



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

MINUTES

DATE:	27 FEBRUARY 2024
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 2024 AT 10:00

PRESENT:

MEMBERS:

Ms H Janser, Directorate Development
Management
Mr S Müller, Director : Infrastructure & Planning
Mr S Madikane, Director : LED
Ms R Louw, Senior Manager : Strategic Planning

OFFICIALS:

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

APOLOGIES:

Mr H Blignaut, Deputy Director : Engineering
Services



**MUNICIPAL PLANNING TRIBUNAL
ATTENDANCE REGISTER**

Date: 27 FEBRUARY 2024

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 MULLER	VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	
S MADIKANE	MPT MEMBER OVERSTRAND MUNICIPALITY	
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	Apobgy
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

Mr H Blignaut

RESOLVED:

that the above-mentioned application for leave of absence **be approved**.

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 30 November 2023****RESOLVED:**

that the approval of the Minutes of the Municipal Planning Tribunal Meeting held on **30 November 2023**, **be approved**.

4. ITEMS FOR CONSIDERATION

4.1

ERF 158, 22 CENTRAL STREET, PEARLY BEACH: APPLICATION FOR REZONING: MESSRS WRAP PROJECT OFFICE ON BEHALF OF JA & GM BAARD

158 GPB (4396/2023)

SW van der Merwe

17 January 2024

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 19 May 2023 from Messrs WRAP Project Office in terms of the Overstrand Municipality Municipal Land Use Planning Amendment By-Law, 2020 (By-Law) on behalf of JA & GM Baard, the owners of Erf 158, Pearly Beach for **rezoning** of the property in terms of Section 16(2)(a) of By-Law from Utility Zone: Utility Services to Business Zone 3: Local Business.

RESOLVED:

1. that the objections received **be noted**;
2. that the application in terms of Section 16(2)(a) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), for the rezoning of Erf 158, Pearly Beach from Utility Zone: Utility Services to Business Zone 3: Local Business, **be approved** in terms of the provisions of Section 61 of the By-Law; and
3. that the above approval be subject to the following conditions:
 - (a) that the conditions of Engineering Services must be complied with;
 - (b) that the conditions of Telkom must be complied with;
 - (c) that applicable rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (d) that this approval does not absolve the landowner 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;

4. 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 Amendment on Land Use Planning, 2020 with regard to the above conditions of approval.

REASONS FOR THE RESOLUTION:

- ❖ The application has followed due procedure.
- ❖ No internal objections were received.
- ❖ The proposal is in line with forward planning documents.
- ❖ Much needed job opportunities will be created.
- ❖ The proposal is not regarded as being undesirable from a town planning point of view.
- ❖ The application is consistent with the planning principles in terms of LUPA and SPLUMA

RESPONSIBLE OFFICIAL :**S VAN DER MERWE**

4.2

ERF 4286, CHANTECLAIRE AVENUE AND ERF 4443, 27 CHANTECLAIRE AVENUE, ONRUS MANOR, ONRUSTRIVIER, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REZONING, CONSENT USE, DEPARTURE, EXEMPTION OF REGISTRATION OF A RIGHT OF WAY SERVITUDE AND AMENDMENT OF SITE DEVELOPMENT PLAN: WRAP PROJECT OFFICE ON BEHALF OF ONRUS MANOR BODY CORPORATE AND WESTERN OCEAN INVESTMENTS 161 CC

4286 & 4443 HON (4290/2022)

H Olivier

(028) 313 8900

Hermanus Administration

8 December 2023

EXECUTIVE SUMMARY

An application was received on 11 November 2022 from WRAP Project Office on behalf of the Onrus Manor Body Corporate and Western Ocean Investments 161 CC on Erven 4286 and 4443, Onrustrivier in terms of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) for the following:

- ❖ **Rezoning** in terms of Section 16(2)(a) of the By-Law from Residential Zone I: Single Residential (SR1) to General Residential Zone: Town Housing (GR1), applicable to Erf 4443, Onrustrivier to develop five (5) units.
- ❖ **Consent Use** in terms of Section 16(2)(o) of the By-Law to allow a retirement village on Erf 4443, Onrustrivier.
- ❖ **Departure** in terms of Section 16(2)(b) of the By-Law to relax the following on Erf 4443, Onrustrivier:
 - northern perimeter building line applicable to Unit 1 from 3,0m to 2,68m to accommodate a portion of the pergola;
 - eastern perimeter building line applicable to Unit 1 from 3,0m to 0,76m to accommodate a portion of the bedroom and bathroom;
 - north-western perimeter building line applicable to Unit 2 from 3,0m to 2,68m to accommodate a portion of the pergola;
 - eastern perimeter building line applicable to Unit 3 from 3,0m to ±0,75m to accommodate a portion of the bedroom and bathroom;
 - western perimeter building line applicable to Unit 5 from 3,0m to 0,74m to accommodate a portion of the bedroom and bathroom; and
 - to depart from the minimum erf size of 3000m² to 2296m² for the rezoning of a site to General Residential Zone: Town Housing (GR1).
- ❖ **Subdivision** in terms of Section 16(2)(d) of the By-law to create a right-of-way access servitude over Erf 4286 Onrustrivier in favour of Erf 4443, Onrustrivier i.e., Exemption of Registration of a Right of Way Servitude.
- ❖ **Amendment of Site Development Plan** in terms of Section 16(2)(l) of the By-Law to accommodate extensions to the roads over Erf 4286, Onrustrivier.

