



MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

MINUTES

DATE: 7 DECEMBER 2021
(POSTPONED FROM 30 NOV 2021)

VENUE: PREEKSTOEL / VIRTUAL

TIME: 10:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD AT PREEKSTOEL / VIRTUALLY ON 7 DECEMBER 2021 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 H Olivier, Town Planner
Ms S Swart, Council Support Services

ALSO PRESENT:

Mr N Smith
Mr C Wessels

MUNICIPALITY



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**MUNICIPAL PLANNING TRIBUNAL
ATTENDANCE REGISTER**

Date: 7 DECEMBER 2021

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 OLIVIER	TOWN PLANNER OVERSTRAND MUNICIPALITY	✓
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	✓
N Smith	Guest	✓
C Wessels	Heemelen Aarde Winegrowers	✓

1. OPENING

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

2. APPLICATIONS FOR LEAVE OF ABSENCE

None

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 27 October 2021****RESOLVED:**

that the Minutes of the **Municipal Planning Tribunal Meeting** held on **27 October 2021**, be confirmed.

3.2 Minutes of a Special Municipal Planning Tribunal Meeting held on 12 November 2021**RESOLVED:**

that the Minutes of the **Special Municipal Planning Tribunal Meeting** held on **12 November 2021**, be confirmed.

4. ITEMS FOR CONSIDERATION

4.1

REMAINDER FARM NO. 700 (BLOMERIS), DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF CJU SWART

Rem Farm 700 RCAL

SW van der Merwe

25 October 2021

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 19 March 2019 from Messrs WRAP Project Office on behalf of CJU Swart on Remainder Farm No. 700 (Blomeris), Division Caledon for consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for a guest house and tourism accommodation comprising 7 caravan / camp sites.

RESOLVED:

1. that the comments be noted;
2. that the application in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) applicable to Remainder Farm No. 700 (Blomeris), Division Caledon for consent use in terms of Section 16(2)(o) to accommodate a proposed guest house and tourism accommodation (seven caravan/camping sites, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions
 - (a) that a detailed Site Development Plan be submitted indicating the location and area of the seven camp/caravan sites and associated facilities with coordinates maintaining the 32m wetland buffer, designated fire area for each caravan/camp site, all existing milk wood trees, wetland edge and onsite parking area, prior to the implementation of the development;
 - (b) that the application for consent use for tourism accommodation be limited to a 5-bedroom guest house and seven (7) camp/caravan sites only;
 - (c) that the development of the camp/caravan site be carried out strictly in accordance with the approved SDP;

- (d) that the maximum number of occupants of the camp sites be limited to 14 people and that a register recording the details of all guests making use of the camp/caravan site be kept on site and at all times be available for inspection by the Municipality
- (e) that the building plans be submitted to the Building Department for any new buildings and that all conditions of the Building and the Fire Department be complied with at that stage;
- (f) that all the conditions of Eskom, District Health, Department of Transport and Public Works, Open Serve, Department of Environmental Affairs and Development Planning: *Component Planning*, Environmental Affairs and Development Planning: *Component Environmental*, Breede-Gouritz Catchment Management Agency and Department of Agriculture be complied with;
- (g) that all the conditions imposed by Waste Management, Services Report and Environmental Services be complied with;
- (h) that the use of amplified music by visitors of the campsites be prohibited;
- (i) that the owner/manager shall reside on the premises and be responsible for the proper management of the guest house and camp / caravan sites;
- (j) that the guestrooms may not be converted to or used as separate dwelling units/self-catering units;
- (k) that no kitchen facilities and/or prep bowls be allowed in the guestrooms;
- (l) that no facilities (bar/restaurant or any other) be provided for non-residents of the guest house and that these facilities only be used by bona-fide guests of the establishment;
- (m) that the selling or serving of liquor on the property will be subject to the owner obtaining the necessary Liquor Licence;
- (n) that a minimum of one (1) permanently demarcated parking bay per guestroom, two (2) for the owner/manager be provided within the erf boundaries in accordance with the parking layout;
- (o) that the applicable rates and service tariffs, as determined by the annual budget be applicable, which rates and tariffs are automatically adjusted in terms of the annual budget;

