



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

**MINUTES**

<b>DATE:</b>	<b>30 JUNE 2022</b>
<b>VENUE:</b>	<b>VIRTUAL</b>
<b>TIME:</b>	<b>10:00</b>

**OVERSTRAND**  
**MUNICIPAL PLANNING TRIBUNAL**  
**MINUTES OF A MEETING OF THE**  
**MUNICIPAL PLANNING TRIBUNAL,**  
**HELD VIRTUALLY ON**  
**30 JUNE 2022 AT 10:00**

---

**PRESENT:**

**MEMBERS:**

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

**APOLOGIES:**

Ms H Janser, Directorate Development  
Management

**ALSO PRESENT:**

P Satz/L van Aarde (PLanpart)  
M Elves

MUNICIPALITY



MUNISIPALITEIT

## MUNICIPAL PLANNING TRIBUNAL

## ATTENDANCE REGISTER

Date: 30 JUNE 2022

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	Apology
S MÖLLER	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 OLMIER	TOWN PLANNER OVERSTRAND MUNICIPALITY	
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	✓
P. Satz / L van Aarde	Planpart	✓
M Elves		✓

**1. OPENING**

Mr S Müller acted as Chairperson and welcomed those present.

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

Ms H Janser

**RESOLVED:**

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

**3. CONFIRMATION OF MINUTES****3.1 Minutes of a Municipal Planning Tribunal Meeting held on 3 June 2022****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **3 June 2022**, **be approved.**

#### 4. ITEMS FOR CONSIDERATION

##### 4.1

**ERF 5548, 31 SEVENTEENTH AVENUE, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS ENGELBRECHT & SCORGIE ARCHITECTURAL OFFICE ON BEHALF OF KRM CRASEMANN**

**5548 HVK (3820/2021)**

**P Roux**

**(028) 313 8900**

**Hermanus Administration**

**25 March 2022**

---

#### EXECUTIVE SUMMARY

An application has been received on 26 July 2021 from Messrs Engelbrecht & Scorgie Architectural Office on behalf of the owner of Erf 5548, Hermanus (Voëlklip) in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- ❖ departure in order to relax the southern street building line from 4m to 1,6m to accommodate a double garage on the property, and
- ❖ the determination of an administrative penalty in terms of Section 16(2)(q).

#### RESOLVED:

1. that the application for departure in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), applicable to Erf 5548, Hermanus (Voëlklip) to relax the southern street building line from 4m to 1,6m to accommodate a double garage on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application for the determination of an administrative penalty in terms of Section 16(2)(q) of the By-law for the unauthorised land use activities stipulated above, **not be exempted** from the payment of an administrative penalty in terms of Section 90(4) of the By-Law;
3. that the recommendations in 1 and 2. above be subject to the following conditions:
  - (a) that the approvals are for the development as indicated on Drawing No 31 May 2021;
  - (b) that an administrative penalty of R34 080.00 (being 30% of the built cost) be payable within thirty (30) days of the decision;
  - (c) that SDP be revised to indicate that the balustrades will be set back to respect the 4m street building line on all elevations and on the site plan;

- (d) that building plans be submitted to the building control office within (60) days of the decision, and all comments from the fire department be complied with at that stage;
  - (e) that this approval does not absolve the landowners from compliance with any other relevant legislation, and
  - (f) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
4. that the applicant be notified of its appeal right in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above decisions.

**REASONS FOR THE RESOLUTION:**Reasons for the resolution in 1.

- ❖ Alterations made to the garage will mitigate the issue regarding traffic and pedestrian movement.
- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ 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.
- ❖ No objection was received from the adjacent property owners.

Reasons for the resolution point 2.

