



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

MINUTES

DATE:	30 MARCH 2023
VENUE:	TOWN PLANNING COMMITTEE ROOM
TIME:	10:00

OVERSTRAND
MUNICIPAL PLANNING TRIBUNAL
MINUTES OF A MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL,
HELD IN THE TOWN PLANNING COMMITTEE ROOM ON
30 MARCH 2023 AT 10:00

PRESENT:

MEMBERS:

Ms H Janser, Directorate Development
Management
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 S van der Merwe, Senior Town Planner
Mr P Roux, Town Planner

APOLOGIES:

Ms S Swart, Council Support Services



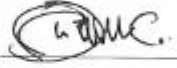
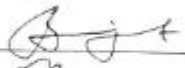





MUNICIPAL PLANNING TRIBUNAL

ATTENDANCE REGISTER

Date: 30 MARCH 2023

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 MÜLLER	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	Apology

1. OPENING

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

2. APPLICATIONS FOR LEAVE OF ABSENCE

Ms S Swart

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 27 February 2023****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **27 February 2023, be approved**, subject to the following amendment:

Erf 425, Pringle Bay : Application for Consent Use: The last bullet point on page 4 must read as follows:

“Section 34(e)(iii) of the Western Cape Liquor Act, 2008 states that the Liquor Licensing Tribunal may not grant a license, unless it is satisfied on a balance of probabilities that the granting of the application does not prejudice the learners of an educational institution who are under the age of eighteen (18) years. There is thus no radius of land uses that are automatically excluded when applying for either an educational facility or a place selling liquor.”

4. ITEMS FOR CONSIDERATION

4.1

ERF 601 AND 602, 7 COMMERCIAL STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS, CONSOLIDATION, DEPARTURE, CONSENT USE AND AMENDMENT OF CONDITIONS OF APPROVAL (SITE DEVELOPMENT PLAN): MESSRS WRAP PROJECT OFFICE ON BEHALF OF STEADY GROW TRADING 33 CC

601 & 602 GPB (4007/2022)

SW van der Merwe

(028) 313 8900

Hermanus Administration

22 February 2023

EXECUTIVE SUMMARY

An application was received on 13 January 2022 from Messrs WRAP Project Office on behalf of Steady Grow Trading 33 CC for the following:

- ❖ **removal of restrictive title condition** with reference to Condition B.4(b) of Title Deed T1405/2021 applicable to Erf 601, Pearly Beach in terms of Section 16(2)(f) of the Overstrand Municipal Land Use Planning Amendment By-Law, 2020 (By-Law) in order to exercise the primary rights in terms of the zoning of the property;

Condition B.4(b) contained in Title Deed T1405/2021 to be removed and read as follows:

“it shall be used for shop purposes only.”

- ❖ **consolidation** in terms of Section 16(2)(e) of the By-Law of Erven 601 and 602, Pearly Beach to create a consolidated property of 1160m²;
- ❖ **departure** in terms of Section 16(2)(b) of the By-Law in order to relax the rear building line from 3m to 0m;
- ❖ **consent use** in terms of Section 16(2)(o) of the By-law to conduct a place of entertainment (live music), and
- ❖ **amendment of the approval conditions** that the application for amendment of the conditions of approval in order to rescind condition (a) of the planning approval dated 31 October 2019 as well as amendment of the Site Development Plan in order to accommodate the proposed business expansion.

