



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

**MINUTES**

<b>DATE:</b>	<b>31 OCTOBER 2024</b>
<b>VENUE:</b>	<b>TOWN PLANNING COMMITTEE ROOM</b>
<b>TIME:</b>	<b>12:00</b>

# OVERSTRAND

## MUNICIPAL PLANNING TRIBUNAL

### MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM ON 31 OCTOBER 2024 AT 12:00

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**PRESENT:**

**MEMBERS:**

Ms H Janser, Directorate Development  
Management

Mr S Müller, Chief Engineer : Infrastructure Services

Mr H Blignaut, Principal Engineer : Civil  
Infrastructure Planning

Ms R Louw, Divisional Manager : Strategic Support  
Services

**OFFICIALS:**

Mr R Kuchar, Divisional Manager : Town & Spatial  
Planning

Ms H van der Stoep, Senior Town Planner

Mr P Roux, Town Planner

Mr B Minnaar, Town Planner

Ms S Swart, Senior Committee Officer

**APOLOGIES:**






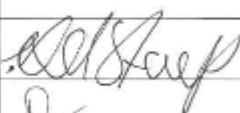



None

**MUNICIPAL PLANNING TRIBUNAL  
ATTENDANCE REGISTER**

**Date: 31 OCTOBER 2024**

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	
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	
B MINNAAR	TOWN PLANNER OVERSTRAND MUNICIPALITY	
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	

**1. OPENING**

The Chairperson 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 4 October 2024**

**RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **4 October 2024, be approved.**

**4. ITEMS FOR CONSIDERATION****4.1****ERF 6119, MARINE DRIVE, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: N LLOYD ON BEHALF OF THE TRUSTEES OF THE OLD HARBOUR MUSEUM****6119 HNC (4517/2023)****H van der Stoep  
3 October 2024****(028) 313 8900****Hermanus Administration**

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**EXECUTIVE SUMMARY**

An application was received on 7 November 2023 from Nicolette Lloyd on behalf of The Trustees of the Old Harbour Museum on Erf 6119, Hermanus for a consent use in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to allow tourist facilities (museum purposes to accommodate a restaurant).

On 29 August 2024, the Municipal Planning Tribunal scrutinized the application, and the matter was referred back to the Legal Department to confirm that the proposed development of the tourist facility (in order to accommodate a restaurant on the subject property) is in compliance with Condition B.(a) stipulated in Title Deed T10445/1983. This item serves to discuss the aforementioned. See Paragraph 12 of the report.

**RESOLVED:**

1. that the application in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 6119, Hermanus for consent use to allow tourist facilities (restaurant), **be approved** in terms of the provisions of Section 61 of the By-Law subject to the following conditions;
  - (a) that the proposed development of a restaurant be limited to the proposal indicated on the plan numbers 823/100, 823/101 and 823/102 dated 26 September 2023, as submitted with the application;
  - (b) that building plans be submitted to the Building Department for approval, and that all conditions of the Building and the Fire Departments be complied with at that stage;
  - (c) that the drawings for statutory approval be submitted to the Local Heritage and Aesthetics Committee;
  - (d) that all the conditions imposed by the Engineering Services Report be complied with;

- (e) that the disposal of solid waste be conducted as per the Waste Management Department's comment;
  - (f) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
  - (g) that all other development parameters as prescribed in the relevant Zoning Scheme 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 Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

