

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 05 SEPTEMBER 2018 AT 11:00 IN THE COUNCIL CHAMBERS, MUNICIPAL OFFICES, PIKETBERG

PRESENT

MEMBERS

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

OFFICIALS

Manager: Planning and Environmental Management (W Wagener)
Head: Secretariat & Records Management (NJ Scheepers)

ACTION

PTN001/09/2018

OPENING AND WELCOME

The Chairperson welcomed everyone to the meeting. She apologised for the late start of the meeting and opened the meeting with a prayer.

PTN002/09/2018

REQUEST FOR LEAVE OF ABSENCE

3/3/1/4

Director Technical Services – sick leave

PTN003/09/2018

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 have no personal interest with regards to any items on the agenda, except for Ms S van der Merwe (external member) on item 007 and the Head: Secretariat and Record Management on item 009.



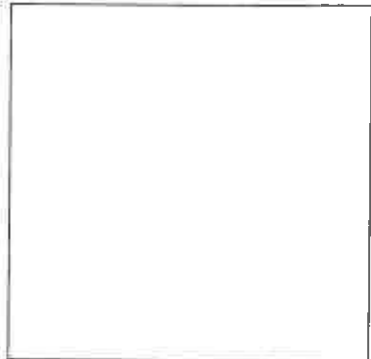
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PTN004/09/2018
COMMUNICATION BY THE CHAIRPERSON
3/3/1/6

The Municipal Manager requested that external members withdraw themselves from giving inputs/comments on applications in the region of Bergrivier Municipality.

The Municipal Manager informed the Municipal Planning Tribunal members that the Chief Financial Officer will leave service at Bergrivier Municipality at the end of November 2018.

NOTED



PTN005/09/2018
CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: WEDNESDAY 06 AUGUST 2018
3/3/2/2

That the minutes of the Municipal Planning Tribunal meeting held on Wednesday 08 August 2018 be confirmed.

**HEAD: SECRETARIAT
AND RECORDS
MANAGEMENT**

PTN006/09/2018
APPLICATION FOR CONSENT USE: ERF 1820 , PIKETBERG (PB. 1820)
15/3/5, PB. 1820

The Manager: Planning and Environmental Management gave a brief summary to the item under discussion.

After thorough discussions the following resolution was taken:

RESOLUTION

That the application for consent use in order to allow the operation of a house shop from an existing outbuilding (garage ±30.38m²) on Erf 1820, Piketberg (31 Sand Street), **be refused** in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, for the reasons provided in the reasons for recommendation.

REASONS FOR RESOLUTION

Section 65 of Bergrivier Municipality By-law on Bergrivier Municipal Land Use Planning requires the consideration of the applicable policies of the Municipality that guide decision making:

The application does not comply with requirements in section 5. (3) and (13) of Bergrivier Municipality Policy relating to House Shops and factual information available proof aforesaid. The requirements read as follows:

" 3. A house shop will only be allowed every 500m of street and not within a 200m radius from another house shop.

13. No person shall own or operate more than one house shop per township or permit it to be operated on his or her behalf."

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Section 65 (s) of the Bergrivier Municipal By-law on Municipal Land Use Planning requires consideration of the provisions of the applicable zoning scheme.

The size of the house shop's percentage of floor space in relation to the dwelling house is ±46.5%. The proposed house shop's floor space does not comply with the land use description of house shop as provided in Bergrivier Municipality Integrated Zoning Scheme By-law, from which no departure may be granted.

The objections received from the ward councillor are based on the criteria in the house shop policy and are upheld.

**MANAGER: PLANNING
AND ENVIRONMENTAL
MANAGEMENT**

(Ms van der Merwe left the meeting prior to the discussion of item 007)

PTN007/09/2018

**APPLICATION FOR SUBDIVISION, REZONING & CONSENT USE: PORTION OF ERF 1002, PORTERVILLE (MUNICIPAL COMMONAGE)
15/3/5, PTV. 1002**

The Manager: Planning and Environmental Management gave a brief summary to the item under discussion.

