



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

MINUTES

DATE:	26 MARCH 2020
VENUE:	GLASKAS HERMANUS
TIME:	10:00

OVERSTRAND
MUNICIPAL PLANNING TRIBUNAL
MINUTES OF A MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL,
HELD IN THE GLASKAS,
HERMANUS, ON 26 MARCH 2020, AT 10:00

PRESENT:

MEMBERS:

Mr S Müller, Director : Infrastructure & Planning
Ms D Arrison, Director : Management Services
Ms F Lloyd, Acting Director : Economic Dev &
Tourism

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:

Mr R Williams, Director : Community Services
Mr S Madikane, Director : LED
Ms H Janser, Directorate Development
Management

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MUNICIPAL PLANNING TRIBUNAL

ATTENDANCE REGISTER

Date: 26 MARCH 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	Apology
S MADIKANE (Apology)	MPT MEMBER OVERSTRAND MUNICIPALITY	Apology Acting for Hoyd s Madikane
D ARRISON	MPT MEMBER OVERSTRAND MUNICIPALITY	
H JANSER	MPT MEMBER DIR: DEV MANAGEMENT	Apology
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

Mr R Williams, Director : Community Services
Mr S Madikane, Director : Economic Development & Tourism (Represented by Ms F Lloyd)
Ms H Janser. Dir : Development Management

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 27 February 2020****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **27 February 2020, stand over** until the next meeting.

4. ITEMS FOR CONSIDERATION**4.1**

ERF 709, 13 FRONT STREET, DE KELDERS, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, SUBDIVISION AND EXEMPTION OF SUBDIVISION TO REGISTER A SERVITUDE: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF MC & BM RECKHARDT AND KJ & SI SCHNEIDER

709 GDK (3328)

P Roux

(028) 313 8900

Hermanus Administration

17 January 2020

EXECUTIVE SUMMARY

An application was received on 10 September 2019 from Messrs Plan Active Town- and Regional Planners on behalf of MC & BM Reckhardt and KJ & SI Schneider applicable to Erf 709, De Kelders for the following:

- ❖ removal of restrictive title deed condition D.(e) as contained in Title Deed T60346/2018 applicable to Erf 709, De Kelders in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law); and
- ❖ application for subdivision in terms of Section 16(2)(d) of the By-Law in order to subdivide the property into two (2) portions, namely Portion A (approximately 700m² in extent) and a Remainder (approximately 699m² in extent);

RESOLVED:

1. that the objector be notified of the decision that the objection submitted is not compliant in terms of Section 52 of the with the Overstrand Municipality By-Law on Land Use Planning, 2016 and that the objection is therefore dismissed;
2. that the application received from Messrs Plan Active Town and Regional Planners on behalf of MC & BM Reckhardt and KJ & SI Schneider applicable to Erf 709, De Kelders for the following:
 - removal of restrictive title deed condition D.(e) as contained in Title Deed T60346/2018 applicable to Erf 709, De Kelders in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law); and
 - application for subdivision in terms of Section 16(2)(d) of the By-Law in order to subdivide the property into two (2) portions, namely Portion A, (approximately 700m² in extent) and a Remainder (approximately 699m² in extent);

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

- (a) that the approval is only for the subdivision as indicated on the Subdivisional Plan as submitted with the application;
 - (b) that the conditions in the Services Report be complied with;
 - (c) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation; and
 - (d) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
3. that the applicants 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.

REASONS FOR RESOLUTION:

- ❖ The application has followed due procedure.
- ❖ None of the relevant departments have any objection.
- ❖ The proposed subdivision is in line with the applicable municipal and provincial planning policy and will make more efficient use of brownfield land within the urban edge.
- ❖ The proposal will not negatively impact on existing/vested rights of adjoining property owners.
- ❖ The proposed application fits in with the character of the surrounding area, and is desirable.

RESPONSIBLE OFFICIAL :

P ROUX

4.2

ERF 335, 31 ROCKLANDS ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF MI EDWARDS**335 HWC (3161)****H van der Stoep****10 February 2020****(028) 313 8900****Hermanus Administration**

EXECUTIVE SUMMARY

An application for consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Land Use Planning, 2015 was received on 30 May 2019 from Messrs PlanActive Town & Regional Planners on behalf of MI Edwards in order to conduct a guesthouse with five (5) guestrooms from the primary dwelling on Erf 335, Hermanus.

