration**

The application follows the required planning procedures and a good public participation process has been followed.

**10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)**

Same as 10.2 above.

**10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable Policies**

The application is consistent with the Zoning Scheme and Spatial Development Framework.

**10.5 (In)consistency with guidelines prepared by the Provincial Minister**

N/A

**10.6 Impact on Municipal engineering services**

The existing services are available. The proposal will not impact on services.

**10.7 Outcomes of investigations/applications i.t.o other legislation**

N/A

### **10.8 Existing and proposed zoning comparisons and considerations**

The application is in line with the Overstrand Spatial documents.

### **10.9 THE DESIRABILITY OF THE PROPOSAL**

The applicant's motivation for the application as well as its commentaries on the points of comment is supported.

Erf 1406, Sandbaai is 198m<sup>2</sup> in extent and in terms of the primary rights set out in the Zoning Scheme, it can be used for outdoor sports, play, rest or recreation, or as a park area or nature area that includes associated buildings, infrastructure and uses. It is doubtful whether the primary uses can be optimally accommodated on the property specifically due to its very small size and the fact that it is mostly overgrown with Milkwood trees and shrubs (see extract of GIS aerial attached as Annexure D). It would thus be unpractical and difficult to accommodate the primary uses on the property. The property has furthermore not been utilised as a public open space in the past, but mostly as a passage by the public and surrounding property owners to illegally cross the adjacent Habonim Resort site to gain access to the beach. Habonim Resort has enclosed their property with a fence and therefore access to the beach is not possible. Thus the public has no access at present to Onrus Beach via Erf 1406, Sandbaai. Once consolidated and enclosed with a boundary wall by the new owners, it will ensure that any future illegal access via the open space over the Habonim site will not be possible anymore. In any event, ample open spaces exist in the close proximity of the property to gain legal access to the beach.

In terms of the signed sales agreement between the Municipality and the applicants, Erf 1406 that is to be consolidated with their property, may only be utilised for gardening purposes and no structures are allowed on the added land. In view of this, the proposal cannot impact on views, vested rights or the built character of the surrounding environment.

It is evident that the points of concern raised by the commenters were not thoroughly investigated that lead to it being unsubstantiated.

In view of the above the application as a whole is not regarded as being undesirable from a town planning perspective and can be supported in the manner as set out in the recommendation of this submission.

## **11. RECOMMENDATION**

1. that the application received from Messrs Plan Active Town and Regional Planners on behalf of NJ & JL Henzen, J Marquart and JS Brouwer applicable to Erven 1405 and Erf 1406, Sandbaai for the:
  - ❖ closure in terms of Section 16(2)(n) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) of Public Open Space Erf 1406, Sandbaai;
  - ❖ rezoning in terms of Section 16(2)(a) of the By-Law of Erf 1406, Sandbaai from Open Space Zone 2 : Public Open Space to Residential

Zone 1 : Single Residential;

- ❖ consolidation in terms of Section 16(2)(e) of the By-Law of Erf 1406, Sandbaai with Erf 1405, Sandbaai; and the
- ❖ amendment in terms of Section 25(2) of the By-Law of General Plan No. TP 9192 Sandbaai Township Ext. No. 2 by the creation of the Public Place Erf 1406, Sandbaai to be closed, as an ordinary erf;

**be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:

- (a) that Erf 1406, Sandbaai acquired by the landowners of Erf 1405, Sandbaai may solely be utilized for gardening purposes – no structures of any kind are allowed;
  - (b) that the relevant conditions of Engineering Services (attached as Annexure F), be complied with;
  - (c) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
  - (d) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. that the commenters and the applicants be notified of their respective appeal rights in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditional approval.

## 12. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ It is in line with policy documents.
- ❖ The points of comment are unfounded.
- ❖ Erf 1406, Sandbaai, due to its small size, cannot be optimally or practically utilised in terms of its primary uses.
- ❖ Illegal access over the Habonim Resort site to the beach will not be possible anymore.
- ❖ Ample access exists in the close proximity of Erf 1406, Sandbaai to legally gain access to the beach by the commenters and the public.
- ❖ Erf 1406, Sandbaai that is acquired by the applicants may only be utilised for gardening purposes.
- ❖ The application is not regarded as being undesirable from a town planning point of view.