After thorough discussions the following resolution was taken:

RESOLUTION

That the application for subdivision of Remainder Erf 1002, Porterville (Porterville Commonage) into two portions namely: Portion 1 (±1ha in extent) and Remainder Erf 1002 Porterville an rezoning of the newly created Portion 1 from Agricultural Zone 1 to Open Space Zone 1 as well as consent use in order to allow a cemetery **be approved**; in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to the following conditions.

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1. Compliance with the conditions in the Department of Transport & Public Works letter of comment, dated 03 October 2016 referenced 13/3/5/1-02/62, and
2. Compliance with the conditions of the Environmental Authorisation referenced 16/3/3/1/F1/12/2004/18 dated 20 July 2018.

REASONS FOR RESOLUTION

Consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The proposed site is located on a central position in town, allowing equitable and accessible distribution of social services as well as facilities for the community of Porterville, contributing to spatial justice.

The required municipal services that may arise as a result of the proposed utilization, will be for the account of the municipality in accordance with the



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Municipal Approved Budget. I.e. the upgrading of roads and engineering services. The Department of Environmental Management and Development granted Environmental Authorization for the establishment of the cemetery subject to conditions. The Department of Agriculture has no objections to the proposal. The proposed application is therefore made to efficiently establish a cemetery that will contribute to the well-functioning of communities.

The application does address past spatial imbalances and is efficiently located within available resources.

Bergrivier Municipal Spatial Development Framework 2012-2017 provides the following strategies and guidelines for Porterville:

"Cemeteries:

- *The current cemetery contains land available for future expansion, as well as to the south beyond the 5 year timeframe of the SDF."*

The proposed site is earmarked for small farming activities and the establishment of the cemetery deviate from the Spatial Proposal Map for Porterville, but it has been identified in the MSDF 2012-2017 that the current cemetery requires expansion.

Deviation of the Spatial Proposal Map is regarded appropriate as site specific circumstances allow it as follows:

The Mayoral Committee of Bergrivier Municipality considered this option expanding the existing cemetery to the South for Porterville, but this site was rejected since it is located within 500m of a residential area, and does not conform with the requirements of Regulations 15(2) (b) of the Regulations relating to the Management of Human Remains as promulgated in terms of the National Health Act, 2003. Due to shortage of burial space and current cemetery nearing its capacity, burial sites are required for the well-functioning of the community.

The proposed site is located on a central position in town, allowing equitable and accessible distribution of social services as well as facilities for the community of Porterville, contributing to spatial justice.

The application is desirable from a land use planning perspective taking into account the relevant factors of consideration as prescribed in section 65 of Bergrivier Municipality By-law on Municipal Land Use Planning, subject to conditions.

(Ms van der Merwe joined the meeting after abovementioned resolution (PTN007/09/2018 was taken)

**PTN008/09/2018
APPLICATION FOR DEPARTURE: ERF 1181, VELDDRIF
15/3/1, V. 1181**

The Manager: Planning and Environmental Management gave a brief summary to the item under discussion.

After thorough discussions the following resolution was taken:

**MANAGER: PLANNING
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RESOLUTION

That the application for departure from the development parameters applicable to a crèche to allow a maximum of 40 children in lieu of 20 children to be registered on Erf 1181, Velddrif at any time and departure from minimum off-street parking requirements to provide 1 parking bay per 20 children plus a stop and drop facility in lieu of 1 parking bay per 10 children plus a stop and drop facility, **be refused**, in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning for the reasons provided in the reasons for recommendation.

That departure from the development parameters applicable to a crèche to allow a maximum of 32 children (maximum of 28 toddlers (2-6 years) and 4 babies (1-24 months) in lieu of 20 children to be registered on Erf 1181, Velddrif at any time, **be approved**, in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning for the reasons provided in the reasons for recommendation subject thereto the following:

- ✓ strict adherence to the operation hours between 07:00 till 17:30;
- ✓ strict adherence to 45 minutes playtime outside; and
- ✓ three on-site parking bays plus a stop and drop facility to be provided.