RESOLVED:

1. that the comments be noted;
2. that the application in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Land Use Planning, 2015 (By-Law) for consent use in order to utilise the existing primary dwelling on Erf 335, Hermanus as a five (5) bedroom guesthouse, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that a maximum of five (5) bedrooms be let to guests/tourists from the existing primary dwelling unit;
 - (b) that the existing second dwelling unit may not be utilised as a self-catering unit for as long as the guesthouse is in operation – it is to be utilised by the manager of the guesthouse;
 - (c) that the owner obtains written approval from the Area Manager: Hermanus to develop and construct the additional access point from Westcliff Road;
 - (d) that the landowner investigate and determine the limitations of the site in terms of sewerage drainage and implement any upgrades if required;
 - (e) that building plans be submitted to the Building Department for approval and that all conditions of the Building Department and the Fire Department be complied with at that stage;

- (f) that the owner/manager resides permanently on the premises, and be responsible for the proper management of the guest house;
- (g) that the guesthouse is utilised as such – no self-catering will be permitted;
- (h) that no kitchen facilities and/or prep bowls be allowed in the guestrooms;
- (i) 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;
- (j) that the selling or serving of liquor on the property will be subject to the owner obtaining the necessary Liquor Licence;
- (k) that a minimum of one (1) permanently demarcated parking bay per guestroom, two (2) for the owner/manager and one (1) for the second dwelling unit be provided within the erf boundaries;
- (l) that the applicable rates and service tariffs, as determined by the annual budget be applicable, which tariffs are automatically adjusted in terms of the annual budget;
- (m) 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;
- (n) that only a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises;
- (o) that the guesthouse be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
- (p) that a Certificate of Acceptability from the Health Department of the Overberg District Council and Fire Prevention Certificate be obtained from the Municipal Fire Department;
- (q) that the conditions of Engineering Services be complied with;
- (r) that this approval does not absolve the landowner from compliance with any other relevant legislation; and
- (s) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.

3. that the applicant and the commenter 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 approval.

REASONS FOR RESOLUTION:

- ❖ The application has followed due procedure.
- ❖ The points of comment by the commenters do not relate to the essence of the application being the rights to conduct a five (5) bedroom guesthouse from the property, but to the sewage system on the property that might be problematic.
- ❖ No internal objections were received.
- ❖ Ample and practical parking for the guesthouse can be provided on the property.
- ❖ It is in line with policy documents.
- ❖ The accommodation establishment will be beneficial for optimization of the erf.
- ❖ It will promote the tourism industry, thus in line with the forward planning documentation of the Municipality.
- ❖ Is not regarded as being undesirable from a town planning point of view.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP**

4.3

ERF 1405 AND 1406, 18 BRANDERDRAAI, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CLOSURE OF PUBLIC PLACE, REZONING, CONSOLIDATION AND AMENDMENT OF GENERAL PLAN: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF NJ & JL HENZEN, J MARQUART AND JS BROUWER

1405 & 1406 HSB (3196)

H van der Stoep

(028) 313 8900

Hermanus Administration

9 December 2019

EXECUTIVE SUMMARY

An application was received on 24 May 2019 from Messrs Plan Active Town and Regional Planners on behalf of NJ & JL Henzen, J Marquart and JS Brouwer applicable to Erven 1405 and Erf 1406, Sandbaai for the following:

- ❖ closure in terms of Section 16(2)(n) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) of Public Open Space Erf 1406, Sandbaai;
- ❖ rezoning in terms of Section 16(2)(a) of the By-Law of Erf 1406, Sandbaai from Open Space Zone 2 : Public Open Space to Residential Zone 1 : Single Residential;
- ❖ consolidation in terms of Section 16(2)(e) of the By-Law of Erven 1406 and 1405, Sandbaai; and the
- ❖ amendment in terms of Section 25(2) of the By-Law of General Plan No. TP 9192 Sandbaai Township Ext. No. 2 by the creation of the Public Place Erf 1406, Sandbaai to be closed, as an ordinary erf.

