

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 6 MARCH 2019 AT 11:00 IN THE COUNCIL CHAMBERS, MUNICIPAL OFFICES, PIKETBERG

PRESENT

MEMBERS

Director Corporate Services (JWA Kotzee: Deputy Chairperson)
Director Financial Services (M Wüst)
Director Technical Services (H Kröhn)
External Member (Ms. D Kotze)
External Member (Ms. S van der Merwe)

OFFICIALS

Manager: Planning and Environmental Management (W Wagener)
Compliance Officer (A van Rossum)

ACTION

PTN001/03/2019

OPENING AND WELCOME

The Deputy Chairperson welcomed everyone to the meeting.

PTN002/03/2019

REQUEST FOR LEAVE OF ABSENCE

3/3/1/4

Municipal Manager (Adv. H Linde: Chairperson)

PTN003/03/2019

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.





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PTN004/03/2019
COMMUNICATION BY THE CHAIRPERSON
3/3/1/6

NOTED



PTN005/03/2019
CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: WEDNESDAY 6 FEBRUARY 2019
3/3/2/2

That the minutes of the Municipal Planning Tribunal meeting held on Wednesday 6 February 2019 be confirmed.

**COMPLIANCE
OFFICER**


PTN006/03/2019
**APPLICATION FOR REMOVAL OF RESTRICTIONS: ERF 1182, LAAIPEK
L1182**

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

RESOLUTION

That the application for removal of restrictive conditions B.(g)(i) & B.(g)(ii) as held in Title Deed No. T 1776/2018 pertaining to Erf 1182, Laaipek, **be approved**, in terms of section 60 of the Bergrivier Municipal By-Law relating to Land Use Planning.

**MANAGER: PLANNING
AND ENVIRONMENTAL
MANAGEMENT**



REASONS FOR RESOLUTION

The building lines prescribed by the zoning scheme by-law would still apply to future alterations/extensions made on the property. The development parameters contained in the zoning scheme by-law, spatial planning policies such as the BMSDF, as well as the procedures set out in the Bergrivier Municipality By-Law relating to Municipal Land Use Planning is considered sufficient to manage aspects relating to land use management.

The objection regarding past noise disturbances is irrelevant to the application for removal of restrictions relating to building lines. Noise and the demeanour of persons are aspects not controlled by title deed restrictions relating to building lines of a property.

The application is considered consistent with the development principles of LUPA and SPLUMA. The application is furthermore aligned with the guidelines of Municipal Spatial Development Framework, and is considered 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.



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PTN007/03/2019

**APPLICATION FOR SUBDIVISION AND REMOVAL OF RESTRICTIONS: ERF 627, PIKETBERG
PB. 627**

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

RESOLUTION

1. That the application for subdivision of Erf 627, Piketberg into two portions namely: Portion A ($\pm 520\text{m}^2$ in extent) and remainder Erf 627 Piketberg ($\pm 905\text{m}^2$ in extent) and removal of restrictions applicable to deed of transfer T45479/2017 namely conditions: B.5. (a), (b), (c) and (d) in order to allow the subdivision and second dwelling unit on the remainder, **be approved**; in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to the following conditions;
 - 1.1. The provision of the subdivided portion with separate water-, sewerage- and electricity connections as well as access;
 - 1.2. 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 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 Compliance with the development parameters of the applicable zoning scheme;
2. That the applicant at whose insistence this restrictive title deed conditions are removed/amended must, after the publication of a notice contemplated in terms of section 33 (6) of Bergrivier Municipal Bylaw relating to Land Use Planning, in the Provincial Gazette, apply to the Registrar of Deeds to make the appropriate entries in, and endorsements on, any relevant register or title deed to reflect the removal/amendment of the restrictive conditions prior to any building plan approval.

**MANAGER: PLANNING
AND ENVIRONMENTAL
MANAGEMENT**

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).

Density Target (page 34 of MSDF 2012-2017): Density target for Piketberg is 15du/hectare. The application has some contribution to achieve density targets, by removing the restrictive title condition to allow a second dwelling and new single residential property. Erf 627, Piketberg is earmarked for residential purposes. The application for removal of restrictions and subdivision is to allow land uses generally associated with a residential area. The application is regarded consistent with Bergrivier Municipal Spatial



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Development Framework 2012-2017(BMSDF) in terms of the aforesaid.