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REASONS FOR RESOLUTION

Section 7(a)(vi) of the Spatial Planning and Land Use Management Act, 2013 states that a Municipal Planning Tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application.

Section 42(1)(c) of the Spatial Planning and Land Use Management Act, 2013 requires that the public interest, fact and circumstances relevant to the application and the respective rights and obligations of all those affected be taken into account by a Municipal Planning Tribunal when considering and deciding on an application.

The property has boundary walls of 1.8m in height along the side and rear boundaries of the property. The street façade of the property will remain unchanged, with existing low boundary walls (±0.9m in height) and existing entrances. The visual character of the property will remain as a dwelling house. Impact on the visual character of the area is therefore unchanged.

According to the applicant, the children at the crèche are divided into age groups of approximately 10 each. Each age group has their own playtime outside. The amount of noise or disturbance of peace from such a group of children, in a play area surrounded by boundary walls of 1.8m in height is anticipated to be similar of what could be expected in a residential area where children are raised and play. The surrounding land owners did not object to the previous application to allow for a crèche of 20 children. Noises from vehicles, as well as the voices of children and parents, at peak times when children are dropped off or picked up could however cause nuisance in the residential area, though only for short periods. The property is also located approximately 60m

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from the main road (Voortrekker) of Velddrif which carries significant traffic volumes, including trucks. The traffic noise from the main road would already raise the ambient noise levels of the surrounding area, particularly during the daytime when the crèche would be active.

Objections were received against the on-site parking and the potential traffic impacts. The Traffic Services department also rejected the application to deviate from the parking requirements of the Bergrivier Municipality: Integrated Zoning Scheme By-Law. The street from which the property gains access is narrow and not intended for high traffic volumes. At peak times the increased traffic and lack of on-site parking space could result in vehicles parking on the pavements and obstructing vehicle and pedestrian movement in the area. It could also pose a dangerous situation if children need to cross the street. Though it might be that some children will be brought and collected in lift clubs, this arrangement cannot be guaranteed or enforced, and provision needs to be made for children brought to and collected from the crèche individually. The Bergrivier Municipality: Integrated Zoning Scheme By-Law limits the number of children in a crèche to 20 and require a minimum of 1 parking bay per 10 children in addition to a stop and drop facility. With reconfiguration of the parking layout, the property would have sufficient space to provide 3 on-site parking bays plus a stop and drop facility.

In terms of Section 65(d) and (s) of the Bergrivier Municipality: By-Law Relating to Municipal Land Use Planning, the Municipality must have regard to all comments received, including comments from municipal departments, and the provisions of the zoning scheme when considering an application.

The Environmental Health Practitioner from the West Coast District Municipality issued a certificate of acceptability for food premises (to allow preparation of meals to children in the crèche) as well as a certificate of acceptability for child care facilities for the existing crèche. The certificate of acceptability for child care facilities allows the crèche to accommodate 4 babies (1-24 months) and 28 toddlers (2-7 years) based on the floor space and toilet facilities. The existing crèche was also issued with a fire safety certificate from Bergrivier Municipality's Fire and Disaster Management department, confirming that the crèche complies with the SANS 10400 and the Bergrivier Fire Safety By-Law. These certificates confirm that the existing crèche complies with the requirements for a child care facility including available indoor and outdoor space, safety and hygiene. The Technical Services department confirmed that no problems are foreseen with regards to the service infrastructure, and supports the application.

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 zoning of the property will not be affected by this application and will remain Single Residential Zone 1, the same as the zoning of the objectors' properties. The existing residential rights will remain the same as the surrounding area and as such are consistent with the spatial guidelines. It is generally accepted that supporting facilities and services such as crèches and early childhood development centres can be accommodated in residential areas, although it is not necessarily reflected as such in the spatial planning documents. The proposed application will help achieve the goals and

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outcomes of the IDP 2017-2022 for early childhood development centres by means of improving the quality of education and long-term prospects of future generations as well as provide a job opportunity.

