



MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

MINUTES

DATE:	27 FEBRUARY 2023
VENUE:	TOWN PLANNING COMMITTEE ROOM
TIME:	10:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM ON 27 FEBRUARY 2023 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
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



MUNICIPAL PLANNING TRIBUNAL

ATTENDANCE REGISTER

Date: **27 FEBRUARY 2023**

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	
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 8 December 2022****RESOLVED:**

that the approval of the Minutes of the Municipal Planning Tribunal Meeting held on **8 December 2022, be approved.**

4. ITEMS FOR CONSIDERATION

4.1

ERF 425, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: INTERACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF HM JOAO

425 KPRB (4183/2022)

H van der Stoep
5 January 2023

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 17 June 2022 from Interactive Town and Regional Planners on behalf of HM Joao on Erf 425, Pringle Bay for a consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 to operate a place of instruction from an existing building on the property.

RESOLVED:

1. 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 425, Pringle Bay for a consent use in order to operate a place of instruction from the existing building on the property, **be approved** in terms of the provisions of Section 61, subject to the following conditions:
 - (a) that the place of instruction be limited to a pre-school and accommodate a maximum of twelve (12) children;
 - (b) that the place of instruction be limited to the existing building as per Plan Number A101 dated 7 June 2022;
 - (c) that the following operating hours be applicable as indicated in the motivation - Monday to Friday from 08h00 to 17h00;
 - (d) that the drop-and-go facility be on the western side (in front) of the place of instruction and signage be erected to inform parents of the facility;
 - (e) that the access gates to the property remain open for the duration of dropping off and collecting of children;
 - (f) that only one un-illuminated sign, that complies with the Municipal By-Law on Signage, may be displayed on the premises;

- (g) that no parking of vehicles be allowed on the adjacent business premises; and that pre-school employees park on-site;
 - (h) that the rights to operate a place of instruction are not transferable;
 - (i) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
 - (j) that a Health Certificate – Child Care be obtained from the Health Department of the Overberg District Municipality and a Fire Prevention Certificate from the Municipal Fire Department;
 - (k) 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;
 - (l) that building plans be submitted to the Municipality showing all building changes, partitioning and correct names of rooms to the satisfaction of the Fire Department and Building Control Department;
 - (m) that a fire protection plan be submitted to the Building Control Department;
 - (n) that no accumulation of refuse may occur on the premises;
 - (o) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (p) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (q) that all the conditions in the Services Report, be complied with; and
 - (r) that the approval be valid for five (5) years.
2. 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 Land Use Planning, 2020 with regard to the above decision.

REASONS FOR THE RESOLUTION:

- ❖ The application is in line with forward planning documents.
- ❖ The place of instruction provides a much-needed community facility.
- ❖ Objectors acknowledge the need for a pre-school but have a few provisos, which can be mitigated.

- ❖ Section 34(e)(iii) of the Western Cape Liquor Act, 2008 states that the Liquor Licensing Tribunal may not grant a license, unless it is satisfied on a balance of probabilities that the granting of the application does not prejudice the learners of an educational institution who are under the age of eighteen (18) years. There is thus no radius of land uses that are automatically excluded when applying for either an educational facility or a place selling liquor

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

4.2

ERF 5473, 13 17TH AVENUE, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, REZONING, CONSENT USE AND DEPARTURE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF DE BROEDER INVESTMENTS (PTY) LTD

5473 HVK

File Ref: 4088/2022

P Roux

(028) 313 8900

Hermanus Administration

22 December 2022

EXECUTIVE SUMMARY

An application has been received on 14 March 2021 from Messrs WRAP Project Office on behalf of De Broeder Investments (PTY) Ltd in terms of the Overstrand By-Law on Municipal Land Use Planning, 2020 (By-Law) applicable to Erf 5473, Hermanus, for the following:

- ❖ **removal of restrictive title deed condition** in terms of Section 16.(2)(f) of the By-Law in order to remove restrictive Condition III.D.(c) contained in Title Deed T9341/2014;
- ❖ **rezoning** in terms of Section 16.(2)(a) of the By-Law in order to rezone the property from Residential Zone 1: Single Residential to Business Zone 3: Local Business to allow business related uses on the property (offices);
- ❖ **consent use** in terms of Section 16.(2)(o) to accommodate a flatlet on the ground floor of a business premises, and
- ❖ **departure** in terms of Section 16.(2)(b) to relax the western building line from 3m to 2,68m to accommodate the proposed offices and the southern building line from 3m to 2,48m to accommodate the proposed flat.

RESOLVED:

1. that the comments/objections received be noted;
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) applicable to Erf 5473, Hermanus for removal of Condition III.D(c) of Title Deed T9341/2014, to accommodate offices and a professional practice, **not be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the applications in terms of the By-Law applicable to Erf 5473, Hermanus, for the following:

- ❖ **rezoning** in terms of Section 16.(2)(a) of the By-Law in order to rezone the property from Residential Zone 1: Single Residential to Business Zone 3: Local Business to allow business related uses on the property (offices);
- ❖ **consent use** in terms of Section 16.(2)(o) to accommodate a flatlet on the ground floor of a business premises, and
- ❖ **departure** in terms of Section 16.(2)(b) to relax the western building line from 3m to 2,68m to accommodate the proposed offices and the southern building line from 3m to 2,48m to accommodate the proposed flat.

