



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

**MINUTES**

**DATE:  
VENUE:  
TIME:**

**1 AUGUST 2024 (JUL 2024 CYCLE)  
VIRTUAL  
10:00**

**OVERSTRAND**  
**MUNICIPAL PLANNING TRIBUNAL**  
**MINUTES OF A MEETING OF THE**  
**MUNICIPAL PLANNING TRIBUNAL,**  
**HELD VIRTUALLY ON**  
**1 AUGUST 2024 AT 10:00**

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**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 Planning

**OFFICIALS:**

Mr R Kuchar, Senior Manager : Town & Spatial  
Planning  
Mr H Olivier, Town Planner  
Ms S Swart, Council Support Services

**APOLOGIES:**

None



**MUNICIPAL PLANNING TRIBUNAL  
ATTENDANCE REGISTER**

Date: **1 AUGUST 2024 (JULY 2024 CYCLE)**

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	<i>Present</i>
S MÜLLER	VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	<i>Present</i>
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	<i>Present</i>
R LOUW	MPT MEMBER OVERSTRAND MUNICIPALITY	<i>Present</i>
R KUCHAR	AUTHORISED OFFICIAL OVERSTRAND MUNICIPALITY	<i>Present</i>
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	<i>Present</i>
B MINNAAR	TOWN PLANNER OVERSTRAND MUNICIPALITY	
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	<i>SSwart</i>

**1. OPENING**

The Chairperson, Ms H Janser, opened the meeting and welcomed those present. Mr S Müller informed the meeting that Mr S Madikane went on early retirement and left the service of the Overstrand Municipality on 31 July 2024. He also confirmed that Ms Janser was reaffirmed as Chairperson of the Municipal Planning Tribunal by Council at its meeting of 31 July 2024. The vacancy of Mr Madikane will be filled by the new Director: Planning & Development, of which the position is currently advertised.

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

None

**3. CONFIRMATION OF MINUTES****3.1 Minutes of a Municipal Planning Tribunal Meeting held on 27 June 2024****RESOLVED:**

that the approval of the Minutes of the Municipal Planning Tribunal Meeting held on **27 June**

#### 4. ITEMS FOR CONSIDERATION

##### 4.1

**ERF 193, 2 SCHOOL STREET, FISHERHAVEN, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND SUBDIVISION: MESSRS WRAP PROJECT OFFICE ON BEHALF OF JC & NL WALKER**

**193 HFH (4379/2023)**

**H Olivier**

**(028) 313 8900**

**Hermanus Administration**

**21 June 2024**

#### EXECUTIVE SUMMARY

An application has been received on 3 May 2023 from Messrs WRAP on behalf of JC and NL Walker in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 193, Fisherhaven for the following:

- ❖ **Removal of Restrictive Title Deed Conditions** in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed conditions E.4.(a), E.4.(b), E.4.(c) and E.4.(d) as contained in Title Deed T53094/2021 applicable to Erf 193, Fisherhaven to accommodate the proposed development.

The restrictive title deed conditions read as follows:

**"E. SUBJECT FURTHER** to the following conditions imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving the establishment of Fisherhaven Township, contained in the said Deed of Transfer No. 9841, dated the 3<sup>rd</sup> May 1972, namely:

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 authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose:

- (a) it shall not be subdivided;
- (b) it shall be used only for the purpose of erecting thereon one dwelling together with such buildings as are ordinarily required to be used therewith;
- (c) not more than 30% of the area thereof shall be built upon;
- (d) no buildings or structure or any portion thereof except boundary walls and fences shall be erected nearer than 4,72 metres the street line which forms a boundary of this erf nor within 3,15 metres of the rear or 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. On consideration of any two or more erven, this condition shall apply to the consolidated area as one erf;"*

- ❖ **Subdivision** in terms of Section 16(2)(d) of the By-Law to subdivide Erf 193, Fisherhaven into 2 portions, namely: Portion A (approximately 762,5m<sup>2</sup>) and a Remainder (approximately 762,5m<sup>2</sup>).

**RESOLVED:**

1. that the objections **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 on Erf 193, Fisherhaven for the removal of restrictive title conditions E.4.(a), E.4.(b), E.4.(c) and E.4.(d) as contained in Title Deed T53094/2021 of the property in order to remove conditions relating to no subdivision, limitation on second dwellings, building lines and coverage, **be approved**, in terms of the provisions of Section 61 of the By-Law;
3. 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 193, Fisherhaven into two (2) portions, namely: Portion A (approximately 762,5m<sup>2</sup>) and a Remainder (approximately 762,5m<sup>2</sup>), **be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the approvals in 1 and 2 above is in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
  - (a) that this approval is only for the subdivision as indicated on Subdivision Plan number 22/102(001) dated 23 March 2023, submitted with the application;
  - (b) that this approval is only for the removal of restriction and subdivision and not an approval in terms of any other legislation;
  - (c) that building plans be submitted for all new buildings to the Building Control Department for approval, and that all conditions of the Building Control and Fire Departments be complied with at that stage;
  - (d) that this approval does not absolve the applicant from compliance with any other relevant legislation;
  - (e) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with; and
  - (f) that all the conditions in the Services Report be complied with.

5. 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, 2020 regarding the above approval.

**REASONS FOR THE RESOLUTION:**

- ❖ The application has followed due procedure.
- ❖ The existing municipal services can accommodate the additional erf and additional dwellings and the application is supported by the Engineering Branch.
- ❖ The subdivision of the erf is in line with the Overstrand Growth Management Strategy, 2010 which earmarks this area with a density of up to 10 units/ha.
- ❖ The size of the new proposed erven will be in line with the sizes of surrounding properties, and it is not foreseen that the character of the area will be impacted on.
- ❖ The restrictive condition prohibits the property to be developed to its full potential, as the land use scheme allows for second dwellings as a primary right, already stipulates building lines and a 50% coverage.
- ❖ The proposed construction of a second dwelling is in line with the land use scheme, as the second dwelling will be smaller than 120m<sup>2</sup> in extent.
- ❖ The applicant sufficiently addressed the objections, and the objections do not prove the application not to be desirable.
- ❖ The application is in line with the General Principles of LUPA and SPLUMA, as the densification of areas within the urban edge will ensure that valuable agricultural and environmentally sensitive land is not developed and will create sustainable development. The development is also efficient as existing services will be utilised.

**RESPONSIBLE OFFICIAL :****H OLIVIER****The meeting adjourned at 09:10**