## 13. Annexures

- Annexure A: Locality Plan
- Annexure B: Motivation Report
- Annexure C: Proposed Consolidation Plan
- Annexure D: GIS aerial photo
- Annexure E: General Plan (No. TP 9192)

Annexure F: Services Report

**SIGNATURE**

**REGISTERED PLANNER:**

Name :

**H VAN DER STOEP**

SACPLAN Reg No:

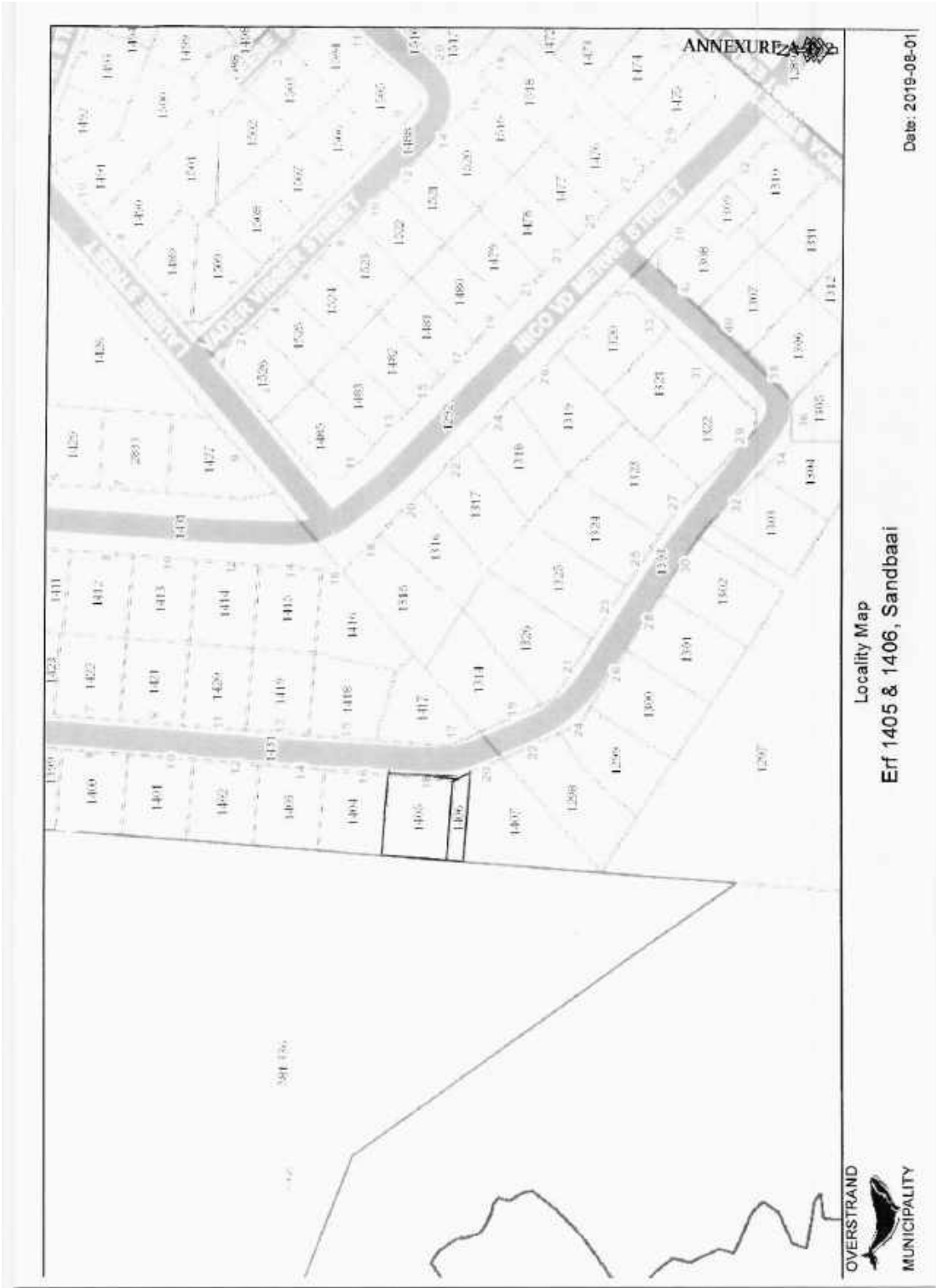
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Signature :