**REASONS FOR THE RESOLUTION:**

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ No objections were received from the public.
- ❖ The proposal is in line with forward planning documents.
- ❖ The proposal not regarded as being undesirable from a town planning point of view.
- ❖ Similar activities were developed within the immediate surrounding area that are unscathed by the recent storm surges.
- ❖ The motivation from the applicant in terms of surveyed levels from Geomatics was not disputed by Coastal Management nor did they submit any conflicting data on why the risk zones may be incorrectly calculated. The latter was specifically drafted to protect people, property and the natural environment from inappropriate developments.
- ❖ The concerns of DEA&DP (Coastal Management) have been extensively addressed. The applicant and DEA&DP: Directorate: Development Management: Environmental have clearly indicated that the weather damage at Fick's Pool cannot be correlated to the Old Harbour.
- ❖ DEA&DP: Directorate: Development Management: Environmental indicated that the proposed activity does not trigger any listed activities.
- ❖ The Land Surveyor submitted a surveyed diagram indicating the height above sea level which is not similar to Fick's Pool.
- ❖ The deck does not fall in any of the risk zones applicable to the site.
- ❖ The proposed land use is in compliance with Condition B.(a). held in Title Deed T.10445/1983, as confirmed by the Legal Department.

**RESPONSIBLE OFFICIAL :****H VAN DER STOEP**

## 4.2

**ERF 124, 20 SERVICE ROAD, FISHERHAVEN, OVERSTRAND MUNICIPAL AREA:  
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION:  
INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF AD  
WOOLNOUGH**

**124 HFH (4566/2024)**

**H Olivier**

**(028) 313 8900**

**Hermanus Administration**

**6 September 2024**

**EXECUTIVE SUMMARY**

An application has been received on 22 January 2024 from Interactive Town & Regional Planning on behalf of AD Woolnough on Erf 124, Fisherhaven in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Removal of Restrictive Title Deed Conditions** in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed conditions D.4.(a), D.4.(b), D.4.(c), D.4.(d) and D.4.(e) as contained in Title Deed T34078/2023 of the property to accommodate the proposed development.

The restrictive title conditions read as follows:

**“D. SUBJECT FURTHER** to the following special conditions contained in Deed of Transfer No. T35689/1970 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of Fisherhaven Township, namely:

4. *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 restriction 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 conditions as he may impose: -*

*(a) it shall not be subdivided;*

*(b) it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;*

*(c) not more than 30% of the area thereof shall be built upon;*

*(d) no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the said street line which forms a boundary of this erf, not 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 1,05 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;*

*(e) in the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provisions of such scheme shall apply.”*

**RESOLVED:**

1. that the objections **be noted**.
2. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of restrictive title deed conditions D.4.(a), D.4.(b), D.4.(c), D.4.(d) and D.4.(e) as contained in Title Deed T34078/2023 of Erf 124, Fisherhaven to accommodate the proposed development, **be approved**, in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
  - (a) that a revised site development plan with a site access point off The Crescent and a site exit point into Service Road, and an amended parking layout to provide for a 7m wide road area between the parking bays next to Service Road and the front of the garages, be submitted to the satisfaction of the Divisional Manager: Town & Spatial Planning;
  - (b) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control and the Fire Departments be complied with at that stage;
  - (c) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;
  - (d) that all the conditions in the Services Report be complied with;
  - (e) that the conditions of Eskom be complied with; and
  - (f) that the conditions of Telkom be complied with.
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, 2020 regarding the above decision.



**REASONS FOR THE RESOLUTION:**

- ❖ The application is supported by all relevant Municipal and State Departments or other institutions.
- ❖ The Title Deed restrictions conflict with the zoning of the property and the Township Establishment Conditions for Fisherhaven and limits the erf to not be developed to its full potential for what it was earmarked for.
- ❖ The objections received do not prove that the application is not desirable, as the removal of the restrictions will enable the property owner to act on his existing rights in terms of his zoning of Business Zone 3.
- ❖ The Crescent is an existing business node and it, therefore, cannot be argued that this application will have a negative impact on the character of this area.
- ❖ No municipal services are affected.
- ❖ It is foreseen that the proposed offices and flats will not have a negative impact on neighbours, as it is considered a low impact use.

**RESPONSIBLE OFFICIAL :****H OLIVIER**

## 4.3

**REMAINDER ERF 9935, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS WARREN PETTERSON ON BEHALF OF HERMANUS GOLF CLUB**

9935 HEC (3801/2021)

P Roux

14 October 2024

(028) 313 8900

Hermanus Administration

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**EXECUTIVE SUMMARY**

An application in terms of the Overstrand Municipality Amendment By-Law on Municipal Land use Planning, 2020 (By-Law) was received on 06 September 2021 (final version received on 12 August 2022) from Messrs Warren Petterson Planning on behalf of Vodacom on Erf 9935, Hermanus for the following:

- ❖ **Consent use** in terms of Section 16(2)(o) the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to erect a telecommunication apparatus/tower of 35m on the property.