RESOLVED:

1. that the objections received, **be noted**;
2. that the application in terms of Section 16(2)(a) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 4443, Onrusrivier to rezone the said property from Residential Zone I: Single Residential (SR1) to General Residential Zone 1: Group Housing to develop five (5) units on the property, **be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(o) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 for a Consent Use to allow a retirement village on Erf 4443, Onrusrivier, **be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the application for departure in terms of Section 16(2)(b) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 4443, Onrusrivier to relax the following:
 - Northern perimeter building line applicable to Unit 1 from 3,0m to 2,335m to accommodate a portion of a patio;
 - Eastern perimeter building line applicable to Unit 1 from 3m to 0,685m to accommodate a portion of the bedroom and bathroom;
 - Northern perimeter building line applicable to Unit 2 from 3,0m to 2,335m to accommodate a patio;
 - Eastern perimeter building line applicable to Unit 3 from 3,0m to 1,04m to accommodate a portion of the bedroom and bathroom;
 - Southern and eastern perimeter building line for Unit 3 from 3m to 0m to accommodate a garage; and
 - South-Western perimeter building line for Unit 5 from 3,0m to 1,73m to accommodate a bedroom;
 - The minimum erf size of 3000m² to 2296m² for the rezoning of a site to General Residential Zone: Town Housing (GR1)**be approved** in terms of the provisions of Section 61 of the By-Law;
5. that the application in terms of Section 16(2)(d) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 for subdivision (exemption) to create a right-of-way access servitude over Erf 4286, Onrusrivier in favour of Erf 4443, Onrusrivier, **be approved**;
6. that the application in terms of Section 16(2)(l) of the By-Law for the Amendment of the Site Development Plan of Onrus Manor to accommodate extensions to the roads over Erf 4286, Onrusrivier, as indicated on plan number 22.52/003 dated 29/08/2023, **be approved**, in terms of the provisions of Section 61 of the By-Law;

7. that the approvals in Points 2. to 6. above in terms of the provisions of Section 61 of the By-law, be subject to the following conditions:
- (a) that development be in line with Site Development Plan 22.52/003 dated 29/08/2023;
 - (b) that a minimum of 2 (two) parking bays be provided at each unit to municipal standards and satisfaction;
 - (c) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (d) that Architectural Design Guidelines be submitted for the development to address the style of the houses in line with the surrounding Onrus Manor style of units, in consultation with the Building Control department;
 - (e) that all the conditions imposed by Telkom be complied with;
 - (f) that all conditions in the Services Report be complied with;
 - (g) that a Body Corporate be established with compulsory membership for all property owners within the development;
 - (h) that the Constitution of the Body Corporate be submitted for approval by the Municipality (which reserves the right to impose conditions in this regard), 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 to the Municipality, and
 - that the Constitution clarifies at what stage responsibility would be transferred from the developer to the Body Corporate to deal with approval of plans.
 - (i) that the units on Erf 4443 may only access the property over Erf 4286, and no direct access may be obtained from Chanteclair Avenue;
 - (j) that a servitude be registered over the roads, open spaces, and amenities on Erf 4286 in favour of Erf 4443, Onrusrivier, prior to the construction of the first unit on Erf 4443, Onrusrivier;
 - (k) that a notarial tie agreement must be registered against the title deeds of Erven 4443 and 4286, Onrusrivier prior to the construction of the first unit on Erf 4443, Onrusrivier;
 - (l) that the developer submits an operational plan to the Municipality for approval before construction commences;

- (m) that building plans be submitted to the Building Control Department of the Municipality in accordance with the amended Site Development Plan, and that any requirements by the Fire- and Building Departments at that stage be complied with; and
 - (n) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with.
8. that the applicant and objector 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 with regard to the above decisions.

