



OFFICE OF THE MUNICIPAL MANAGER
BERGRIVIER MUNICIPALITY
P.O BOX 60
PIKETBERG
7320

**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL HELD ON TUESDAY
03 OCTOBER 2017 AT 15:30 IN THE COUNCIL CHAMBERS, MUNICIPAL
OFFICES, PIKETBERG**

PRESENT

MEMBERS

Director Corporate Services (JWA Kotzee: Deputy Chairperson)
Director Technical Services (H Kröhn)
Director Financial Services (G Goliath)
External Member (Ms D Kotze)

OFFICIALS

Manager: Planning and Development (W Wagener)
Administration Officer: Planning and Development (Ms J Rosenberg)

ACTION

PTN001/10/2017

OPENING AND WELCOME

The deputy chairperson welcomed everyone present in the meeting.

PTN002/10/2017

REQUEST FOR LEAVE OF ABSENCE

3/3/1/4

Municipal Manager (Adv. H Linde: Chairperson)
External Member (Ms. S van der Merwe)

PTN003/10/2017

**DECLARATION OF INTEREST IN ACCORDANCE WITH SCHEDULE 1: CODE OF CONDUCT FOR
MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

3/3/1/6

All members of the Municipal Planning Tribunal present declared that they had no personal interest with regards to any items on the agenda.

PTN004/10/2017

COMMUNICATION BY THE CHAIRPERSON

3/3/1/6

The deputy chairperson informed the meeting that the chairperson will not be able to attend the meeting due to visitors at the municipality invited from Heist-op-den-berg Municipality in Belgium.



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PTN005/10/2017

**CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: WEDNESDAY 06 SEPTEMBER 2017
3/3/2/2**

That the minutes of the Municipal Planning Tribunal meeting held on Wednesday 06 September 2017 be confirmed with the following correction:

PTN004/09/2017

COMMUNICATION BY THE CHAIRPERSON

The Chairperson informed the meeting that a new **Director** has been appointed in Bergrivier Municipality.

PTN006/10/2017

**APPLICATION FOR REMOVAL OF RESTRICTIONS, REZONING AND DEPARTURE: ERF 353,
VELDDRIF**

15/3/2; 15/3/3; 15/3/8, V. 353

The Manager: Planning and Development gave a brief summary of the item under discussion.

After thorough discussions the following resolution was taken:

RESOLUTION

1. That the application for removal of restrictive conditions C.1(a), E.6(b) & E.6(d) as held in Title Deed No. T3591/2005 pertaining to Erf 353, Velddrif be approved, in terms of section 60 of the Bergrivier Municipal By-Law relating to Land Use Planning;
2. That the application for rezoning of Erf 353, Velddrif from Single Residential Zone 1 to General Residential Zone 5 to allow a backpackers lodge, **be approved**, in terms of section 60 of the Bergrivier Municipal By-Law relating to Land Use Planning subject to:
 - (a) Building plans being submitted for approval of all structures in terms of the National Building Regulations and Building Standards Act (Act No. 103 of 1973) and not the smaller building works rules approved for Bergrivier Municipality and compliance with the height and building lines applicable to dwelling house provided for in the Bergrivier Municipality: Integrated Zoning Scheme By-Law;
 - (b) That the wendy houses be painted an off-white or cream shade with charcoal coloured roofs to blend in with the existing dwelling house, to the satisfaction of the Building Control Officer;
 - (c) Bulk Service Contributions, as predetermined in the Municipal Budget, be paid for each additional erf created by subdivision OR each additional unit created. In addition to this, the developer will be responsible for the provision and upgrading of all service infrastructure required as a result of the additional burden created by the development, as negotiated and agreed upon between the developer and the Municipality's Directorate: Technical Services by means of a Services Level Agreement (SLA). The SLA will be drawn up by a municipal appointed attorney for the account of the developer.
3. That the application for departure from the building lines as requested, **be**

**ADMINISTRATION
OFFICER: PLANNING
&
DEVELOPMENT**

**MANAGER PLANNING
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refused in terms of section 60 of the Bergrivier Municipal By-Law relating to Land Use Planning for the reasons provided in the "Reasons for Resolution".

4. That the objection received **be partially upheld** for the reasons provided in the "Reasons for Resolution".

REASONS FOR RESOLUTION

Section 59 (1) (f) of the Land Use Planning Act, Act 3 of 2014 (LUPA), states that a competent authority may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome of an application.

The Bergrivier Municipal Spatial Development Framework (BMSDF) proposes the inclusion of different densities and types of residential development in Velddrif/Laaiplek, that opportunities for infill residential development be supported through subdivision and the introduction of a broader spectrum of housing types, and infill residential development to utilize existing infrastructure. This application supports the proposals of the BMSDF by introducing a new type of accommodation option. Tourism development is proposed by the BMSDF for Velddrif/Laaiplek by promoting entrepreneurs in whale and bird watching and holiday resort development amongst other. The proposal would provide short term self-catering accommodation to tourists and visitors to the area. The subject property is located approximately 250m from Bokkomlaan in Velddrif, which is identified by the BMSDF as a tourist precinct. The proposal to provide temporary accommodation within walking distance to Bokkomlaan will facilitate tourism development in town and is considered to be in line with the proposals of the BMSDF.

