



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

MINUTES

**DATE:
VENUE:
TIME:**

**31 MARCH 2022
PREEKSTOEL
10:00**

OVERSTRAND
MUNICIPAL PLANNING TRIBUNAL
MINUTES OF A MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL,
HELD AT PREEKSTOEL ON
31 MARCH 2022 AT 10:00

PRESENT:

MEMBERS:

Ms H Janser, Directorate Development
Management
Mr S Müller, Director : Infrastructure & Planning
Mr S Madikane, Director : LED
Ms R Louw, Senior Manager : Strategic Services
Mr R Kuchar, Senior Manager : Town & Spatial
Planning

OFFICIALS:

Mr S van der Merwe, Senior Town Planner
Mr P Roux, Town Planner
Ms S Swart, Council Support Services

APOLOGIES:



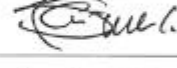





Mr H Blignaut, Deputy Director : Engineering
Services

**MUNICIPAL PLANNING TRIBUNAL
ATTENDANCE REGISTER**

Date: **31 MARCH 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	
S MULLER	VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	
S MADIKANE	MPT MEMBER OVERSTRAND MUNICIPALITY	
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	Apology
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 OLIVIER	TOWN PLANNER OVERSTRAND MUNICIPALITY	
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	

1. OPENING

The Chairperson, Ms H Janser, opened the meeting and welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr H Blignaut

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 24 February 2022****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **24 February 2022, be approved.**

Mr R Kuchar referred to Item 4.1: Erf 5559, 243 Fifth Street, Voëlklip, Hermanus, Overstrand Municipal Area: Application for Departure: Messrs Interactive Town & Regional Planning on behalf of The Kiepersol Beleggingstrust, which was referred back for inputs, and informed the meeting that the applicant must submit a new application.

4. ITEMS FOR CONSIDERATION

4.1

ERF 67, 58 NAUDE STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE AND DEPARTURE: J GAMBO ON BEHALF OF J & LJ GAMBO

67 GFK

SW van der Merwe
1 March 2022

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

To consider an application received on 5 February 2021 (amended 22 June 2021) from J Gambo, the owner of Erf 67, Franskraal in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- ❖ consent use in terms of Section 16(2)(o) of the By-law to accommodate a proposed dwelling unit (ground floor), and
- ❖ departure in terms of Section 16(2)(b) for the relaxation of the western lateral building line from 3m to 1,5m to accommodate a proposed garage and the north eastern street building line from 3m to 2,36m to accommodate a portion of the proposed dwelling.

RESOLVED:

1. that the comment received be noted;
2. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for consent use to accommodate a dwelling unit (ground floor) on Erf 67, Franskraal, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application for departure in terms of Section 16(2)(b) of the By-Law to relax the western lateral building line from 3m to 1,5m to accommodate a garage and the north eastern street building line from 3m to 2,36m to accommodate a portion of the proposed dwelling, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the above approvals be subject to the following conditions:
 - (a) that this approval is only for the departures as indicated on the plan with date stamp *22 June 2021*, as 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 all the conditions of Open Serve and Engineering Services be complied with;
 - (d) that this approval does 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.
 - (f) that trimming and/or removal of existing Milkwood trees be subject to obtaining a valid permit from the Department of Environment, Forestry & Fisheries.
5. 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 conditions of approval.

REASONS FOR THE RESOLUTION:

- ❖ The proposal is consistent with the SDF
- ❖ The proposal will not detract from the character and amenity of the area
- ❖ The proposal will not negatively impact on existing/vested rights of adjoining property owners.
- ❖ There are adequate vacant business erven available in Franskraal.

RESPONSIBLE OFFICIAL :**S VAN DER MERWE**

4.2**ERF 322, 200 PIET RETIEF CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR THE REMOVAL AND AMENDMENT OF RESTRICTIVE TITLE DEED CONDITIONS, SUBDIVISION, CONSENT USE AND DEPARTURE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF PBL VERMEIREN****322 HSB (3763)****(H Boshoff)****S van der Merwe****15 February 2022****(028) 313 8900****Hermanus Administration****EXECUTIVE SUMMARY**

An application was received on 9 March 2021 (amended application February 2022) from Messrs WRAP Project Office on behalf of the PBL Vermeiren, applicable to Erf 322, Sandbaai for the following:

- the amendment, in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), of restrictive Title Deed condition A.2.(a) as contained in Title Deed T39384/2019 applicable to Erf 322, Sandbaai to conduct a guesthouse from each portion after the subdivision of the property hereunder;
- the removal, in terms of Section 16.(2)(f) of the By-Law, of restrictive Title Deed condition A.2.(b) as contained in Title Deed T39384/2019 applicable to Erf 322, Sandbaai in order to subdivide the property in two portions;
- the subdivision, in terms of Section 16(2)(d) of the By-Law, of Erf 322, Sandbaai in two portions, namely Portion A ±705m² in extent and a Remainder ±874m² in extent;
- consent use in terms of Section 16(2)(o) of the By-Law to conduct a three-bedroom guesthouse from the above Portion A and a five-bedroom guesthouse from the above Remainder portion; and
- departure in terms of Section 16(2)(b) of the By-Law to deviate from the parking requirements by providing one of the five required parking bays for the three-bedroom guesthouse on the above Portion A, on the Remainder portion and to tie it with a notarial deed in favor of Portion A.

The restrictive Title Deed condition A.2.(a) read as follows:

“That the above erf or erven be used for residential purposes only.”

The proposed amendment of the above restrictive Title Deed condition A.2.(a) read as follows:

“That the above erf or erven be used for residential- and guesthouse purposes only.”

The restrictive Title Deed condition A.2.(b) read as follows:

“That the above erf or erven be not subdivided.”

RESOLVED:

1. that the comments be noted;
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), applicable to Erf 322, Sandbaai for the amendment of restrictive Title Deed condition A.2.(a) as contained in Title Deed T39384/2019 applicable to Erf 322, Sandbaai to conduct a guesthouse from each portion after the subdivision of the property hereunder, which condition is to read as follows:

“That the above erf or erven be used for residential- and guesthouse purposes only.”

be approved in terms of Section 61 of the By-Law;

3. that the application for the removal, in terms of Section 16.(2)(f) of the By-Law, of restrictive Title Deed condition A.2.(b) as contained in Title Deed T39384/2019 applicable to Erf 322, Sandbaai in order to subdivide the property in two portions, **be approved** in terms of Section 61 of the By-Law;
4. that the application for subdivision, in terms of Section 16(2)(d) of the By-Law, of Erf 322, Sandbaai in two portions, namely Portion A $\pm 705\text{m}^2$ in extent and a Remainder $\pm 874\text{m}^2$ in extent, **be approved** in terms of Section 61 of the By-Law;
5. that the application for consent use in terms of Section 16(2)(o) of the By-Law to conduct a three-bedroom guesthouse from the above Portion A and a five-bedroom guesthouse from the above Remainder portion, **be approved** in terms of Section 61 of the By-Law;
6. that the application for departure in terms of Section 16(2)(b) of the By-Law to deviate from the parking requirements by providing one of the five required parking bays for the three-bedroom guesthouse on the above Portion A, on the Remainder portion, **be approved** in terms of Section 61 of the By-Law;
7. that the above approvals be subject to the following conditions:
 - (a) that the notarial tie and the five meter right of way servitude in favour of Portion A be simultaneously registered with the registration of the subdivision of the property;

- (b) that the amended condition A.2.(a) as set out in 2. above be registered against the title deeds of both the subdivided portions in 4. above simultaneously with the registration of the notarial tie and subdivision of the property;
- (c) that, should the owner/s at any stage sell the properties separately, the notarial tie must be cancelled, and the required parking bays must be provided on each property;
- (d) that only one access and exit point, being the 5m wide right of way servitude, be allowed for both land portions – no separate entrances are allowed;
- (e) that the development of the properties be restricted to the amended plans nos. Amended Plans 5, 6, 6.1, and 9 that were received by the Municipality on 1 March 2022;
- (f) that the accommodation establishments on both portions be restricted to eight (8) guest bedrooms in total - three guestrooms on Portion A and five guestrooms on the Remainder;
- (g) that the residential character must be maintained;
- (h) that meals may be provided to bona fide guests on the properties;
- (i) that a guest logbook always be kept on the properties and that it be immediately made available to the Municipality on request;
- (j) that should meals be provided to bona fide guests, R918 Certificates of Acceptability must be applied for at the Overberg District Municipality for both properties;
- (k) that, subject to obtaining liquor licenses, alcohol beverages may be sold to resident guests for consumption on the properties;
- (l) that applicable rates and service tariffs, as determined by the annual budget, be made applicable to the property, which tariffs are automatically adjusted in terms of the annual budget;
- (m) that no more than three staff members shall be employed in support of each of the establishments at any given time;
- (n) that none of the guestrooms may be utilised as self-catering units - no kitchenettes, cooking facilities, or prep bowls whatsoever are allowed in the guestrooms – kettles or alike and bar type fridges are allowed;