**RESOLVED:**

1. that the comments **be noted**;
2. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 9935, Hermanus, for consent use in order to erect a telecommunication apparatus/tower of 35m, **not be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the applicant be notified of its appeal right in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above decision; and
4. that the commenters be informed of the above decision in terms of Section 78 of the By-Law.

**REASONS FOR THE RESOLUTION:**

- The impact of the proposed Transmission Apparatus (TA) cannot be mitigated unless there are agreements in place by the relevant stakeholders in order to allow for the planting of additional trees. The stakeholders include residents of the affected neighbourhoods, Golf Course Committee, Fernkloof Advisory Board and the Municipality's Environmental Section.

- The Visual Impact Assessment (VIA) is not fully agreed with as the proposed TA will have a high impact on the road users of Fernkloof Drive and adjacent property owners.
- A 35m high tree mast is not in line with the characteristics of the proposed location.
- Figures 2 and 9 in the VIA and Figure 13 of the motivation erroneously refer to the wrong placement of site 3, which was the location of the proposed site prior to the amendment of the motivation.
- The application does not address the existing TA on the eastern side of the golf course as depicted in the VIA, which will be replaced by the proposed one.
- The area in which the TA will be located is in a Protected Area Buffer and Ecological Corridor as per the EMOZ.
- There are alternative locations that will provide better visual screening and integration with the natural environment whilst also being located outside of the overlay zones.

**RESPONSIBLE OFFICIAL :****P ROUX**

## 4.4

**ERF 23, 4 COWRIE STREET, SANDBAAI: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF DIE DU TOIT FAMILIETRUST)**

**23 HSB (4187/2022)**

**B Minnaar**

**25 September 2024**

**(028) 313 8900**

**Hermanus Administration**

**EXECUTIVE SUMMARY**

An application was received from Messrs Interactive Town & Regional Planning on 27 June 2022 (complete application received on 16 January 2023) on behalf of Die Du Toit Familietrust in terms of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) applicable to Erf 23, Sandbaai (the property) for the following:

- ❖ **removal of restrictive title deed conditions** in terms of Section 16(2)(f) of the By-Law, namely conditions B.(2)(c) and B.(2)(d) as contained in Title Deed T70129/2016 of the property, to accommodate a second dwelling unit on the property to be utilised as a self-catering unit, as well as to accommodate the street building line encroachment.

The restrictive conditions contained in Title Deed T70129/2016 to be removed, reads as follows:

Clause B.(2)(c)

*“That no more than one dwelling together with the necessary outbuildings and accessories be erected on any of the above erven and that not more than one-half of the area of any one of the above erven be built upon.*

Clause B.(2)(d)

*“That no building shall be erected on the above erf or erven within 4,72 metres 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 be used as gardens but shall not be built upon.”*

- ❖ **determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law for the illegal encroachment of the street building line, as well as the illegal second dwelling unit.

**RESOLVED:**

1. that the late objection **be noted**;
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the removal of restrictive title deed condition B.(2)(c) and B.(2)(d), as contained in Title Deed T70129/2016 applicable to Erf 23, Sandbaai, to accommodate a second dwelling unit on the property to be utilised for self-catering purposes as well as to accommodate the street building line encroachment, **be approved** in terms of the provision of Section 61 of the By-Law;
3. that the decision in paragraph 2. above be subject to the following conditions:
  - (a) that this approval is to permit the development of self-catering accommodation on Erf 23, Sandbaai subject to the development parameters in terms of Section 16.10.21 of the Overstrand Municipal Land Use Scheme, 2020;
  - (b) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control and the Fire Departments be complied with at that stage;
  - (c) that one (1) standard on-site parking shall be provided for the self-catering unit, which parking bay must be clearly demarcated and provided with a hard surface;
  - (d) that all the conditions in the Services Report must be complied with;
  - (e) that all other development parameters as prescribed in the relevant Zoning Scheme, be complied with; and
  - (f) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
4. that an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 23, Sandbaai, for the unauthorised land use and unauthorised building work, **be imposed**, and that an administrative penalty fee of **R27 860-90** be payable within ninety (90) days of this decision; and
5. that the applicant be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above conditional approvals.

