



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

**MINUTES**

<b>DATE:</b>	<b>29 NOVEMBER 2017</b>
<b>VENUE:</b>	<b>TOWN PLANNING COMMITTEE ROOM HERMANUS</b>
<b>TIME:</b>	<b>14:00</b>

# **OVERSTRAND**

## **MUNICIPAL PLANNING TRIBUNAL**

### **MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM, HERMANUS, ON 29 NOVEMBER 2017, AT 14:00**

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**PRESENT:**

**MEMBERS:**

Mr S Müller, Director : Infrastructure & Planning  
Mr R Williams, Director : Community Services  
Mr S Madikane, Director : LED  
Ms H Janser, Directorate Development  
Management  
Ms D Arrison, Director : Management Services  
(Observer)

**OFFICIALS:**

Mr R Kuchar, Senior Manager : Town Planning &  
Property Management  
Ms H van der Stoep, Senior Town Planner  
Mr P Roux, Town Planner  
Ms S Swart, Council Support Services

**APOLOGIES:**

Mr C Groenewald (Represented by Mr S Müller)

ATTENDANCE REGISTER : MEETING OF MUNICIPAL PLANNING TRIBUNAL : 29 NOVEMBER 2017 AT 14:00

NAME	DESIGNATION	ORGANISATION	TEL. NO.	E-MAIL ADDRESS	SIGNATURE
C GROENEWALD	CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8003	cgroenewald@overstrand.gov.za	Apobgy
S MULLER	VICE-CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8019	smuller@overstrand.gov.za	
S MADIKANE	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8066	smadikane@overstrand.gov.za	
R WILLIAMS	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8029	rwilliams@overstrand.gov.za	
R KUCCHAR	AUTHORISED OFFICIAL	OVERSTRAND MUNICIPALITY	028 313 8087	rkuchhar@overstrand.gov.za	
H JANSER	MPT MEMBER	DIR: DEV MANAGEMENT	021 483 3544	Helene.Janser@westerncape.gov.za	TD.
S VAN DER MERWE	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8938	svandermerwe@overstrand.gov.za	
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P ROUX	TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8900	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	

D ABRISON OBSERVER OVERSTRAND MUN 028 3138001

**1. OPENING**

The Acting Chairperson, Mr S Müller, informed the meeting of the change in the composition of the Municipal Planning Tribunal and welcomed Ms D Arrison, new member of the Committee.

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

Mr C Groenewald (Represented by Mr S Müller)

**3. CONFIRMATION OF MINUTES****3.1 Minutes of a Municipal Planning Tribunal Meeting held on 25 October 2017****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **25 October 2017, be confirmed.**

#### 4. ITEMS FOR CONSIDERATION

##### 4.1

**ERF 4424, 14 DUIKER STREET, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS : MESSRS PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF C & N MOSTERT**

**4424 HNC (3479)**

**H van der Stoep**

**2 October 2017**

**(028) 313 8900**

**Hermanus Administration**

#### **MR R WILLIAMS RECUSED HIMSELF FROM THE MEETING**

#### **EXECUTIVE SUMMARY**

An application has been received on 17 November 2016 from Messrs Plan Active Town & Regional Planners (Ms. M Lerm) on behalf of C & N Mostert on Erf 4424, Hermanus for the removal of a restrictive title condition in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 with reference to Clause C.1. of Title Deed T10790/2014, in order to operate a home occupation (swimming school) on the property concerned.

The Title Deed condition C.1. to be removed reads as follows:

*“That this erf be used for residential purposes only.”*

#### **RESOLVED:**

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 4424, Hermanus for the removal of restrictive condition Clause C.1. of Title Deed T10790/2014 in order to operate a home occupation (swimming school) on the property concerned, **be amended**, to read as follows:

*“The property is used primarily for residential purposes and a home occupation be allowed subservient to the residential use.”*

2. that the approval in Point 1. be subject to the following conditions:
  - (a) that the swimming school be allowed for a probation period of twelve (12) months after which it will be re-evaluated to ensure compliance by the owners to manage the parking of clientele;

- (b) that the amount of pupils and other users be restricted to four (4) people per lesson;
  - (c) that the lessons be at 15 minutes intervals;
  - (d) that parking be provided on-site as per parking layout herm4424sdp-rev1.drw dated March 2017;
  - (e) that no parking of clientele in front of neighbouring erven be allowed;
  - (f) that the owners manage the parking and ensure compliance with the proposed 15 minutes intervals;
  - (g) that the operation hours are Monday to Friday between 10:00 and 17:30;
  - (h) that this approval does not absolve the applicant from compliance with any other relevant legislation;
  - (i) that all other 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;
  - (k) that all the conditions in the Services Report be complied with; and
  - (l) that the rights may not be transferred.
3. 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, 2016 with regard to the above conditions of approval.

