



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

MINUTES

**DATE:
VENUE:
TIME:**

**25 JUNE 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 25 JUNE 2020, AT 10:00

PRESENT:

MEMBERS:

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

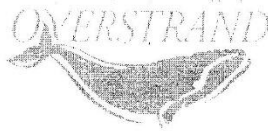
OFFICIALS:

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

APOLOGIES:

None

MUNICIPALITY



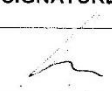


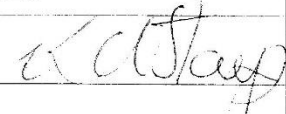

MUNISIPALITEIT

**MUNICIPAL PLANNING TRIBUNAL
ATTENDANCE REGISTER**

Date: 25 JUNE 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	Joined on Zoom
S MADIKANE	MPT MEMBER OVERSTRAND MUNICIPALITY	Joined on Zoom
D ARRISON	MPT MEMBER OVERSTRAND MUNICIPALITY	Joined on Zoom
H JANSER	MPT MEMBER DIR: DEV MANAGEMENT	Joined on Zoom
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, Mr S Müller, 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 26 March 2020****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **26 March 2020, be confirmed.**

4. ITEMS FOR CONSIDERATION**4.1****ERF 9720, SISULU STREET, ZWELIHLE, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE AND DEPARTURE: MESSRS HIGHWAVE CONSULTANTS ON BEHALF OF THE PROVINCIAL GOVERNMENT WESTERN CAPE****9720 HZW (3126)****H van der Stoep****19 May 2020****(028) 313 8900****Hermanus Administration****EXECUTIVE SUMMARY**

An application was received on 10 May 2019 (revised 12 August 2019) from Messrs Highwave Consultants on behalf the Provincial Government Western Cape applicable on Erf 9720, Zwelihle for the following:

- ❖ Consent use (“transmission tower”) in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) in order to accommodate a free standing cellular communications base station and associated equipment together with a 30m high monopole transmission tower on the above property;
- ❖ Departure in terms of Section 16(2)(b) of the By-Law in order to:
 - exceed the applicable 10,5m height restriction in order to accommodate the 30m high monopole transmission tower; and
 - relax the northern street building line and eastern lateral building line from 5m to 0m respectively to accommodate the cellular communications base station and associated equipment.

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) applicable to Erf 9720, Zwelihle for a consent use (transmission tower) in order to accommodate a free standing cellular communications base station with a 30m high monopole type transmission tower, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application for departure in terms of Section 16(2)(b) of the By-Law applicable to Erf 9720, Zwelihle in order to:
 - exceed the applicable 10,5m height restriction to accommodate the 30m high monopole transmission tower; and

- to relax the northern street building line and the eastern lateral building line from 5m to 0m respectively to accommodate the cellular communications base station,

be approved in terms of the provisions of Section 61 of the By-Law.

3. that the approval be subject to the following conditions:
 - (a) the design of the mast be submitted to the Building Department for approval; and
 - (b) the applicant make space available for other service providers.
4. that the applicant and objectors be notified of their appeal right in terms of Section 78 of the By-Law with regard to the above decisions.

REASONS FOR THE RESOLUTION:

- ❖ Since there is already a number of high mast lighting structures in the same suburb, one additional 30 m mast will not have a major impact.
- ❖ Despite the fact that more than 400 notices were distributed in Zwelihle, no objections were raised by any resident or organisation in Zwelihle.
- ❖ Due to the increased urbanisation and fast population growth in the area, there is a need for more cellular communication infrastructure.
- ❖ There are no other suitable sites available in the area.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

4.2

ERF 10347, 17 LONG STREET, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS PLAN ACTIVE ON BEHALF OF ER SCHIMMER AND BU RIEDELSHEIMER

10347 HNC (3232/2019)

H van der Stoep

(028) 313 8900

Hermanus Administration

22 March 2020

EXECUTIVE SUMMARY

An application was received on 12 July 2019 from Messrs Plan Active Town and Regional Planners on behalf of ER Schimmer and BU Riedelsheimer on Erf 10347, Hermanus for a consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to establish a place of entertainment to allow White Rabbit Bar and Grill to accommodate five (5) slot machines (gambling machines) within a portion of the existing business premises on the above-mentioned property.

