



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

MINUTES

DATE:	25 OCTOBER 2017
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 25 OCTOBER 2017, AT 14:00

PRESENT:

MEMBERS:

Mr S Müller, Director : Infrastructure & Planning
Mr S Madikane, Director : LED
Mr R Williams, Director : Community 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
Mr H Olivier, Town Planner
Ms S Swart, Council Support Services

APOLOGIES:

Mr C Groenewald, Municipal Manager

ATTENDANCE REGISTER : MEETING OF MUNICIPAL PLANNING TRIBUNAL : 25 OCTOBER 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	
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	
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 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	

1. OPENING

The Acting Chairperson, Mr S Müller, welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr C Groenewald

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 27 September 2017

RESOLVED:

that the Minutes of the Municipal Planning Tribunal Meeting held on **27 September 2017, be confirmed.**

4. ITEMS FOR CONSIDERATION

4.1

ERF 1583, 19 KWAAIWATER ROAD, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA : PROPOSED SUBDIVISION : MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF MJUT VAN WIJNGAARDEN

1583 HEC (3602)

P Roux

(028) 313 8900

Hermanus Administration

25 August 2017

EXECUTIVE SUMMARY

An application has been received on 1 March 2017 from Messrs Plan Active Town- and Regional Planners on behalf of the owner of Erf 1583, Eastcliff, Hermanus, MJUT van Wijngaarden, in terms of Section 16(2)(d) to subdivide Erf 1583, Eastcliff, Hermanus to create a Remainder measuring approximately 570m² and a new Portion A measuring approximately 545m² for residential purposes.

RESOLVED:

1. that the application to subdivide Erf 1583, Eastcliff (Kwaaiwater), Hermanus in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 (By-Law) in order to create a Remainder measuring approximately 570m² and a new Portion A measuring approximately 545m² for residential purposes, **be approved**, in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that the approval is only for the subdivision as indicated on the Subdivisional Plan as submitted with the application;
 - (b) that the garage be demolished if no building plan is submitted within twelve (12) months, to the satisfaction of the Building Department;
 - (c) that only one dwelling, with subservient outbuildings, be constructed on each of the subdivided properties and that a condition to this effect be included in the title deed of the each property;
 - (d) that should the property owner wish to act on the building plan approved prior to this approval then a new building plan must be resubmitted to the Building Department on the new erf numbers and/or with the new or amended Title Deeds and demonstrating compliance with the Scheme Regulations;
 - (e) that the conditions in the Services Report be complied with;
 - (f) that the conditions compiled by the Electrical Services is complied with, and
 - (g) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.

2. that the applicant/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

RESPONSIBLE OFFICIAL:

P ROUX

4.2

**ERF 5160, 6 DE VILLIERS STREET, ONRUSTRIVIER, OVERSTRAND MUNICIPAL AREA
: PROPOSED CONSENT USE : MESSRS PLAN ACTIVE ON BEHALF OF LIDIKO
PROPERTY DEVELOPMENTS & OTHERS**

5160 HON (3618)

H Olivier

7 September 2017

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on Erf 5160, Onrustrivier for a consent use for a four (4) bedroom guest house in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016.

RESOLVED:

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 (the By-Law) on Erf 5160, Onrustrivier for a consent use to operate a four (4) bedroom guest house, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that development be in line with the site development plan 791/00 dated May 2017;
 - (b) that the owner at his/her own cost construct an aesthetically pleasing boundary wall/wooden fence on the common boundary with Erf 4176;
 - (c) that application be made to Heritage Western Cape before any building work/alterations be done on the property;
 - (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 guest house only be utilised in line with the finally approved site development plan;
 - (g) that a maximum of four (4) bedrooms to be let, be permitted;

- (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;
- (u) that all conditions imposed by the Fire Department be complied with;
- (v) that no kitchen facilities and or prep bowls be allowed in the guest rooms;
- (w) that all the conditions by Telkom be complied with; and
- (x) that all the conditions by Eskom 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, 2016 with regard to the above conditions of approval.