- (p) 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;
 - (q) that only a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises;
 - (r) that the guesthouse and campsites be operated in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
 - (s) that a Certificate of Acceptability from the Health Department of the Overberg District Council and Fire Prevention Certificate be obtained from the Municipal Fire Department;
 - (t) that the property may not be utilised for the purposes of conducting a home occupation;
 - (u) that no disturbance from loud music or any other sources be permitted after 22:00;
 - (v) that the keeping of pets by campers be prohibited;
 - (w) that this approval does not absolve the landowner from compliance with any other relevant legislation;
 - (x) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (y) that an Environmental Management Plan in respect of the construction and operational management phase of the campsite be submitted for municipal approval.
3. that the applicant and persons who commented be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2015 with regard to the above conditions of approval.

REASONS FOR THE RESOLUTION:

- ❖ The application has followed due procedure.
- ❖ None of the internal and external government departments have objected to the application.
- ❖ No new municipal services will be required.
- ❖ The application is in line with SPLUMA principles.
- ❖ The application is in line with the SDF.

- ❖ The application will not detract from the character of the rural area.
- ❖ The surrounding area is characterised by tourist related uses (i.e. tourist facilities, tourist accommodation such as guest houses, guest lodges and self-catering).

RESPONSIBLE OFFICIAL :

S VAN DER MERWE

4.2

**PORTION 13 OF FARM DE DRAAY NO. 563, OVERSTRAND MUNICIPAL AREA:
APPLICATION FOR CONSENT USE: MESSRS WRAP ON BEHALF OF THE
MELKBOS TRUST, EC MOLTENO AND CL YOUNG**

RCAL 13/563 (2834/2018)

H van der Stoep

18 October 2021

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 14 December 2018 on Portion 13 of farm De Draay No. 563 from Messrs WRAP on behalf of the Melkbos Trust, EC Molteno and CL Young, for a consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to accommodate five (5) additional dwellings (250m² each) intended for tourist accommodation.

RESOLVED:

1. that the application in terms of Section 16.(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) on Portion 13 of farm De Draay No 563 for a consent use to accommodate five (5) additional dwellings (250m² each) intended for tourist accommodation, **be approved** in terms of Section 61 of the By-Law, subject to the following conditions:
 - (a) that this approval is restricted to the development as indicated on the undated plans Plan 4 : SDP and Plan 5 : Access Plan, as submitted with the application;
 - (b) that the five (5) dwelling units be limited to single storey;
 - (c) that the access over Portion 3 of Farm De Draay No. 563, as per agreement, be registered as a right of way servitude in favour of Portion 13 of farm De Draay No. 563 and submitted with the building plans for record purposes;
 - (d) that applicable rates and service tariffs as determined by the annual budget, be made applicable, which rates and tariffs are automatically adjusted in terms of the annual budget;
 - (e) 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;

- (f) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (g) that all other development parameters as prescribed in the relevant Zoning Scheme, be complied with;
 - (h) that all the conditions in the Services Report be complied with;
 - (i) that all the conditions imposed by Western Cape Government: EADP (Environmental) – EIA ROD be complied with;
 - (j) that all the conditions imposed by Western Cape Government: Transport & Public Works be complied with; and
 - (k) that all the conditions imposed by BGCMA be complied with.
2. 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 THE RESOLUTION:

- ❖ The proposed development is in line with planning policies.
- ❖ The impact on the environment and agricultural land is minimal.
- ❖ The character of the area will not be impacted upon due to the low-keyed nature of the development.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP**

4.3**PORTION 94 OF FARM 587, HEMEL-EN-AARDE VALLEY, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURES AND AMENDMENT OF CONDITIONS OF APPROVAL: MESSRS WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD****94/587 RCAL (3274/2019)****H Olivier****(028) 313 8900****Hermanus Administration****22 September 2021**

