



MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

MINUTES

DATE:	30 MAY 2019
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	10:20

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM, HERMANUS, ON 30 MAY 2019, AT 10:20

PRESENT:

MEMBERS:

Mr S Müller, Director : Infrastructure & Planning
Mr R Williams, Director : Community Services
Mr S Madikane, Director : Economic & Social
Development & Tourism
Ms H Janser, Directorate Development
Management










OFFICIALS:

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

APOLOGIES:

Ms D Arrison, Director : Management Services

ATTENDANCE REGISTER : MEETING OF MUNICIPAL PLANNING TRIBUNAL : 30 MAY 2019 AT 10:00

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	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8004	darrison@overstrand.gov.za	
H JANSER	MPT MEMBER	DIR. DEV MANAGEMENT	021 483 3544	Helene.Janser@westerncape.gov.za	
R KUCCHAR	AUTHORISED OFFICIAL	OVERSTRAND MUNICIPALITY	028 313 8087	rkuchat@overstrand.gov.za	
S VAN DER MERWE	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8938	svandermerwe@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	proux@overstrand.gov.za	
H OLIVIER	TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8900	hollivier@overstrand.gov.za	
S SWART	COUNCIL SUPPORT	OVERSTRAND MUNICIPALITY	028 313 8006	sswart@overstrand.gov.za	

1. OPENING

The Chairperson, Mr S Müller, opened the meeting and welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Ms D Arrison, Director: Management Services

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 28 March 2019****RESOLVED:**

that the approval of the Minutes of the Municipal Planning Tribunal held on **28 March 2019** stand over until the next meeting.

3.2 Minutes of a Special Municipal Planning Tribunal Meeting held on 12 April 2019**RESOLVED:**

that the Minutes of the Special Municipal Planning Tribunal Meeting held on **12 April 2019, be confirmed.**

3.3 Minutes of a Municipal Planning Tribunal Meeting held on 25 April 2019**RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **25 April 2019, be confirmed.**

4. ITEMS FOR CONSIDERATION

4.1

ERF 857, 24 LOOP STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIONS AND DEPARTURES: MESSRS ME PLANNERS ON BEHALF OF JC & N KORKIE

857 GFK (4043)

SW van der Merwe
13 March 2019

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 14 June 2018 from Messrs ME Planners on behalf of JC & N Korkie on Erf 857, Franskraal 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, 2015 for the removal of the restrictive condition in Title Deed T76927/1998, Clause C.5(d):

“no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres of the street line which forms a boundary of this erf, nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority an outbuilding not exceeding 3,05 metres 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. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf.”

- ❖ Departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to encroach the eastern lateral- and southern rear building line from 2m to 0m to accommodate an existing shade port and carport.

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) on Erf 857, Franskraal for the removal of restrictive Clause C.5(d) in Title Deed T6927/1998, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(b) of the afore-mentioned By-Law on Erf 857, Franskraal in order to relax the southern rear- and eastern lateral building line from 2m to 0m to accommodate a carport and shade port, **be approved** in terms of the provisions of Section 61 of the By-Law;

3. that the approvals in paragraphs 1. and 2. above be subject to the following conditions:
 - (a) that the approval only relate to the buildings as indicated on the plan dated 2017/11/21 submitted with the application;
 - (b) that building plans be submitted to the Building Department, and that all conditions set by the Building and Fire Departments at that stage, be complied with;
 - (c) that all the conditions in the Services Report be complied with;
 - (d) that this approval does not relate to approvals in terms of any other legislation;
 - (e) that this approval does not absolve the landowners from compliance with any other relevant legislation; and
 - (f) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
4. that the applicant and objector 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 removal of the restrictive conditions would not lead to a loss of finance or any other value to the Municipality or surrounding property owners.
- ❖ The building line encroachments to be legalized are of such a scale that it would not impact on the character of the surrounding area and or surrounding property owners.
- ❖ All relevant municipal departments support the application.
- ❖ The encroachments being applied for are an existing situation, and the approval of the application would therefore not have a greater impact on the character of the area or the neighbours.
- ❖ The application is considered desirable.

RESPONSIBLE OFFICIAL :**S VAN DER MERWE**

4.2

PORTION 63 OF THE FARM ROCKLANDS NO. 633, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE : ATLAS TOWN PLANNING ON BEHALF OF EAGLES NEST WINES

Ptn 63/633 (3823)

P Roux

2 April 2019

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received in terms of Section 16(2)(o) and (b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law), applicable to Portion 63 of the Farm Rocklands No. 633, Division Caledon in order to accommodate a boutique winery and micro-brewery on the property, which structures encroach the applicable building line from 30m to 20,89m.