- ❖ The consultants working on the original project was fully informed and the property owner knowingly transgressed the land use scheme parameters (and the consultants were made aware of the risk and merits involved) and even after receiving the decision of the Municipality for the original application, the construction was still finalised and additional alterations were made.
- ❖ Building plans were submitted and approved on 26 March 2021 indicating that portions of the structure would be demolished.
- ❖ The property owner knowingly contravened the parameters of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

**RESPONSIBLE OFFICIAL :****P ROUX**

## 4.2

**PORTION 141 (A PORTION OF PORTION 133) OF THE FARM HANGKLIP NO. 559, DIVISION CALEDON: APPLICATION FOR REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: PLANNING PARTNERS ON BEHALF OF FREE LIFE TRUST**

**KHANG 141/559 (3762/2021)**

H van der Stoep

(028) 313 8900

Hermanus Administration

2 March 2022

**EXECUTIVE SUMMARY**

An application has been received from Planning Partners on behalf of Free Life Trust on Portion 141 (a Portion of Portion 133) of the Farm Hangklip No. 559 in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning. 2020 (By-Law) for the following:

- ❖ **Removal and Amendment of Restrictive Title Deed Conditions** in terms of Section 16.(2)(f) of the By-Law for the removal of restrictive title deed conditions with reference to Clauses C.1., C.2., C.3., C.4., C.5., C.6., C.7., C.8., C.9., C.10., C.11. and C.12. as contained in Title Deed T8920/2005, as well as the amendment of a restrictive title condition with reference to Clause C.13. as contained in Title Deed T8920/2005.

*The restrictive title deed conditions read as follows:*

**C. SUBJECT FURTHER** to the conditions contained in Deed of Transfer No. T23788/1964 imposed by Hangklip Beach Estates Limited for is sole benefit as owner of the remaining extent of the Farm "Hangklip" measuring as such 1466/0427 Hectares and held by it under Certificate of Consolidation Title No. T3720 dated 17 April 1937, provided always however that if in the said Company's opinion it is expedient the Company may suspend or relax restrictions contained in any of such conditions and then subject to such conditions as the Company may impose:-

1. *The owner of this Lot shall without compensation be obliged to allow electricity and water mains to be conveyed across this Lot if deemed necessary by Hangklip Beach Estates Limited and in such manner and position, as may, from time to time be reasonably required. This shall include the right of access to the Lot at any reasonable time in order to construct, maintain, alter, remove or inspect any manhole, channel, conduct, or other works pertaining thereto.*
2. *All buildings and other constructional works commenced shall be completed within a reasonable time and if not so completed shall be demolished.*

3. *No wood or iron buildings or works of any description shall be erected without the consent in writing of the Hangklip Beach Estates Limited and if required the consent of the Local Authority.*
  4. *No building shall be erected within 25,19 metres of any road or within 6,30 metres of any other boundary of the land.*
  5. *All buildings and other constructional works including fences and garden or other gates shall be of good design and sound construction.*
  6. *No noxious trade or activity shall be carried on the said land.*
  7. *The purchaser shall not have the right to make or cause to be made upon the said land for any purpose other than for use in his own buildings and/or bricks, tiles or earthenware pipes or other articles of such nature nor shall he have the right to dig or quarry any earth, gravel, lime or stone thereon other than for use in his buildings and/or works on the said land.*
  8. *No debris, scrap, or other unsightly material shall be deposited on the said land.*
  9. *.....*
  10. *Access to public roads shall be limited to such points on the said boundary as may be approved by the Provincial or Divisional Council through its responsible Officers or by any other competent authority. It shall be the duty of the purchaser to obtain approval of points of access.*
  11. *No sewage shall be disposed of otherwise than by means of a properly constructed septic tank. No pit or bucket latrine will be permitted.*
  12. *The said land may be used for agriculture and the breeding or keeping of domestic animals, poultry and/or bees provided that no goats or pigs may be kept.*
  13. *No shop, public garages or filling stations, business premises, canteens, bioscopes, factory, or industrial buildings shall be erected on the land nor shall any such business or public entertainment be conducted on the land.*
- ❖ **Consent Use** in terms of Section 16.(2)(o) of the By-Law for an Agricultural Industry to accommodate a distillery, tasting room and a farm shop/stall.
  - ❖ **Departure** in terms of Section 16.(2)(b) of the By-Law to relax the street building line from 30m to ± 23,2m to accommodate the proposed application.



