



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

MINUTES

DATE:	28 MARCH 2018
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	14:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM, HERMANUS, ON 28 MARCH 2018, AT 14:00

PRESENT:

MEMBERS:

Mr S Müller, Director : Infrastructure & Planning

Mr R Williams, Director : Community Services

Mr S Madikane, Director : LED

Ms R Louw, Acting Director : Management
Services

Ms H Janser, Directorate Development
Management

OFFICIALS:

Mr R Kuchar, Senior Manager : Town Planning &
Property Management

Ms H van der Stoep, Senior Town Planner

Mr P Roux, Town Planner


Mr H Olivier, Town Planner

Ms S Swart, Council Support Services

APOLOGIES:

Ms D Arrison

ATTENDANCE REGISTER : MEETING OF MUNICIPAL PLANNING TRIBUNAL : 28 MARCH 2018 AT 14:00

NAME	DESIGNATION	ORGANISATION	TEL. NO.	E-MAIL ADDRESS	SIGNATURE
S MULLER	CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8019	smuller@overstrand.gov.za	
R WILLIAMS	VICE-CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8029	rwilliams@overstrand.gov.za	
S MADIKANE	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8066	smadikane@overstrand.gov.za	
D ARRISON <i>Apology</i>	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8004	darrison@overstrand.gov.za	<i>pp. d</i>
H JANSER	MPT MEMBER	DIR: DEV MANAGEMENT	021 483 3544	Helene.Janser@westerncape.gov.za	
R KUCHAR	AUTHORISED OFFICIAL	OVERSTRAND MUNICIPALITY	028 313 8087	rkuchar@overstrand.gov.za	
S VAN DER MERWE	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8938	svandermw@overstrand.gov.za	
H VAN DER STOEP	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8906	hvanderstoep@overstrand.gov.za	
P ROUX	TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8900	peroux@overstrand.gov.za proux@overstrand.gov.za	
H OLIVIER	TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8006	holivier@overstrand.gov.za	
S SWART	COUNCIL SUPPORT	OVERSTRAND MUNICIPALITY	028 313 8006	sswart@overstrand.gov.za	

1. OPENING

The meeting started at 14:38 due to unforeseen circumstances.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Ms D Arrison (Represented by Ms R Louw)

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 28 February 2018

RESOLVED:

that the Minutes of the Municipal Planning Tribunal Meeting held on **28 February 2018, be confirmed.**

4. ITEMS FOR CONSIDERATION

4.1 ERF 106, 38 BEACH ROAD, SANDBAAI, OVERSTRAND MUNICIPAL AREA : APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE : MESSRS WRAP ON BEHALF OF JM HATTINGH

EXECUTIVE SUMMARY

An application has been received on 30 March 2017 from Messrs WRAP on behalf of JM Hattingh on Erf 106, Sandbaai for the following:

- ❖ Removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 for the removal of restrictive title deed conditions B.2.(a) – (d) as contained in Title Deed T31833/2010 applicable to the above erf in order to legalize the existing second dwelling unit on the property, as well as to be in line with the primary rights and development parameters applicable to single residential properties as set out in the Overstrand Zoning Scheme;

The restrictive conditions B.2.(a) – (d) as contained in Title Deed T31833/2010 to be removed read as follows:

(a) "That the above erf or erven be used for residential purposes only;

(b) That the above erf or erven be not subdivided;

(c) That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one-half the area of any one of the above erven be built upon;

(d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens, but shall not be built upon."

- ❖ Application is subsequently made in terms of Section 16(2)(o) of the above By-Law for a consent use ("tourist accommodation") in order to enable the owner of the above property to utilise the one (1) bedroom second dwelling unit as a self-catering unit for tourists (two (2) bedrooms in the main dwelling will also be used as guests rooms for tourists as a primary right once the above restrictive conditions have been removed from the Title Deed).

