



MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

MINUTES

DATE:
VENUE:
TIME:

3 AUGUST 2020
GLASKAS/VIRTUAL
10:00

OVERSTRAND
MUNICIPAL PLANNING TRIBUNAL
MINUTES OF A MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL,
HELD IN THE GLASKAS HERMANUS, AS WELL AS
ON A VIRTUAL PLATFORM,
ON 3 AUGUST 2020, AT 10:00

PRESENT:

MEMBERS:

Mr S Müller, Director : Infrastructure & Planning
Ms D Arrison, Director : Management Services
Mr S Madikane, Director : LED
Ms H Janser, Directorate Development
Management

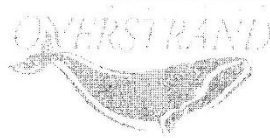
OFFICIALS:

Mr R Kuchar, Senior Manager : Town & Spatial
Planning
Ms H van der Stoep, Senior Town Planner
Mr P Roux, Town Planner
Ms M Harmse, PA to Director S Müller

APOLOGIES:

Mr R Williams, Director : Community Services
Ms S Swart, Council Support Services

MUNICIPALITY














MUNISIPALITEIT

MUNICIPAL PLANNING TRIBUNAL ATTENDANCE REGISTER

Date: **3 AUGUST 2020**

I, the undersigned, hereby declare:

- that I will make known details of any personal or other interest in respect of matters on the agenda and whether I have been approached by any party prior to the meeting
- that I have read all the information on the agenda

NAME	DEPARTMENT / SECTION MUNICIPALITY	SIGNATURE
S MÜLLER	MPT CHAIRPERSON OVERSTRAND MUNICIPALITY	
R WILLIAMS	MPT VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	
S MADIKANE	MPT MEMBER OVERSTRAND MUNICIPALITY	
D ARRISON	MPT MEMBER OVERSTRAND MUNICIPALITY	
H JANSER	MPT MEMBER DIR: DEV MANAGEMENT	
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 <i>M. H. H. H.</i>	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	

1. OPENING

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

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr R Williams
Ms S Swart

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 25 June 2020****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **25 June 2020, be confirmed, subject to the following amendments:**

- **Item 4.3 :** Reasons for Resolution for Non-Approval: the words “Reasons not available” must be amended to read as follows:

“The removal of title deed condition C.2(a) was not approved because it is not relevant to the application.”

- **Item 4.4 :** Reasons for Resolution for Non-Approval: the words “Reasons not available” must be amended to read as follows:

“The removal of title deed conditions C.(h), C(i) and C(j) was not approved because it is not relevant to the application.”

4. ITEMS FOR CONSIDERATION**4.1**

**ERF 1494, LYNX ROAD, VERMONT, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR SUBDIVISION AND REGISTRATION OF A RIGHT OF WAY
SERVITUDE: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON
BEHALF OF A CARSTENS**

1494 HVM (3464/2019)

H Olivier

(028) 313 8900

Hermanus Administration

21 April 2020

EXECUTIVE SUMMARY

An application was received on 22 October 2019 from Messrs Plan Active Town and Regional Planners on behalf of A Carstens on Erf 1494, Vermont in terms of the Overstrand Municipality By-Law on Land Use Planning, 2015 for the following:

- Registration of a right-of-way servitude in terms of Section 26(i)(g)(v) of the abovementioned By-Law, and
- Subdivision in terms of Section 16(2)(d) of the abovementioned By-Law, to create four (4) Residential Zone I erven namely: Portion A ($\pm 2770\text{m}^2$), Portion B ($\pm 2870\text{m}^2$), Portion C ($\pm 3068\text{m}^2$) and a Remainder ($\pm 3207\text{m}^2$).

RESOLVED:

1. that the application in terms of Section 16(2)(d) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 to subdivide Erf 1494, Vermont into four (4) Residential Zone I portions, Portion A measuring 2770m^2 , Portion B measuring 2780m^2 , Portion C measuring 3068m^2 and Remainder measuring $\pm 3207\text{m}^2$ in extent, **be approved** in terms of the provisions of Section 61, subject to the following conditions:
 - (a) that development be in line with Plan verm1494(6) dated 09/2019 submitted with this application;
 - (b) that a 5m access servitude and if so required a service servitude be registered to the satisfaction of the Engineering Services Department, prior to the registration of the first erf;
 - (c) that the existing access to the property off Lynx Road be closed, and access only be provided off Lynx Road via the 5m right-of-way servitude;
 - (d) that access to Portions A and B off Caracal Close be in compliance with the positions indicated on Plan verm1494(6);

- (e) that a 5m building line be applied next to Lynx Road, and that such condition be inserted in the Title Deeds of Portions B and C;
 - (f) that a minimum of 2 (two) parking bays be provided on each erf, to municipal standards and satisfaction;
 - (g) that this decision does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (h) that all the conditions of Telkom be complied with;
 - (i) that all the conditions imposed by Eskom be complied with, and
 - (j) that all conditions in the Services Report be complied with.
2. that the exemption in terms of Section 26(i)(g)(v) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 for registration of a right-of-way servitude, as addressed in Condition 1.(b) above, **be supported**; and
 3. 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, 2015 with regard to the above decision.

