



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

## **MINUTES**

<b>DATE:</b>	<b>30 SEPTEMBER 2021</b>
<b>VENUE:</b>	<b>GLASKAS</b>
<b>TIME:</b>	<b>10:00</b>

# **OVERSTRAND**

## **MUNICIPAL PLANNING TRIBUNAL**

### **MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE GLASKAS ON 30 SEPTEMBER 2021 AT 10:00**

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**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




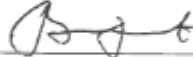





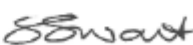
## MUNICIPAL PLANNING TRIBUNAL

## ATTENDANCE REGISTER

Date: 30 SEPTEMBER 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	

**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 26 August 2021****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **26 August 2021, be confirmed**, subject to the absence of Mr S Madikane, Director : Economic Development & Tourism to be indicated as an apology from the meeting.

#### 4. ITEMS FOR CONSIDERATION

##### 4.1

**ERF 22, 21 MARINE DRIVE, BIRKENHEAD, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE CONDITIONS, REZONING, SUBDIVISION AND DEPARTURE: MESSRS INTERACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF NUNGU TRADING 174 (PTY) LTD**

**22 GBH (2622/2018)**

**SW van der Merwe**

**(028) 313 8900**

**Hermanus Administration**

**27 August 2021**

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#### **EXECUTIVE SUMMARY**

An application was received on 5 March 2020 from Interactive Town and Regional Planners on behalf of Nungu Trading 174 (Pty) Ltd applicable to Erf 22, Birkenhead for the following:

- removal of restrictive title deed conditions C.(b) and C.(d) as contained in Title Deed T16547/2005 in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law);
- rezoning from Residential Zone 1: Single Residential (SR1) to Subdivisional Area Zone (SA) in terms of Section 16(2)(a) of the By-Law;
- subdivision in four (4) Residential Zone 1: Single Residential (SR1) erven and one (1) Open Space Zone 3: Private Open Space erf in terms of Section 16(2)(d) of the By-law, and
- departure in order to relax the 4m street building line for each residential zoned erf to 2m in terms of Section 16(2)(b) of the By-law.

#### **RESOLVED:**

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for removal of restrictive title conditions C(b) and C(d) in Title Deed T/16547/2005, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(a) of the By-Law for rezoning from Residential Zone: Single Residential (SR1) to Subdivisional Area, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application for subdivision in terms of Section 16(2)(d) of the By-Law in four Residential Zone 1: Single Residential (SR1) erven of 600m<sup>2</sup> each and a Remainder Open Space Zone 3: Private Open Space (OS3), **be approved** in terms of the provisions of Section 61 of the By-Law;

4. that the application for departure in terms of Section 16(2)(b) of the By-Law in order to relax the 4m street building line applicable to the Residential Zone 1 erven to 2m, **be approved** in terms of the provisions of Section 61 of the By-Law,
5. that the approvals in paragraphs 1. to 4. above be subject to the following conditions:
  - (a) that a Homeowners' Association (HOA) be established prior to the transfer of the first erf;
  - (b) that the constitution of the HOA be submitted for municipal approval, which constitution must provide for the development, upkeep and maintenance of the property in accordance with an approved Environmental Management Plan and Architectural Guidelines;
  - (c) that Architectural Guidelines be submitted for municipal approval prior to submission of building plans demonstrating compliance with the Danger Point Precint Plan, and amongst others limit development to two storeys and a maximum floor space of 250m<sup>2</sup>;
  - (d) that the conditions in the Services Report be complied with, with the exception of Paragraph 2 in the report to be amended to state that municipal water is available;
  - (e) 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;
  - (f) that the use of the remainder Open Space Zone 3 portion beyond the 150m development line be limited to conservation use as per the Overstrand Land Use Scheme, 2020;
  - (g) that an Environmental Management Plan be submitted for municipal approval prior to commencement of the development. The EMP shall address both construction and operational phases of the development, including rehabilitation, and
  - (h) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
6. that the applicant and 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, 2015 with regard to the above conditions of approval.