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

The objection based on traffic problems was investigated by Bergrivier Municipality Head: Traffic Services who responded on the application as follows: *"The Head: Traffic Services has no objection against the proposed application. Sufficient parking is available and there are no traffic hazards in Piet Retief Street."*

The objections are not upheld as a result of aforesaid input, from the applicable road authority for this municipality.

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 application has no impact on municipal technical services as services is already available for the area, conditions are furthermore imposed to address matters related to municipal engineering services.

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.

Development principles of Spatial Justice - Section 59 (1) (a) of the Land Use Planning Act, 2014 prescribe the following development principle *"past spatial and other development imbalances should be redressed through improved access to, and utilisation of land"*

Deed of Transfer nr. T45479/2017 contains several conditions of a general and public nature that have been imposed at the behest of the Administrator and the Municipality at the establishment of extension 11 of Piketberg during the 1955's, with the purpose to protect the amenity and character of the specific extension. It is submitted that these aforementioned norms and standards have materially changed though the years and that the proposed utilization of Erf 627 Piketberg comply with the current state of affairs.

Development principles of Spatial Efficiency – Section 59 (3) (a) of the Land Use Planning Act, 2014 prescribe the following *"land development should optimise the use of existing infrastructure..."*

No objections were received from internal municipal departments giving an indication that the proposed application is efficiently accommodated within available resources.

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.

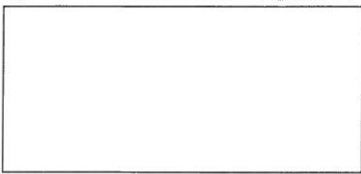
The development parameters remain applicable to the remainder and the newly created land unit as prescribed in the zoning scheme by-law, and no departures are applicable.

The application is furthermore determined desirable from a planning



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perspective taking into account aforesaid relevant factors of consideration as determined in terms of section 65 of Bergrivier Municipality By-Law relating to Municipal land Use Planning, subject to conditions.



PTN008/03/2019


**APPLICATION FOR PERMANENT DEPARTURE: ERF 644, PIKETBERG
PB. 644**

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

RESOLUTION

That the application for permanent departures of the side and rear building line from 2 meter to 0 meter in order to allow an existing carport on Erf 644, Piketberg , **be approved**, in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to the sewerage line being dealt with to the satisfaction of the Municipality's Directorate Technical Services and that the applicant indemnifies this Municipality, in writing, against structural damages that may result from maintenance / repairs to the sewerage line.

**MANAGER: PLANNING
AND ENVIRONMENTAL
MANAGEMENT**



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. No spatial directive is given with regard to building line relaxations in Bergrivier Municipal Spatial Development Framework 2012-2017 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. No spatial directive is given with regard to building line relaxations in Bergrivier Municipal Spatial Development Framework 2012-2017 (BMSDF). The land use of the property remains the same and as such it is consistent with BMSDF.

Relevant consideration was 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 applicant indemnified this municipality Civil Services department against damages that may arise as a result of repair/maintenance on sewerage line to the carport, the manager civil services is in agreement with aforesaid as such the application has no financial burden on the municipality. The electrical department has no objection against the proposal. The application can therefore be efficiently accommodated without negatively affecting municipal services.

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. The zoning of the property remain Single Residential, which is compatible with the character of the surrounding residential area. The owner of Erf 638 who is affected by the encroachment at the rear also gave written



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consent to relax the building line. No objections were received from the other adjacent neighbour (Erf 637 Piketberg) that is directly affected by the side building line relaxation during public participation, as such, it is deemed that they have no comment/objection. The land use is only to accommodate a carport that will not affect the privacy or primary residential right of the two directly affected property owners.

The objection is not be upheld because the applicant indemnified this municipality Civil Services department against damages that may arise as a result of repair/maintenance on sewerage line to the carport and the manager civil services is in agreement with aforesaid.