RESOLVED:

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 on Erf 10347, Hermanus for a consent use in order to establish a place of entertainment to allow White Rabbit Bar and Grill to accommodate five (5) slot machines (gambling machines) within a portion of the existing business premises on the above-mentioned property, **be approved** in term of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) the consent use be restricted to five (5) slot machines only and none of the other uses as per the definition of place of entertainment is allowed, except through a land use application;
 - (b) the slot machine area be restricted to 19,87m² and located as depicted on plan DS dated 26 May 2019;
 - (c) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
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 RESOLUTION:

- ❖ The application for five (5) slot machines will be located in the existing building.
- ❖ There is enough parking to accommodate the slot machines.
- ❖ The impact on the surrounding area will be minimal.
- ❖ The place of entertainment is restricted to five (5) slot machines only.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

4.3

**ERF 376, 5 MAIN ROAD, GANSBAAI, OVERSTRAND MUNICIPAL AREA:
PROPOSED REZONING AND REMOVAL OF RESTRICTIVE TITLE DEED
CONDITIONS: MESSRS CONRADIE, GOODWIN AND ASSOCIATES ON BEHALF
OF EC O'CONNOR**

376 GGB (3047/2019)

SW van der Merwe

26 May 2020

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 3 May 2019 from Messrs Conradie, Goodwin and Associates on behalf of EC O'Connor in terms of the Overstrand By-Law on Municipal Land Use Planning, 2015 (By-Law) applicable to Erf 376, Gansbaai for the following:

- removal of restrictive title conditions C.2(a), C.2(b), C.2(c), C.2(d) and C.2(e) as contained in Title Deed T34452/88 in terms of Section 16(2)(f) of the By-Law, and
- rezoning from Residential Zone 1 (SR1) to Business Zone 3: Local Business (B3) in terms of Section 16(2)(a) of the By-Law in order to accommodate shops, offices and flats above ground floor on the property.

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title conditions C.2(b), C.2(c), C.2(d) and C.2(e) as contained in Title Deed T34452/88 applicable to Erf 376, Gansbaai, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title condition C.2(a) as contained in Title Deed T34452/88 applicable to Erf 376, Gansbaai **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)(a) of the By-Law for the rezoning of Erf 376, Gansbaai from Residential Zone I: Single Residential (SR1) to Business Zone 3: Local Business (B3)) in order to accommodate shops, offices and flats above ground, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the approvals in paragraphs 1. and 3. above be subject to the following conditions:

- (a) that prior to the commencement of the development parking layout demonstrating compliance with the applicable development parameters pertaining to Business Zone 3 be submitted for approval by the Authorised Official;
 - (b) that the parking layout be implemented in accordance with the approval in (a) above;
 - (c) that the requirements of Engineering Services be adhered to;
 - (d) that building plans be submitted to the Building Department for approval, and that all conditions of the Building- and the Fire Department be complied with at that stage;
 - (e) 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;
 - (f) that the display of signage be subject to compliance with the Municipal By-Law on Signage;
 - (g) that this permission do not permit the sale of liquor or the provision of gambling facilities;
 - (h) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (i) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
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, 2015 with regard to the above conditions of approval.

REASONS FOR RESOLUTION FOR APPROVAL:

- ❖ The application has followed due procedure.
- ❖ The development is consistent with the applicable strategic policy documents.
- ❖ The development is consistent with the planning principles.
- ❖ The development has a limited impact.
- ❖ The character and morphology of the surrounding area will be maintained.

REASONS FOR RESOLUTION FOR NON-APPROVAL:

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

RESPONSIBLE OFFICIAL :

SW VAN DER MERWE

4.4**ERF 120, 14 GEELBEK STREET, VAN DYKSBAAI (KLEINBAAI), OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, REZONING AND DEPARTURE: MESSRS WRAP CONSULTANCY ON BEHALF OF KS MACLEAN****120 GKB (3364/2019)****SW van der Merwe****7 May 2020****(028) 313 8900****Hermanus Administration**

EXECUTIVE SUMMARY

An application was received on 25 September 2019 from Messrs WRAP Consultancy on behalf of KS Maclean applicable to Erf 120, Van Dyksbaai in terms of the Overstrand By-Law on Municipal Land Use Planning, 2015 for the following:

- ❖ removal of restrictive title deed conditions C(e), C(f), C(g)(i), C(g)(ii), C.(h), C(i) and C(j) contained in Title Deed T113479/2003 in terms of Section 16(2)(f) of the By-Law;
- ❖ rezoning from Residential Zone 1 (SR1) to Business Zone 3 (B3) in order to utilise the property for commercial purposes in terms of Section 16(2)(a) of the By-Law; and
- ❖ departure to permit the encroachment of the 3m lateral building lines to 1,5m in order to accommodate the existing building in terms of Section 16(2)(b) of the By-Law.

