

**BERGRIVIER MUNISIPALITEIT / MUNICIPALITY**

**VISIE:**

Bergrivier: 'n vooruitstrewende gemeenskap waar almal wil leef, werk, leer en speel op 'n menswaardige manier.

**VISION:**

Bergrivier: a prosperous community where all want to live, work, learn and play in



**KERN WAARDES / CORE VALUES**

We are all part of Bergrivier Municipality.  
We render good services to ensure dignified living to all.  
We are unashamedly pro-poor.  
We believe in close innovative partnerships.  
We believe in social and economic development of our area.  
We care about our work and our colleagues.  
We are disciplined.  
We believe in good relationships.  
We serve with pride.

**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL HELD ON WEDNESDAY 11 APRIL 2018 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL OFFICES, PIKETBERG**

**PRESENT**

**MEMBERS**

Municipal Manager (Adv. H Linde: Chairperson)  
Director Corporate Services (JWA Kotzee: Deputy Chairperson)  
Director Technical Services (H Kröhn)  
External Member (Ms. S van der Merwe)  
External Member (Ms. D Kotze)  
Director Financial Services (G Goliath)

**OFFICIALS**

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

**ACTION**

**PTN001/04/2018**

**OPENING AND WELCOME**

The chairperson welcomed everyone to the meeting.

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**PTN002/04/2018**

**REQUEST FOR LEAVE OF ABSENCE**

**3/3/1/4**

Director Technical Services will join the meeting at a later stage.

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**PTN003/04/2018**

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

**3/3/1/6**

The Chairperson declared that she has personal interest in item **PTN008/04/2018** and will leave the meeting when the item will be discussed, other members of the Municipal Planning Tribunal present declared that they had no personal interest with regards to any items on the agenda.

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**PTN004/04/2018**  
**COMMUNICATION BY THE CHAIRPERSON**  
**3/3/1/6**

The chairperson informed the meeting that the Director Technical Services will join the meeting when item **PTN008/04/2018** will be discussed as the last item on the agenda and that the deputy chairperson will chair the meeting for this item.

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**PTN005/04/2018**  
**CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: TUESDAY 06 FEBRUARY 2018**  
**3/3/2/2**

That the minutes of the Municipal Planning Tribunal meeting held on Tuesday 06 February 2018 be confirmed.

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*ADMIN OFFICER*

**PTN006/04/2018**  
**APPLICATION FOR REZONING AND CONSENT USE: ERF 623, LAAIPEK**  
**15/3/3; 15/3/5, L. 623**

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 rezoning of a portion (75m<sup>2</sup> in extent) in the North-Western corner of Erf 623, Laaipek from Community Zone 2 to Open Space Zone 2 and consent use for a utility service to allow the erection of a 25m high freestanding telecommunication base station and associated infrastructure thereon, **be refused**; in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, because;
  - a) the 25m telecommunication base station mast will be significantly higher than other existing buildings or structures in the immediate surrounding area and will tower above the current skyline of the surrounding neighbourhood, detracting from the character of the surrounding area.
  - b) the applicant did not adequately consider the use of rooftop base stations on existing buildings, reduced mast heights and camouflaging, and more discreet positioning on a properties with lower visual sensitivity.

**REASONS FOR RESOLUTION**

The site and position of the proposed development is situated within a residential area, with community facilities and a recreational park in close proximity thereto. Section 59(3)(a) of the Land Use Planning Act, 2014 (Act 3 of 2014) requires consideration of Spatial Efficiency principle, whereby land development should optimise the use of existing resources, infrastructure, agriculture, land, minerals and facilities. Apart from the central location of the proposed site in the identified complaint area, this application fails to substantiate the principle of spatial efficiency by failing to consider rooftop base stations on existing buildings, reduced mast heights and camouflaging, and more discreet positioning on a properties with lower visual sensitivity to reduce the visual impact on the character and skyline of the town.

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The erection of a telecommunication base station and mast with a height of 25m, will have a negative impact on the character of the surrounding area, being located among buildings with heights of at most 8m. No visual mitigation measures were proposed and alternative sites, infrastructure or buildings that are less visually sensitive have not been considered.

The application is not regarded desirable from a planning perspective in terms of section 65 of Bergrivier Municipal By-Law relating to Land Use Planning taking into account the relevant desirability factors applicable.