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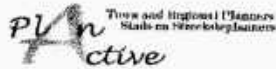
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	<p><b>Stads- en Streetsbeplanners Town &amp; Regional Planners</b></p>	<p>All data are approximate and subject to survey COPY RIGHT RESERVED</p>	<p>Property Classification: <b>ERF 1405 &amp; 1406 SANDBAAI</b></p>	<p>Plan Description: <b>LOCALITY MAP</b></p>	<p>Scale: <b>NTS</b> Drawing No: <b>sanb/act/14m</b> Date: <b>09/09/19</b></p>



Motivation report

**PROPOSED PUBLIC PLACE CLOSURE,  
REZONING AND CONSOLIDATION**

**ERVEN 1405 & 1406  
SANDBAAI**

**DIVISION: CALEDON  
OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

1. **BACKGROUND**

Mr. N.H. Henzen, Mr. J. Marquart and Mrs. Joke Sabine Brouwer, owners of Erf 1405 Sandbaai have instructed the company Plan Active Town and Regional Planners to apply for a public place closure and rezoning of Erf 1406 Sandbaai, and the consolidation of erven 1405 & 1406 Sandbaai.

The owners of Erf 1405 Sandbaai, Mr. N.H. Henzen, Mr. J. Marquart and Mrs. Joke Sabine Brouwer applied to purchase Erf 1406 Sandbaai that is 198m<sup>2</sup> in extent from the Overstrand Municipality. Subsequently the Mayoral Committee resolved at their meeting dated 28 February 2018 that Erf 1406 Sandbaai be sold to the above mentioned owners of Erf 1405 Sandbaai and that Erf 1405 Sandbaai be rezoned and consolidated with Erf 1406 Sandbaai. A sales agreement was signed by all parties on the 3<sup>rd</sup> of December 2018. Please refer to the copy of the municipal letter of approval dated 8 March 2018 and the signed sales agreement for easy reference. (Annexure A)

Erf 1405 Sandbaai is held by Title Deed No. T35851/11 and is 783m<sup>2</sup> in extent. Erf 1406 Sandbaai is held by Title Deed No. T6643/1975 and is 198m<sup>2</sup> in extent.





## Motivation report

The intention of the owners is to purchase Erf 1406 Sandbaai from the Overstrand Municipality. Erf 1406 Sandbaai is an impractical, non-viable public open space, to be rezoned to Residential Zone 1 and consolidated with Erf 1405 Sandbaai.

## **2. APPLICATION DETAILS**

Application is made in terms of:

- Chapter 4, Section 16(2)(n) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the closure of a public open space, Erf 1406 Sandbaai;
- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the rezoning of Erf 1406 Sandbaai from Open Space Zone 2 to Residential Zone 1.
- Chapter 4, Section 16(2)(e) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the consolidation of erven 1405 and 1406 Sandbaai.
- With reference to the Status Report received from the Surveyor-General written consent is also required in terms of Section 23(1) of the Overstrand Municipality's By-law on Municipal Planning, 2016, for the amendment of General Plan No.: TP 9192 Sandbaai Township Ext. No.2 by the creation of the Public Place, Erf 1406 Sandbaai, to be closed. Please refer to the enclosed Status Report.