RESOLVED:

1. that the objection be noted;
2. that the application in terms of Section 16(2)(o) and (b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) applicable to Portion 63 of the Farm Rocklands No. 633, Division Caledon in order to accommodate a boutique winery on the property, which structures encroach the applicable building line from 30m to 20,89m, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that the approvals are for the development as indicated on drawing no 806-1/3,2/3 & 3/3 as submitted with the application;
 - (b) that this approval is only for a boutique winery on the subject property;
 - (c) that prior to the submission of building plans and the operation of the boutique winery a revised Site Development Plan indicating the on-site treatment plant of the waste water and the required water use licences, be submitted to the Town Planning Department;
 - (d) that building plans be submitted to the Building Department for approval;
 - (e) that all the conditions imposed by Fire Services, Telkom, Department of Transport and Public Works, Eskom, Department of Environmental Affairs and Development Planning (Environmental Component), Engineering Services Report, CapeNature, and Breede-Gouritz Catchment Management Area, be complied with;

- (f) that the additional and existing uses comply 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;
 - (g) 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;
 - (h) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (i) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
3. that the applicant and objector 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 conditions of approval

REASONS FOR RESOLUTION

- ❖ The proposed uses will have a minimal impact on the surrounding area.
- ❖ The diversification of uses on the property will positively contribute to job creation, economic growth and sustainability of the farm.
- ❖ The alteration to the existing outbuilding will be minimal and therefore have no impact on the road users of the R43 and adjacent property owners.
- ❖ The objection received has been sufficiently addressed.
- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ Local and provincial departments have provided supporting comments for the proposed application.
- ❖ The proposal is compliant with the spatial policies contained in the SDF.
- ❖ The proposal is consistent with the spatial principles as set out in SPLUMA and LUPA.

RESPONSIBLE OFFICIAL :

P ROUX

4.3

ERF 6879, 29 CROSS STREET, EASTCLIFF, HERMANUS : PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE : PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF B BUSSE

6879 HEC (4234)

P Roux

(028) 313 8900

Hermanus Administration

9 April 2019

EXECUTIVE SUMMARY

An application has been received in terms of Section 16(2)(o) and (f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) from PlanActive Town- and Regional Planners on behalf of B Busse, on Erf 6879, Hermanus for the following:

- ❖ application for removal of a restrictive title condition with reference to Clause D.(a) of Title Deed T5150/2018 applicable to Erf 6879, Hermanus in terms of Section 16(2)(f) of the aforementioned By-Law.
- ❖ application for consent use in terms of Section 16(2)(o) of the aforementioned By-Law to enable the owner to utilise the existing dwelling house on the property as a three (3) bedroom guesthouse.

RESOLVED:

1. that the application received 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 condition D.(a) as contained in Title Deed T5150/2018 applicable to Erf 6879, Hermanus in order to enable the owner to conduct a guesthouse from the property, **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 for a guesthouse in order to accommodate a guesthouse with three (3) guestrooms on Erf 6879, Hermanus, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the above approvals be subject to the following conditions:
 - (a) that the approvals are for the development as indicated on drawing no Erf 6879 –Busse A1-01 to 03 as submitted;
 - (b) that a maximum of three (3) bedrooms to be let, be permitted on Erf 6879 Eastcliff;

- (c) that the owner/manager resides on the premises and be responsible for the proper management of the guesthouse;
- (d) that the guesthouse is utilised as such – no self-catering will be permitted;
- (e) that no kitchen facilities and/or prep bowls be allowed in the guestrooms;
- (f) 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;
- (g) that the selling or serving of liquor will be subject to the owner obtaining the necessary Liquor Licence;
- (h) that a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on each property;
- (i) that a minimum of one (1) permanently demarcated parking bay per guestroom and two (2) for the owner/manager be provided within the erf boundaries;
- (j) that the applicable tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
- (k) 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;
- (l) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
- (m) 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;
- (n) that all the conditions in the Services Report be complied with;
- (o) that all conditions imposed by the Fire Department be complied with;
- (p) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation; and
- (q) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.

4. that the applicant and objector 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 conditions of approval.

REASONS FOR THE RESOLUTION:

- ❖ The proposed uses will have a minimal impact on the surrounding area.
- ❖ The diversification of uses on the property will positively contribute to job creation, economic growth and tourism in the area.
- ❖ The removal of the restrictive condition will not change the residential character which has been established.
- ❖ No objections have been received from the adjacent property owners.
- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ The proposal is compliant with the spatial policies contained in the SDF.
- ❖ The proposal is consistent with the spatial principles as set out in SPLUMA and LUPA.

RESPONSIBLE OFFICIAL :**P ROUX**

4.4

ERF 572, 13 DUIKER STREET, VERMONT : PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND DEPARTURE : PLAN ACTIVE ON BEHALF OF GREGOIRE SE HUIS CC

572 HVM (4155)

H Olivier

6 April 2019

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 29 August 2018 from Messrs Plan Active on behalf of Messrs Gregoire se Huis CC (S Smit) on Erf 572, Vermont for the following:

- ❖ Removal of restrictive title condition in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 on Erf 572, Vermont for the removal of the restrictive condition in Title Deed T2329/2017, Page 2, Clause 2.(b).