**REASONS FOR THE RESOLUTION:**

- ❖ The removal of title deed restrictive conditions will permit the development rights to be aligned with the Overstrand Municipal Land Use Scheme.
- ❖ The addition of a second dwelling (used for self-catering accommodation) will allow the property owner to gain financial benefit from the land use right.
- ❖ The application followed the correct public participation procedure.
- ❖ The objector did not substantiate their reasons for the objection and it is, therefore, considered invalid.
- ❖ A 10% administrative penalty for the unauthorised land use be imposed due to the property owner receiving a notice of non-compliance.
- ❖ A 5% administrative penalty be imposed for the unauthorised building work over the 4,72m street title deed building line.
- ❖ The internal departments did not object to the proposed application.

**RESPONSIBLE OFFICIAL :****B MINNAAR**

## 4.5

**ERF 425, CORNER OF JINGI STREET AND MFUNDO STREET, ZWELIHLE, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR THE EXTENSION OF THE PERIOD OF VALIDITY OF AN EXISTING APPROVAL AND THE AMENDMENT OF CONDITIONS OF EXISTING APPROVALS: WRAP PROJECT OFFICE ON BEHALF OF MC BHALA**

**425 HZW (4510/2023)**

**B Minnaar**

**(028) 313 8900**

**Hermanus Administration**

**9 September 2024**

### **EXECUTIVE SUMMARY**

An application has been received on 26 October 2023 from WRAP Project Office on behalf of MC Bhala on Erf 425, Zwelihle for the following:

- ❖ **Extension of the period of validity of an existing approval** in terms of Section 16(2)(i) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to extend the temporary departure for a further three (3) years to operate a bottle store from the property; and
- ❖ **Amendment of the conditions of existing approvals** in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, as well as the provisions of SPLUMA, to extend the temporary deviation from the Zwelihle Business Corridors for a further three (3) years to operate a bottle store from the property.

### **RESOLVED:**

1. that the application in terms of Section 16(2)(i) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 425, Zwelihle for the extension of the period of validity of an existing approval by a further three (3) years to operate a bottle store 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)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, on Erf 425, Zwelihle for the amendment of the condition of the existing approval to extend the temporary deviation from the Zwelihle Business Corridors for a further three (3) years to allow the operation a bottle store from the property; **be approved**, in terms of the provisions of Section 61 of the By-Law,
3. that the approvals in Points 1. and 2. above be subject to the following conditions:
  - (a) that the approval is only for the development as indicated on plan number 23/133 (001) dated 2023/10/23, submitted with the application;

- (b) that all conditions contained in the previous approval dated 6 September 2021 be complied with;
  - (c) that the owner must at all times be in possession of a valid liquor license;
  - (d) that the property be maintained and kept in a tidy state at all times;
  - (e) that commercial rates and taxes, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
  - (f) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
  - (g) that this approval does not absolve the applicant from compliance with any other relevant legislation;
  - (h) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
  - (i) that all the conditions in the Services Report be complied with.
4. that the applicant be notified of their right of appeal in terms Section 78 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 with regard to the above conditions of approval.

**REASONS FOR THE RESOLUTION:**

- ❖ The existing structures have approved building plans.
- ❖ The surrounding owners did not object.
- ❖ The existing use as a bottle store contributes to the local economy of Zwelihle and is less of a disturbance than the tavern that previously existed on the property.
- ❖ The approval remains a temporary means that grants the the owner extra time to find a more suitable location for their business.
- ❖ The existing structures contribute to the aesthetic of the area and do not jeopardize the surrounding character.