REASONS FOR APPROVAL

- ❖ The application will not have a negative environmental impact as no environmental listed activities are triggered.
- ❖ The proposed development is in line with the Overstrand Municipality SDF, 2006 which earmarks this area for residential purposes and the Overstrand Municipality Growth Spatial Development Framework, 2010 which earmark this area for status quo.
- ❖ The objections relating to the impact of traffic on the road network is not supported as the scale of the development is low and the Municipal Engineering Services Department also advised on access and traffic matters and provided their support for the application.
- ❖ The area has a mixed residential use character of small pockets of group housing erven, Residential Zone I erven of approximately 600m² in size, and larger Residential Zone I plots measuring between 1ha to 2ha in size. This proposal is therefore in line with existing developments and the objectors' concerns regarding impact on the character of the area is not supported.
- ❖ The provision of a 5m right-of-way servitude off Lynx Road would ensure future access for possible future developments west of Erf 1494.
- ❖ A good public participation process was followed with notices sent to directly adjacent property owners and by also placing an advertisement in the local newspaper.

- ❖ There is sufficient capacity in services and road infrastructure to serve the development.
- ❖ All relevant Municipal and State Departments and other institutions support the application.
- ❖ The proposal is in line with the character of the area and would not have a significant impact on surrounding property owners, and is desirable.

RESPONSIBLE OFFICIAL :

H OLIVIER

4.2**PORTION 3 OF FARM 585, HEMEL-EN-AARDE VALLEY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: OVERSTRAND MUNICIPALITY****3/585 RCAL (3488/2019)****H Olivier****(028) 313 8900****Hermanus Administration****25 March 2020**

EXECUTIVE SUMMARY

The application on Portion 3 of Farm 585, Hemel-en-Aarde Valley is in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for a consent use in order to accommodate a proposed utility service to accommodate a garden waste chipping area.

RESOLVED:

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Portion 3 of Farm 585 Hemel-en-Aarde Valley for a Consent Use to operate a garden refuse chipping plant, **not be approved** in terms of the provisions of Section 61 of the By-Law, and
2. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

REASONS FOR NON-APPROVAL

- ❖ Due to the lack of information regarding traffic impact and noise impact, it is not possible to determine if the application is desirable.
- ❖ The surrounding area is developed with tourist facilities (restaurant, wedding venue, tourist accommodation, tree top climbing, quad biking, hiking and bicycle trails and wine tasting), educational facilities (CTI and Camphill School) and also farming activities (wine farms and protea and farming), and the concerns that such character can be negatively affected is supported.
- ❖ The Department of Environmental Affairs and Development Planning does not support a garden waste chipping facility under a "Utility Zone" use, nor does it support such use in an area not allocated within a solid waste disposal site area.
- ❖ The objections received with regard to concerns regarding the impact on the character of the area and on existing rights on properties, are valid concerns.

- ❖ In terms of the SDF, the Hemel-en-Aarde Valley is a scenic route and farming and tourist facilities should be promoted. The proposed chipping plant could have a negative impact on existing tourist facilities/activities and also impact on future possible activities, especially in terms of traffic concerns and noise concerns. It is therefore the opinion that such chipping facility will not promote farming or tourist activities, and is not in line with the aims of the SDF, 2006.

RESPONSIBLE OFFICIAL :

H OLIVIER

4.3

ERVEN 942 AND 943, 69 & 71 DREYER STREET, STANFORD: APPLICATION FOR REZONING, CONSENT USE, DEPARTURE AND DEVIATION FROM THE OVERSTRAND MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK, 2006 AND GROWTH MANAGEMENT STRATEGY, 2010: MESSRS WRAP CONSULTANCY ON BEHALF OF HENQUE 3030 CC

942 & 943 SSN (3248)

P Roux

(028) 313 8900

Hermanus Administration

14 May 2020

EXECUTIVE SUMMARY

An application was received on 27 September 2019 from Messrs WRAP Consultancy on behalf of Henque 3030 CC on Erven 942 and 943, Stanford in terms of the Overstrand Municipality By-Law on Land Use Planning, 2015 (By-Law) for the following:

➤ Rezoning

Application in terms of Section 16(2)(a) to rezone Erven 942 and 943, Stanford from Residential Zone 1: Single Residential to Business Zone 3: Local Business.