RESOLVED:

1. that the objections be noted;
2. that the application in terms of Section 16(2)(n) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (the By-Law) for the closure of Public Open Space Erf 1406 Sandbaai, **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 Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (the By-Law) for the rezoning of Erf 1406, Sandbaai from Open Space Zone 2 : Public Open Space to Residential Zone 1 : Single Residential, **be approved** in terms of the provisions of Section 61 of the By-Law;

4. that the application in terms of Section 16(2)(e) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (the By-Law) for the consolidation of Erven 1405 and 1406, Sandbaai, **be approved** in terms of the provisions of Section 61 of the By-Law;
5. that the application for an amendment in terms of Section 25(2) of the By-Law of General Plan No. TP 9192 Sandbaai Township Ext. No. 2 by the creation of the Public Place Erf 1406, Sandbaai to be closed, as an ordinary erf, **be approved** in terms of the provisions of Section 61 of the By-Law;
6. that the approvals in Points 1. – 4. be subject to the following conditions:
 - (a) that Erf 1406, Sandbaai acquired by the landowners of Erf 1405, Sandbaai may solely be utilised for gardening purposes – no structures of any kind are allowed;
 - (b) that the relevant conditions of Engineering Services be complied with;
 - (c) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (d) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
7. that the applicants and objectors 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 decision.

REASONS FOR RESOLUTION:

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ It is in line with policy documents.
- ❖ The points of comment are unfounded.
- ❖ Erf 1406, Sandbaai, due to its small size, cannot be optimally or practically utilised in terms of its primary uses.
- ❖ Illegal access over the Habonim Resort site to the beach will not be possible anymore.
- ❖ Ample access exists in the close proximity of Erf 1406, Sandbaai to legally gain access to the beach by the commenters and the public.
- ❖ Erf 1406, Sandbaai that is acquired by the applicants may only be utilised for gardening purposes.
- ❖ The application is not regarded as being undesirable from a town planning point of view.

4.4

ERF 3725, ONRUSTRIVIER MAIN ROAD, ONRUSTRIVIER, OVERSTRAND MUNICIPAL AREA: REZONING AND SUBDIVISION: MESSRS WRAP ON BEHALF OF GA MUSSON**3725 HON (3058/2019)****H Olivier****(028) 313 8900****Hermanus Administration****15 November 2019**

EXECUTIVE SUMMARY

An application was received on 13 May 2019 from Messrs WRAP on behalf of GA Musson on Erf 3725, Onrustrivier in terms of the Overstrand Municipality By-Law on Land Use Planning, 2015 for the following:

- rezoning in terms of Section 16(2)(a) of the above-mentioned By-Law from Agriculture Zone I : Agriculture to Subdivisional Area (SA) to create residential erven; and
- subdivision in terms of Section 16(2)(d) of the abovementioned By-Law, to create 2 Residential Zone I erven.

RESOLVED:

1. that the objections be noted;
2. that the application in terms of Section 16(2)(a) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 to rezone Erf 3725, Onrustrivier from Agricultural Zone I to Subdivisional Area (SA), and for a subdivision in terms of Section 16(2)(d) of the above-mentioned By-Law, read with Section 22 into two (2) Residential Zone I portions, Portion A measuring $\pm 2312\text{m}^2$ and Remainder measuring $\pm 2589\text{m}^2$ 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 5 dated April 2019 submitted with this application;
 - (b) that the access servitude and if so required a service servitude be registered to the satisfaction of the Engineering Department, prior to the registration of the first erf;
 - (c) that a minimum of 2 (two) parking bays be provided on each erf, to municipal standards and satisfaction;
 - (d) that this decision does not absolve the owner/applicant from compliance with any other relevant legislation;

- (e) that all the conditions of Telkom be complied with;
 - (f) that all the conditions imposed by Eskom be complied with; and
 - (g) that all conditions in the Services Report be complied with.
3. 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 is supported by the Department of Agriculture: Western Cape and National.
- ❖ 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 earmark this area for residential purposes and the Overstrand Municipality Growth Spatial Development Framework, 2010 which earmark this area for residential development with densities over 30 units/ha.
- ❖ Sufficient information was provided to consider the desirability of the application and the objectors' opinion that impact on neighbours' rights such as privacy and enjoyment cannot be measured without building plans being submitted is not supported. The scale of the application (subdivision into two (2) residential erven), and the fact that the new vacant portion will be situated north of the existing dwelling on the erf and buffer the new land portion from the objectors' three (3) properties, makes it highly unlikely that the objectors' privacy and enjoyment will be impacted on.
- ❖ Concerns regarding the impact of surrounding property rights during construction, such as privacy and enjoyment are directed to a temporary situation which is not considered a valid reason to consider the application not to be desirable.