RESOLVED:

1. that the objections be noted;

2. that the application for removal of restrictive title condition B.4(b) contained in Title Deed T1405/2021 applicable to Erf 601, Pearly Beach in terms of Section 16(2)(f) of the Overstrand Municipal Land Use Planning Amendment By-Law, 2020 (By-Law) in order to exercise the primary rights in terms of the zoning of the property, **be approved**;
3. that the application for consolidation of Erf 601 and Erf 602, Pearly Beach in terms of Section 16(2)(e) of the By-Law to create a consolidated property of 1160m², **be approved**;
4. that the application for departure in terms of Section 16(2)(b) of the By-Law in order to relax the rear building line from 3m to 0m, **be approved**;
5. that the application in terms of Section 16(2)(o) of the above By-Law for consent use applicable to Erf 602, Pearly Beach in order to conduct a place of entertainment (live music), **be approved** for a period of five (5) years:
6. that the application for amendment of the conditions of approval in order to rescind condition (a) of the planning approval dated 31 October 2019 as well as amendment of the Site Development Plan in order to accommodate the proposed business expansion, **be approved**;
7. that the approvals in paragraphs 2. to 6. above be subject to the following conditions:
 - (a) that the operation of a bar or tavern is not permitted;
 - (b) that a detailed Site Development Plan be submitted for approval by the Authorised Official indicating, amongst others, the floor area of the shop and layout of the microbrewery;
 - (c) that provision be made for on-site parking in accordance with the Site Development Plan appended to the application;
 - (d) that the approval conditions dated 31 October 2019, be adhered to;
 - (e) that the place of entertainment be limited to live background music only limited to the inside restaurant area;
 - (f) that the applicant appoints a suitably qualified acoustic consultant and implement the applicable recommendations to ensure noise attenuation measures to ensure compliance with the Western Cape Noise Control Regulations prior to commencement of the Place of entertainment;
 - (g) that all the conditions in the Services Report be complied with;
 - (h) that the requirements of Telkom, Health and Eskom be adhered to;

- (i) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (j) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (k) that the place of entertainment may not be conducted outside the hours of 10:00 to 22:00 Mondays to Sundays.
8. 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, 2015 with regard to the above decisions and conditions of approval.

REASONS FOR THE RESOLUTION:

- ❖ The application is consistent with applicable forward planning and policy documents.
- ❖ The application is consistent with the planning principles.
- ❖ The proposed development will not adversely impact upon the character of the area, or amenity of adjoining properties, following the implementation of appropriate mitigation measures.
- ❖ The proposed development is desirable.
- ❖ The proposal will contribute to the promotion of tourism and economic development, including employment opportunities.
- ❖ The application has followed due procedure.
- ❖ None of the internal or external departments have any objection.
- ❖ The proposal will not impact negatively upon municipal services.

RESPONSIBLE OFFICIAL :**S VAN DER MERWE**

4.2

ERVEN 8408 & 4096, 295 NINTH STREET & 296 TENTH STREET, VOËLKLIP, HERMANUS: APPLICATION FOR CONSOLIDATION & SUBDIVISION: MESSRS DAVE SAUNDERS PLANNER CC ON BEHALF OF LORD TRUST

8408 & 4096 HVK

P Roux

22 February 2023

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 22 April 2022 from Messrs Dave Saunders Planner CC on behalf of Lord Trust in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- **consolidation** in terms of Section 16.(2)(e) of Erven 8408 & 4096, Hermanus; and
- **subdivision** in terms of Section 16.(2)(d) in order to subdivide the consolidated erven into 4 portions namely, Portion A approximately 923m² in extent, Portion B approximately 353m² in extent, Portion C approximately 353m² in extent and Portion D approximately 353m² in extent, to accommodate the new dwelling units on Portions B, C and D.

RESOLVED:

1. that the objection be noted;
2. that the application in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) applicable to Erven 8408 and 4096, Voëlklip, Hermanus for the following:
 - consolidation in terms of Section 16(2)(e) of Erven 8408 & 4096 Voëlklip, Hermanus; and
 - subdivision in terms of Section 16(2)(d) to subdivide the consolidated erven into 4 portions namely Portion A approximately 923m² in extent; Portion B approximately 353m² in extent; Portion C approximately 353m² in extent; and Portion D approximately 353m² in extent, to accommodate new dwelling units on Portions B, C and D,

not be approved in terms of the provisions of Section 61; and
3. that the applicant and persons who commented be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020.