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 deed conditions B.2.(a) – (d) as contained in Title Deed T31833/2010 applicable to Erf 106, Sandbaai in order to accommodate the existing second dwelling unit on the property, as well as to be in line with the primary rights and development parameters applicable to single residential properties as set out in the Overstrand Zoning Scheme, **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 consent use (tourism accommodation) on Erf 106, Sandbaai in order to utilise the second dwelling unit as a self-catering dwelling unit for tourists, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the approvals in Points 1. and 2. above be subject to the following conditions:
 - (a) that this approval is for the development as indicated on Plan Numbers 4.1, (undated) which was submitted with the application;
 - (b) 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;
 - (c) that the enclosed passage (as per the site development plan submitted), be constructed to connect that guestroom at the rear of the property with the main dwelling unit – this bedroom may only be utilised as a guestroom for guests and may not contain any kitchenette or anything alike;
 - (d) that the self-catering second dwelling unit may only contain one (1) bedroom, and the main dwelling unit only two (2) guest bedrooms;
 - (e) that the parking layout be provided as indicated on the site development plan and the parking bays be properly demarcated;
 - (f) the applicable conditions as set out in the letters of approval dated 18 July 2013 and 29 January 2015 still apply;
 - (g) that all the conditions in the Engineering Report, Fire Department and Telkom be complied with;

- (h) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (i) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
 - (j) 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.
4. that the objector and the applicant be notified of their respective appeal rights in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditional approvals.

RESPONSIBLE OFFICIAL:

H VAN DER STOEP

4.2 ERF 106, 2 PRIESTLEYA ROAD, ROOIELS, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS : MESSRS INTERACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF STRUPA INGENIEURSDIENSTE (PTY) LTD

EXECUTIVE SUMMARY

An application has been received on 29 November 2016 from Messrs Interactive Town & Regional Planners (A Wiehahn) on behalf of Strupa Ingenieursdienste (Pty) Ltd for a removal of restrictive title conditions with reference to Clauses A., B., C., D., E., F.A., F.C. and F.D.(a), (b), (c), (d), (e), (f) & (g) of Title Deed T15960/2016 applicable to Erf 106, Rooi Els in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 in order to accommodate a dwelling house on abovementioned property with its allocated primary rights as per the Overstrand Zoning Scheme;

Clauses A., B., C., D., E., F.A., F.C. and F.D.(a), (b), (c), (d), (e), (f) & (g) of Title Deed T15960/2016 read as follows:

- “A. Subject to such conditions as referred to in Certificate of Township Title No T13367/1948;*
- B. Not Subject to condition B on page 2 of Deed of Transfer No. T48879/2009, by virtue of Section 53 of the Mining Titles Registration Amendment Act of 2003.*
- C. SUBJECT FURTHER and entitled to the benefit of the conditions referred to in the Servitude Endorsement dated 24 June 1940 on Certificate of Consolidated Title No. T3720/1937 which Endorsement reads as follows:*
- “By Deed of Transfer No. 6068/1940 dated 24/06/1940 certain conditions relating to (b) prohibition of Petrol Station on land (d) Wood and iron buildings (e) slaughter poles, cattle kraals and manufacture of bricks, tiles, etc., have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the said Deed of Transfer.”*
- D. SUBJECT FURTHER to the following conditions contained in Deed of Grant in favour of A.J. Louw made on 30 April, 1839 (Stellenbosch quitrents Volume 12 No. 18) which reads as follows:*

“On condition that all roads and thoroughfares running over this land, shall remain free and uninterrupted; that said land shall be liable (without compensation to its Proprietor) to have any road made over it for the public good, by order Government. That the road and thoroughfare leading to the Waaygat Bay, shall also remain free and that the public shall be allowed to unteam their cattle at the said Bay – and be allowed, without hindrance, to fish there, and he shall be bound (according to existing laws of this Settlement) to have brought into such state of cultivation as it is capable of, the land thus granted being further subject to all such duties and regulations as are either already, or shall future be established in respect of land granted under similar tenure.”