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**PTN007/04/2018**

**APPLICATION FOR REZONING, DEPARTURE AND REMOVAL OF RESTRICTIONS: ERF 1261, LAAIPLEK**

**15/3/3; 15/3/2, L. 1261**

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 **approval** be given in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning **for amendment** of restrictive title condition 4.6.(a) pertaining to Erf 1261, Laaiplek by adding the words "/guest lodge" after the words "one dwelling".
2. That the application for rezoning of the property from Single Residential Zone 1 to General Residential Zone 5 to operate a guest lodge from the property and departure from the side and rear building lines applicable to General Residential Zone 5 from 4.5m to 1.5m and 3m respectively to accommodate the existing structures, **be approved**; in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to;
  - a) Guest rooms may only be rented out for the use of travelers and holidaymakers and exclusively for accommodation on short term basis;
  - b) That provision be made for an on-the site facility for the preparation and serving of meals to guests, and that revised building plans be submitted in this regard;
  - c) Parking for guests must be provided within the boundaries of the property at a ratio of 1 parking bay per guest room;
  - d) Access to an outdoor living area on the land unit must be provided, which may include private or communal open space, but excluding roads, service yards and parking areas;
  - e) An outdoor living area of at least 10% of the net erf area must be provided, such outdoor living area(s) must be of reasonable proportions and location to allow for leisure or recreational use by guests and lodgers, and may include open courtyards within the complex;
  - f) A service yard must be provided on the land unit;

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- g) Food and beverages may only be served to bona-fide guests;
- h) No alcoholic beverages may be sold except to residential guests for consumption on the premises with meals;
- i) Where exterior lighting is used, it must be limited to downlights and soft ambient lighting not spreading into neighboring properties;
- j) No entertainment may be provided on the land unit;
- k) That a maximum of 8 rooms are allowed to be utilized for guest lodge purposes.

3. That the objections 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.

Section 59 (3) (iii) and (iv) requires that the availability of residential and employment opportunities in close proximity to, or integrated with, each other is promoted, and that a diverse combination of land uses is promoted for facilitate spatial efficiency. The subject property is located in a residential area where several guest accommodation options already exist in close proximity thereto.

Tourism development is proposed by the BMSDF for Velddrif/Laaiplek by promoting entrepreneurs in whale and bird watching, holiday resort development, and marina and waterfront development amongst other. The proposal would provide short term accommodation to tourists and visitors to the area on the waterfront of the Port Owen Marina. The proposal will facilitate tourism development in town and is considered to be in line with the proposals of the BMSDF. It will also create employment opportunities within the town boundaries (within the existing urban edge).

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. Erf 1261, Laaiplek is currently zoned as Single Residential Zone 1 with the primary right for a dwelling house, which includes: a storeroom and garaging, a second dwelling unit of 60m<sup>2</sup> in floor area, a braai room, renewable energy structure for household purposes, home occupation, letting to lodgers, a bed and breakfast establishment, and home child care. The existing zoning of the property already allows for a bed and breakfast establishment and letting to lodgers, and the additional impact of the proposed guest lodge over the existing land use rights will be negligible. Letting to lodgers, including a guest lodge, is compatible with the residential use of the area as it primarily provides a place to stay.

The dwelling house on Erf 1261, Laaiplek was erected before the enactment of the Bergrivier Municipality: Integrated Zoning Scheme By-Law in June 2016 and was built in accordance with the then Velddrif Zoning Scheme Regulations and the restrictions of the title deed of the property. The development parameters applicable to General Residential Zone 5 require 4.5m side and rear building lines. The existing house was however erected within the 3m rear

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building line and 1,5m side building lines, as prescribed by the then Velddrif Zoning Scheme and the title deed of the property. The application for departure is not to increase the footprint of the dwelling house, but rather to relax the building lines applicable from 4.5m to 3m and 1.5m in order to allow the existing structures on the property without any extensions to the footprints thereof. The guest lodge is accommodated within the existing footprint without additions/extensions made to the originally approved dwelling house.

