

BERGRIVIER MUNISIPALITEIT / MUNICIPALITY

VISIE:

Bergrivier: 'n
voortuitstrewende
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 THURSDAY 4 JUNE 2020 AT 11:00
AT MUNICIPAL OFFICES, PIKETBERG**

PRESENT

MEMBERS

Municipal Manager (Adv. H Linde: Chairperson)
Director Corporate Services (Mr Vivian Kotzee Kotzee: Deputy Chairperson)
Director Community Services (Mr D Josephus)
Manager Civil Engineering Services (Mr JJ Breunissen)
External Member (Ms. S van der Merwe)

OFFICIALS

Manager: Planning and Environmental Management (W Wagener) (sick leave)
Town Planner (East) (K Abrahams)
Compliance Officer (A van Rossum)

ACTION

PTN001/06/2020

OPENING AND WELCOME

The Chairperson welcomed everyone to the meeting.

PTN002/06/2020

REQUEST FOR LEAVE OF ABSENCE

3/3/1/4

External Member (Ms. D Kotze)

PTN003/06/2020

**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 the items on the agenda in terms of
Schedule 1 of the Code of Conduct of Tribunal Members.



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PTN004/06/2020
COMMUNICATION BY THE CHAIRPERSON

3/3/1/6

The chairperson requested that Mr Kobus Munro (Director: Development Management) be invited to attend the next Municipal Planning Tribunal on 9 July 2020.

The chairperson asked that these turbulent times be used to re-evaluate priorities and plan for a bigger trajectory for the future.

PTN005/06/2020
CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: WEDNESDAY 4 DECEMBER 2019

3/3/2/2

That the minutes of the Municipal Planning Tribunal meeting held on Thursday 5 March 2020 be confirmed with corrections on page 5.

**COMPLIANCE
OFFICER**

PTN006/06/2020
APPLICATION FOR CONSENT USE AND PERMANENT DEPARTURE: ERF 1351, PORTERVILLE PV. 1351

The Manger: Planning & Environmental Management gave a brief summary to the item under discussion.

RESOLUTION: REFUSED

1. That the application for consent use in order to allow the erection of a 18m freestanding telecommunication base and associated infrastructure on a portion (±80m² in extent) of Erf 1351 Porterville and permanent departure of the height restrictions from 15meters to 18meters to accommodate the structure on the property in terms of section 15 of Bergrivier Municipal By-Law Relating to Land Use Planning, **BE REFUSED**; in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, because; **for the reasons provided in the reasons for recommendation.**
2. That the applicant take into consideration directives in the Bergrivier Municipal Spatial Development Framework (Bergrivier MSDF) when identifying sites for telecommunication infrastructure.

**TOWN PLANNER
(EAST)**

REASONS FOR RESOLUTION

MSDF 2019-2024

The main road of Porterville (Voortrekker Street) is the historic core of town with historic views in terms of the MSDF 2019-2024. One of the spatial directives for the built environment for Porterville among other states the following:

“Protect the valuable heritage resources that characterise the towns





history and urban fabric and promote adaptive re-use of vacant and neglected buildings to celebrate local heritage.”

The proposed telecommunication base station is not compatible with the historic core of Porterville, which will be visible from the historical heritage structures which should be sensitively treated. Allowing a structure that is intrusive and inconsistent with the historical character of town deviates from the MSDF spatial directives. The proposed freestanding telecommunication base station is also not an adaptive re-use to vacant and neglected building in the historic core area of town.

Desirability

The mitigation features proposed, by applicant is not sufficient to make the proposed 18m tree type freestanding telecommunication base station compatible with the surrounding area for the following reasons:

- *The structure is regarded intrusive adjacent and in close proximity to existing single residential dwelling units in the vicinity.*
- *The area is characterised by low vegetation, single storey and heritage buildings, and mitigation features are not sufficient in this area to allow an 18m high freestanding base station on the property.*
- *A reduction in height, and the alternative proposals are not sufficient to mitigate a freestanding tree type base station in this area.*
- *A freestanding mast within this area will have a negative visual effect on the character of the surrounding residential area.*

The ward councillor and surrounding objectors also stated that the application is not compatible with the area, which have merit. The MSDF also give clear guidance that this area should be protected. All comments and responses to objections contributed meaningfully in considering this application.

