



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

MINUTES

DATE:	4 MAY 2023
VENUE:	TOWN PLANNING COMMITTEE ROOM / VIRTUALLY
TIME:	10:00

OVERSTRAND
MUNICIPAL PLANNING TRIBUNAL
MINUTES OF A MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL,
HELD IN THE
TOWN PLANNING COMMITTEE ROOM/VIRTUALLY ON
4 MAY 2023 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 Planning

OFFICIALS:

Mr R Kuchar, Senior Manager : Town & Spatial
Planning
Ms H van der Stoep, Senior Town Planner
Ms S Swart, Council Support Services

APOLOGIES:

None


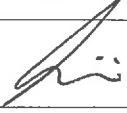
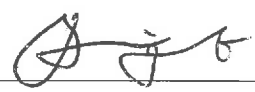

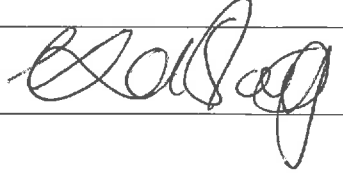

MUNICIPAL PLANNING TRIBUNAL

ATTENDANCE REGISTER

Date: 4 MAY 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	Ms Teams
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	
R LOUW	MPT MEMBER OVERSTRAND MUNICIPALITY	Ms Teams.
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 30 March 2023****RESOLVED:**

that the approval of the Minutes of the Municipal Planning Tribunal Meeting held on **30 March 2023, be approved.**

4. ITEMS FOR CONSIDERATION

4.1

ERF 2861, WHALE COAST MALL, BERGSIG STREET, SANDBAAI: APPLICATION FOR CONSENT USE AND DEPARTURE: MESSRS WARREN PETTERSON PLANNING ON BEHALF OF WHALE COAST VILLAGE MALL PROPRIETARY LIMITED, THE SANDBAAI DEVELOPMENT TRUST AND HCI-PROPC07 PROPRIETARY LIMITED

2861 HSB (2930)

H van der Stoep

17 April 2023

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 7 February 2022 from Messrs Warren Petterson Planning Town and Regional Planning Consultants (WPP) on behalf of Whale Coast Village Mall Proprietary Limited, The Sandbaai Development Trust and HCI-PROPC07 Proprietary Limited applicable to Erf 2861, Sandbaai for the following:

- ❖ **consent use (transmission tower)** in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) to accommodate a cellular communication base station at the rear/southern side against the mall building that will consists of a 20m high monopole/tree type transmission tower, 12 antennas and microwave dishes attached to the tower, and an equipment container at ground floor level with space for four service providers;
- ❖ **departure** in terms of Section 16(2)(b) of the above By-Law to exceed the 14m height restriction applicable to the property with 6m to accommodate the 20m high mast of the cellular communication base station; and the
- ❖ **amendment of the existing Site Development Plan (SDP)** in terms of Section 16(2)(l) of the By-Law to accommodate the cellular communication base station on the property.

RESOLVED:

1. that the comments/objections be noted;

2. that the application for consent use (transmission tower) in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), applicable to Erf 2861, Sandbaai, to accommodate a cellular communication base station at the rear/southern side against the mall building (position being "Option B") consisting of a 20m-high transmission tower, 12 antennas and microwave dishes attached to the tower, and an equipment container at ground floor level with space for four service providers, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application for departure in terms of Section 16(2)(b) of the By-Law to exceed the 14m height restriction applicable to the property with 6m to accommodate the 20m high mast of the cellular communication base station, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the above approvals be subject to the following conditions:
 - (a) that a Site Development Plan (SDP) be submitted to the authorised official for approval;
 - (b) that the application be referred to the Hermanus Aesthetic & Heritage Committee for a recommendation on the mast type;
 - (c) that the colour of the tower and all of its components must blend in with the direct surroundings, and any additional antennas or dishes shall require the prior written approval of the Municipality;
 - (d) that building plans must be submitted to the Building Department for approval;
 - (e) the transmission apparatus must comply with applicable health and safety standards;
 - (f) that all other development parameters as prescribed in the relevant Zoning Scheme must be complied with; and
 - (g) that the above approvals do not absolve the owner/applicant from compliance with any other relevant legislation;
5. that the applicant and persons who commented be notified of their respective appeal rights with the above conditional approvals in terms of Section 78 of the By-Law, and the applicant with regard to the above conditions of approval.

REASONS FOR THE RESOLUTION:

- ❖ The application is in line with policy and strategic documents.
- ❖ The position of the tower against the mall building will reduce the visual impact of the structure relative to the previous proposal to place it in isolation at the south-western corner of the property close to group housing developments. The application has addressed the specific concerns raised by the MPT with the previous application and further demonstrates that the placement of the tower against the mall building is the preferred position with minimal negative visual impacts.
- ❖ The owners of the mall recently obtained Town Planning approval to extend the mall towards the rear side, being Phase 2 of the mall development. The preferred location of the tower close to the new extension will significantly reduce any possible intrusive visual impacts on the surrounding area.
- ❖ The position of the tower is situated approximately 220m away from the various group housing developments, in a more desirable location.
- ❖ The total length of the mall building is approximately 400m and the tower will only occupy a very small percentage of the overall horizontal length of the mall building.
- ❖ The tower will be 5m lower than the 25m high tower that was proposed in the previous application that was refused by the MPT.
- ❖ Negative visual impacts, if any, from the R43 will be minimal since the location of the tower is approximately 200m from the R43.
- ❖ No substantiated proof could be provided by the commentators/objectors that the electromagnetic emissions from the tower will be harmful to the health of the residents in the area.
- ❖ No substantiated proof could be provided by the commentators that the tower will negatively impact on the values of their properties.
- ❖ The tower will not result in the disfigurement and overall unsightliness of the surrounding area.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP**

4.2

ERF 1828, 21 BOUNDARY ROAD, PRINGLE BAY: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND SUBDIVISION: DIESEL & MUNNS INC. ON BEHALF OF BC & C ANDERSON

1828 KPRB (3717/2021)

H van der Stoep

(028) 313 8900

Hermanus Administration

6 September 2022

EXECUTIVE SUMMARY

An application has been received on 21 June 2021 from Diesel & Munns Inc. on behalf of BC & C Anderson applicable to Erf 1828, Pringle Bay 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 with reference to Clauses 1.V.(4)(a), 1.V.(4)(b), 1.V.(4)(c), 1.V.(4)(d), 1.V.(4)(e), and 1.V.(4)(f). of Title Deed T14369/2020.

The restrictive title conditions read as follows:

“V. SUBJECT to the conditions contained in Deed of Transfer T11452/1957, imposed by the Administrator when approving of the subdivision of a portion of the township in terms of the terms of Ordinance 33 of 1934:

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 for residential purposes only

(c) Only one dwelling together with such outbuildings 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 or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres of the street line which forms a boundary of this erf, nor 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 exceeding 3,05 metres in height measured from the floor.

(f) Pending the establishment of a local authority for this township, the sewage of this erf shall not be disposed of otherwise than by means of

properly constructed septic tank, otherwise to a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf the owner shall without compensation remove the septic or vacuum tank after three month's written notice served upon him by such local authority.

- ❖ **Subdivision** in terms of Section 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to subdivide Erf 1828, Pringle Bay into 2 portions, namely Portion A ($\pm 2369\text{m}^2$) and a Remainder ($\pm 2336\text{m}^2$).

RESOLVED:

That the item **be referred back** following further legal clarity on the need for the removal of restrictions application.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

The meeting adjourned at 10:29