The Bergrivier Municipality: Integrated Zoning Scheme By-Law defines a guest lodge as: "an appropriately scaled establishment which provides temporary residence for transient guests lodging and meals are provided and—

- (a) includes a small conference/ training facility and also caters for business meetings, and
- (b) does not include a backpackers' lodge. No more than 20 rooms per land unit may be used for bedroom accommodation for paying guests or lodgers, and no more than 40 paying guests or lodgers may be supplied with lodging or meals at any time." The proposed guest lodge does not accommodate a facility for on-site provision of meals to guests. The subject is also not located adjacent to Erf 746, Laaiplek and consolidation of the two properties would therefore not be possible. Without a facility for the preparation and serving of meals to guests, the structure on Erf 1261, Laaiplek will not fulfil in the definition of a dwelling house or a guest lodge. Guest would have to order meals or visit the restaurant on Erf 746, Laaiplek, resulting in increased movement of people and/or vehicles between Erf 746, Laaiplek and Erf 1261, Laaiplek thereby increasing noise and traffic in a narrow residential cul-de-sac. The creation of a structure consisting only of rooms for accommodation, without any catering facilities is considered unsuitable for this area.

Adequate on-site parking will be provided for the proposed use in accordance with the requirements of the Bergrivier Municipality: integrated Zoning Scheme By-Law without impacting on the existing residential character of the property or surrounding area.

The Manager: Civil Engineering Services confirmed that the proposed guest lodge would have a minimal impact on municipal services and no service contributions would be required.

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**PTN008/04/2018  
APPLICATION FOR REZONING: ERF 1400, PIKETBERG  
15/3/3, PB. 1400**

The Chairperson left the meeting because she have personal interest in the item and the deputy chairperson chairs the meeting. The Director Technical Services joined the meeting to form a quorum for the discussion of this item.

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 rezoning of Erf 1400, Piketberg from Single Residential Zone 1 (dwelling house) to General Residential Zone 1 in order

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to allow the erection of a double dwelling house on the property, **be approved** in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to the following conditions:

- a) Subdivision of the property is not allowed;
  - b) Individual ownership of the dwelling units is allowed in terms of sectional title scheme;
  - c) The architectural style, building material and colour scheme of the double dwelling house must be the same for both units to ensure uniformity;
  - d) Building plans must be submitted at this municipality for consideration in terms of the National Building Regulations and Building Standards Act, 1977, as amended;
  - e) Each dwelling unit be provided with separate water meter, sewerage- and electricity connection as well as access;
  - f) Bulk Service Contributions, as predetermined in the Municipal Budget, be paid for the 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 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); and
  - g) Compliance with Bergrivier Municipality By-Law Relating to Prevention of Public Nuisances and Public Nuisances arising from the Keeping of Animals, 2009.
2. The objection be partially upheld for the reasons provided in the reasons for resolution.

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**REASONS FOR RESOLUTION**

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 proposed utilisation of land on Erf 1400, Piketberg introduce a double dwelling house on a larger property that have a contribution to densification, consistent with the directives of Bergrivier Municipal Spatial Development Framework, 2012-2017.

Relevant consideration were given to the development principles of Spatial Sustainability and Spatial efficiency as prescribed in terms of Chapter VI of the Land Use Planning Act, 2014.

The property is located in near existing available municipal engineering services resulting in more efficient utilization of the land. Bergrivier Municipality Technical Department has no objection against the proposed rezoning as it do not impact on municipal engineering services, subject to conditions imposed to ensure that there is no financial burden on the municipality. The utilisation of Erf 1400, Piketberg contribute to densification and introduce different housing types, thereby promoting integration and inclusion of different groups of people



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in the area.

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.

Aspects on keeping of animals (pets) on the subject property is imposed as condition. The development parameter in terms of 50% coverage, building lines and height restrictions is similar to the single residential properties. The proposed land use therefore do not impact on the character of the surrounding single residential zoned properties.

Representations and comment on the application was considered

Aspect on keeping of animals (pets) on the subject property is imposed as condition. The development parameters in terms of 50% coverage, building lines and height restrictions is similar to the surrounding single residential properties and placement of buildings will be subject to the same discretion of the owner as in the case of an Single Residential unit.

The application is furthermore determined desirable from a planning perspective taking into account the abovementioned relevant factors of consideration as determined in terms of section 65 of Bergrivier Municipal By-Law relating to land Use Planning, subject to conditions.