PTN007/06/2020

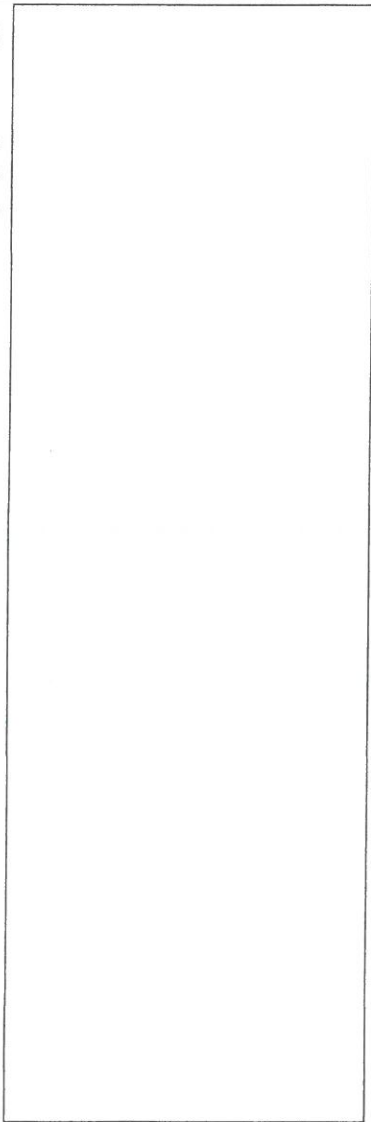
APPLICATION FOR CONSOLIDATION, REZONING, DEPARTURE AND CANCELLATION OF SERVITUDE: ERVEN 2525 AND 3112 , PORTERVILLE
PTV. 2525 & 3112

The Manger: Planning & Environmental Management gave a brief summary to the item under discussion.

RESOLUTION: APPROVED IN PART

1. That the land use planning applications for:

- a) Consolidation of Erf 2525 Porterville (±1049m² in extent) and Erf 3112 Porterville (±1909m² extent) to form a property of ±2958m² in extent;
- b) Cancellation of a servitude right of way as indicated on surveyor diagram (S.G. No 4924/95 & SG No. 3477/2004) of Erf 2525 and Erf 3112 Porterville; and
- c) Rezoning of the newly created consolidated property from Single



**TOWN PLANNER
(EAST)**



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Residential Zone 1 to General Residential Zone; **be approved** in terms of section 60 of Bergrivier Municipality By-Law on Municipal Land Use.

2. That the approvals of a), b) and c) above are subject to a maximum gross density of 35 dwelling units per hectare.
3. Departure of the maximum gross density requirement for town housing from 60 dwelling units/per hectare to 66 dwelling units/per hectare to accommodate the twenty (20) town housing units, **be refused**, in terms of section 60 of Bergrivier Municipality By-law on Municipal Land Use Planning.
4. That the resolution is made for the reasons provided in the Reasons for Resolution below.

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:

As core component of the IDP, Bergrivier Municipal Spatial Development Framework 2019-2024 promotes densification, but it should be in accordance with the densification guidelines (page 153) of the MSDF 2019-2024 which reads as follows:

“National and provincial government have set municipalities the target of increasing the density of urban areas to an average gross based density of 25 dwelling units / hectare...”

“Densification must be supported and prioritised in strategic locations such as:

1. In areas with high economic activity or growth (CBD Area).
2. Along main transport routes for purpose of public transport support.
3. On the edge of open spaces for purpose of increasing the level of observation of the areas to ensure security.
4. Within the areas where investment of public funds are focused (RSEP / Precinct Plans / Integration Zones).
5. In areas of high private investment e.g. in and around commercial nodes”

The proposal is not consistent with the densification guidelines as it is not located within the key densification consideration guidelines mentioned above.

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.

Spatial Sustainability, Efficiency and Justice:

The MSDF 2019-2024 in terms of Spatial Justice highlights the need to identify opportunities where spatial configuration of settlements and/or land holdings may be transformed by development of strategically located land to promote



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the integration of settlements and better located opportunities for socio-economic upliftment of disadvantage communities in Porterville, the application in its current form do not take into account strategically located land which is earmark in the MSDF for densification and therefore it do not address spatial justice in terms of current spatial directives.

Location of high density residential developments must take into account proximity to community facilities, open spaces, public amenities and activity corridors to be sustainably located, these locations are guided by the MSDF 2019-2024 and the objective of the zoning scheme by-law and should not be done on an ad hoc/uncontrolled manner. Development within the urban edge is not the only consideration criteria in terms of sustainability, the application in its current form do not take into account current spatial directives where these types of development should be prioritized and can't be regarded as a sustainable development.

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 proposed rezoning of the consolidated land unit is from Single Residential Zone 1 (dwelling house) to General Residential Zone 3 (Town housing).