- E. *SUBJECT FURHTER and entitled to the benefits of the Servitude reference whereto is made in the Endorsement dated 8 April 1949 on Certificate of Township Title No. T13367/1948 which said Endorsement reads as follows:*

“Registration of Servitude

By Notarial Deed No. 107/1949 dated the 10th March, 1949, the Administrator of the Province of the Cape of Good Hope, or his Nominee, in Trust for such Local Authority as may hereafter be constituted for the Rooi Els Township, for the benefit of the Erfholders and such Local Authority has been granted certain rights relating to (a) supply of water to erfholders and Local Authority (b) delivery of the said water to the above-mentioned township by means of a pipeline indicated on the servitude diagram No. 8589/1948 by the letters a, b, c, d, e, f, g, h, i, j, k, l, m, n, annexed to the aforesaid Notarial Deed (c) storage of water and constructing the necessary impounding works, (d) aqueducts (e) purification works and reservoirs (f) access to and egress from the present or future headworks, site, pipeline, reservoirs and purification work over the remainder of the farm Hangklip held under Certificate of Consolidation Title No. 3720/1937, subject to conditions as will more fully appear on reference to the said Notarial Deed a copy of which is annexed hereto.”

- F. *SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T1672/1956 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 the Ordinance 33 of 1934 reading as follows:*
- A. *Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice*

No 401 dated 17 October, 1935, and in the memorandum which accompanied the said regulations.

- B. *The owner of this erf shall, without compensation, be obliged to allow the sewage and drainage including stormwater of any erf or erven to be conveyed across this erf if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.*
- C. *The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf, as may be required to allow use of the full width of the street and provide as safe and proper slope to its bank owing to the difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.*
- D. *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 restrictions 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 or conditions as he may impose.*
- (a) It shall not be subdivided;*
 - (b) It shall be used for residential purposes only;*
 - (c) Not more than one building, excluding a licensed hotel, maisonettes and semidetached houses, together with such outbuildings as are ordinarily required to be used therewith, shall be erected thereon;*
 - (d) Not more than half the area thereof shall be built upon;*
 - (e) No building or structure except boundary walls and fences shall be erected nearer than 4.72 meters to the street line which forms a boundary of this erf, nor within 3.15 meters of the rear or 1.57 meters of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority an outbuilding not exceeding 3.05 meters 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 in the opinion of the local authority the level of the erf is such as to make that necessary;*

- (f) *Pending the establishment of local authority for this township the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf the owner shall without compensation be obliged to remove it.*
- (g) *To the following conditions contained in Deed of Transfer No. 1672/1956 imposed by Hangklip Beach Estates Limited as being in favour of the registered owner of any ore 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;*
- (c) *No slaughter poles, cattle kraals, pig-sites or cowsheds shall be erected or carried on by any person whomsoever on this erf;*
- (d) *Save with the consent in writing of the Company and of any local authority the owner shall not have the right to make or cause to be made upon the erf for any purpose whatsoever any bricks, tiles, or earthenware pipes or other articles of such nature, not shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel lime or stone thereon;*
- (e) *No building (excluding outbuildings) shall be erected on this erf for a superficial area of less than 99 square meters;*
- (f) *No noxious trade of noxious business shall be carried on, on this erf;*
- (g) *The Transferee shall not camp over-night or light fires on the erf save with the written consent of the company.”*

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 (By-Law) on Erf 106, Rooi Els for the removal of restrictive conditions Clauses A., B., C.(d), D., E., F.A. and F.D.(d), F.D.(e), F.D.(f) and F.D.(g)(b), F.D.(g)(e) and F.D.(g)(g) of Title Deed T15960/2016 to accommodate a dwelling house on abovementioned property with a second dwelling as per the Overstrand Zoning Scheme, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:

- (a) 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;
 - (b) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (c) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. the reasons for the approval in Point 1. are as follows:
- (a) Condition A. was included in the Applicant's Title Deed;
 - (b) Condition B. is irrelevant;
 - (c) Condition C.(d) was relevant during the 1940's, but is no longer applicable;
 - (d) Condition F.A. – there is no argument in retaining the condition, and
 - (e) Conditions F.D.(d), (e), (f), (g)(b), (g)(e) & (g)(g) – the conditions refer to the era during the 1940's and is not applicable anymore. It will not be to the detriment of the character of the area or to any land use.
3. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 (By-Law) on Erf 106, Rooi Els for the amendment of Clause F.D.(c) of Title Deed T15960/2016, **be approved** in terms of the provisions of Section 61 of the By-Law:
- (a) that the amendment reads as follows:

“that the erf uses be primarily for residential purposes and that the land use for a second dwelling be allowed.”
4. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 106, Rooi Els for the removal of restrictive conditions C.(b), C.(e), F.B., F.C., F.D.(a), F.D.(b), F.D.(g)(c), F.D.(g)(d) and F.D.(g)(f) of Title Deed T15960/2016, **not be approved**, due to the following reasons:
- (a) the Policy documents of the Overstrand do not explicitly make reference to the prohibition of subdivision;

- (b) the Overstrand Zoning Scheme does not specifically prohibit subdivision;
 - (c) the Municipality cannot cater for additional erven due to the limited capacity to service additional erven;
 - (d) the conditions deals with services installation and maintenance of the Municipality and is to the benefit for the area as a whole;
 - (e) the conditions ensure that no activity will be to the detriment of the sensitive nature of the area;
 - (f) the conditions will not impact negatively on the owner's intended use, and
 - (g) the By-Law does not make provision for a relaxation and is in effect an amendment and for the purposes of the Agenda and the advice to the Municipal Planning Tribunal, it will have to be retained for expediency purposes.
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, 2016 with regard to the above conditions of approval.

RESPONSIBLE OFFICIAL:

H VAN DER STOEP

4.3 ERF 2478, 228 PORTER DRIVE, BETTY'S BAY : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS, CONSENT USE AND DEPARTURE : INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF JOHAN KROG FAMILY TRUST

EXECUTIVE SUMMARY

An application has been received on 27 July 2017 from InterActive Town & Regional Planners on behalf of Johan Krog Family Trust on Erf 2478, Betty's Bay for the following:

- ❖ Removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 with reference to Clause D.1.a & D.1.d of Title Deed T8678/2017 applicable to Erf 2478, Betty's Bay in order to relax the street building line from 4,72m to 3,7m to accommodate an existing house and allow a guest house.

Clause D.1.a & D.1.d of Title Deed T8678/2017 reads as follows:

- a) *"That this erf be used for residential purposes only, excluding licensed hotels, maisonettes and semi-detached buildings.*
- d) *That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than the 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf."*
- ❖ Consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 in order to enable the owner to utilize the existing dwelling house on the property as a guesthouse (5 rooms).
- ❖ Departure in terms of Section 16(2)(b) of the the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 to relax the northern street building line from 4m to 3,7m to accommodate the existing dwelling-house 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, 2016 for a removal of restrictive title conditions Clauses D.1.a & D.1.d of Title Deed T8678/2017 applicable to Erf 2478, Betty's Bay in order to relax the street building line from 4,72m to 3,7m to accommodate an existing house and allow a guest house, **be approved**;
2. that the application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 2478, Betty's Bay for a consent use in order to enable the owner to utilize the existing dwelling house on the property as a guesthouse (five rooms), **be approved**, subject to the following conditions:
 - (a) that a maximum of five (5) bedrooms to be let, be permitted;
 - (b) that parking be provided on-site for seven (7) vehicles and that the guest house only be utilized in line with the finally approved site development plan;;
 - (c) that the spa may only be utilized by guests and is restricted for the general public;
 - (d) that the facility be utilized as a guesthouse only
 - (e) that the guest house is utilized as such – no self-catering will be permitted;
 - (f) that the owner/manager resides on the premises, and that the owner be responsible for the proper management of the guest house;
 - (g) that the owner and his successors in title prevent the occurrence of any public nuisance, which through an act or omission materially interferes with the comfort, peace and quiet of the surrounding area, and should the owner or his successor in title fail to comply with such condition, they will themselves make themselves liable to further legal action;
 - (h) that no facilities (bar/restaurant or any other) be provided for non-residents of the accommodation establishment and that these facilities only be used by bona-fide guests of the establishment;
 - (i) that the selling or serving of liquor on the premises will be subject to the applicant obtaining the necessary Liquor Licence;