RESOLVED:

1. that, in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) the application for the removal of restrictive title conditions C(e), C(f), C(g)(i) and C(g)(ii) as contained in Title Deed T113479/2003 applicable to Erf 120, Van Dyksbaai, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that, in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law), the application for the removal of restrictive title conditions C.(h), C(i) and C(j) as contained in Title Deed T113479/2003 applicable to Erf 120, Van Dyksbaai, **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)(a) of the By-Law for the rezoning of Erf 120, Van Dyksbaai from Residential Zone I (SR1) to Business Zone 3 (B3) in order to utilize the property for commercial purposes, **be approved** in terms of the provisions of Section 61 of the By-Law;

4. that in terms of Section 16(2)(b) of the By-Law, the application for departure to permit the encroachment of the 3m lateral building line to 1,5m to accommodate the existing building, **be approved** in terms of the provisions of Section 61 of the By-Law;
5. that the approvals provided in paragraphs 1., 3. and 4. above be subject to the following conditions:
 - (a) that a detailed parking layout be submitted within thirty (30) days of the decision date for approval by the Authorised Official, indicating on-site parking provision, including provision of a loading bay in accordance with the provisions of the Scheme Regulations;
 - (b) that the approved parking layout referred to in paragraph (a) above be implemented to the satisfaction of the Authorised Official;
 - (c) that in the event that the parking standards cannot be met on-site, the applicant will be required to make a payment in lieu of onsite parking provision in accordance with the requirements of the Scheme Regulations;
 - (d) that in the event that a payment in lieu of parking provision be applicable, such monies to be ring fenced into a parking fund for the planning and development of a communal parking area in Van Dyksbaai, as per the Kleinbaai Nodal Framework Report;
 - (e) that building plans be submitted within thirty (30) days of the decision date and that all requirements of the Building Control and Fire Department shall be adhered to;
 - (f) 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;
 - (g) that the display of advertising shall comply with the Overstrand Signage By-law;
 - (h) that all the conditions in the Services Report be complied with;
 - (i) that all the conditions of Telkom be adhered to;
 - (j) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (k) that all other development parameters as prescribed in the relevant Zoning Scheme 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 By-Law on Land Use Planning, 2015 with regard to the above conditional approvals.

REASONS FOR THE RESOLUTION FOR APPROVAL:

- ❖ The proposal is consistent with the IDF, SDF, OMGMS and Kleinbaai Nodal Development Framework.
- ❖ The relevant legislation was considered with the removal of the restrictive conditions in the Title Deed.
- ❖ The proposal is consistent with the spatial principles as set out in SPLUMA and LUPA.
- ❖ The existing unauthorised business activities, promoting tourism, economic development and employment opportunities will have a positive social advantage.
- ❖ The proposed removal, rezoning and departure will not detract from the character of the area, amenity of adjoining properties and is considered desirable.

REASONS FOR RESOLUTION FOR NON-APPROVAL:

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

RESPONSIBLE OFFICIAL :**SW VAN DER MERWE**

4.5

PORTION 1 (WIND HEUVEL) OF FARM WIND HEUVEL NO. 696, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSENT USE: MESSRS PLANACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF HOLISTIC 888 (PTY) LTD

696/1 GR CAL (2922/2019)

SW van der Merwe

(028) 313 8900

Hermanus Administration

6 May 2020

EXECUTIVE SUMMARY

An application was received on 26 November 2018 from Messrs PlanActive Town & Regional Planners on behalf of Holistic 888 (Pty) Ltd, the owner of Portion 1 (Wind Heuvel) of Farm Wind Heuvel No. 696, Division Caledon for consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for tourist facilities (chapel, wedding venue, conference facility, tourism accommodation (four (4) guest rooms, two (2) self-catering units and five (5) self-catering eco cabins).

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 1 (Wind Heuvel) of the Farm Wind Heuvel No. 696 for a consent use for tourist facilities to accommodate a venue/conferencing and chapel and consent use for tourism accommodation to accommodate four (4) guest rooms, two (2) self-catering units and five (5) self-catering eco cabins, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that a detailed Site Development Plan (SDP) in accordance with the provisions of the Scheme Regulations be submitted for approval by the Authorised Official, prior to the submission of building plans;
 - (b) that the applicant appoint a suitably qualified noise specialist to submit a Noise Impact Assessment pertaining to noise levels of the proposed land use (i.e. venue/conferencing) and incorporate a Noise Management Plan with appropriate mitigation measures above demonstrating that music volumes emanating from the premises will at all times comply with the provisions of the Western Cape Noise Control Regulations;
 - (c) that the applicant shall furnish this office with written confirmation pertaining to the implementation of the of the mitigation measures referred to in paragraph (b) above;