(Mr NJ Scheepers left the meeting prior to the discussion of item 009)

PTN009/09/2018

**APPLICATION FOR REZONING & CONSENT USE: ERF 1587, PIKETBERG (PB. 1587)
15/3/1, PB. 1587**

The Manager: Planning and Environmental Management gave a brief summary to the item under discussion.

After thorough discussions the following resolution was taken:

RESOLUTION

That the application for rezoning of Erf 1587, Piketberg from Single Residential Zone 1 to Single Residential Zone 2 and consent use in order to allow the operation of a house shop from an outbuilding/garage (±33.22m²) on Erf 1587, Piketberg, **be refused** in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, for the reasons provided in the reasons for recommendation.

REASONS FOR RESOLUTION

Section 65(d) of Bergrivier Municipality By-law on Municipal Land Use Planning required the consideration of the comments in response to the notice of the application, including comments received from organs of state, municipal departments and the Provincial Minister in terms of section 45 of the Land Use Planning Act;

Submission by the objectors is factual based on historical proof of non-compliance with legislation available on municipal records and current conditional temporary departure approval contraventions (i.e. transference of house shop by lease agreement) that do have merit and is upheld based on aforesaid. It is submitted that the owner continues deviate from norms and standards and allowing the application on a permanent basis can result in the similar occurrences considering the factual history, that will result in a use which is incompatible with the surrounding land uses.

Objections received with regard to nuisances experienced give an indication that the land use is not suitable for the area on a permanent basis as consent use, as it infringes on the primary residential right of the objector and social well-being.

Section 65(d) of Bergrivier Municipality By-law on Municipal Land Use Planning required the consideration of (e) the response by the applicant, if any, to the comments referred to in paragraph (d);

All responses to objections were considered and it is submitted that it cannot, address nuisances experienced by the objector and non-compliance with conditional temporary departure approval (i.e. transference of house shop by lease agreement) and submission by the objector is based on actual findings.

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Section 65 of Bergrivier Municipality By-law on Bergrivier Municipal Land Use Planning requires the consideration of the applicable policies of the Municipality that guide decision making;

No advertising sign may be displayed other than a single, un-illuminated sign or notice not projecting over a public street in accordance with the Municipality's outdoor advertising and signage By-law, and the sign may not exceed 1,5m x 0,8m. The existing advertising sign exceeds the permissible size of advertising signs prescribed in Bergrivier Municipality House Shop Policy.

Section 65 (s) of the Bergrivier Municipal By-law on Municipal Land Use Planning requires consideration of the provisions of the applicable zoning scheme.

The size of proposed house shop area (garage) is 33.22m², the size of the existing dwelling house and second dwelling house is ±120.65m². The proposed translucent roof area is excluded from calculation floor space and has already been subtracted from this calculation. The size of the house shop's percentage of floor space in relation to the dwelling house is thus 27.5%. The proposed house shop's floor space does not comply with the land use description of house shop as provided in the Bergrivier Municipality Integrated Zoning Scheme By-law, from which no departure may be granted.

Site inspection on 22 August 2018, revealed that the proposed translucent roof area and garage/storage area are not converted in accordance with approved building plans that were submitted with the application. Considering historic transgressions with legislation and conditions of approval, if the full area is occupied by the house shop, the house shop floor area will increase to 35.5% inconsistent with a land use description provided in Bergrivier Municipality Integrated Zoning Scheme By-law.

The application cannot be supported from a land use planning perspective taking into account the abovementioned relevant factors of consideration provided in terms of section 65 of Bergrivier Municipal By-law.

(Mr NJ Scheepers joined the meeting after abovementioned resolution: PTN007/09/2018 was taken)

PTN010/09/2018

DATE OF NEXT MEETING

The next Municipal Planning Tribunal meeting will be held on **Wednesday 03 October 2018** at **11:00** in the Council Chambers, Municipal Offices, Church Street, Piketberg.

NOTED

THE MEETING ADJOURNED AT 12:30

CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS



CHAIRPERSON

10/9/18

DATE

**MANAGER: PLANNING
AND ENVIRONMENTAL
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**HEAD: SECRETARIAT
AND RECORDS
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