- (j) that a maximum of one (1) permanently demarcated parking bay per guest room and two (2) for the owner/manager be provided within the erf boundaries, subject to the approval of the Authorised Official;
 - (k) that commercial rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (l) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
 - (m) that a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises, and that the existing flag pole be removed;
 - (n) that the guest house be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area, and
 - (o) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality.
3. that the application in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 2478, Betty's Bay for a departure to relax the northern street building line from 4m to 3,7m to accommodate the existing dwelling-house on the property, **be approved**, be subject to the following conditions:
- (a) that this approval is only for the departure of the street building line indicated on Plan Numbers DD1625 REV 2 dated 7 February 2017 and DD1625 REV 03 dated 8 March 2017, submitted with the application, and
 - (b) 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.
4. that the approvals in Points 1., 2., and 3. be subject to the following conditions:
- (a) that this approval does not absolve the applicant from compliance with any other relevant legislation;

- (b) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
 - (c) that all the conditions in the Services Report be complied with; and
 - (d) that all conditions imposed by the Fire Department be complied with.
5. 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, 2016 with regard to the above conditions of approval.

RESPONSIBLE OFFICIAL:

H VAN DER STOEP

4.4 ERF 723, CORNER OF MALMOK CRESENT & 4 PETREL STREET, VERMONT, HERMANUS, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIONS : MESSRS PLAN ACTIVE ON BEHALF OF JMG & T COERTZE

EXECUTIVE SUMMARY

An application has been received on 28 June 2017 from Messrs Plan Active on behalf of JMG & T Coertze on Erf 723, Vermont for the removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of the restrictive conditions in Title Deed T12632/2017, Page 4, Paragraphs E.(c) and E.(d) :

“E.(c) “No canteen, hotel, restaurant, shop, factory, industry or any place of business whatsoever shall be opened or conducted on the said property except with the consent in writing of the transferor company.

E.(d) Unless the permission of the transferor company in writing be obtained under condition (c) above the said property shall be used for residential purposes only and only one dwelling together with such outbuildings as are ordinarily required for domestic purposes, shall be erected on any one Lot, and in particular, subject to any permission granted as aforesaid, no structure of the type commonly known as “flats” shall erected on the said property.”

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 723, Vermont for the removal of restrictive condition E.(c) and E.(d) of Title Deed T12632/2017, **be approved**, in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (b) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation; and
 - (c) that all the conditions in the Services Report be complied with.

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.

RESPONSIBLE OFFICIAL:

H OLIVIER

4.5 ERF 1068, STANFORD, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSENT USE: MESSRS SETPLAN CONSULTING ON BEHALF OF THE RICHARD METCALF FAMILY TRUST

EXECUTIVE SUMMARY

An application has been received on 18 July 2016 from Messrs Setplan Consulting on behalf of the owners of Erf 1068, Stanford on behalf of the Richard Metcalf Family Trust, for a consent use in terms of Sections 16(2)(o) in order to permit mining activities on Erf 1068, Stanford.

RESOLVED:

1. that, in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for a consent use in order to permit mining activities on Erf 1068, Stanford, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the following conditions for the approval in paragraph 1. above must be complied with within sixty (60) days:
 - (a) that the Annual Rehabilitation Plan (ARP) be submitted to the Overstrand Town Planning Department and Environmental Services;
 - (b) that an updated 2018 Site Development Plan for the mining area be submitted for approval to the satisfaction of the Senior Manager: Town and Spatial Planning;
 - (c) that building plans be submitted for structures which are not approved by the Building Department on Erf 1068, Stanford and that the comment from the Building- and Fire departments be complied with at that stage;
 - (d) that the appointment of an independent Environmental Control Officer (ECO) be submitted to the Overstrand Town Planning Department and Environmental Services;
 - (e) that the subsequent ECO reports as indicated in the EMP of 2011 be submitted to the Overstrand Town and Spatial Planning Department and Environmental Services;
 - (f) that timeframes be submitted which indicate when specific actions in the rehabilitation plan will be completed;