EXECUTIVE SUMMARY

The application on Portion 94 of Farm 587, Hemel-en-Aarde Valley is in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the amendment of the conditions in a previous approval for intensive horticulture to expand the existing tunnels and also some departures, including the following:

- Application is made in terms of Section 16(2)(h) of the By-Law to amend a condition of approval to allow for the expansion of the horticulture tunnels from 5,8727 ha to 17,5464 ha.
- Application is also made in terms of Section 16(2)(b) of the By-Law for a departure to relax the following:
 - Eastern lateral building line from 30m to 3m to accommodate the proposed intensive horticulture tunnels.
 - Southern lateral building line from 30m to 5m to accommodate the proposed intensive horticulture tunnels.
 - Western lateral building line from 30m to 2m to accommodate the proposed intensive horticulture tunnels.
 - Northern lateral building line from 30m to 5m to accommodate the proposed intensive horticulture tunnels.
- Departure from the maximum 5000m² allowable floor space for all buildings on the land unit to allow floor space of 17,8444 ha to accommodate intensive horticulture tunnels.

RESOLVED:

1. that the application in terms of Section 16(2)(h) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Portion 94 of Farm 587 Hemel-en-Aarde Valley to amend condition of approval 3(a) in the letter dated 9 February 2016 to allow for the expansion of the horticulture tunnels from 5,827ha to 17,5464ha, **be approved** in terms of the provisions of Section 61 of the By-Law and that the condition now reads as follows:

“3.(a) that the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan, submitted with the application, and an application will have to be made for any possible future tunnels”

2. that the applications in terms of Section 16(2)(b) in terms of the By-Law -

- for departures to relax the following:
 - eastern lateral building line from 30m to 3m to accommodate the proposed intensive horticulture tunnels;
 - southern lateral building line from 30m to 5m to accommodate the proposed intensive horticulture tunnels;
 - western lateral building line from 30m to 2m to accommodate the proposed intensive horticulture tunnels;
 - northern lateral building line from 30m to 12m to accommodate the proposed intensive horticulture tunnels; and
- departure from the maximum 5000m² allowable floor space for all buildings on the land unit to allow floor space of 17,8444 ha to accommodate additional intensive horticulture tunnels,

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

- (a) that building plans be submitted for approval for the horticulture tunnels as approved on 9 February 2016, and that all such tunnels be covered with non-reflective netting prior to the applicant acting on the above approvals;
- (b) that the western lateral building line only be relaxed to 5m, and that the Site Development Plan be amended accordingly;
- (c) that all the previous conditions of approval of 9 February 2016 and the new Site Development Plan (amended as in Point 1 above), be complied with;
- (d) that detailed building plans be submitted to the Building Department for approval;
- (e) that this approval does not absolve the applicant/owner from compliance with any relevant legislation;
- (f) that all the development parameters as prescribed in the By-Law Land Use Regulations be retained;

- (g) that all the conditions imposed by Telkom be complied with;
 - (h) that all the conditions imposed by BGCMA be complied with;
 - (i) that all the conditions in the Services Report be complied with;
 - (j) that all the conditions imposed by Eskom be complied with;
 - (k) that all the conditions by the Heritage Western Cape be complied with;
and
 - (l) that non-reflective shade netting be placed over all new horticulture tunnels to limit glare.
3. 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.