**RESOLVED:**

1. that the application 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 C.1., C.2., C.3., C.4., C.5., C.6., C.7., C.8., C.9., C.10., C.11. and C.12. as contained in Title Deed T8920/2005 applicable to Portion 141 (a Portion of Portion 133) of the Farm Hangklip No. 559, to accommodate this application, **be approved** in terms of the provisions of Section 61;
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020 for the **amendment** of restrictive title deed condition C.13. as contained in Title Deed T8920/2005 applicable to Portion 141 (a Portion of Portion 133) of the Farm Hangklip No. 559, **be approved**, in terms of the provisions of Section 61, to read as follows:  
  
*“No public garages or filling stations shall be erected on the land”;*
3. that the application in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 on Portion 141 (a Portion of Portion 133) of the Farm Hangklip No. 559 for a consent use for an Agricultural Industry to accommodate a distillery, tasting room and a farm shop/stall, **be approved** in terms of the provisions of Section 61;
4. that the application in terms of Section 16.(2)(b) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 on Portion 141 (a Portion of Portion 133) of the Farm Hangklip No. 559 for a departure to relax the street building line from 30m to ±23,2m to accommodate the proposed application, **be approved** in terms of the provisions of Section 61;
5. that the application in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 on Portion 141 (a Portion of Portion 133) of the Farm Hangklip No. 559 for a consent in terms of the Overstrand Municipality Environmental Overlay Zone, Coastal Zone to “Commercial” activity and “Construction or placement of any permanent object, building, shelter, pathway or structure”, **be approved** in terms of the provisions of Section 61;
6. that the application in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 on Portion 141 (a Portion of Portion 133) of the Farm Hangklip No. 559 for a consent in terms of the Overstrand Municipality Environmental Overlay Zone, Protected area Buffer Zone to “Commercial” activity and “Construction or placement of any permanent object, building, shelter, pathway or structure” and “ Buildings/ structures associated with taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course characteristics, outflow structures or discharge pipes”, **be approved** in terms of the provisions of Section 61;

7. that the approval in Points 1 – 6, be subject to the following conditions:
- (a) that the micro distillery and farm shop be restricted to the existing building (stables);
  - (b) that the farm shop/stall only be available to the guided tour groups to the distillery;
  - (c) that the consent use not be transferable;
  - (d) that the Waste Management Plan, submitted by Green Africa Group be approved by the Waste Management & Engineering Services Departments;
  - (e) that an Environmental Management Plan be submitted to the Environmental Management Department for approval;
  - (f) that a 6-monthly water sample report be submitted to the Environmental Management Services Department of the Municipality for the determination of the efficiency of the existing septic tank. The sample point and parameters to be tested and determined by the Environmental Management Services Department, and the sampling cost be for the applicant.
  - (g) that a Fire Management Plan be submitted to the Fire Department for approval;
  - (h) that the site development plan be submitted to the Senior Manager: Town & Spatial Planning for approval;
  - (i) that operational management be restricted to guided tours between 10:00 to 18:00 on weekends only as indicated in the motivation;
  - (j) that an application for water use licence permit be applied for;
  - (k) that no activities pertaining to the consent use may commence before proof has been provided that the water use licence permit has been applied for and building plans are approved;
  - (l) that all the conditions in the Services Report be complied with;
  - (m) that all the conditions imposed by the municipal Environmental Management Services Department be complied with;
  - (n) that all the conditions imposed by the municipal Waste Management Department be complied with; and
  - (o) that all the conditions imposed by BGCMA be complied with.

8. 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 decisions.

**REASONS FOR THE RESOLUTION:**

- ❖ The application is in line with forward planning documents.
- ❖ It will contribute to tourism and rural economic development.
- ❖ The development is a micro-scale development in an existing structure.
- ❖ The application for the removal of restrictive title deed conditions has obtained the consent from the holder of the personal servitude.
- ❖ An extensive Waste Management Plan has been submitted to address pollution concerns.
- ❖ Access to the property is from a municipal road and not a private road/servitude.