**RESPONSIBLE OFFICIAL :**

**H VAN DER STOEP**

**MR WILLIAMS REJOINED THE MEETING**

## 4.2

**ERF 6201, 17 DE GOEDE STREET, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA : REMOVAL OF RESTRICTONS AND DEPARTURE : MESSRS PLAN ACTIVE ON BEHALF OF PLASTIKA INVESTMENTS CC**

6201 HWC (3542)

H van der Stoep

25 September 2017

(028) 313 8900

Hermanus Administration

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**EXECUTIVE SUMMARY**

An application has been received on 2 December 2016 from Messrs Plan Active on behalf of Plastika Investments CC on Erf 6201, Hermanus 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 the restrictive condition in Title Deed T28849/2015, Page 2, Paragraph A(a):

*“(a) That the above erf be used for residential purposes only;”*

- ❖ Departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 to depart from the Overstrand Zoning Scheme, to allow home occupation and in terms of Section 5.1.8, which restrict home occupation to 25% of the building.

**RESOLVED:**

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 6201, Hermanus for the removal of restrictive Condition A.(a) of Title Deed T28849/2015, **not be approved**, due to the following reasons:
  - (a) to ensure that the erf is used primarily for residential purposes and not used for speculation;
  - (b) the rotating system as proposed is not viable, since it is impossible to manage and control; and
  - (c) that the character is still predominantly residential in nature and therefore it will be in the best interest of the community not to remove the condition, but rather amend.

2. that the application, in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 6201, Hermanus for the removal of restrictive condition A.(a) of Title Deed T28849/2015, **be amended**, to read as follows:

*“the erf be used primarily for residential purposes and a home occupation be allowed, subservient to the residential use.”*

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 6201, Hermanus to depart from the requirement of the development parameters of a home occupation, **be approved**, subject to the following conditions:
- (a) that the home occupation depart from the stipulated 25% restricted to the ground floor (50%) as indicated on Drawing D.1077.H, Sheet 2 of 3 and 3 of 3, dated 2016/10/07, as submitted with the application;
  - (b) that the personnel of the practice be restricted to five (5) people at any given time on the property;
  - (c) that the owner or an employee of the practice resides permanently on the property;
  - (d) that parking be provided as indicated on the site plan D.1077.H, Sheet 1 of 3, dated 2016/10/07, as submitted with the application;
  - (e) that the erf may not be subdivided, should the home occupation remain at 50% of the existing structures;
  - (f) should the erf be subdivided the Zoning Scheme requirements for home occupation apply and the approval for 50% home occupation reverts back to the 25% of the existing structures;
  - (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;
  - (i) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation; and
  - (j) that all the conditions in the Services Report be complied with.



4. that the applicant and objector be notified of its rights of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above decision.

**RESPONSIBLE OFFICIAL :**

**H VAN DER STOEP**

## 4.3

**ERF 102, 86 WESTCLIFF ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE : KL STURMAIR ON BEHALF OF DE WESTCOTT**

**102 HWC (3608)**

**H van der Stoep**

**29 September 2017**

**(028) 313 8900**

**Hermanus Administration**

**EXECUTIVE SUMMARY**

An application has been received on 6 March 2017 from KL Sturmair on behalf of DE Westcott on Erf 102, Hermanus 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 the restrictive condition Clause B(a) in Title Deed T68733/2015 applicable to Erf 102, Hermanus:

*“(a) That this erf be used for residential purposes only.”*

- ❖ 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 owners to utilise the existing dwelling house on Erf 102, Hermanus as a guesthouse with four (4) lettable rooms.