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**PTN009/04/2018**

**APPLICATION FOR REZONING AND CONSOLIDATION: ERF 1183 & 1185, PORTERVILLE  
15/3/3; 15/3/4, PTV. 1183 AND 1185**

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 rezoning of Erf 1183, Porterville from Single Residential Zone 1 to Authority Zone and consolidation of Erf 1183, Porterville with Erf 1185, Porterville to form consolidated Portion A (±7231m<sup>2</sup> in extent) in order to accommodate upgrading of existing buildings (South African Police Facilities) **be approved**, in accordance with the site development plan dated October 2017 in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to the following conditions:

1.1. That required municipal services that arise as a result of the proposed utilization, will be for the account of the developer/owner(s). In addition to this the owner(s)/applicant will be responsible for the provision and upgrading of all service infrastructure required as a result of additional burden created by the proposed utilization, as negotiated and agreed upon between the developer and the Municipality's Directorate: Technical Services by means of a Services Level Agreement (SLA); and

1.2. Building plans be submitted to this municipality for consideration in terms of the National Building Regulations and Building Standard Act, 1977 as

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amended,

- 1.3. That a 315 Kva Electrical Minisub be installed to the satisfaction of the Electrical Services Department and compliance be confirmed by the Electrical Services Department during building plan evaluation,
  - 1.4. A solid boundary wall (i.e. vibracrete wall) be erected on the common boundaries between the newly created land unit and adjacent properties before the commencement of any construction,
  - 1.5. That a heritage permit be obtained from Heritage Western Cape (HWC), before alterations or demolitions of protected structures are made,
  - 1.6. No buildings may be erected or utilised for additional dwelling purposes, and
  - 1.7. That building lines of 2m on the side boundaries be adhered to.
2. The objection be partially upheld for the reasons provided in the reasons for resolution.

**REASONS FOR RESOLUTION**

Section 65 (i) of Bergrivier Municipal By-law relating to Municipal Land Use Planning requires consideration of the Integrated Development Plan (IDP), including the Municipal Spatial Development Framework (MSDF).

The proposed application for rezoning of Erf 1183 to Authority Zone and current land uses on the premises are non-conforming land uses and do not constitute an offence and may continue as long as it remain lawful, it is submitted that the rezoning is consistent with Bergrivier Municipal Spatial Development Framework, 2012 -2017. The zoning of Erf 1185 remain the same and consolidation of the two land units is consistent with Bergrivier Municipal Spatial Development Framework 2012-2017.

The proposed application is to improve the current utilization of land thereby increasing accessibility, convenience and efficiency regarding operations of government facilities that is consistent with the Western Cape Provincial Spatial Development Framework 2014.

Section 65 (d) consideration of comments on response to the notice of the application etc.

The existing authority usage (Police Facilities) on Erven 1183 and 1185 Porterville is a non-conforming land use in terms of Bergrivier Municipal Integrated Zoning Scheme By-law “non-conforming use” means an existing land use that was lawful in terms of a previous zoning scheme but that does not comply with this zoning scheme;”

A non-conforming use does not constitute an offence in terms of Bergrivier Municipal Integrated Zoning Scheme by-law and a non-conforming use may continue as long as it remains otherwise lawful. The proposed rezoning of Erf 1183, Porterville is only to bring the zoning of Erf 1183, Porterville in line with the land use to allow upgrading and renovations on the consolidated land unit.

Application is made to Heritage Western Cape as some buildings are older

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than 60 year prior to renovations/upgrading/demolishment of structures, to ensure that the visual appearance of the proposed upgraded and new buildings is considered by the competent authority to allow visually sensitive upgrading/renovations of existing police facilities on the property.

It is therefore submitted on account of aforesaid that the proposed upgrading/renovations will improve the current visual appearance of the properties. The proposed parking area facing Erf 1184, Porterville will have a negative impact on the neighbouring property (Erf 1184), it is therefore essential that a solid boundary wall replace the existing wire fence on the common boundary between the two properties.

Relevant consideration were given to the development principles of Spatial Justice, Spatial efficiency as prescribed in terms of Chapter VI of the Land Use Planning Act, 2014.

The properties is located in close proximity to existing civil engineering services and this municipality's civil services department is in agreement with the services report submitted by the applicant prepared by ICE Tygerberg (Pty) Ltd. The electrical services department require the upgrading of electrical services prior to building plan submission, and conditions is imposed to ensure that the utilisation of land do have a financial burden on the municipality. The proposed utilization of the consolidated land units can therefore be efficiently accommodated within available municipal resources subject to conditions.

The properties is currently not utilised to its maximum development potential, rezoning and consolidation of the two land units will allow upgrading/renovations of existing law enforcement/police facilities thereby improving support services, promoting safe environments and sense of security for all members of society and the communities it serves.

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.

Existing authority land uses already exist on both properties respectively. The development parameters and additional provisions as approved by the Municipality according to the site development plan apply to every site, use and type of building.