**RESPONSIBLE OFFICIAL :****H VAN DER STOEP****MR S MADIKANE LEFT THE MEETING AT 11:00 WITH PERMISSION FROM THE CHAIRPERSON**

**4.3****PORTION 25 (PORTION OF PORTION 2) OF THE FARM RIVERSIDE NO. 644, DIVISION CALEDON: APPLICATION FOR REZONING AND CONSENT USE****Portion 25 of Farm 644****P Roux****(028) 313 8900****Hermanus Administration****08 June 2022**

---

**EXECUTIVE SUMMARY**

An application was submitted by the Overstrand Municipality in 2021 for the following:

- **Rezoning**  
Application in terms of Section 16(2)(a) of the By-Law to rezone unregistered Erven 2934-2999, 3001-3005, 3010-3028, 3031-3065 & 3067-3091, portions of Portion 25 (Portion of Portion 2) of The Farm Riverside No. 644, Division Caledon, from Residential Zone 1: Single Residential (SR1) to Less Formal Development Zone to accommodate emergency housing units.
- **Consent Use**  
Application in terms of Section 16(2)(o) of the By-Law for a consent use on unregistered Erf 3066, a portion of Portion 25 (Portion of Portion 2) of The Farm Riverside No. 644, Division Caledon, in order to accommodate emergency housing units.

**RESOLVED:**

1. that the comments be noted;
2. that, in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 (By-Law), the application to develop emergency housing on Portion 25 (Portion of Portion 2) of the farm Riverside No. 644, Division Caledon, which includes the following:
  - ❖ **Rezoning**  
Application in terms of Section 16(2)(a) of the By-Law to rezone unregistered Erven 2934-2999, 3001-3005, 3010-3028, 3031-3065 & 3067-3091, portions of Portion 25 (Portion of Portion 2) of The Farm Riverside No. 644, Division Caledon, from Residential Zone 1: Single Residential (SR1) to Less Formal Development Zone to accommodate emergency housing units.
  - ❖ **Consent Use**  
Application in terms of Section 16(2)(o) of the By-Law for a consent use on unregistered Erf 3066, a portion of Portion 25 (Portion of Portion 2) of The Farm

Riverside No. 644, Division Caledon, in order to accommodate emergency housing units.

**be approved** in terms of the provisions of Section 61 of the said By-Law, subject to the following conditions:

- (a) that emergency units can only be placed on the Less Formal Development Zone erven and Authority Zone as demarcated on the site development plan as submitted with this application
  - (b) that the emergency units placed on the earmarked erven be in compliance with the building lines and land use scheme requirements;
  - (c) that all conditions in the Municipal Services Report be complied with;
  - (d) that all conditions imposed by District Health, Telkom (Open Serve), Fire Department, be complied with;
  - (e) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
  - (f) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
3. 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 on Land Use Planning, 2016 with regard to the above decision.

#### **REASONS FOR THE RESOLUTION:**

- ❖ The application has followed due procedure.
- ❖ The application is in line with policy documents.
- ❖ Will enhance the mixed development proposed in the policy documents.
- ❖ The rezoning of the subject properties will have no negative impact on the surrounding properties as the majority of the surrounding properties are Residential Zone 1.
- ❖ The implementation of this application will not negatively impact the natural environment.
- ❖ It should be noted that the layout of the erven and the development as depicted on the approved Site Development Plan as approved in 2018 will remain unchanged and that the public open space and community zoned property will not be rezoned and remain intact.
- ❖ The proposed application will in essence not change the underlying use as both zonings are predominantly for residential use.

- ❖ The proposed zoning is further in keeping with the adjacent settlement of Stanford as the southern tip of Stanford is also zoned for Less Formal Development Zone and therefore there isn't any disparity between the existing development and the proposed land uses.
- ❖ The proposed emergency housing sites will allow the Municipality to assist the greater community when it comes to emergency housing (shelters) and to aid the community when it comes to Spatial Resilience (impacts of economic and environmental shocks) as directed in terms of Section 42 of the Spatial Planning and Land Use Management Act, 2013 (ACT 16 of 2013).
- ❖ Portion 25 of the Farm 644 is situated in the urban edge since 2006 SDF.
- ❖ Services have been installed and the development completed.
- ❖ The proposed rezoning will not change the number of units which are allowed for in terms of the 2018 land use approval.
- ❖ The EA in 2017 was not specific to the number of units which may be constructed on the erven and provided approval for 770 residential erven – the zoning scheme at that time allowed for a primary and secondary dwelling unit on the property. Therefore, the density of the units provided will not change.

**RESPONSIBLE OFFICIAL :**

**P ROUX**

**The meeting adjourned at 11:44**