**RESOLVED:**

1. that the application, in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 102, Hermanus for the removal of restrictive condition B(a) in Title Deed T68733/2015, **be amended**, to read as follows:

*“The property is used primarily for residential purposes and a guesthouse be allowed subservient to the residential use.”*

2. that the application, in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 (By-Law) on Erf 102, Hermanus for a consent use to operate a three (3) bedroom guesthouse, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
  - (a) that the development be in line with Site Development Plan 2017/03/6, dated March 2017;
  - (b) that parking be provided as per Site Plan 2017/03/6, dated March 2017;

- (c) that a maximum of three (3) bedrooms to be let, be permitted;
- (d) that this approval must be acted on within three (3) years of the date of this approval, otherwise the approval will lapse;
- (e) that the facility be utilised as a guesthouse only
- (f) that the guesthouse only be utilised in line with the finally approved Site Development Plan;
- (g) that no kitchen facilities and or prep bowls be allowed in the guest rooms;
- (h) that the owner/manager resides on the premises, and that the owner be responsible for the proper management of the guest house;
- (i) that the guest house is utilised as such – no self-catering will be permitted;
- (j) 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;
- (k) that the selling or serving of liquor on the premises will be subject to the applicant obtaining the necessary Liquor Licence;
- (l) 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;
- (m) 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;
- (n) 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;
- (o) 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;
- (p) 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;

- (q) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
  - (r) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
  - (s) that should any building alterations be required building plans should be submitted to the Building Department for approval;
  - (t) that all the conditions in the Services Report be complied with; and
  - (u) that all conditions imposed by the Fire Department be complied with.
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, 2016 with regard to the above conditions of approval.

**RESPONSIBLE OFFICIAL :**

**H VAN DER STOEP**

## 4.4

**ERF 1287, 305 MAIN ROAD, EASTCLIFF, HERMANUS : PROPOSED CONSENT USE AND DEPARTURE : SM SMITH ON BEHALF OF THE JUS-TAY TRUST**

1287 HEC (3585)

P Roux

17 October 2017

(028) 313 8900

Hermanus Administration

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**EXECUTIVE SUMMARY**

An application has been received on 17 February 2017 from SM Smith on behalf of the owners of Erf 1287, Hermanus, the Jus-Tay Trust, for the following:

consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 to establish a guest house (five (5) bedrooms) on the property;

departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 to relax the street building line with Golf Road from 4m to 2m to accommodate the first storey's balconies for Suites 3 – 5; and

departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 to relax the lateral building line from 2m to 0,9m.

**RESOLVED:**

1. that the objection be noted;
2. that, in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016, the application for a departure on Erf 1287, Hermanus to relax the street building line with Golf Street from 4m to 2m to accommodate the first storey's balconies for Suites 3 – 5, **not be approved** in terms of the provisions of Section 61 of the By-Law, due to the following reasons:
  - (a) the alteration will have a negative impact on the character of the street scape;
  - (b) by approving the proposed application a precedent will be created which will negatively affect the privacy and amenity of the surrounding properties; and
  - (c) 77% of the width of the 4m street building line will be encroached by 2m creating additional bulk which is not in line with the residential character of Golf Street.

3. that, in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 the application for consent use on Erf 1287, Hermanus in order to operate a five (5) bedroom guest house on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that, in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016, the application for a departure to relax the lateral building line from 2m to 0,9m, **be approved** in terms of the provisions of Section 61 of the By-Law;
5. that the recommendation in 3. and 4. above be subject to the following conditions:
  - (a) that this approval only has reference to the Site Plan as submitted with the application;
  - (b) that all the conditions in the comment from Fire Services and the Services Report be complied with;
  - (c) that building plans be submitted to the Building Department for approval and that all comments from the Fire and Building Departments be adhered to at that stage;
  - (d) that the facility be utilised as a **guest house only**;
  - (e) that a maximum of **five (5) bedrooms** to be let in the main dwelling, be permitted;
  - (f) that the owner/manager resides on the premises;
  - (g) that the guest house is utilised as such - no self-catering will be permitted;
  - (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 minimum of one (1) permanently demarcated parking bay per guest room (as indicated on the Site Plan submitted) and two (2) for the owner/manager be provided within the erf boundaries;

- (k) that the 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;
  - (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;
  - (n) that guests of the guest house and delivery trucks can only obtain vehicular access onto the property from Main Road;
  - (o) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
  - (p) that all signage and advertisement are indicative that the main access to the guest house is obtained from Main Road;
  - (q) that no on street parking is permitted;
  - (r) that deliveries to the guest house can only be made with a 3500kg truck;
  - (s) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
  - (t) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
6. 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/non approval.

**RESPONSIBLE OFFICIAL :**

**P ROUX**

**The meeting adjourned at 15:45**