RESPONSIBLE OFFICIAL:

H OLIVIER

4.3

ERF 106, 2 PRIESTLEYA ROAD, ROOIELS, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS : MESSRS INTERACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF STRUPA INGENIEURSDIENSTE (PTY) LTD

106 KRE (3528)

H van der Stoep

14 September 2017

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 29 November 2016 from Messrs Interactive Town & Regional Planners (A Wiehahn) on behalf of Strupa Ingenieursdienste (Pty) Ltd for a removal of restrictive title conditions with reference to Clauses A., B., C., D., E., F.A., F.C. and F.D.(a), (b), (c), (d), (e), (f) & (g) of Title Deed T15960/2016 applicable to Erf 106, Rooi Els in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 in order to accommodate a dwelling house on abovementioned property with its allocated primary rights as per the Overstrand Zoning Scheme;

Clauses A., B., C., D., E., F.A., F.C. and F.D.(a), (b), (c), (d), (e), (f) & (g) of Title Deed T15960/2016 read as follows:

- "A. *Subject to such conditions as referred to in Certificate of Township Title No T13367/1948;*
- B. *Not Subject to condition B on page 2 of Deed of Transfer No. T48879/2009, by virtue of Section 53 of the Mining Titles Registration Amendment Act of 2003.*
- C. *SUBJECT FURTHER and entitled to the benefit of the conditions referred to in the Servitude Endorsement dated 24 June 1940 on Certificate of Consolidated Title No. T3720/1937 which Endorsement reads as follows:*
- "By Deed of Transfer No. 6068/1940 dated 24/06/1940 certain conditions relating to (b) prohibition of Petrol Station on land (d) Wood and iron buildings (e) slaughter poles, cattle kraals and manufacture of bricks, tiles, etc., have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the said Deed of Transfer."*
- D. *SUBJECT FURTHER to the following conditions contained in Deed of Grant in favour of A.J. Louw made on 30 April, 1839 (Stellenbosch quitrents Volume 12 No. 18) which reads as follows:*

"On condition that all roads and thoroughfares running over this land, shall remain free and uninterrupted; that said land shall be liable (without compensation to its Proprietor) to have any road made over it for the public good, by order Government. That the road and thoroughfare leading to the Waaygat Bay, shall also remain free and that the public shall be allowed to unteam their cattle at the said Bay – and be allowed, without hindrance, to fish there, and he shall be bound (according to existing laws of this

Settlement) to have brought into such state of cultivation as it is capable of, the land thus granted being further subject to all such duties and regulations as are either already, or shall future be established in respect of land granted under similar tenure.”

- E. *SUBJECT FURHTER and entitled to the benefits of the Servitude reference whereto is made in the Endorsement dated 8 April 1949 on Certificate of Township Title No. T13367/1948 which said Endorsement reads as follows:*

“Registration of Servitude

By Notarial Deed No. 107/1949 dated the 10th March, 1949, the Administrator of the Province of the Cape of Good Hope, or his Nominee, in Trust for such Local Authority as may hereafter be constituted for the Rooi Els Township, for the benefit of the Erfholders and such Local Authority has been granted certain rights relating to (a) supply of water to erfholders and Local Authority (b) delivery of the said water to the above-mentioned township by means of a pipeline indicated on the servitude diagram No. 8589/1948 by the letters a, b, c, d, e, f, g, h, i, j, k, l, m, n, annexed to the aforesaid Notarial Deed (c) storage of water and constructing the necessary impounding works, (d) aqueducts (e) purification works and reservoirs (f) access to and egress from the present or future headworks, site, pipeline, reservoirs and purification work over the remainder of the farm Hangklip held under Certificate of Consolidation Title No. 3720/1937, subject to conditions as will more fully appear on reference to the said Notarial Deed a copy of which is annexed hereto.”