REASONS FOR THE RESOLUTION:**Reasons for support**

- ❖ The new proposed horticulture tunnels are part of the fabric of agricultural areas, and the objections regarding visual impact and scale are not supported, as all relevant state and municipal departments being Heritage Western Cape, EA&DP: Planning Directorate, EA&DP: Environmental Branch and the Municipal Environmental Branch supports the applications.
- ❖ The berry fields are already covered with shade netting and the addition of tunnels under the shade netting will, therefore, have a limited impact. The existing trees on the farm will also help lessen visual impact and glare.
- ❖ The new proposed horticulture tunnels will help improve yield and would help reduce crop spraying.
- ❖ The concerns regarding additional water use, increase in storm water, traffic and possible fire safety do not show the application to be undesirable, as the relevant municipal and state departments who specialise in these fields, being the Breede-Gouritz Catchment Management Agency (BGCMA), the Municipal Engineering and Fire Departments and Department of Transport and Public Works support the application, and consider the impacts to be acceptable.
- ❖ The Hemel-en-Aarde Valley is an agricultural area with environmentally sensitive areas on the mountain slope. Although this area is a tourist destination, the main use is still agricultural and applications to improve agricultural productivity therefore should receive priority. The comments regarding loss in property value, increased crime and loss of right of enjoyment of surrounding property owners are not supported, as the proposed activity fits in with the main function of the valley, being agricultural.

- ❖ The horticulture tunnels will increase food production.
- ❖ The application went through a proper public participation process and additional information was not required relating to the impact of Covid-19, a good administrative process was followed.
- ❖ The building line relaxations as supported comply with the Fire Management Plan, and the berry fields are visually blocked from the directly adjacent neighbours by pine trees.

Reasons for non-support

- ❖ In terms of the Fire Management Plan, the relevant western boundary line must have a 3 - 5 metre fire break. The relaxation of the western lateral building line to 2m, therefore, could compromise fire safety.

RESPONSIBLE OFFICIAL :**H OLIVIER**

4.4**PORTION 11 OF FARM 587, HEMEL-EN-AARDE VALLEY, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURE AND AMENDMENT OF CONDITIONS OF APPROVAL: MESSRS WRAP ON BEHALF OF HAYGROVE HEAVEN (PTY) LTD****11/587 RCAL (3274/2019)****H Olivier****(028) 313 8900****Hermanus Administration****22 September 2021**

EXECUTIVE SUMMARY

An application was received on 14 August 2019 from Messrs WRAP on behalf of Haygrove Heaven Pty Ltd on Portion 11 of Farm 587, Hemel-en-Aarde Valley for the following:

- Amendment of a condition of approval in terms of Section 16(2)(h) Overstrand Municipality By-Law on Land Use Planning, 2015 (By-Law) to allow for the expansion of the horticulture tunnels from 13,8209 ha to 33,9871 ha.
- Departures in terms of Section 16(2)(b) of the By-Law to relax the following building lines:
 - Eastern lateral building line from 30m to 2m to accommodate the proposed intensive horticulture tunnels.
 - Southern lateral building line from 30m to 3m to accommodate the proposed intensive horticulture tunnels.
 - Western lateral building line from 30m to 10m to accommodate the proposed intensive horticulture tunnels.
 - Northern lateral building line from 30m to 5m to accommodate the proposed intensive horticulture tunnels.
- Departure in terms of Section 16(2)(b) of the By-Law to relax the maximum allowable floor space for all buildings on the land unit from 5000m² to allow floor space of 35,0663 ha, to accommodate the additional intensive horticulture tunnels.

RESOLVED:

1. that the application in terms of Section 16.(2)(h) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Portion 11 of Farm 587 Hemel-en-Aarde Valley to amend a condition of approval 3.(a) in a letter dated 21 January 2016 to allow for the expansion of the horticulture tunnels from 13,8209 ha to 33,9871 ha, **be approved** in terms of the provisions of Section 61 of the By-Law, and that the condition now reads as follows:

“3.(a) that the placement of the intensive horticulture tunnels be in line and limited to the tunnels indicated on the Site Development Plan, submitted with the application, and an application will have to be made for any possible future tunnels”

2. that the applications in terms of Section 16(2)(b) in terms of the By-Law -

➤ for departures to relax the following:

- southern lateral building line from 30m to 3m to accommodate the proposed intensive horticulture tunnels;
- western lateral building line from 30m to 10m to accommodate the proposed intensive horticulture tunnels;
- northern lateral building line from 30m to 5m to accommodate the proposed intensive horticulture tunnels; and

➤ departure from the maximum 5000m² allowable floor space (intensive horticulture tunnels and other buildings) for all buildings on the land unit to allow floor space of 35,0663 ha to accommodate the new horticulture tunnels,

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

3. that the application in terms of Section 16(2)(b) in terms of the By-Law for a departure to relax the eastern lateral building line from 30m to 2m to accommodate the proposed intensive horticulture tunnels, **be partially approved** in terms of the provision of Section 61 of the By-Law, and that the eastern lateral building line not be relaxed from 30m to 2m, but only up to 10m.