REASONS FOR THE RESOLUTION:

- ❖ The proposed erf sizes are not in line with the densification goals as proposed in the Overstrand Municipal Growth Management Strategy, 2010 (OMGMS). The erf sizes proposed would result in a density of 28.33 units per hectare. The applicant failed to consider the density and the impact in terms of the OMGMS.
- ❖ The additional footprint that can be developed from the three erven is 108,63m² more than if the standard subdivision was allowed and two erven were developed.
- ❖ The average size in the residential block is 495m² and it is normal practice to allow for 10% deviation when subdivision is requested. It is noted the proposed erf sizes are ±353m² in extent, which is a 28,68% deviation from the average erf size.
- ❖ The densification will cause a drastic change in the street façade. The average width of properties in the area are between ±15,74m and ±32m, and the proposal only allows for a maximum width of 10,5m. The proposal will effectively reduce the developable area by 3m in width (when considering the applicable building lines).
- ❖ It is noted that the applicant in its motivation failed to relate to Chapter 18 of the Land Use Scheme which states the following regarding the subdivision of residential erven:
 - *“Subdivision in an area will generally be allowed if it is consistent with the planning, policies and the average size and density of surrounding residential properties are being considered.”*
- ❖ The proposal will set a negative precedent.
- ❖ The proposal is not in line with the low residential density, character or morphology of the area.

RESPONSIBLE OFFICIAL :**P ROUX**

4.3

REMAINDER OF ERF 243, 10 MOUNTAIN DRIVE, NORTHCLIFF, HERMANUS: APPLICATION FOR CONSENT USE: WARREN PETTERSON PLANNING ON BEHALF OF VODACOM AND OVERSTRAND MUNICIPALITY (HERMANUS WATERWORKS)

243 HNC (3718/2020)

H van der Stoep

23 February 2023

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 7 September 2020 from Warren Petterson Planning on behalf of Vodacom and Overstrand Municipality for a consent use on Remainder of Erf 243, Hermanus (Hermanus Waterworks) in terms of Section 16.(2)(o) of the Overstrand Municipal By-Law on Municipal Planning, 2020 to erect a 15m high transmission tower.

RESOLVED:

1. that the application in terms of Section 16.(2)(o) of the Overstrand Municipal By-Law on Municipal Planning, 2020 on Remainder of Erf 243, Hermanus (Hermanus Waterworks) for a consent use to erect a 15m high transmission tower, **not be approved**, in terms of the provisions of Section 61 of the By-Law; and
2. 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 decision.

REASONS FOR THE RESOLUTION:

- The motivation is not adequate and does not address the area to be served *per se*. The proposed coverage for the area is mainly located in the Nature Reserve itself.
- The need and desirability have not been substantiated as per Section 16.10.(d) as per the requirements of the Overstrand Municipality Land Use Scheme
- The lack of coverage as indicated in the motivation report was not verified or quantified.
- Alternative sites were investigated and a more suitable location was identified (Option 4).
- An alternative option to address the lack of coverage is available for the applicant in the built environment, which will have a lessor impact than the proposed location.

- The applicant did not address how the proposed development aligns with the environmental policy documents (Environmental Management Framework, Fernkloof Protected Areas Management Plan) of the Overstrand Municipality.
- The Visual Impact Assessment indicates the proposed development as being moderately significant, thus clearly having a significant impact. The Environmental Management Services Department rates the impact as highly significant.
- The Environmental Management Services Department and the Fernkloof Advisory Board (as custodians of the Fernkloof Nature Reserve) do not support the application.
- The cumulative impact of existing towers on the mountain area of the Fernkloof Nature Reserve on the area will be exacerbated by the proposed transmission tower.
- The mitigating factors cannot reduce the visual impact of the proposed tower and 96m² development footprint to ensure a sense of place.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

The meeting adjourned at 11:18