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

PTN009/03/2019

**APPLICATION FOR CONSENT USE AND PERMANENT DEPARTURE: ERF 1390, PIKETBERG
PB. 1390**

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

RESOLUTION

1. That the application for consent use in order to allow the operation of a guest house from the existing dwelling house and to allow the owner of the guest house not to reside on Erf 1390, Piketberg **be approved**; in terms of section 60 of Bergvriervier Municipal By-Law relating to Land Use Planning, subject to the following conditions:
 - a) The manager of the guest house must put measures in place to ensure a safe environment and exercise control on the property, to the satisfaction of this Municipality, which must include, but is not restricted to making the manager's phone number(s) available to the surrounding property owners in order to report any disturbances;
 - b) No activities may be carried out which constitute, or are likely to constitute, a source of public nuisances;
 - c) No activities that may result in nuisances/disturbances will be allowed between the hours of 22:00 and 08:00;
 - d) The proposed deck only be used for breakfast/meals and relaxing in the sun, without causing a nuisance to the surrounding property owners

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- e) Business meetings and training by or for guests residing on the premises for up to 12 persons are allowed, but only within the dwelling house to mitigate possible disturbances to neighbours;
 - f) Compliance with the requirement of the Environmental Health Practitioner (West Coast District Municipality);
 - g) Alcoholic beverages may only be provided to resident guests for consumption on the premises with meals and that a liquor licence be obtained from the Western Cape Liquor Authority prior to the provision thereof;
 - h) No more than 6 rooms per land unit may be used for bedroom accommodation for paying guests or lodgers, and no more than 12 paying guests or lodgers may be supplied with lodging or meals at any time;
 - i) Meals may only be supplied to guests or lodgers who have lodging on the property, employees, and the family residing in the dwelling;
 - j) 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 policy or By-Law on outdoor advertising and signage, and the sign may not exceed 1 m² in area;
 - k) On-site parking must be provided and clearly marked out on the premises at 1 parking per guest room as indicated on the parking plan submitted with the objections prior to further guesthouse activities on the property; and
 - l) Registration with the local Tourism Board is compulsory.
- 2) That the application for permanent departure of the rear building line from 2m to 0.5m to allow 7% of the proposed deck within the rear building line on Erf 1390, Piketberg **be refused**, in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning.

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.

Guest houses are generally associated to be located in residential areas even though, it is not necessarily so reflected in the SDF. The MSDF give the following directives with regard to tourism namely:

MSDF tourism objective (page 26) *"Support the development of sustainable*



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tourism resources in the Bergrivier region.”

MSDF tourism strategies (pages 26) “*Effective management of tourism in the different towns and rural areas. Ensure that development does not negatively affect the tourism potential of the region.* “ and “*Provide opportunities in tourism where local communities can get access to this industry.*”

The application provide an opportunity where local persons get access to the industry by means of operating a guest house and is consistent with MSDF.

Section 65 (d) consideration of comments on response to the notice of the application etc. and Section 65 (e) the response by the applicant, if any, to the comments referred to

The property is zoned Single Residential Zone 1 in terms of Bergrivier Municipality Integrated Zoning Scheme By-Law with primary land use for a dwelling house. The zoning makes provision for a guest house as consent use. The guest house is a residential associated activity that can be applied for as consent use that provides meals and accommodation to transient guest and not retail/commercial establishment i.e. shop, business premises, light industry as mentioned in certain objections received.

It is important to note that a Bed and Breakfast establishment is a primary land use right on the property and surrounding single residential properties as well, where at most two bedrooms can be used and 4 guests can be accommodated at a given time. The primary right and consent use being applied for has similar characteristics.

Erf 1390, Piketberg’s two site entrances/accesses were approved by this municipality in terms of the previous zoning scheme. The accesses were approved by this municipality before the promulgation of Bergrivier Municipality Integrated Zoning Scheme By-Law on 17 June 2016 and as such is a non-conforming use that does not constitute an offence in terms of the current zoning scheme by-law and continue as long as it is legal.

The zoning scheme also provides the following provisions among other for parking layout requirements in clause 45 (1) b and c namely:

(b) the layout of any parking area, except for parking in Single Residential Zone I, Single Residential Zone II and General Residential Zone I, must ensure that vehicles can readily leave the site without reversing across the sidewalk, unless otherwise approved by the Municipality;

(c) a tandem bay accommodating two motor vehicles is regarded as one bay for the purposes of this zoning scheme, except for single residential zones, where a tandem bay is regarded as two bays;

Erf 1390, Piketberg is a single residential property that clause (b) above does not apply to. The amended site development plan/parking layout plan indicate 7 parking bays, of which three bays are tandem/or are blocked by other parking on premises. However, because a rezoning is not proposed the parking as tandem bays are not regarded as one parking bay on a single residential property. The Head: Traffic Services of this municipality was requested to comment, but no feedback was received, as such it is deemed



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that he has no comment/objection on the proposal.