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

4. that the applicant and persons who commented be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above conditions of approval.

REASONS FOR RESOLUTION:

- The proposed use is in stark contrast to the residential character of the area.
- The Overstrand Growth Management Strategy, 2010 clearly indicates an area in Voëlklip that is earmarked for Economic Opportunity (local). This area is central in Voëlklip and is ideally located for the clustering of commercial/business activities. The Municipality's view is to centralise and cluster business activities together and not allow the dispersion of business activities throughout the residential suburb or along the R43 (Seventh Street). A precedent will be created of ad hoc commercial erven, which will lead to the fragmentation of the residential suburb and linear development along the R43 (Seventh Street).
- The motivation does not address the deviation from the Overstrand Municipal Spatial Development Framework, 2020 or from the Overstrand Growth Management Strategy, 2010, which is an informant to the SDF.
- The objections received are noted and the concern that the proposed use will change the character of the area is agreed with. It should be noted that the land use application is not clear what the specific professional practice will be, and the fact that the property was used as a physiotherapy centre in the past is not relevant as attorneys, vets, or architects can utilise the property for their use and in different ways. Each type of professional practice has its own operational methods which could negatively impact the surrounding area.

RESPONSIBLE OFFICIAL :

P ROUX

4.3

**ERF 726, 72 BUFFELS ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR SUBDIVISION AND REZONING: PLAN ACTIVE TOWN &
REGIONAL PLANNERS ON BEHALF OF ENTK FAMILY TRUST**

726 KPRB (4069/2022)

H van der Stoep

(028) 313 8900

Hermanus Administration

10 January 2023

EXECUTIVE SUMMARY

An application has been received on 22 February 2022 from Plan Active Town & Regional Planners on behalf of ENTK Family Trust on Erf 726, Pringle Bay for the following:

- ❖ **subdivision** in terms of Section 16.(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to subdivide Erf 726, Pringle Bay into 4 portions, namely Portion A ($\pm 1240\text{m}^2$), Portion B ($\pm 1262\text{m}^2$), Portion C ($\pm 1050\text{m}^2$), and Portion D ($\pm 1285\text{m}^2$), and
- ❖ **rezoning** in terms of Section 16.(2)(a) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to rezone the newly created Portion D ($\pm 1285\text{m}^2$) from Residential Zone 1: Single Residential (SR1) to Open Space Zone 1: Nature Reserve (OS1).

RESOLVED:

1. that the application in terms of Section 16.(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to subdivide Erf 726, Pringle Bay into four (4) portions, namely Portion A ($\pm 1240\text{m}^2$), Portion B ($\pm 1262\text{m}^2$), Portion C ($\pm 1050\text{m}^2$), and Portion D ($\pm 1285\text{m}^2$), **be approved** in terms of Section 61 of the By-Law;
2. that the application in terms of Section 16.(2)(a) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to rezone the newly created Portion D ($\pm 1285\text{m}^2$) from Residential Zone 1: Single Residential (SR1) to Open Space Zone 1: Nature Reserve (OS1), **be approved** in terms of Section 61 of the By-Law;
3. that the approval of Points 1. & 2. above in terms of Section 61 of the By-Law be subject to the following conditions:
 - (a) that the approval is only for the subdivision as indicated on the Subdivisional Plan No. pring726s5.drw dated November 2021 as submitted with the application;

- (b) that the rezoned portion be ceded to the Municipality with the transfer of the first registered erf or within 12-months of the approval;
 - (c) that with the submission of the building plan, a letter from the Western Cape Government: Environmental Affairs and Development Planning (Environmental) confirming whether any listed activities are applicable be submitted with such building plan;
 - (d) that a letter from the Breede-Gouritz Catchment Management Agency indicating whether a water license approval is required be submitted before building plan approval;
 - (e) that only one dwelling with associated outbuildings be allowed;
 - (f) that the conditions in the Services Report be complied with;
 - (g) that all conditions imposed by Western Cape Government: EADP-Environmental be complied with;
 - (h) that all conditions imposed by Cape Nature be complied with;
 - (i) that all conditions imposed by Breede-Gouritz Catchment Management Agency be complied with;
 - (j) that the Development Mitigation Measures as contained in the Specialist Biodiversity Assessment be adhered to;
 - (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.
4. that the applicant and objectors be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2020 with regard to the above decision.

REASONS FOR THE RESOLUTION:

- ❖ The property has existing rights.
- ❖ Due diligence of environmental impact has been considered.
- ❖ Ecological corridor will be formally established.
- ❖ Low density development to the benefit of the area.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP**

The meeting adjourned at 11:10