**REASONS FOR THE RESOLUTION:**

- ❖ The application has followed due procedure.
- ❖ The development is consistent with the applicable strategic policy documents, including the Danger Point Precinct Plan approved by Council in 2014.
- ❖ The development is consistent with the planning principles.
- ❖ The development does not detract from the character of the surrounding area.
- ❖ The development does not unacceptably detract from the vested rights of adjoining property owners

**RESPONSIBLE OFFICIAL :****S VAN DER MERWE**

**4.2****ERF 1497, LYNX ROAD, VERMONT: APPLICATION FOR REZONING, SUBDIVISION, DEPARTURE AND APPROVAL OF STREET NAMES: MESSRS ATLAS TOWN PLANNING ON BEHALF OF CHRISTATUS INVESTMENTS 85 CC****1497 HVM****H Olivier****24 June 2021****(028) 313 8900****Hermanus Administration**

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**EXECUTIVE SUMMARY**

An application was received on 23 July 2019 from Messrs Atlas Town Planning on behalf of Christatus Investments 85 CC on Erf 1497, Vermont in terms of the Overstrand Municipality By-Law on Land Use Planning, 2015 (By-Law) for the following:

- Rezoning of the property in terms of Section 16(2)(a) of the By-Law from Residential Zone I: Single Residential (SR1) to Subdivisional Area Zone (SA); and
- Subdivision of the rezoned property in terms of Section 16(2)(d) of the By-Law, to create the following:
  - Nine (9) Residential Zone I: Single Residential (SR1) erven;
  - Seven (7) General Residential Zone I: Town Housing (GR1) erven;
  - One (1) Open Space Zone 2: Public Open Space (OS2) erf; and
  - One (1) Transport Zone 2: Road and Parking (TR2) erf.
- Departures in terms of Section 16(2)(b) of the By-Law to accommodate the following:
  - relax the external street building line from 5m to 3m for the Town Housing erven;
  - allow a 4m street building line on the internal Close to accommodate garages for the Town Housing erven;
  - allow a 2m street building line on Portion 5 (Town Housing) to accommodate the proposed dwelling, and
  - relax the 3m common boundary line to 2m on Portions 1 and 7 (Town Housing erven) respectively to accommodate proposed encroachments.
- Approval of street names (Vergenoeg Street and Berghoek Close) in terms of Section 96 of the Overstrand Municipality By-Law on Land Use Planning, 2015 for the proposed development.



**RESOLVED:**

1. that the application in terms of Section 16(2)(a) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Erf 1497, Vermont to rezone the said property from Residential Zone I: Single Residential (SR1) to Subdivisional Area Zone (SA) and the subsequent subdivision in terms of Section 16(2)(d) of the By-Law, read with Section 22, of the rezoned property to create the following:

- Nine (9) Residential Zone I: Single Residential (SR1) erven;
- Seven (7) General Residential Zone I: Town Housing (GR1) erven;
- One (1) Open Space Zone 2: Public Open Space (OS2) erven; and
- One(1) Transport Zone 2: Road and Parking (TR2) erf

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

- (a) that approval is for the revised Plan VM1497/SUB/Sep2020/1, also showing the correct street names and numbers;
- (b) that a minimum of 2 (two) parking bays be provided on each erf, to municipal standards and satisfaction;
- (c) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
- (d) that the Architectural Design Guidelines in line with the Zoning Scheme parameters and the departure relaxations as dealt with in point 2. below, be submitted for the development to address the style of the houses in line with the surrounding Cape Vernacular style of houses in the area, to the satisfaction of the Senior Manager: Town & Spatial Planning, after consultation with the Municipal Building Control Branch;
- (e) that all the conditions imposed by Telkom be complied with;
- (f) that all the conditions imposed by Eskom be complied with;
- (g) that all conditions in the Services Report be complied with;
- (h) that the original conditions imposed by Heritage Western Cape be complied with;
- (i) that the conditions of the Municipal Fire Department be complied with;
- (j) that a Homeowners' Association be established with compulsory membership for all property owners within the development; and

- (k) that the Constitution of the Homeowners' Association be submitted for approval by the Municipality (which reserves the right to impose conditions in this regard), and that the following aspects inter alia be addressed in this document:
- the approval of building plans by an "estate architect" prior to submission thereof to the Municipality, and
  - that the Constitution clarifies at what stage the responsibility would be transferred from the developer to the Homeowners' Association to deal with approval of plans.
2. that the application for departure in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 1497, Vermont to relax the following building lines for General Residential Zone I erven to be created, **be approved** in terms of the provisions of Section 61 of the By-Law, as follows:
- relax the external street building line from 5m to 3m for the Town Housing erven;
  - Allow a 4m street building line on the internal Close to accommodate garages for the Town Housing erven;
  - Allow a 2m street building line on Portion 5 (Town Housing) to accommodate the proposed dwelling, and
  - Relax the 3m common boundary line to 2m on Portions 1 and 7 (Town Housing erven) respectively to accommodate proposed encroachments.
3. that the application in terms of Section 96 of the Overstrand Municipality By-Law on Land Use Planning, 2015 for the allocation of street names for the proposed development (Koekoek Street and Kwartel Close), **be approved** in terms of the provisions of Section 61 of the By-Law; and
4. 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:**

- ❖ The proposal for a development with a mix of Residential Zone I and General Residential Zone I erven is in line with the Overstrand Growth Management Strategy, 2010 and Overstrand Municipal Wide SDF, 2006.
- ❖ All municipal departments and external departments/institutions support the application.
- ❖ There are no environmental concerns or triggers on the property.
- ❖ The proposed development will be in line with the character of surrounding developments.