- (o) that building plans be submitted to the Building Department for approval and that all requirements of the Building Department and Fire Services at the time, be complied with;
 - (p) that waste storage areas must be provided on both properties that comply with the refuse rooms standards as per Chapter 17.4.1 of the 2020 Overstrand Land Use Scheme (it must form part of the building plan submissions);
 - (q) that the single residential parameters be retained on the property and that all other development parameters as prescribed in the relevant Land Use Scheme must be complied with;
 - (r) that each guesthouse must have its own manager that resides permanently on the properties and be responsible for the proper management of the accommodation establishments;
 - (s) that the management of the establishments implement noise control measures within the establishments, as well as the outside area in compliance with Provincial Noise Regulations;
 - (t) that the establishments be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area and no activities constituting a public nuisance shall be carried out on the properties;
 - (u) that no advertising signs shall be displayed other than a single un-illuminated sign affixed to each dwelling or boundary wall, or fence and such sign must be in line with the Municipality's Signage By-Law at any given time and with the prior approval of the Building Department of the Municipality;
 - (v) that the conditions of Engineering Services and Telkom be complied with;
 - (w) that the applicant/landowner/s provide proof of compliance with the above conditions (a), (b), (j) and (v) prior to operating the establishments; and
 - (x) that these approvals do not absolve the applicant from compliance with any other relevant legislation;
8. that the applicant and persons who commented be notified of their respective appeal rights in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above conditions and approvals.

REASONS FOR THE RESOLUTION:

- ❖ The character of Sandbaai has changed into a mixed-use area, where, amongst others, accommodation establishments are developed that also the tendency in the greater Hermanus and greater Overstrand areas.
- ❖ Since the insertion of the restrictions in the title deeds of Sandbaai, various land use tools came into force to ensure control over land uses and land use parameters like the Overstrand Land Use Scheme of which the parameters and land uses on single residential properties are much more lenient than the restrictions in the title deed of the subject property.
- ❖ The application contains sufficient merit to be considered favourably.
- ❖ One additional erf will be created that is in line with the erf sizes of the immediate area and will therefore not impact on the character of the specific area.
- ❖ During weekends, festive seasons, and holidays, the population of the greater Hermanus area increases dramatically and it is thus evident that the area is increasingly growing as a tourist destination. The Municipality therefore has a mandate in terms of its forward planning strategies to encourage the tourism industry.
- ❖ The establishments will create much needed temporary and permanent employment opportunities.
- ❖ The proposal is not something out of the ordinary for Sandbaai.
- ❖ The proposal complies with the parameters of the Municipality's Land Use Scheme.
- ❖ The additional traffic will not be problematic to the area.
- ❖ The approval of guesthouses is subject to very strict requirements regarding, amongst others, noise, the parking of vehicles, and the manner in which it must be operated.
- ❖ The guesthouses will be managed by managers in a professional manner who must reside permanently on the properties.
- ❖ All the single residential parameters for the development of the properties will be maintained, as well as the single residential zoning status of the properties and it will therefore not impact on the rights of the surrounding property owners.
- ❖ The departure to provide one of the five required parking bays for the three-bedroom guesthouse on Portion A, on the Remainder portion and to tie the properties by means of notarial deed is regarded as insignificant.
- ❖ All parking for both guesthouses is practical with ample manoeuvrability space.
- ❖ All services for the subdivided portions are available and is sufficient to accommodate the proposal.
- ❖ The proposal is thus regarded as being desirable from a town planning perspective.

RESPONSIBLE OFFICIAL :**S VAN DER MERWE**

4.3

**ERF 612, 33 SEA VIEW DRIVE, HAWSTON, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR CONSENT USE: M.S. DREYER (EXECUTOR OF ESTATE OF
LATE N. DREYER AND SURVIVING SPOUSE E. DREYER)**

612 HHW

H Olivier

8 November 2021

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 18 September 2020 from MS Dreyer, the Executor of the Estate, for consent use in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 in order to utilise a portion of the double garage on Erf 612, Hawston as a house shop.

RESOLVED:

1. that the application for consent use in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 in order to utilise a portion of the garage on Erf 612, Hawston as a house shop, **not be approved** in terms of the provisions of Section 61 of the By-Law; and
2. that the applicants be notified of their right of appeal in terms Section 78 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 with regard to the above decision.