The existing outbuilding on the property of the objector, was erected on the communal side boundary. The merit of the objection against structures on Erf 353, Velddrif encroaching the side building line and thereby potentially causing nuisance and invasion of privacy to the objector can therefore not be considered as a valid reason for refusal of the application. The objector could not have had legitimate expectation that the future use or development of Erf 353, Velddrif would not potentially affect the objector's privacy or be a source of nuisance if the objector had already erected a structure on the same communal property boundary.

Section 59 (1) (g) of the Land Use Planning Act, Act 3 of 2014 (LUPA), states that the right of owners to develop land in accordance with current use rights should be recognized. Rights in terms of the current zoning of the Erf 352, Velddrif are supported and will be the same as the surrounding properties, namely Single Residential Zone 1. Letting to lodgers, including a backpackers lodge, is compatible with the residential use of the area as it primarily provides a place to stay.

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PTN007/10/2017

**APPLICATION FOR REMOVAL OF RESTRICTIONS AND REZONING: ERF 208, LAAIPLEK
15/3/2; 15/3/8, L. 208**

The Manager: Planning and Development gave a brief summary of the item under discussion.

After thorough discussions the following resolution was taken:

RESOLUTION

That the application for the removal of restrictive title conditions H.4.(b),H.4.(c),H.4.(d), & I. as held in Title Deed No. T 64268/2016 pertaining to Erf 208, Laaiplek and rezoning of the property from Residential Zone 1 to Business Zone 1 in terms of Section 15 of Bergrivier Municipal By-Law relating to Land Use Planning, **be approved**, in terms of section 60 of Bergrivier Municipal By-Law Relating to Land Use Planning, subject to the following conditions:

1. A site development plan indicating parking as required in terms of the Bergrivier Municipal Zoning Scheme By-Law, must be submitted for endorsement by the Department Planning and Development prior to commencement of any business activities.
2. Arrangements must be made, with the Disaster Management department, for a final fire safety inspection prior to commencing of business from the property;
3. Any gas installations must be indicated on building plans and a flammable substances permit must be obtained if flammable substances are kept or used;
4. All emergency routes and the position of fire safety equipment must be marked with SANS 1186 approved symbolic signs;
5. A certificate of acceptability be acquired from the West Coast District Municipality's department of Environmental Health as may be required; and
6. That a septic tank be installed at the front of the property, to the satisfaction of the Technical Services department of Bergrivier Municipality.

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REASONS FOR RESOLUTION

The application is consistent with the development principles of LUPA and SPLUMA. The application is furthermore consistent with the guidelines of the Municipal Spatial Development Framework, and is desirable from a planning perspective, taking into account the relevant factors of consideration as determined in terms of section 65 of Bergrivier Municipal By-Law relating to Land Use Planning.

The required number of parking bays as determined by the Bergrivier Municipality: Integrated Zoning Scheme By-Law can be provided on the property. The property already receives vehicular access directly from Voortrekker Street. Vehicular access to the property would be a similar distance from the nearest intersection of Voortrekker Street and Jameson Street, as is the access to the property of the objector. The lack of parking on the objector's property during peak periods cannot be used as a justifiable argument for other potential businesses in the area to provide more parking



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spaces than what is required in terms of the Bergrivier Municipality: Integrated Zoning Scheme By-Law. Compliance with the parking requirements of the Bergrivier Municipality: Integrated Zoning Scheme By-Law is addressed with the conditions of approval. The Head: Traffic Services also supported the proposal subject to conditions which form part of the approval.

PTN008/10/2017

**APPLICATION FOR REZONING AND DEPARTURE: ERF 3096, PORTERVILLE
15/3/3; 15/3/8, PTV. 3096**

The Manager: Planning and Development gave a brief summary of the item under discussion.

After thorough discussions the following resolution was taken:

RESOLUTION

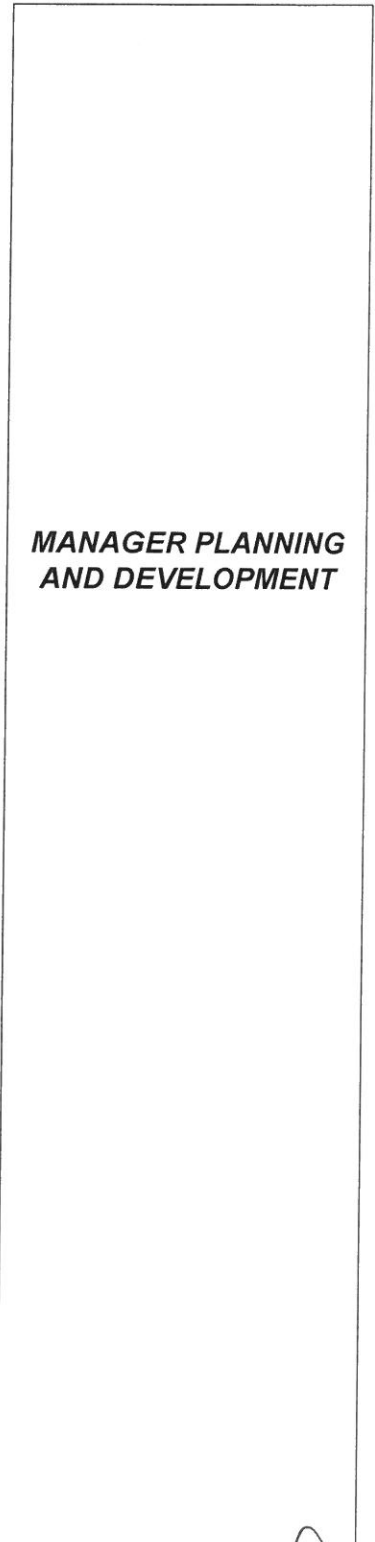
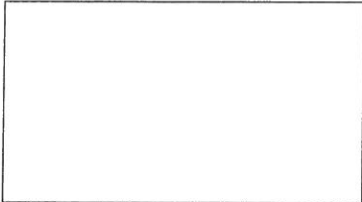
That the application for rezoning of Erf 3096, Porterville from Single Residential Zone 2 to Business Zone 3 in order to operate a neighbourhood shop and departure of the applicable side building line from 3m to 1m as well as rear building line from 3m to 2.5m, **be approved**; in accordance with the site plan referenced ERF 3096 POR (drawn by Jan Truter) in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to the following conditions;

- (a) That parking bays be clearly marked out on the premises;
- (b) The relevant licenses be acquired prior to operation of the neighbourhood shop (i.e. business license, certificate of acceptability) and clearly displayed in the neighbourhood shop;
- (c) Any additional services required as a result of the utilization will be borne by the property owner, as negotiated and agreed upon between the owner and this Municipality's Technical Department;
- (d) Building plans for any structural alterations to the existing building must be submitted for consideration by Bergrivier Municipality in terms of the National Building Regulations and Building Standards Act, 1977 and approved prior to operation of the neighbourhood shop; and
- (e) The trading hours are restricted from 06:00am (06:00) till 10:00pm (22:00).

REASONS FOR RESOLUTION

Section 65 (1)(a) to (s) & (2)(a) to (b) of Bergrivier Municipal By-law Relating to Municipal Land Use Planning prescribe the criteria for consideration of land use application, among other the following relevant criteria were considered: Section 65 (i) of Bergrivier Municipal By-law relating to Municipal Land Use Planning requires consideration of the integrated development plan, including the municipal spatial development framework.

The objective of the Business Zone 3 is to provide for low intensity commercial and mixed-use development, which serves local neighbourhood needs for convenience goods and personal services. Such development should be limited in scale and nature and capable of integration into the adjacent residential neighbourhood, without adversely affecting the amenity of the residential neighbourhood. While mixed use development is encouraged, care must be taken not to compromise business operations.



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Section 65 (d) consideration of comments on response to the notice of the application etc. No comments were received from surrounding affected property owners or general public.

Section 65 (h) of the Bergrivier Municipal By-law relating to Municipal Land Use Planning requires consideration of the impact of the proposed development on municipal engineering services. The proposed application has a minimal impact on existing services, on account of comment received from this municipality's electrical department, subject to conditions. The application therefore has no financial burden on the municipality.

Relevant consideration was given to the development principles of Spatial Justice, Spatial efficiency and Spatial Sustainability as prescribed in terms of Chapter VI of the Land Use Planning Act, 2014. It is submitted that the location of the property is considered appropriate and sustainable on the corner of N. Otto and Swart Street, making it easy visible and accessible to the nearby surrounding owners. The transition between residential and neighbourhood shop is also more urban friendly as it provides integration with the residential neighbourhood in accordance with the objective of the zoning. There is an existing building (approved dwelling house) on the property, that efficiently utilises existing services. The proposed neighbourhood shop will provide convenience goods and personal service in walking proximity to the surrounding residential area, where limited business opportunities previously existed, the proposal will therefore contribute to address past spatial imbalances. The application also took into account the lower income housing areas by bringing retail services closer to this community, the application therefore advance the rights of previously disadvantage.

Section 65 (s) of the Bergrivier Municipal By-law relating to Municipal Land Use Planning requires consideration of the provisions of the applicable zoning scheme. A zoning comparison for compliance with the development parameters determined compliance therewith. Departures of the side and rear building lines are made to accommodate the existing building footprint within the proposed new building lines.

The application is determined desirable from a planning perspective taking into account aforesaid relevant factors of consideration as determined in terms of section 65 of Bergrivier Municipal By-Law relating to Land Use Planning.

PTN009/10/2017

DATE OF NEXT MEETING

That the next meeting of the Municipal Planning Tribunal is scheduled for Tuesday 07 November 2017 at 14:00 in the Council Chambers, Municipal Offices in Piketberg.

NOTED

THE MEETING ADJOURNED AT 16:30

CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS



CHAIRPERSON



DATE

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