- ❖ The concern raised about the street names were duly addressed by the applicant.
- ❖ There are sufficient services to accommodate the development.
- ❖ In terms of the character of Vermont, developments consist of a mixture of Residential Zone I and General Residential Zone I erven, with public roads, to avoid creating a “gated complex” character. Challenges have been experienced regarding building line limitations in respect of group housing erven in such developments, and for that reason this departure application was submitted to deal with such challenges.
- ❖ The application is in line with the planning principles of efficiency, spatial sustainability and spatial resilience, and is desirable.

**RESPONSIBLE OFFICIAL :**

**H OLIVIER**

## 4.3

**PORTION 203 OF THE FARM NO. 559, PRINGLE BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE: MESSR IC@PLAN ON BEHALF OF C-VIEW AT PRINGLE (PTY) LIMITED**

203/559

H van der Stoep

(028) 313 8900

Hermanus Administration

8 September 2021

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**EXECUTIVE SUMMARY**

An application was received on 26 November 2019 from Messrs IC@Plan on behalf of C-View at Pringle (Pty) Limited on Portion 203 of the Farm 559 in terms of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) for the following:

- ❖ Removal of Restrictive Title Deed Conditions in terms of Section 16(2)(f) for the removal of restrictive title deed conditions C.(b), C.(d), C.(e), C.(n) and C.(o) as contained in Title Deed T17666//2014 to permit the proposed application.

The restrictive title deed conditions read as follows:

- *“C.(b): No wood and iron buildings or works of any description shall be erected nor shall corrugated iron be used for roofing purposes.*
- *C.(d): All buildings and other constructional works, including all fences and garden or other gates shall be of good and sound construction and plans thereof must be approved by the Seller before construction is commenced. In the event of breach of this Clause the Seller shall have the right to require the Purchaser to demolish such unauthorised building or works or works and/or shall have the option to re-purchase the land upon payment of the cost price thereof without compensation for improvements.*
- *C.(e): No signs, advertisements, advertisement boardings or other lettering shall be erected on the land hereby sold and purchased nor shall any advertisements, signs or lettering be painted on any building, walls or fences erected on the said land save and except with the written approval of the Seller.*
- *C.(n): The land shall be used only for agricultural purposes and the breeding of keeping of domestic animals, poultry and/or bees provided that no goats or pigs may be kept.*
- *C.(o): Only buildings and structures to be used as dwellings and farm buildings shall be erected on the land.”*

Amendment of Restrictive conditions as follows

- The amendment of condition C.(r) on page 7 of Deed of Transfer T17666/2014 - No boarding houses, flats, maisonettes, hotel, shops, public

garage, filling station, business premises, canteen, restaurant, bioscope, factory, industrial buildings shall be erected on the land nor shall such business or entertainment be conducted on the land be erected by the removal of the following words namely:

*“Shops, business premises, canteen, restaurant”*

The amendment of condition D.(i) on page 7 of Deed of Transfer T17666/2014 by the removal of the following restrictions, which read as follows:

Conditions relating to (a) buildings, (b) restriction against the erection of signs, advertisements, etc., (c) restriction against trade, (d) prohibition against making bricks, tiles and pipes, (e) prohibition against the deposit of debris, scrap, etc. (f)... (g) camping (h) access (i) sewerage j) ... (k) subdivision and (l) use of land ...

Removal of the following words:

*(b) restriction against erection of signs, advertisements, etc.;*  
*(c) restriction against trade;*

- The amendment of condition D.(ii) on page 7 of Deed of Transfer T17666/2014 by the removal of the following restrictions which reads as follow: (A) not entitled to conditions referred to in certain endorsements and (B) subject to conditions relating to (a), (b), (c) and (d) buildings and design (e) advertising (i) trade (g) and (h) building materials and scrap (i) ... (j) camping (k) access to roads (sewerage (m) ... (n) subdivision (o), (p), (q), ( r) (s) use of land and buildings .