**RESPONSIBLE OFFICIAL :****B MINNAAR**



## 4.6

REMAINDER ERF 4173, 10 VILLAGE LANE, HEMEL EN AARDE VILLAGE, ONRUSTRIVIER, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: WRAP PROJECT OFFICE ON BEHALF OF CEM PROP (PTY) LTD

4173 HON (4477/2023)

BC Minnaar

(028) 313 8900

Hermanus Administration

11 October 2024

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**EXECUTIVE SUMMARY**

An application was received on 11 September 2023 from WRAP Project Office on behalf of CEM Prop (Pty) Ltd on Remainder Erf 7143, Onrustrivier in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for a consent use to accommodate twelve (12) flats on the property.

**RESOLVED:**

1. that the objections **be noted**;
2. that the application in terms of Section 16.(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Remainder Erf 4173, Onrustrivier for consent use to accommodate twelve (12) flats on the property, **be partially approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions;
  - (a) that only 6 of the 12 guesthouse units be converted into flats;
  - (b) that the access and egress be relocated to the southern portion of the property along Village Lane;
  - (c) that a revised site plan that indicates and incorporates points 2.(a) and 2.(b) above and a revised parking layout be submitted to the satisfaction of the relevant departments (Engineering Department, Waste Management Department and Town & Spatial Planning Department);
  - (d) that building plans be submitted to the Building Department for approval, and that all conditions of the Building and the Fire Departments be complied with at that stage;
  - (e) that a bulk service's levy be payable on each residential unit as determined by Council;
  - (f) that all the conditions imposed by the Engineering Services Report be complied with;

- (g) that the disposal of solid waste be conducted as per the Waste Management Department's comment;
  - (h) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
  - (i) that all other development parameters as prescribed in the relevant Zoning Scheme & Hemel-en-Aarde Village Scheme Regulations be complied with.
3. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

**REASONS FOR THE RESOLUTION:**

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ The objections received from the public were adequately responded to and resolved in terms of the land use rights applicable to the subject property.
- ❖ That only 6 of the 12 guesthouse units be converted into flats due to the densification constraints as well as the limitation for permitted flats in terms of the Hemel-en-Aarde Scheme Regulations.
- ❖ The Hemel-en-Aarde Village caters more to tourism businesses which is evident in terms of the character of the area as well as the applicable Hemel-en-Aarde Village Scheme Regulations.
- ❖ The objections received were mainly concerned with the nuisance/disturbance factor that will impact on the surrounding property as well as access and egress.
- ❖ The relocation of the access and egress will mitigate the issues regarding congestion along Village Lane and would be in favour of both the proposed development as well as the existing Glenfruin Meadows Development.
- ❖ The proposal is in line with policy documents.

**RESPONSIBLE OFFICIAL :****B MINNAAR**

## 4.7

**REMAINDER OF ERF 1253, FAIRWAYS AVENUE, EASTCLIFF, HERMANUS:  
APPLICATION FOR AMENDMENT OF THE SITE DEVELOPMENT PLAN (SDP)  
AND CONDITIONS OF APPROVAL: MESSRS WRAP PROJECT OFFICE ON  
BEHALF OF OVERSTRAND MUNICIPALITY****1253 HEC (4480/2023)****P Roux****11 October 2024****(028) 313 8900****Hermanus Administration**

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**EXECUTIVE SUMMARY**

An application was received on 14 September 2023 (final version received on 05 December 2023) from Messrs WRAP Project Office on behalf of Overstrand Municipality, in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to the Remainder of Erf 1253, Hermanus for the following:

- **Amendment of the Site Development Plan** in terms of Section 16(2)(l) of the By-Law to reflect the new position, stall layout and parking layout of the Hermanus Country Market.
- **Amendment of condition of approval** in terms of Section 16(2)(h) of the By-Law to allow for sixty (60) stalls within the new lease area and to allow for extended operating days and to increase the number of tenants to ninety (90).