➤ Consent Use

Application in terms of Section 16(2)(o) for a Consent Use to establish a bottle store on Erf 943, Stanford.

➤ Departure

Application in terms of Section 16(2)(b) for the following:

- ❖ to deviate from the on site parking provisions, with a notary tie agreement between Erven 942 and 943, Stanford.
- ❖ to relax the north-eastern lateral building line on Erf 943 from 3m to 2,5m and 1m respectively and also to relax the south-eastern lateral building line from 3m to 1m to accommodate the proposed bottle store on the property.

➤ Deviation

A deviation from the Overstrand Municipal Spatial Development Framework 2006 and Growth Management Strategy, 2010 to permit a commercial land use in terms of Section 10(1) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015.

RESOLVED:

1. that the application in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Land Use Planning, 2015 (By-Law) in order to rezone Erven 942 and 943, Stanford from Residential Zone 1: Single Residential to Business Zone 3: Local Business, **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 for a consent use to establish a bottle store on Erf 943, Stanford, **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 to deviate from the on site parking provisions, with a notary tie agreement between Erven 942 and 943, Stanford, **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 By-Law to relax the north-eastern lateral building line from 3m to 2,5m and 1m respectively, and also to relax the south-eastern lateral building line from 3m to 1m to accommodate the proposed bottle store on the property, **be partially approved**;
5. that the approvals in paragraphs 1., 2., 3. and 4. be subject to the following conditions:
 - (a) that the bottle store be recessed 2m away from the south-eastern lateral building line instead of the requested 1m;
 - (b) that an updated Site Development Plan be submitted for approval by the Senior Manager: Town and Spatial Planning and Senior Manager: Engineering Services within **thirty (30) days** of the decision date;
 - (c) that Erven 942 and 943, Stanford be notarial tied prior to the submission of building plans;
 - (d) that the bottle store be restricted to the area indicated on the updated Site Development Plan as required in 5.(b);
 - (e) that should the bottle store in future cease to exist the exercise of the applicable primary rights are subject to the submission and approval of a Site Development Plan, demonstrating compliance with the applicable Zoning Scheme;
 - (f) that the operation of a liquor shop be subject to a valid liquor license, limited to off-site consumption only;

- (g) that a building plan be submitted to the Building Control Department for approval within a period of **sixty (60) days** from the decision date and that all requirements of the Building Control and Fire Department be adhered to at that stage;
 - (h) that no advertising sign shall be displayed without the written approval of the Municipality, and such sign must be in line with the Overstrand Signage By-Law;
 - (i) that the operation of a liquor store be subject to a valid Certificate of Acceptability (COA) to be issued by the Municipal Health Services, Overberg District Municipality;
 - (j) that the hours of operation and trading shall be restricted to 08:00 to 21:00 from Mondays to Saturdays and does not include Sundays or public holidays;
 - (k) that applicable rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically be adjusted in terms of the annual budget;
 - (l) that all the conditions of Telkom be complied with;
 - (m) that all conditions of Waste Management and Engineering Services be complied with.
 - (n) that this decision does not absolve the owner/applicant from compliance with any other relevant legislation; and
 - (o) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
6. that the applicant be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

RECOMMENDATION TO COUNCIL:

that the application to deviate from the Overstrand Spatial Development Framework, 2006 as well as the Growth Management Strategy, 2010 in order to permit a commercial land use in terms of Section 10(1) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, **be approved** in terms of the provisions of Section 22(2) of the Spatial Planning Land Use Management Act.

REASONS FOR THE APPROVAL:

- ❖ The subject properties are situated within a commercial node which was approved by Council. Commercial nodes and corridors are ideally located in areas where business uses have a lesser impact on the character and functioning of the residential suburb. Therefore, when considering the proposed location of the bottle store in the Stanford area the ideal location will be in the commercial zone/node.
- ❖ Majority of the parking can be located on Erf 942, pedestrians will only have to cross Abner Street from the parking area on Erf 942. Abner Street is not a main arterial and mainly serves residential erven, it is therefore envisaged that the pedestrian traffic will not have a negative impact on the vehicular traffic.
- ❖ The proposed relaxation of the 3m south-eastern lateral building line up to 1m from the boundary is not considered desirable due to the following:
 - The inherent character of the residential area is a 2m building line.
 - The property owner of Erf 945, Stanford will have a 17,75m wall façade facing their property with two (2) windows also facing onto their property.
 - Erf 943 is still vacant and the applicant can redesign the proposed layout in order to be more respectable to the adjacent property owners' privacy and more compliant with the inherent character.
- ❖ No objections were received from the relevant departments or the adjacent property owners.

RESPONSIBLE OFFICIAL :**P ROUX****The meeting adjourned at 10:40**