Removal of the following words:

(e) advertising;  
(i) trade;

- The amendment of condition D.(iii) on page 7 of Deed of Transfer T17666/2014 by the removal of the following restrictions which reads as follow: (A) not entitled to conditions referred to in certain endorsements and (B) subject to conditions relating to (a), (b), (c ) and (d) buildings and design (e) advertising (i) trade (g) and (h) building materials and scrap (i) ... (j) camping (k) access to roads (sewerage (m) ... (n) subdivision (o), (p), (q), ( r) and (s) use of land and buildings

Removal of the following words:

- (e) advertising;
- (f) trade;

- The amendment of condition D.(iv) on page 7 of Deed of Transfer T17666/2014 by the removal of the following restrictions which reads as follow: (A) not entitled to conditions referred to in certain endorsements and (B) subject to conditions relating to (a), (b), (c ) and (d) buildings and design, (e) advertising, (i) trade, (g) and (h) building materials and scrap, (i) ..., (j) camping, (k) access to roads (sewerage), (m) ..., (n) subdivision (o), (p), (q), (r) and (s) use of land and buildings

Removal of the following words:

- (e) advertising;
- (f) trade;

The amendment of condition D.(v) on page 7 of Deed of Transfer T17666/2014 by the removal of the following restrictions which reads as follow: “Conditions relating to (a) buildings completed in a reasonable time, (b) restriction against wood and iron buildings, (c) restrictions against erection of buildings within certain road boundary, (d) buildings be of good design and sound construction, (e) prohibition against signs, advertisements, etc., (f) prohibition against noxious trade, (g) restrictions against brickmaking, etc., (h) debris on land, (i) .... , (j) camping, (k) access to public roads, (l) sewage, (m)...., (n) restriction against subdivision, (o) land for agricultural purposes only, (p) dwelling and farm buildings, (q) each dwelling for a single family, (r) outbuildings, (s) restriction against creation of boarding houses, flats, etc.

Removal of the following words:

- (b) restriction against wood and iron buildings.
- (e) prohibition against signs, advertisements.

and

- ❖ Consent use in terms of Section 16.2(o) for the conversion of the ground floor of the existing dwelling for a tourist facility (i.e., coffee shop and gift shop).

**RESOLVED:**

that the item **be referred back** in order for the Town Planning Department to obtain a second legal opinion.

**RESPONSIBLE OFFICIAL :**

**H VAN DER STOEP**

## 4.4

**ERF 4043, 50 GLADIOLUS CRESCENT, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND REZONING: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF AJ MOLLER**

4043 KBB

H van der Stoep

(028) 313 8900

Hermanus Administration

6 September 2021

**EXECUTIVE SUMMARY**

An application was received on 7 December 2020 from Messrs PlanActive Town and Regional Planners on behalf of AJ Moller on Erf 4043, Betty's Bay in terms of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the following:

- ❖ Removal of Restrictive Title Deed Conditions in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions B.6 and B.7(i) as contained in Title Deed T20907/2020 to permit the proposed application.

The restrictive title deed conditions read as follows:

*"B.6. This erf shall be used solely for the purpose of erecting thereon a garage or service station with the right to include residential accommodation above the ground floor or such other buildings as the Administrator may, from time to time after reference to the Townships Board and the Local Authority approve, provided that if the erf is included within the area of a Town Planning Scheme, the local Authority may permit such other uses as are permitted by the scheme, subject to the conditions and restrictions stipulated by the scheme*

*B.7.(i) no more than two-thirds of the area thereof shall be built upon."*

- ❖ Rezoning in terms of Section 16(2)(a) of the By-Law to rezone the property from Business Zone 4: Service Station to Business Zone 3: Local Business

**RESOLVED:**

1. 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 conditions B.6, B.7.(i), as contained in Title Deed T20907/2020 to permit the proposed application, **be approved** in terms of the provisions of Section 61 of the By-Law;



2. that the application in terms of Section 16(2)(a) of the By-Law to rezone Erf 4043, Betty's Bay from Business Zone 4: Service Station to Business Zone 3: Local Business, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the approvals in paragraphs 1. and 2. be subject to the following conditions:
  - (a) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
  - (b) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
  - (c) that all the conditions in the Services Report be complied with.
4. 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 is in line with forward planning documents, and will not be to the detriment of the character of the area.
- ❖ The erf has vested business rights
- ❖ The proposed rezoning will have less detrimental impact than the current zoning

**RESPONSIBLE OFFICIAL :****H VAN DER STOEP****The meeting adjourned at 10:52**