REASONS FOR THE RESOLUTION:

- ❖ The comments and concerns provided by the Ward Councillor are supported, as this area of Hawston is in a higher income group area, with no need from the immediate community for a house shop in their area.
- ❖ The concern of an influx of people into the area and some traffic does carry weight.
- ❖ The purpose of house shops is to serve the immediate neighbours who mostly visit house shops by foot. If this shop then mostly serves neighbourhoods further away it serves no need to the immediate surrounding community, and any possible negative impact on directly surrounding property owners would be unacceptable.
- ❖ The application is not desirable.

RESPONSIBLE OFFICIAL :**H OLIVIER**

4.4

PORTION 35 (A PORTION OF PORTION 16) OF FARM ROCKLANDS NO. 633, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE, DEPARTURE AND APPLICATION FOR APPROVAL IN TERMS OF ACT 21 OF 1940 : MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF MOUNTAIN FALLS ESTATE (PTY) LTD

Prt 35 of 633 RCAL (3762/2017)

P Roux

(028) 313 8900

Hermanus Administration

4 February 2022

EXECUTIVE SUMMARY

An application was received on 28 August 2017 from Messrs Plan Active on behalf Mountain Falls Estate (Pty) Ltd for the applications mentioned below applicable to Portion 35 (a Portion of Portion 16) of Farm Rocklands No. 633 namely:

- ❖ removal of restrictive title conditions with reference to Paragraph E of Title Deed T919/2015 applicable to Portion 35 (a Portion of Portion 16) of Farm Rocklands No. 633, Division Caledon in terms of Section 16(2)(f) of the aforementioned By-Law;
- ❖ consent use in terms of Section 16(2)(o) of the aforementioned By-Law in order to accommodate a water bottling plant;
- ❖ departure in terms of Section 16(2)(b) of the aforementioned By-Law to relax the western lateral building line from 10m to 5m to accommodate the existing bottling plant structure; and
- ❖ approval in terms of Act 21 of 1940 as imposed by Conditions D.2, D.3 & D.4 of Title Deed T919/2015 to permit the existing bottling plant, staff room & shed to be utilised as an automated bottling plant, that the land be used for agriculture industrial purposes and that the existing shed may encroach the ±94,46m building line by ±12m.

RESOLVED:

1. that the comments received be noted;
2. that the application terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), applicable to Portion 35 (a Portion of Portion 16) of the Farm Rocklands No. 633, Division Caledon for the removal of restrictive title deed condition E as contained in Title Deed T919/2015, **be approved** in terms of Section 61 of the By-Law;
3. that the application for consent use in terms of Section 16(2)(o) of the By-Law to accommodate an agricultural industry (water bottling plant) on the property, **be approved** in terms of Section 61 of the By-Law;

4. that the application for departure in terms of Section 16(2)(b) of the By-Law to relax the western lateral building line from 10m to 5m to accommodate the existing bottling plant structure on the property, **be approved** in terms of Section 61 of the By-Law;
5. that the above approvals be subject to the following conditions:
 - (a) that the approval is only for the development and utilisation of the property as indicated on the Site Development Plan (plan no 3, file number 19/126) as submitted with the application;
 - (b) that the conditions in the Services Report be complied with;
 - (c) that applicable rates and service tariffs, as determined by the annual budget be made applicable to the property, which tariffs are automatically adjusted in terms of the annual budget;
 - (d) that this approval does not absolve the owner/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.
6. 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 conditions of approval.

REASONS FOR THE RESOLUTION:

- ❖ The application has followed due procedure.
- ❖ None of the relevant departments have any objection.
- ❖ Diversification of land uses in the vicinity and along the R43 has already occurred.
- ❖ The farm has little agricultural potential due to its size and slope.
- ❖ The distance of the structures from where the bottling plant will be operated to adjacent properties, ensures that the activities will not have a detrimental effect on tourism and residential uses.
- ❖ The water study provided clearly shows that the use of the boreholes does not impact the water rights of the adjoining property owners. The property owner also obtained a water use license from the relevant authority.
- ❖ Overstrand Zoning Scheme Regulations have sufficient control measures when it comes to land use, coverage and building line controls.
- ❖ The proposal is in line with the Municipality's SDF.

RESPONSIBLE OFFICIAL :**P ROUX**

The meeting adjourned at 11:50