



MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

MINUTES

DATE:	29 NOVEMBER 2018
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	14:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM, HERMANUS, ON 29 NOVEMBER 2018, AT 14:00

PRESENT:

MEMBERS:

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

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






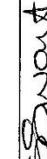
ALSO PRESENT:

Mr T Sandwith representing Messrs Headland
Planners

APOLOGIES:

Mr S Madikane, Director : LED

ATTENDANCE REGISTER : MEETING OF MUNICIPAL PLANNING TRIBUNAL : 29 NOVEMBER 2018 AT 14:00

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	smdikane@overstrand.gov.za	Apology
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	HS
R KUCCHAR	AUTHORISED OFFICIAL	OVERSTRAND MUNICIPALITY	028 313 8087	rkucharr@overstrand.gov.za	
S VAN DER MERWE	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8938	svandermewe@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	petrusroux@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	

1. OPENING

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

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr S Madikane

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 1 November 2018****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **1 November 2018, be confirmed.**

4. ITEMS FOR CONSIDERATION**4.1 ERF 4013, DISA ROAD, BETTY'S BAY : REMOVAL OF RESTRICTIVE CONDITIONS, REZONING AND CONSENT USE : MESSRS HEADLANDS TOWN PLANNERS ON BEHALF OF JC KANNEMEYER**

MS H JANSER OF THE DIRECTORATE: DEVELOPMENT MANAGEMENT RECUSED HERSELF FROM THE MEETING AS SHE DEALT WITH THIS MATTER PREVIOUSLY IN HER CAPACITY AS A PLANNER AT THE DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

EXECUTIVE SUMMARY

An application has been received on 20 June 2017 from Messrs Headland Town Planners on behalf of JC Kannemeyer on Erf 4013, Betty's Bay for the following:

- ❖ Removal of restrictive title conditions with reference to Clauses B.5 and B.6 of Title Deed T53677/2004 applicable to Erf 4013, Betty's Bay in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015.

The restrictive conditions contained in Title Deed T53677/2004 to be removed read as follows:

"B.5. - No building on this erf shall be used or converted to use for any purpose other than the permitted in terms of these conditions

B.6. This erf shall be used solely for recreational purposes or any other use as the Administrator may, from time to time after reference to the Townships Board and the Local Authority, authorise and it shall not be transferred by the Local Authority to another person without the written consent from the Administrator."

- ❖ Rezoning of Erf 4013 from Open Space Zone 3 to Open Space Zone 1 in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015.
- ❖ Consent use for a dwelling unit in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015.

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of restrictive title conditions with reference to Clauses B(6) of Title Deed T53677/2004 applicable to Erf 4013, Betty's Bay, rezoning in terms of Section 16(2)(a) of the aforesaid By-Law and the consent use in terms of Section 16(2)(o) of the aforesaid By-Law in order to accommodate a residential dwelling **not be approved**, due to the following reason:
 - (a) that the Municipality, in terms of legal standing, cannot approve the removal of the mentioned condition as per the legal opinion, Advocate Farlam dated 5 August 2007 and Messrs Fairbridges Wertheim Becker Attorneys dated 31 May 2018; and
2. 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.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP****MS JANSER REJOINED THE MEETING**

4.2 ERVEN 1154, 1157 AND 1300, DE KELDERS, OVERSTRAND MUNICIPAL AREA: PROPOSED SUBDIVISION, CONSOLIDATION, AMENDMENT OF THE APPROVED SITE DEVELOPMENT PLAN AND CONDITIONS OF APPROVAL, CONSENT USE AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: MESSRS PLAN ACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF PC SIPPEL, MA CROLE AND THE GALLO ROJO TRUST

EXECUTIVE SUMMARY

To consider an application received on 29 January 2018 (complete application dated 8 May 2018), from Messrs Plan Active Town- and Regional Planners on behalf of the owners, PC Sippel, MA Crole and the Gallo Rojo Trust on Erven 1154, 1157 and 1300, De Kelders for the following:

- subdivision in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the subdivision of Erf 1300, De Kelders into two (2) portions, namely Portion A (±496m²) and Portion B (±495m²);
- consolidation in terms of Section 16(2)(e) of the above By-Law of the newly created portions A & B with Erven 1154 and 1157, De Kelders, respectively;
- amendment in terms of Section 16(2)(l) and (h) of the above By-Law of the approved Site Development Plan and conditions of approval of the newly consolidated Erf 1154, De Kelders;
- consent use in terms of Section 16(2)(o) of the above By-Law for the operation of a guest house on the newly consolidated Erf 1157, De Kelders, and
- removal of restrictive title deed conditions in terms of Section 16(2)(f) of the above By-Law of the following:
 - Erf 1154, De Kelders, Title Deed No. T43063/2015, pages 2-3, paragraph D.8;
 - Erf 1300, De Kelders, Title Deed No. T96099/2002, pages 3-4, paragraph C.8, and
 - Erf 1157, De Kelders, Title Deed No. T15611/2017, pages 2-3, paragraph D.8. and D.10.

RESOLVED:

1. that, the objections **be noted**;
2. that the application received from Messrs Plan Active Town- and Regional Planning on behalf of the owners, PC Sippel, MA Crole and the Gallo Rojo Trust on Erven 1154, 1157 and 1300, De Kelders for the following:

- subdivision in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the subdivision of Erf 1300, De Kelders into two portions, namely Portion A ($\pm 496\text{m}^2$) and Portion B ($\pm 495\text{m}^2$);
- consolidation in terms of Section 16(2)(e) of the above By-Law of the newly created portions A & B with Erven 1154 and 1157, De Kelders, respectively;
- amendment in terms of Section 16(2)(l) and (h) of the above By-Law of the approved Site Development Plan and conditions of approval of the newly consolidated Erf 1154, De Kelders;
- consent use in terms of Section 16(2)(o) of the above By-Law for the operation of a guest house on the newly consolidated Erf 1157, De Kelders, and
- removal of restrictive title deed conditions in terms of Section 16(2)(f) of the above By-Law of the following:
 - Erf 1154, De Kelders, Title Deed No. T43063/2015, pages 2-3, paragraph D. 8;
 - Erf 1300, De Kelders, Title Deed No. T96099/2002, pages 3-4, paragraph C.8, and
 - Erf 1157, De Kelders, Title Deed No. T15611/2017, pages 2-3, paragraph D.8 and D.10.

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

- (a) that the facilities be utilized as dwellings and guest houses only - no self-catering;
- (b) that this approval only relates to the proposed Site Development Plans Plan No's *103.TP.1154.02.01b*, *103.TP.1154.02.02b*, *103.TP.1154.02.03b*, *103.TP.1154.02.04b* and *103.TP.1157.02.01b*, *103.TP.1157.02.02b*, *103.TP.1157.02.03b* and *103.TP.1157.02.04b* as submitted with the application;
- (c) that the approval for the subdivision and consolidation is only for the proposed Subdivision and Consolidation Plan no. *dekelders1157c.drw*;
- (d) 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;

- (e) that condition 3.(b) as stipulated in the approval conditions applicable to Erf 1154 dated 7 October 2016, be amended as follows:

*“that a maximum of **four** (4) bedrooms to be let, be permitted on Erf 1154;”*
- (f) that a maximum of **four** (4) bedrooms to be let, be permitted on Erf 1157;
- (g) that the owner/manager resides on the premises and be responsible for the proper management of the guest house;
- (h) that a single non-illuminated sign that complies with the Municipal By-Law on signage, may be displayed on each property;
- (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 premises will be subject to the applicant obtaining the necessary Liquor Licence;
- (k) that a maximum of one (1) permanently demarcated parking bay per guestroom and two (2) for the owner/manager be provided within the erf boundaries;
- (l) that the applicable tariffs, as determined by the annual budget, be made 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 a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
- (o) 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;
- (p) that all the conditions in the Services Report be complied with;

- (q) that all conditions imposed by the Fire Department and Telkom be complied with;
 - (r) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation; and
 - (s) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. 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 conditions of approval.

RESPONSIBLE OFFICIAL :

P ROUX

The meeting adjourned at 14:15