RESPONSIBLE OFFICIAL :**H OLIVIER**

4.5

REMAINDER ERF 243, HERMANUS, SCHULPHOEK BOULEVARD, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE (UTILITY SERVICES), MESSRS WRAP CONSULTANCY ON BEHALF OF THE OVERSTRAND MUNICIPALITY

Rem Erf 243, HMS (3489)

H van der Stoep

2 March 2020

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application 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 “utility services” in order to develop a waste materials recycling plant with associated facilities and infrastructure, as well as a drop off facility on a portion of Remainder Erf 243, Hermanus was received on 7 November 2019 from Messrs WRAP Consultancy on behalf of the Overstrand Municipality.

RESOLVED:

1. that the objections be noted;
2. that the application for consent use in terms of Section 16.(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for “utility services” in order to develop a waste material recycling plant with associated facilities and infrastructure, as well as a drop off facility on a portion of Remainder Erf 243, Hermanus, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the following development parameters for the site **be approved**:
 - the height of the main recycling and sorting structure be limited to 11,5m and all other structures be limited to 8m in height;
 - ten meter (10m) building lines to apply to the whole property;
 - site coverage is limited to 75%;
 - thirteen (13) standard parking bays that includes a parking bay for the disabled;
 - a designated parking area for trucks, and
 - two (2) loading bays.
4. that the approval in 2. above be subject to the following conditions:

- (a) that a Site Development Plan be submitted for approval indicating 10m building lines, the 11,5m maximum height restriction of the main recycling and sorting building only and that the proposed subdivided portion's coverage be limited to 75%;
- (b) that building plans be submitted to the Building Department and that all requirements of the Building Department and Fire Services at that stage be complied with - all buildings on the property must be in compliance with SANS10400;
- (c) that all sewerage must be connected to the main sewer line;
- (d) that site clearance be done in phases to mitigate dust impact;
- (e) that the area should be landscaped along Schulphoek Road to such an extent that the recycling plant be concealed as far as possible;
- (f) that an Operational Management Plan that includes security measurements and a Landscaping Plan must be submitted for approval in order to mitigate any impacts on the environment and the surrounding residential areas – the landscaping plan must provide for the planting of trees at the western side of the site - once approved these plans must be implemented immediately;
- (g) that the conditions of Telkom and Engineering Services be complied with;
- (h) the recommendations of the traffic impact statement prepared by Deca Consulting Engineers as set out in paragraph 9 of its statement must be implemented;
- (i) that no on-street parking be allowed;
- (j) that the recycling plant with associated infrastructure be conducted in such a manner that it is not detrimental to the surrounding residential areas;
- (k) that no recycling of waste material may occur outside the main recycling and sorting building;
- (l) that this approval does not absolve the landowner from compliance with any other relevant legislation; and
- (m) that all other applicable development parameters as prescribed in the relevant Zoning Scheme, be complied with.

5. that the applicant and the objectors 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.

REASONS FOR RESOLUTION

- ❖ The application has followed due procedure.
- ❖ The recycling activities will be undertaken inside the main building and not on open areas on the site.
- ❖ The previous waste material recycling plant has been destroyed during protest actions and the only suitable site in the area to develop a new plant is where the current waste water treatment works of Hermanus is located.
- ❖ A dire need exists for the new recycling plant since no such plant currently exists in the area. The recycling plant with associated infrastructure is thus to the advantage of the broader community.
 - ❖ Recycling reduces the pressure on disposal at landfill sites.
- ❖ The total extent of all structures will be approximately 634m² that is regarded as of relative small scale in nature.
- ❖ The overall character of the area will not be adversely affected and it will not impact on the surrounding residential areas since the recycling plant with associated infrastructure is not regarded as a noxious trade or a landfill facility.
- ❖ The drop off facility will be elevated to allow for drop off into containers and trees will be planted on the western slope of the property to mitigate any impacts.
- ❖ The facility will create much needed job opportunities.
- ❖ The Provincial Spatial Development Framework promotes a transition of the modernisation of the waste sector to increase recycling.
- ❖ The property is zoned as Authority Zone and the recycling plant is in harmony with the existing authority use character which is predominant on the property.
- ❖ The property is designated as a community facility which serves the community and is therefore in harmony with the spatial proposals.
- ❖ The objections received are not substantiated and has no regard to the dire need that exists for the facility in favour of the broader communities.
- ❖ An Operational Management Plan and a Landscaping Plan will be implemented in order to mitigate any impacts on the environment and the surrounding residential areas.
- ❖ Is not regarded as being undesirable from a town planning point of view.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP****The meeting adjourned at 10:50**