REASONS FOR THE RESOLUTION:

- ❖ The proposal is in line with the Overstrand Municipality Spatial Growth Management Strategy, 2010 (Guideline document) and Overstrand Municipal Wide SDF, 2020.
- ❖ All relevant municipal departments and external departments/institutions support the application.
- ❖ Concerns/objections raised about the possible impact on traffic, parking and gardens have been considered. The scale of the development is such that the concerns are unfounded, as the proposed development will be in line with the character of surrounding developments and due to the small scale, have a low impact on the internal roads and parking.
- ❖ The application is in line with the general principles of SPLUMA and LUPA, as this development will be spatially sustainable, will not lead to urban sprawl or be developed on agricultural land or environmentally sensitive areas. In terms of efficiency, the proposed development will utilise existing road networks and services.
- ❖ The proposal is aligned with the character of the Chanteclair area directly north of the R43 Provincial Road, which comprises a mixture of General Residential Zone I erven utilised as Group Housing Developments and Retirement Villages.
- ❖ The relaxations of building lines mostly relate to building lines adjacent to other units within the Onrus Manor development. Only two pergolas traverse the building line with Chanteclair Avenue, and this is only a minor encroachment with no real negative impact.
- ❖ The property to be developed with five (5) units will be notarially tied with Onrus Manor and a servitude will be registered over the Onrus Manor development securing the use of the retirement facilities on Erf 4286, including amenities, roads and open spaces, by the residents of Erf 4443. This limits the impact on the surrounding area.

RESPONSIBLE OFFICIAL :**H OLIVIER**

4.3

**ERF 234, 20 PORTER DRIVE, ROOIELS, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND
DEPARTURE: A VON MALTITZ ON BEHALF OF A VON MALTITZ & L KAESTNER**

234 KRE (4308/2022)

H van der Stoep

(028) 313 8900

Hermanus Administration

5 January 2024

EXECUTIVE SUMMARY

An application has been received on 9 December 2022 from A von Malitz on behalf of A von Maltitz & L Kaestner for the following:

- ❖ **Removal of Restrictive Title Deed Condition** in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Planning, 2020 for the removal of restrictive title deed conditions F.4.(d) and G.(b) as contained in Title Deed T44343/2021 of the property to accommodate the proposed new dwelling.

The restrictive title deed conditions read as follows:

“F. SUBJECT to the following conditions contained in the said Deed of Transfer Number T1609/1964 imposed by the Administrator of the Province of the Cape of Good Hope when approving of the General Plan of the said Rooi Els Township under the provisions of Ordinance 33 of 1934 reading as follows;

4. *This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the administrator after consultation with the Townships Board and the local authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorize the necessary suspension or relaxation subject to compliance with such conditions as he may impose.*

(d) *No buildings or structure except the boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf, nor within 3,15 metres of the rear of 1,57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space, and provided further that a garage may be erected up to such street line if the opinion of the local authority of the erf is such to make that necessary.*

G. SUBJECT to the following conditions contained in said Deed of Transfer Number T1609/1964 imposed by the Transferor Company as being in favour of the registered owner of any erf in the Township;

(b) *No wood and iron buildings of any description, shall be erected on this erf, nor shall corrugated iron be used for roofing purposes.”*

- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Planning, 2020 to relax the street building line from 4m to $\pm 2,97$ m to accommodate the proposed new dwelling on the property.

RESOLVED:

1. that the objections received, **be noted**;
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 Erf 234, Rooiels for the removal of restrictive title deed condition G.(b) as contained in Title Deed T44343/2021 of the property to accommodate the proposed new dwelling, **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)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 234, Rooiels for the removal of restrictive title deed condition F.4.(d) as contained in Title Deed T44343/2021 of the property to accommodate the proposed new dwelling, **be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 234, Rooiels for a departure to relax the street building line from 4m to $\pm 2,97$ m to accommodate the proposed new dwelling on the property, **be approved**, in terms of the provisions of Section 61 of the By-Law;
5. that the approvals in Points 3 and 4 above be subject to the following conditions:
 - (a) that the approval be limited to the building/structures as per Plan dated 14 December 2022, submitted with this application;
 - (b) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control and the Fire Department be complied with at that stage;
 - (c) that the amended title deed be submitted to the Municipality for record purposes to the Municipality;

- (d) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
 - (e) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (f) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with; and
 - (g) that all the conditions in the Services Report be complied with.
6. that the applicant and objector 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:**POINT 2**

The plans submitted with the application indicate a brick-and-mortar building with elements of wood and iron and there is, therefore, no need to remove condition G.(b)

POINTS 3 & 4

- The placement of the dwelling away from the environmentally sensitive flora and the water run-off on the northern side of the property will minimise the impact on the environment.
- The proposed development adheres to the Rooiels Ratepayers' Association Constitution and promotes the principle of the protection of the environmental spatial character of Rooi Els.
- The development adheres to NEMA'S precautionary principle.
- None of the residents objected to the application.
- The lane is a foot path and not a street and a more lenient approach is therefore justified.

RESPONSIBLE OFFICIAL:**H VAN DER STOEP****The meeting adjourned at 10:45**