- (d) that the building plans be submitted to the Building Department for any changes existing or new to the building(s);
 - (e) that parking be provided in accordance with the SDP referred to in paragraph (a) above;
 - (f) that adequate provision be made to manage the behaviour of patrons (both inside and outside the buildings) and protection of surrounding properties;
 - (g) that there be compliance with all relevant Health and Fire regulations;
 - (h) that all the conditions in the Services Report be complied with;
 - (i) that all the conditions of Eskom, Department of Transport and Public Works, CapeNature, and Telkom be complied with;
 - (j) that the final placement of the proposed eco-cabins be determined in conjunction with the Environmental Management Department and be subject to a maximum footprint of 120m² and single storey in height;
 - (k) that the eco-cabins may not be occupied by more than fourteen (14) tourists and indicated as such on the SDP and building plans;
 - (l) that the owner or manager permanently resides on the premises when the venue/conferencing facility is in use;
 - (m) that the venue/conferencing facility may only be used between 08:00am and 00:00pm.
 - (n) that the applicable tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (o) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation, and
 - (p) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. that the applicant be notified of his/her right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditions of approval.

REASONS FOR THE RESOLUTION:

- ❖ It is in line with the aims of the Overstrand SDF to promote tourism.
- ❖ All services can be provided on the property to the satisfaction of the Municipality.
- ❖ Proposed consent uses do not have a negative impact on the surrounding land uses/farms in the area.
- ❖ The proposal is compatible with the built character of the area.
- ❖ Only minor changes to existing structures will take place.
- ❖ Heritage character of the site will be retained.
- ❖ The proposed consent uses will enable the management of the property as a viable farm portion, which capital will be used of the upkeep of the property.
- ❖ The proposal does not trigger listed activities in terms of NEMA.
- ❖ The proposal is consistent with the planning principles.
- ❖ The proposal adheres to the spatial planning policies for the area.

RESPONSIBLE OFFICIAL :**SW VAN DER MERWE**

4.6**ERF 989, 31 MUSSON STREET, EASTCLIFF, HERMANUS: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND DEPARTURE: MESSRS INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF N SLEMENT****989 HEC (3318)****P Roux****24 February 2020****(028) 313 8900****Hermanus Administration**

EXECUTIVE SUMMARY

An application was received on 4 September 2019 from Messrs Interactive Town & Regional Planning on behalf of N Slement the owner of Erf 989, Hermanus (Eastcliff), for the following:

- ❖ removal of restrictive title deed Condition B.A.(d) as contained in Title Deed T2785/2019 applicable to Erf 989, Hermanus in terms of Section 16(2)(f) of the Overstrand By-Law on Municipal Land Use Planning, 2015 (By-Law), and
- ❖ departure in terms of Section 16(2)(b) of the aforementioned By-Law to relax the eastern lateral building line from 2m to 0m to accommodate the proposed garage extension, and from 2m to 1,57m to accommodate the change of use of a section of the existing garage into a lounge.

RESOLVED:

1. that in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) the application for the removal of restrictive title conditions as contained in Title Deed T2785/2019 applicable to Erf 989, Hermanus, namely Condition B.A.(d), **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that in terms of Section 16(2)(b) of the By-Law, the application for a building line departure to relax the eastern lateral building line from 2m to 0m to accommodate the proposed garage extension, and from 2m to 1,57m to accommodate the change of use of a section of the existing garage into a lounge, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the approvals provided in paragraphs 1. and 2. are subject to the following conditions;
 - (a) that the approvals are for the development as indicated on Drawing No 133.01.01 to 03, that was submitted with the application;

- (b) that building plans be submitted to the Building Department for approval;
 - (c) that all the conditions in the Services Report be complied with;
 - (d) that the approvals do not absolve the applicant from compliance with any other relevant legislation, and
 - (e) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
4. that the applicant be notified of his/her right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditional approvals.

REASONS FOR THE RESOLUTION:

- ❖ The encroachment of the lateral building line has a minimal impact on the adjoining neighbour.
- ❖ The proposal is in line with the character of the area.
- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ Local and provincial departments have provided supporting comments for the proposed application.
- ❖ The relevant legislation was considered with the removal of the restrictive conditions in the Title Deed.
- ❖ The proposal is compliant with the spatial policies contained in the SDF.
- ❖ The proposal is constant with the spatial principles as set out in SPLUMA and LUPA.

RESPONSIBLE OFFICIAL :**P ROUX****The meeting adjourned at 11:30**