**RESOLVED:**

1. that the comments **be noted**;
2. that the application to amend the Site Development Plan in terms of Section 16(2)(l) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, applicable to the Remainder of Erf 1253, Hermanus to reflect the new position and stall layout of the Hermanus Country Market, **be partially approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(h) of the By-Law for the amendment of conditions of approval to increase the number of traders to ninety (90), **not be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the recommendation in 2. above be subject to the following conditions:
  - (a) that this approval is only for the relocation of the market to the northern part of the Hermanus Sport Centre's grounds;

- (b) that a final (updated) version of the Site Development Plan be submitted to the Town and Spatial Planning Department for final clearance approval by the relevant departments and the Hermanus Heritage Committee, prior to the submission of building plans. The final (updated) version must indicate the design and placement of the structures in line with the parameters as stated in this decision;
- (c) that trading must be restricted to Saturdays, one Sunday a month, public holidays and Wednesday evenings;
- (d) that the development of the Hermanus Country Market be limited to the following parameters:
- only 60 stalls and 60 traders are approved;
  - the height of the stalls will be restricted to 5.5m from base level;
  - any lighting used during nighttime markets must be downward facing and emitted away from the nature reserve;
  - a fence must be placed on the boundary between Fernkloof Nature Reserve and the HCM lease area. The Environmental Management Section must be contacted for specifications;
  - the position of the market must be moved 5 metres away from this fence, to ensure a buffer zone between the market stalls and the boundary of the Fernkloof Nature Reserve;
  - ablution facilities must be provided to the satisfaction of the Municipality;
  - the covering of areas and the final design of the units must first be presented to the Hermanus Sports Club and the Hermanus Heritage Committee for comment, and to the Municipality for approval, prior to the submission of building plans;
  - no music be allowed.
- (e) that the activities of the Country Market remain subservient in use, character and operations to the primary functions and use of the facilities of the Hermanus Sports Club;
- (f) that building plans be submitted to the Building Control Department for approval, and that all conditions of the Building Control and the Fire Departments be complied with at that stage;
- (g) that all the conditions in the Services Report, Waste Management, Environment Management Services be complied with;
- (h) that the applicable rates and service tariffs, as determined by the annual budget is applicable, which tariffs are automatically adjusted in terms of the annual budget;

- (i) that the relocation of the Country Market be commenced within 120 days from the date of approval and completed within 180 days from the date of approval;
  - (j) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
  - (k) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;
5. that the applicant, and the persons who commented, be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2020 regarding the above decision.

**REASONS FOR THE RESOLUTION:**Reasons for partial approval

- ❖ The relocation of the market is in the best interest of the Hermanus Sports Centre and for the continuation, and development thereof.
- ❖ The development parameters as stated in the decision will allow for the continuation of the market, while protecting the rights and usability of the facilities surrounding the market.

Reasons for non-approval

- ❖ The additional traders will require at least 2 parking bays per stall to accommodate the trader, the assistant and the possible customer and therefore a minimum of 60 parking bays are required. Only 30 bays are indicated on site.
- ❖ Additional parking cannot permanently be secured in terms of the lease agreement between the Hermanus High School and the Hermanus Country Market.
- ❖ The lease agreement does not specify which days are permitted and vaguely refers to "on market days".
- ❖ To allow for trading as and when the opportunity arises, could create the opportunity for the market to operate whenever possible, which may lead to daily trading.
- ❖ Should the use and scope of the market not be limited, it will definitely become business related (not even linked to sports), which is not in line with the primary use of the property as well as the intended use in terms of the lease entered into between Overstrand Municipality and the Hermanus Sports Club.
- ❖ No information was provided as to the costs of running such a business in order to consider whether the additional traders and days are beneficial to the market and the Sports Club.
- ❖ The applicant further failed to state how the proposed additional days will affect the other sub-lessees on the property, the users thereof or any subsequent development of the Sports Complex as stipulated in the main agreement.

**RESPONSIBLE OFFICIAL :**

**P ROUX**

**The meeting adjourned at 13:35**