## **3. GENERAL APPLICATION INFORMATION**

### **3.1 PROPERTY DESCRIPTION**

Erven 1405 and 1406 Sandbaai is situated at 18 Branderdraai Street, Sandbaai. Erf 1406 Sandbaai is situated between number 18 and 20 Branderdraai Street, Sandbaai. Please refer to the enclosed locality map. Erven 1405 & 1406 Sandbaai are 783m<sup>2</sup> and 198m<sup>2</sup> in extent respectively and are situated in a predominantly single residential environment.

### 3.2 ZONING

Erf 1405 Sandbaai is Zoned Residential Zone 1 (Single Residential) and Erf 1406 Sandbaai is Zoned Open Space Zone 2 (Public Open Space).

Surrounding properties are also zoned Residential Zone I: Single Residential and are also being utilised as such.

### 3.3 LAND USE

Erf 1405 Sandbaai is used for residential purposes. An existing double storey dwelling is established on the subject property. Erf 1406 Sandbaai is a non-viable public open space that is 198m<sup>2</sup> in extent that accommodates a number of established trees that is clearly visible on the aerial photograph below.



Land uses that surround Erven 1405 & 1406 Sandbaai are single residential dwellings, The Habonim Resort and public roads. Erven 1405 & 1406 Sandbaai are within a predominantly established single residential area.

### 3.4 PROPOSED APPLICATION

- Chapter 4, Section 16(2)(n) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the closure of a public open space, Erf 1406 Sandbaai;
- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the rezoning of Erf 1406 Sandbaai from Open Space Zone 2 to Residential Zone 1.
- Chapter 4, Section 16(2)(e) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the consolidation of erven 1405 and 1406 Sandbaai.
- With reference to the Status Report received from the Surveyor-General written consent is also required in terms of Section 23(1) of the Overstrand Municipality's By-law on Municipal Planning, 2016, for the amendment if General Plan No.: TP 9192 Sandbaai Township Ext. No.2 by the creation of the Public Place, Erf 1406 Sandbaai, to be closed. Please refer to the enclosed Status Report.

The owners of Erf 1405 Sandbaai applied to purchase an adjacent non-viable public open space, Erf 1406 Sandbaai, that is 198m<sup>2</sup> in extent to be consolidated with Erf 1405 Sandbaai. Subsequently their application was approved at the Mayoral Committee as mentioned in this report and they have also signed a purchase agreement to the effect. It is now required that an application be lodged for:

- the closing of a public open space, Erf 1406 Sandbaai.
- the rezoning of the public open space, Erf 1406 Sandbaai from Open Space Zone 2 to Residential Zone 1;
- the consolidation of the public open space, Erf 1406 Sandbaai with Erf 1405 Sandbaai.

As mentioned above, Erf 1406 Sandbaai is a public open space adjacent to Erf 1405 Sandbaai that is 198m<sup>2</sup> in extent. The measurements of the public open space are ±5.6m x ±34m. The public open space is a non-viable open space due to its size and dimensions as concurred by the Mayoral Committee that approved the sale of Erf 1406 Sandbaai. The public open space appears to be a passage but does not provide



Motivation report  
 access to the beach. The public open space abuts the boundary fence of the Habonim Resort that is located west of the subject erven. Erf 1406 Sandbaai accommodates established trees and is not being utilised as a functional public open space.

In order to consolidate Erf 1406 Sandbaai, that is a public open space, it is required that the public open space be closed and that it be rezoned from Open Space Zone 2 to Residential Zone I, the same zoning as Erf 1405 Sandbaai. The consolidated property will be 981m<sup>2</sup> in extent.

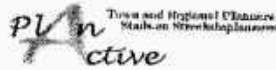
Section 15 of the sales agreement stipulates that no buildings or structures may be constructed on Erf 1406 Sandbaai after consolidation has taken place except for a boundary wall or fence. Subsequently the actual use of the open space will remain open space as it would be incorporated as a garden. Being rezoned and consolidated with Erf 1405 Sandbaai will be beneficial to the surrounding neighbours from a security point of view and will also take the burden from the municipality for the continuous upkeep of the public open space.