4. that the approvals in 1 – 3 above be subject to the following conditions:

- (a) that building plans be submitted for approval for the horticulture tunnels as approved in the letter dated 21 January 2016, and that all such tunnels be covered with non-reflective netting prior to the applicant acting on the above approvals;
- (b) that this approval is only for the horticulture tunnels as indicated on Site Development Plan No 19/47 dated July 2019, with only the limitation that the horticulture tunnels over the eastern building line only be allowed to be constructed up to 10m from such boundary;
- (c) that detailed building plans be submitted to the Building Department for approval;
- (d) that this approval does not absolve the applicant/owner from compliance with any relevant legislation;

- (e) that all the development parameters as prescribed in the By-Law Land Use Regulations be retained;
 - (f) that all the conditions imposed by Telkom be complied with;
 - (g) that all the conditions imposed by BGCMA be complied with;
 - (h) that all the conditions in the Services Report be complied with;
 - (i) that all the conditions imposed by Eskom be complied with;
 - (j) that all the conditions by the Heritage Western Cape be complied with; and
 - (k) that non-reflective shade netting be placed over all new horticulture tunnels to limit glare.
5. 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.

REASONS FOR THE RESOLUTION:**APPROVED (POINTS 1 & 2)**

- ❖ The new proposed horticulture tunnels are part of the fabric of agricultural areas, and the objections regarding visual impact and scale are not supported, as all relevant state and municipal departments being Heritage Western Cape, EA&DP: Planning Directorate, EA&DP: Environmental Department and the Municipal Environmental Management Department supports the applications.
- ❖ Existing berry fields are already covered with shade netting or horticulture tunnels, and only an additional 6 ha of berry fields will now be covered, which will have a limited impact on the surrounding area. Existing trees on the farm will also help lessen visual impact and glare.
- ❖ The new proposed horticulture tunnels will help improve yield and would help reduce crop spraying.
- ❖ The concerns regarding additional water use, increase in storm water, traffic and possible fire safety does not prove the application to be undesirable, as the relevant municipal and state departments who specialise in these fields, being the Breede-Gouritz Catchment Management Agency (BGCMA) and the Department of Transport and Public Works (DOT), the Municipal Engineering Services and Fire Departments, support the application and consider the impacts to be acceptable.
- ❖ The Hemel-en-Aarde Valley is an agricultural area with environmentally sensitive areas on the mountain slopes. Although this area is a tourist destination, the main use is still agriculture and applications to improve agricultural productivity should therefore receive priority. The comments regarding loss in property value,

increased crime and loss of right of enjoyment of surrounding property owners are not supported, as the proposed activity fits in with the main function of the Hemelen- Aarde Valley, being agriculture.

- ❖ The horticulture tunnels will increase food production.
- ❖ The proposal is labour intensive and will create additional employment opportunities.

PARTIALLY APPROVED (POINT 3)

- ❖ The concern by an objector as to why 10m building lines are required in terms of the Veld and Forest Act was not sufficiently addressed in terms of the relaxation of the eastern building line from 30m to 2m. The grow tunnels were not indicated on the Fire Management Plan (FMP) submitted by the applicant in response to the objections and concerns regarding fire belts, and it is therefore not clear whether the impact of such grow tunnels on fire safety was considered by the professional person who prepared the FMP.
- ❖ It is the opinion that a 10m building line would be an acceptable distance to implement, as it would comply with the Veld and Forest Act.

RESPONSIBLE OFFICIAL :

H OLIVIER

The meeting adjourned at 11:08