- F. *SUBJECT FURTHER to the following conditions contained in Deed of Transfer No. T1672/1956 imposed by the Administrator of the Province of the Cape of Good Hope when approving of the General Plan of the said Rooi Els Township under the provisions of the Ordinance 33 of 1934 reading as follows:*

- A. *Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No 401 dated 17 October, 1935, and in the memorandum which accompanied the said regulations.*
- B. *The owner of this erf shall, without compensation, be obliged to allow the sewage and drainage including stormwater of any erf or erven to be conveyed across this erf if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.*
- C. *The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf, as may be required to allow use of the full width of the street and provide as safe and proper slope to its bank owing to the difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.*

- D. *This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the Administrator after consultation with the Townships Board and the local authority, it is expedient that the restrictions in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation subject to compliance with such or conditions as he may impose.*
- (a) It shall not be subdivided;*
 - (b) It shall be used for residential purposes only;*
 - (c) Not more than one building, excluding a licensed hotel, maisonettes and semidetached houses, together with such outbuildings as are ordinarily required to be used therewith, shall be erected thereon;*
 - (d) Not more than half the area thereof shall be built upon;*
 - (e) No building or structure except boundary walls and fences shall be erected nearer than 4.72 meters to the street line which forms a boundary of this erf, nor within 3.15 meters of the rear or 1.57 meters of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority an outbuilding not exceeding 3.05 meters 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, and provided further that a garage may be erected up to such street line if in the opinion of the local authority the level of the erf is such as to make that necessary;*
 - (f) Pending the establishment of local authority for this township the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf the owner shall without compensation be obliged to remove it.*
 - (g) To the following conditions contained in Deed of Transfer No. 1672/1956 imposed by Hangklip Beach Estates Limited as being in favour of the registered owner of any ore in the Township;*
 - (a) No wood and iron buildings of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes;*
 - (b) No slaughter poles, cattle kraals, pig-sites or cowsheds shall be erected or carried on by any person whomsoever on this erf;*
 - (c) Save with the consent in writing of the Company and of any local authority the owner shall not have the right to make or cause to be made upon the erf for any purpose whatsoever any bricks, tiles, or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel lime or stone thereon;*
 - (d) No building (excluding outbuildings) shall be erected on this erf for a superficial area of less than 99 square meters;*
 - (e) No noxious trade or noxious business shall be carried on, on this erf;*

- (g) *The Transferee shall not camp over-night or light fires on the erf save with the written consent of the company.”*

RESOLVED:

that the item **be referred back.**

RESPONSIBLE OFFICIAL:

H VAN DER STOEP

4.4

**ERF 8395, 65 LAVENDER STREET, KLEINMOND, OVERSTRAND MUNICIPAL AREA :
PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE :
M MOHAMUD ON BEHALF OF YP MBALI**

8395 KKM (3341)

H van der Stoep

7 September 2017

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

Applications have been received on 29 June 2016 from M Mohamud on behalf of YP Mbali on Erf 8395, Kleinmond 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 with reference to Clause D.1 of Title Deed T56782/2015 applicable to Erf 8395, Kleinmond, to enable the owners to operate a house shop on the subject property.

The restrictive title condition Clause D.1. reads as follows:

"1. The Company reserves to itself and its successors in title the sole right to all Hotels and Liquor licences and no purchasers of erven or their successors in title shall erect any hotel or hold any liquor licence or general dealer's licence without the written consent of the directors of the company or its successors in title first had and obtained, and no shop, store or business shall be erected or opened on any stands herein sold without the written permission of the company by its directors or its successors in title first had and obtained thereto."

- ❖ Consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 on Erf 8395, Kleinmond in order to utilise a portion of the existing dwelling as a house shop.

RESOLVED:

1. that the application for the removal of title deed restriction in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 (By-Law) as per Clause D.1 of Title Deed T56782/2015 applicable to Erf 8395, Kleinmond, **be approved**;
2. that the application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 for a consent use in order to utilise a portion of the existing dwelling on Erf 8395, Kleinmond, as a house shop, **be approved**, subject that the house shop be lessened with 4m² or the dwelling be enlarged with 4m² and a building plan be submitted; and
3. that the applicant 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

The meeting adjourned at 15:20