### **3.5 CHARACTER OF THE ENVIRONMENT**

The proposal will not change the primary land use of the subject property as this application constitutes the inclusion of a public open space that is 198m<sup>2</sup> that will be used as an extension of the garden of Erf 1405 Sandbaai. The impact on the character of the area will therefore be minimal. The proposed public place closure, rezoning and consolidation of erven 1405 & 1406 Sandbaai will not have a negative impact on the neighbouring property or residential character of the area.

### **3.6 POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)**

Erf 1406 Sandbaai is a non-viable public open space that can be better utilised if incorporated with Erf 1405 Sandbaai as an extension of the garden. Subsequently the land use being open space will remain the same. No additional buildings or erven are



Motivation report proposed that will put strain on municipal services. The municipality will instead be alleviated from the burden of upkeeping a public open space that has no function as a public open space. This application is merely to incorporate a small non-viable public open space that is 198m<sup>2</sup> in extent with an adjoining residential erf that will be used as an extension of the garden.

The proposed public place closure, rezoning and consolidation will not have a negative impact on the future land use of erven 1405 & 1406 Sandbaai. Property values of surrounding erven will not be negatively affected by the proposed application.

### **3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES**

#### **3.7.1 PROVISION OF SERVICES**

All services on Erf 1405 Sandbaai already exist and the inclusion of Erf 1406 Sandbaai will not require any additional services. The impact on services would therefore remain the same as the developed residential erf, Erf 1405 Sandbaai.

#### **3.7.2 TRAFFIC IMPACT AND ACCESS**

Access to Erf 1405 Sandbaai is from Branderdraai Street. No new access points are proposed. Subsequently the access to Erf 1405 Sandbaai will remain unchanged and Erf 1406 Sandbaai will be used as an extension of the garden after consolidation has taken place.

The subject property will still be used for single residential purposes only, no additional erven are proposed and therefore the impact on the traffic flow in the area will remain unchanged.

### 3.8 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

#### 3.8.1 HERITAGE VALUE

Erven 1405 & 1406 Sandbaai are not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). Erven 1405 & 1406 Sandbaai are not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009).

The subject properties are not associated with any important persons or groups or important events and activities.

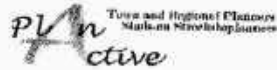
In light of the above mentioned it is evident that the proposed public place closure, rezoning and consolidation will not hinder any future land use applications on the subject erven. The proposed application will not have a negative impact on the heritage value of the subject properties or the greater area of Sandbaai.

#### 3.8.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed public place closure, rezoning and consolidation do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

### 3.9 FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2006)* earmarks the area where Erven 1405 & 1406 Sandbaai are situated, for residential purposes. Even though it is proposed that Erf 1406 Sandbaai be rezoned from Open Space Zone 2 to Residential



Motivation report

Zone 1 and consolidated with Erf 1405 Sandbaai, the proposal is still in line with forward planning proposals of the area.

The *Overstrand Municipal Growth Management Strategy (OMGMS, 2010)* specifies that Erven 1405 & 1406 Sandbaai form part of Planning Unit No.3. This planning unit consists of the existing developed Sandbaai Residential suburb and no densification for this planning unit is proposed. This application does however not propose to create any additional portions, nor does it propose the construction of an additional dwelling unit on the subject property. The density will therefore remain unchanged.

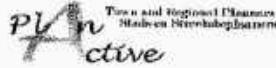
From the above it is evident that the proposed public place closure, rezoning and consolidation adheres to the spatial planning policies for the Sandbaai area and consequently falls within the existing planning for the Sandbaai area.

### 3.10 PLANNING PRINCIPLES

The planning principles of spatial justice and sustainability are not applicable to this application.

Efficiency: Erf 1406 Sandbaai is a small non-viable public open space that is 198m<sup>2</sup> in extent. This public open space has no function as an open space and can be utilised much better by the neighbouring land owners by incorporating it with their property. Subsequently the Overstrand Municipality will not have the burden to upkeep the open space and it will create a safer environment by closing the open space (Erf 1406 Sandbaai), rezone it to Residential Zone 1 and to consolidate it with Erf 1405 Sandbaai. The Overstrand Municipality also gains from a financial point of view due to the fact that Erf 1406 Sandbaai is purchased from the Overstrand Municipality at market value.