The existing dwelling house is approved in terms of the National Building Regulations and Building Standards Act, 1977 as amended. Structural stability is an aspect that would have been dealt with during building plan approval.

The motivation report, submitted with the application, address aspects of section 65 of Bergrivier Municipal Planning By-Law relevant to the application i.e. impact on municipal engineering services, provisions of the zoning scheme and is regarded acceptable. This municipality confirmed that the application is complete and being processed on 18 September 2018.

The Acting Station Commander of SAPS Piketberg on 30 November 2018, confirmed that no nuisance complaints were reported for Erf 1390 Piketberg. It is also submitted that since the granting of the previous temporary no complaints have been received by this municipality. It is however possible that on some occasion or at a certain given time activity of nuisances/disturbances could have occurred on the premises, considering the amount of objections received in this regard. It is submitted that SAPS is the competent authority to address disturbing of the peace and that these matters should be registered or enforced by the competent authority. Conditions are imposed to mitigate nuisances.

The existing approved double storey dwelling building has views over surrounding adjacent properties to the North, West and South in the area, with or without consent use approval, privacy of the surrounding properties will be effected by the dwelling house, especially considering that a bed and breakfast establishment is a primary use on the property and visa versa from other single residential properties.

Departure from the rear building line from 2m to 0.5m in order for the proposed deck to encroach the building line will aggravate the view onto surrounding properties, which will negatively impact on the privacy of neighbouring properties. The objections in this regard are therefore upheld.

Section 65 (g) the matters referred to in section 42 of the Spatial Planning and Land Use Management Act; and Section 65 (r) the principles referred to in Chapter VI of the Land Use Planning Act;

Development principles of Spatial Justice, Sustainability and Efficiency

The objections and response thereon by the applicant contributed meaningfully in considering this application and is addressed under reason for recommendation section 65 (d) and (e) above.

The existing dwelling house will be utilised as guests house. The proposed guest house will be operated by previous disadvantage persons in a neighbourhood that were previously excluded in this part of town for development by them. Buitengracht Street slopes to the east to the direction of the mountain and this property indeed offers spectacular views over the lower town and surrounding rural activities, this is contributing sustainable aspects that were considered as well as demand for such tourism services. This application can contribute to address past spatial imbalances by allowing the



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previously disadvantaged to operate a guest house in this area.

The property is already serviced and no additional services are required. The technical services department of this municipality has no objection against this application. The proposed utilisation of existing dwelling house and available engineering services are therefore efficiently proposed within available resources, that has no financial burden on the municipality.

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.

The zoning of the property remains Single Residential Zone 1 and the guest house is proposed from an existing approved dwelling house which is compatible with the character of the surrounding area.

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, subject to conditions.

**PTN010/03/2019
DATE OF NEXT MEETING**

The next Municipal Planning Tribunal meeting will be held on **Wednesday 3 April 2019** at **11:30** in the Council Chambers, Municipal Offices, Church Street, Piketberg.

NOTED

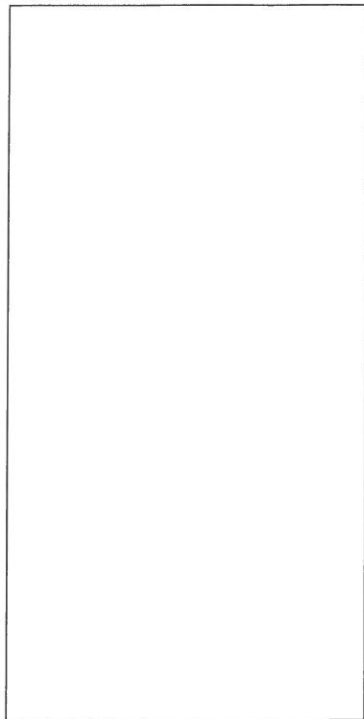
**THE MEETING ADJOURNED AT 13:05
CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS**



CHAIRPERSON

11/03/2019

DATE



**COMPLIANCE
OFFICER**