



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

MINUTES

DATE:	27 JULY 2023
VENUE:	VIRTUALLY
TIME:	10:00

OVERSTRAND
MUNICIPAL PLANNING TRIBUNAL
MINUTES OF A MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL,
HELD VIRTUALLY ON
27 JULY 2023 AT 10:00

PRESENT:

MEMBERS:

Ms H Janser, Directorate Development
Management
Mr S Müller, Director : Infrastructure & Planning
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
Ms S Swart, Council Support Services

APOLOGIES:

Mr S Madikane, Director : LED



**MUNICIPAL PLANNING TRIBUNAL
ATTENDANCE REGISTER**

Date: 27 JULY 2023

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

2. APPLICATIONS FOR LEAVE OF ABSENCE

Dir S Madikane

RESOLVED:

that the above-mentioned application for leave of absence **be granted**.

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 29 June 2023****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **29 June 2023, be approved**.

4.1

ERF 4419, 9 MAIN ROAD, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR TEMPORARY DEPARTURE AND DETERMINATION OF ADMINISTRATIVE PENALTY: PLANACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF HJ FOURIE

4419 HNC (4151/2022)

H van der Stoep

8 May 2023

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 5 May 2023 from Plan Active Town & Regional Planning on behalf of Dr HJ Fourie on Erf 4419, Hermanus for the following:

- ❖ **Temporary Departure** in terms of Section 16.(2)(c) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to allow for the continuous operation of the existing dental practice on the property.
- ❖ **Determination of Administrative Penalty** in terms of Section 16.(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the above unauthorised land use.

RESOLVED:

1. that the application in terms of Section 16.(2)(c) of the Overstrand Municipal Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 4419, Hermanus for a temporary departure to allow for the continuous operation of the existing dental practice on the property, **be approved**, in terms of Section 61 of the By-Law, subject to the following conditions:
 - (a) that this approval is only for the development as indicated on plan number her4419q.drw dated 05/2022, as submitted with the application;
 - (b) permission to operate a dental practise is granted to Dr HJ Fourie, and the approval is not transferrable;
 - (c) that the approval is valid for a period of ten (10) years from date of approval whereafter it will lapse;
 - (d) that the parameters applicable to Residential Zone 1: Single Residential (SR1) be retained on the property and that no further development as allowed in the Land Use Scheme be applicable;

- (e) that building plans be submitted to the Building Department and that all conditions of the Building and Fire Departments be complied with at that stage;
 - (f) that the development must comply with the provisions of SANS – A:2016, 10400-T:2020 and the By-Law relating to community safety and that building plans must be submitted with a separate detailed fire protection plan;
 - (g) that commercial rates and service tariffs as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (h) that all medical waste generated by the practice needs to be collected and disposed of by a registered medical waste service provider;
 - (i) that no on-street parking be allowed;
 - (j) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (k) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with;
 - (l) that all the conditions in the Services Report be complied with; and
 - (m) that all conditions imposed by Western Cape Government: Transport & Public Works be complied with.
2. that the determination of an administrative penalty in terms of Section 16.(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 4419, Hermanus for the above unauthorised land use (dental practice) was considered and that an administrative penalty of R55 308,00 excluding VAT (being 6% of the property value + VAT), **be applicable** in terms of Section 90.(4) of the By-Law which penalty must be paid within ninety (90) days from the final date of the decision of the application; and
3. that the applicant be notified of its 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 decisions.

REASONS FOR THE RESOLUTION:

- ❖ The property has been used as a dental practice for several years.
- ❖ The application has followed due procedure.
- ❖ None of the internal departments objected to the application.

- ❖ The proposal is in line with the aims of the Overstrand SDF.
- ❖ No objections were received from neighbours.
- ❖ The proposed application will not negatively impact on the surrounding area as the building has a well-designed street frontage and fits in with the character of the surrounding area.
- ❖ The temporary departure is restricted to the present owner and is not transferable.
- ❖ The administrative penalty was determined at 1% per year from the first notice (2016) up to the submission of the application in 2022.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

The meeting adjourned at 10:41