The restrictive condition reads as follows:

“2. *SUBJECT to the following special conditions contained in Deed of Transfer No T781 dated 3rd February 1927 imposed for the benefit of the Vermont Seaside Township Limited and all present and future owners of the Lots in the Township of Vermont:-*

(b) *All buildings on the land hereby transferred shall stand back at least ten feet from the line of the street on which the said lot may front.”*

- ❖ Departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 on Erf 572, Vermont for the following :
 - To relax the western lateral building line from 2m to 1,443m to accommodate an existing double storey art studio and an extension to the stoep.
 - To relax the street building line with Malmok Crescent from 4m to 1m to accommodate a proposed garage, also to relax the same building line from 4m to 1,9m to accommodate the addition to bedroom 5 and en-suite bathroom as well as the existing fireplace on the ground floor and bedroom 1 on the first floor; and lastly to relax the same building line from 4m to 2,213m for the encroachment of a portion of the existing cellar and the portion of the proposed open stoep on first floor level.
 - To relax the street building line with Marine Drive from 4m to 2m to accommodate the encroachment of a portion of the existing cellar and

portion of the stoep on ground floor level, as well as a portion of the proposed open stoep on first floor level.

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 572, Vermont for the removal of restrictive condition 2.(b) of Title Deed T2329/2017, **be approved**, in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 572, Vermont for the following departures:
 - to relax the western lateral building line from 2m to 1,443m to accommodate an existing double storey art studio and stoep;
 - to relax the street building line (next to unmade portion of Malmok Crescent) from 4m to 1m to accommodate a proposed garage, from 4m to 1,9m to accommodate extension to bedroom 5 and from 4m to 2,213m to Malmok Crescent and 2m to Marine Drive road reserve to accommodate a basement wine cellar and enclosed stoep on ground and first floor level**be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the approvals in Points 1. and 2. be subject to the following conditions:
 - (a) that the approval for the departure is only for the building line relaxations as indicated on plans submitted with the application dated 17 April 2018;
 - (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 other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (e) that all the conditions in the Services Report be complied with;
 - (f) that all the conditions of Telkom be complied with; and
 - (g) that all the conditions of Eskom be complied with.

4. that the applicant and objectors be notified of its 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 THE RESOLUTION:

- ❖ The objections raised regarding the Heritage status has sufficiently been addressed by the applicant and Building Control Department.
- ❖ All relevant municipal departments support the application.
- ❖ Due to the placement of the surrounding dwellings and the proposed extension on Erf 572, no view line will be impacted on.
- ❖ The major encroachments are next to an unbuilt road portion, therefore impact on neighbours' privacy will be minimal.
- ❖ The upgrading of the dwelling should have a positive impact on property values in this area.
- ❖ No municipal services will be impacted on.
- ❖ The application will not impact the character of the area, and is desirable.

RESPONSIBLE OFFICIAL :**H OLIVIER**

4.5

ERF 1134, 34 DE VILLIERS STREET, SANDBAAI, OVERSTRAND MUNICIPAL AREA : REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE & DEPARTURE: WRAP ON BEHALF OF T HUME & KA VAN DER MERWE

1134 HSB (3976)

H van der Stoep

14 March 2019

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application applicable to Erf 1134, Sandbaai has been received on 11 April 2018 from WRAP on behalf of T Hume and KA van der Merwe 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, 2015 for the removal of the restrictive conditions B.(1)(a) and B.(1)(c) and B.(2)(a), B.(2)(b), B.(2)(c) and B.(2)(d) as contained in Title Deed No. T64476/2017 applicable to Erf 1134, Sandbaai in order to accommodate a four (4) bedroom guesthouse on the property, as well as the existing garage that encroach the street building line.

The restrictive conditions read as follows:

“B. ONDERHEWIG verder aan die volgende spesiale voorwaardes bevat in Akte van Transport No. T8455/1953, wat soos volg lees:

“(1) Opgelê vir die voordeel van Sandbaai Seaside Estate Company Proprietary Limited as eienaars van die restant van die Perseel No. 3 van die plaas Onrust Rivier gehou deur hulle kragtens Akte van Transport No. 11466 van 1926, en die eienaars van persele in die gemelde Dorp alreeds getranspoteer of wat in die toekoms, getranspoteer mag word onderhewig aan soortgelyke voorwaardes naamlik:

- (a) The company reserves to itself and its successors in title the sole right to all hotels and all liquor licences and the Purchaser/s (Transferee/s) or his/their successors in title shall not have the right to erect any hotel or hold any liquor licence without the written consent of the Directors of the company, or its successors in title, first had and obtained.*
- (c) That no building shall be erected on any stand unless and until the plans for such buildings have been submitted to and approved by the Directors of the said Company or the successors in title of the said Company.*

(2) *Opgelê deur die Administrateur:*

(a) *That the erf or erven be used for residential purposes only.*

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

(c) *That no 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 of the above erven be built upon.*

(d) *That no building shall be erected on the above erf or erven within 4,72m 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 only be used as garden but shall not be built upon."*

- ❖ Consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Land Use Planning, 2015 on Erf 1134, Sandbaai in order to conduct a four (4) bedroom guesthouse.
- ❖ Departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to relax the eastern street building line of Erf 1134, Sandbaai from 4m to 0,4m and the southern lateral building line from 2m to 0m to accommodate the existing garage on the property.

RESOLVED:

that the item **be referred back.**

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

The meeting adjourned at 11:13