- (g) that rehabilitation be commenced on the un-mined ridgelines of the mining area in order to ensure that the visual impact is mitigated;
 - (h) that rehabilitation be started in the river with a report and photographic evidence of the before and after result submitted to the Overstrand Town and Spatial Planning Department and Environmental Services; and
 - (i) that Section 3.4.1 of the Freshwater Ecosystems Impact Assessment Report be noted and that implementation of the recommendation be commenced with a report and photographic evidence of the before and after result being submitted to the Overstrand Town and Spatial Planning Department and Environmental Services and Cape Nature.
3. that the additional conditions for the approval of paragraph 1. above must be complied with:
- (a) that approval is only for the continued use of the mine to a maximum of three (3) years or life of the mine, the most restrictive will be applicable;
 - (b) that the mining area and the excavation area on Erf 1068 be limited to the 2011 Updated Mine Layout Plan: Mine Site Development Plan and as submitted with the application;
 - (c) that all the conditions compiled by the Department of Transport and Public Works, Eskom, Telkom, District Health, Fire Department, Breede-Gouritz Catchment Management Agency and Western Cape Department of Agriculture be complied with;
 - (d) that all the conditions compiled in the Services Report be complied with;
 - (e) that all the conditions compiled by the Overstrand Environmental Services dated 16 August 2017 and Cape Nature dated 24 February 2017 be complied with; and
 - (f) that this approval does not absolve the applicant/operator of the proposed activity from complying with other legislation.
4. that, should the conditions in paragraphs 2. and 3. not be adhered to, then the mining activity must cease until such time as when the conditions can be complied with; and

5. 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, 2016 with regard to the above conditions of approval.

RESPONSIBLE OFFICIAL:

S VAN DER MERWE

4.6 REMAINDER ERF 1294, 215 PIET RETIEF CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: MESSRS PLANACTIVE ON BEHALF OF P JOUBERT, CM JOUBERT AND NJ JOUBERT

EXECUTIVE SUMMARY

An application has been received on 7 June 2017 from Messrs PlanActive on behalf of Messrs P Joubert, CM Joubert and NJ Joubert on Remainder Erf 1294, Sandbaai for an application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 (By-Law) for the removal of restrictive title deed conditions C.2.(a), C.2.(c), and C.2.(d) as contained in Title Deed No. T7855/2012 applicable to the above property in order to enable the owners to construct a second dwelling unit on the property, as well as to be in line with the primary rights and development rules applicable to single residential properties as set out in the Zoning Scheme Regulations of the Municipality.

The restrictive conditions C.2.(a), C.2.(c), and C.2.(d) contained in Title Deed T7855/2012 to be removed read as follows:

- ❖ Condition C.2.(a): *“Dat die hierbokeskrye grond gebruik sal word slegs vir woondoeleindes”.*
- ❖ Condition C.2.(c): *“Dat nie meer dan een woonhuis met die nodige buitegeboue en benodighede opgerig sal word op enigeen van die bogemelde erwe nie en dat nie meer dan helfte van die oppervlakte van elke erf behou sal word.”*
- ❖ Condition C.2.(d): *“Dat geen gebou op enigeen van die bogenoemde erwe binne 15 voet (4.72m) van enige grenslyn tussen gemelde erf en enige straat buite die land waaraan sulke erf grens, opgerig sal word nie; genoemde ruimte mag gebruik word vir tuinery maar sal nie op gebou word nie.”*

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law), applicable to Remainder Erf 1294, Sandbaai for the removal of conditions C.2.(a), C.2.(c) and C.2.(d) as contained in Title Deed T7855/2012, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:

- (a) that the existing structure on the property be demolished with immediate effect on final approval of the application – this is due to non-compliance of condition 3.3 pertaining to the subdivision approval dated 23 September 1998. Should the owner intends to make the structure part of the dwelling, the portion transgressing the building line must be demolished;
 - (b) that a servitude be registered to accommodate the existing electrical cable;
 - (c) that all the applicable development parameters as prescribed in the relevant Zoning Scheme be complied with when the property is to be developed;
 - (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation; and
 - (e) that all the conditions in the Services Report be complied with.
2. that the applicant and the objectors be notified of their respective rights of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above conditional approval.

RESPONSIBLE OFFICIAL:

H VAN DER STOEP

The meeting adjourned at 15:20