Good administration: Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient,



Motivation report  
 uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016.

#### 4. RECOMMENDATION

When this application is evaluated it is important to take note of the following:

- All services already exist. Additional services will not be required;
- Access to the subject property will remain unchanged and the impact on the traffic will also remain unchanged;
- The proposed public place closure, rezoning and consolidation is compatible with the existing built character of the area;
- The proposed public place closure, rezoning and consolidation will not have a negative impact on the current character and land values of the surrounding erven.
- The Overstrand Municipality gains capital due to the fact that Erf 1406 Sandbaai is purchased from the municipality at market value.
- The municipality will be alleviated from the burden of upkeeping a public open space that has no function as a public open space.
- This application is merely to incorporate a small non-viable public open space that is 198m<sup>2</sup> in extent with an adjoining residential erf that will be used as an extension of their garden.

With regards to the above mentioned it would be appreciated if the Overstrand Municipality would approve the public place closure, rezoning and consolidation applicable to erven 1405 & 1406 Sandbaai.



ANNEXURE C





**PLAn**  
 Stads- en Streeksbeplanners  
 Town & Regional Planners

All distances approximate  
 and subject to survey.  
 COPY RIGHT RESERVED

Property Descriptions:  
**ERVEN 1405 & 1406  
 SANDBAAI**

Plan Description:  
**AERIAL  
 PHOTOGRAPH**

Scale: **NTS**  
 Drawing Nr: **SAN1405&1406.dwg**  
 Date: **09/2019**





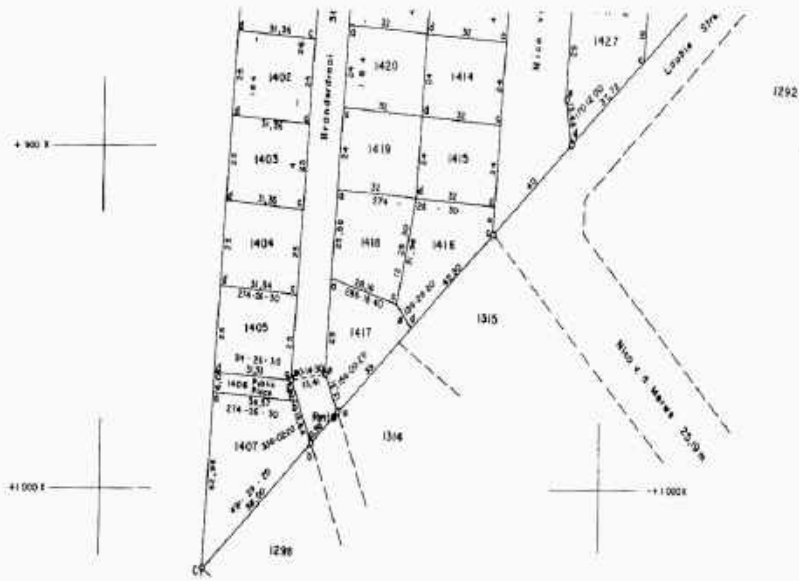
OVERSTRAND MUNICIPALITY



GIS Aerial Erven 1405 and 1406, Sandbaai

Date: 2019/12/13

**EXTRACT OF GENERAL PLAN NO. 9192**



## ANNEXURE F

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR PUBLIC PLACE CLOSURE, REZONING &  
CONSOLIDATION: ERVEN 1405 & 1406, SANDBAAI (3196/2019)**

Stormwater (SW) : In Order  
Electricity : In Order  
Water : In Order  
Sewer : In Order  
Roads and traffic : In Order

**Conditions:**

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
3. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
4. that any additional and / or extended vehicle entrances will be for the owner's account;
5. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
6. that stormwater be allowed to discharge through Erven 1405 & 1406, Sandbaai, unobstructed;
7. that no on-street parking be allowed.

  
DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES

  
DATE