The application is furthermore determined desirable from a planning perspective taking into account the abovementioned relevant factors of consideration as determined in terms of section 65 of Bergrivier Municipal By-Law relating to land Use Planning, subject to conditions.

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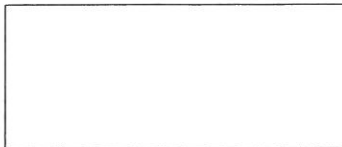
**PTN010/04/2018  
APPLICATION FOR TEMPORARY DEPARTURE: ERF 2090, PORTERVILLE  
15/3/8, PTV. 2090**

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

After thorough discussions the following resolution was taken:



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**RESOLUTION**

1. That the application for temporary departure in order to allow the operation of a crèche from a portion of the dwelling house on Erf 2090, Porterville (47 Loerie Street), **be approved**; in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to the following conditions;
  - a) Compliance with the West Coast District Municipality's Environmental Health Practitioner letter referenced 12/3/1/5 dated 14 December 2017;
  - b) All applicable certifications and licensing must be in place e.g. business license, health certificate (from the West Coast District Municipality) and fire safety certificate, etc.
  - c) Registration at the Department of Social Development and or relevant department is compulsory;
  - d) The services provided must primarily be day care and educational, and not medical services;
  - e) The services may not operate outside the hours 6:00 to 18:00, between Monday and Friday;
  - f) Not more than 20 children may be registered at a time, or on the property at any time;
  - g) Proof of compliance with conditions (a) , (b) and (c) be submitted to this Municipality's Department Planning and Development within 90 days of approval;
  - h) No structural changes be made to the dwelling house, without approval in terms of the National Building Regulations and Building Standards Act, 1977; and
  - i) The temporary departure is valid for a period of 5 years.
2. The objections not be upheld for the reasons provided in the reasons for resolution.

**REASONS FOR RESOLUTION**

Section 65 (i) of Bergrivier Municipal By-law relating to Municipal Land Use Planning requires consideration of the Integrated Development Plan (IDP), including the Municipal Spatial Development Framework (MSDF).

The temporary departure do not change the current zoning of the property but only allows the operation of a crèche on temporary basis. The existing residential rights will remain the same as the surrounding area and as such is consistent with the spatial guidelines. The proposed application will achieve the goals and outcomes of the IDP 2017-2022 for early childhood development centers by means of improving the quality of education and long-term prospects of future generations as well as provide a job opportunity.

Section 65 (d) consideration of comments on response to the notice of the application etc.

The properties are located in the same street as Porterville Primary School (Erf

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1660), less than 100 meters. Similar early childhood educational facilities (two) are also located in the nearby vicinity. The school is located in the centre of Monte Bertha Porterville that is a dominant residential neighbourhood, which is in fact characterised by high pedestrian movement, and problem aspects such as litter and some nuisances may occur as a result of aforesaid reasons to property owners in Loerie Street.

Relevant consideration were given to the development principles of Spatial Justice, Spatial efficiency as prescribed in terms of Chapter VI of the Land Use Planning Act, 2014.

The crèche (day care facility) involves the internal conversion of a covered stoep of the existing approved dwelling house, without any structural changes to serve as educational facility and classrooms being efficiently accommodated within existing space. No additional engineering services are required as the property is already serviced. The proposed utilisation of the dwelling house as crèche has no financial burden on the municipality, resulting in the optimal use of existing resources and infrastructure as well as space efficiently accommodated within available resources. The proposed crèche (day care facility) can also help with social integration of children and is also conveniently located from the existing primary school.

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 of the property remain the same. Scrutiny of the application and the applicable development parameters determined compliance. The proposed application is therefore not anticipated to detract from the character of the area, as similar land uses exist in the immediate area.

The application is furthermore determined desirable from a planning perspective taking into account the abovementioned relevant factors of consideration as determined in terms of section 65 of Bergrivier Municipal By-Law relating to land Use Planning, subject to conditions.

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**PTN011/04/2018**

**DATE OF NEXT MEETING**

That the next meeting of the Municipal Planning Tribunal be scheduled for Tuesday 08 May 2018 at 11:00 in the Council Chambers, Municipal Offices, Piketberg.

**NOTED**

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**THE MEETING ADJOURNED AT 15:45**

**CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS**

*[Handwritten Signature]*

**CHAIRPERSON**

*13/4/18*  
**DATE**

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