"The objective of this zone (General Residential Zone 3) is to encourage residential development of a greater density than for General Residential Zone II, while retaining the emphasis on design coordination and a modest scale in terms of height. This zone has particular location requirements, such as proximity to transport and amenities, and should not be randomly located without due consideration of the availability of open space and community facilities. Town housing may be located in and around central business areas, near high density nodes and along activity axis such as railway lines and main traffic routes, where flats are often found."

The properties are not located in close proximity to public transport, amenities, community facilities or within the CBD nor along high density nodes or activity axis or main traffic roads. There are also no public open space in the street. The proposed rezoning do not comply with the objective of General Residential Zone 3.

The proposed development complies with the development parameters for town housing. Departure is though required from the maximum gross density on a town housing site which is 60 dwelling units/hectare to 66dwelling units/hectare. The properties are surrounded by low intensity industrial and single residential properties. The high density developments location is not within current guidelines and does not present densification approach that allow a sensitive transition in the area. Alternatives could have been explored i.e. subdivision into smaller single residential properties without rezoning or medium density housing in order to minimise the impact on the surroundings.

Section 65 (d)and (e) of Bergrivier Municipality By-law relating to Municipal Land Use Planning requires consideration of the comments in response to the notice of the application, including comments received from organs of state, municipal departments and considerations of section (e) the response by the applicant, if any, to the comments referred to in paragraph (d).



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The extent of the subject properties can contribute to densification in a different densification approach within the urban edge, but in its current form is not consistent with the zoning scheme by-law objective for General Residential Zone 3 nor MSDF 2019-2024 densification guidelines.

Even though the development parameters of General Residential Zone 3 do not require public open spaces, the objective of the zoning is clear that close proximity to public open spaces is needed, this development do not take into account this aspect. Open spaces are also important for the well-being of children.

The development can contribute to redressing past spatial imbalances by providing affordable housing opportunities for anyone in this area, a local estate agent (Agrisell) also confirmed that there is an additional demand for rental housing within Porterville, but development of rental accommodation should be in line with current norms and standards of the MSDF and Bergrivier Municipality Integrated Zoning Scheme By-law.

The applicant could have explored an alternative densification approach to be more sensitive to the surrounding area. Dodeka Estate and Lemoenkloof are group housing and town housing developments that were approved in terms of the Land Use Planning Ordinance, 1985, that also complied with historical (previous) MSDF's densification guidelines. Legislation and spatial guidelines has therefore materially changed over the years and this development do not take into account the current guidelines of the MSDF or objective of the zoning scheme by-law.

It should be noted that surrounding owners can't depend on views to remain intact when vacant land is not developed. The owners of the properties may erects double storey single residential dwelling units of 50% on each erf respectively as primary right and therefore it is a fact that views would at least be partially changed by future development.

No objections were received from the Traffic Services Department of this municipality as such it is deemed that they have no comment on the application. The right of way servitude was not registered in favour of the objectors properties, but in favour of Erf 2525 Porterville for access purposes.

Section 38(1)(c)(i) of the National Heritage Resources Act, No 25 of 1999, states

"38. (1) Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorized as— ...

(c) any development or other activity which will change the character of a site

—
(i) exceeding 5 000 m² in extent; ...

must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development."

The proposed application do not exceed 5000m² in extent or have existing heritage buildings on Erf 2525 and 3112 Porterville and therefore it do not require the applicant to be submitted the proposal to Heritage Western Cape



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as mention in abovementioned legislations.

All comments/objections and responses to comments/objections received contributed meaningfully in considering this application.

PTN008/06/2020

APPLICATION FOR AMENDMENT OF CONDITIONS OF AN EXISTING APPROVAL: ERF 1587, PIKETBERG PB. 1587

The Manger: Planning & Environmental gave a brief summary to the item under discussion.

RESOLUTION: APPROVED

1. That the application made in terms of section 15 of Bergrivier Municipality By-law relating to Municipal Land Use Planning for amendment of conditions of an existing approval, decision No. BKN013/10/2015 of November 2015, as follow:

- a) That the application in terms of section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for temporary departure in order to operate a house shop ($\pm 21m^2$ **30m²** in extent) from a portion of the ~~dwelling house~~ **garage adjacent to the dwelling house** on Erf 1587, Piketberg (38 Suikerkan Street) for a period of five years, ~~be approved~~, in accordance with the **attached site plan** ~~with the building plans submitted with this application~~, and no deviations will be allowed subject to the following conditions of Council's House Shop By-law; and
- b) Condition 1.5: The extent and location of the business component must be indicated on a scaled plan, and shall not exceed **30m²** ~~25m² or 50 % (excluding toilet and storeroom)~~ of the total floor area of the dwelling-house, ~~whichever is the smaller area;~~

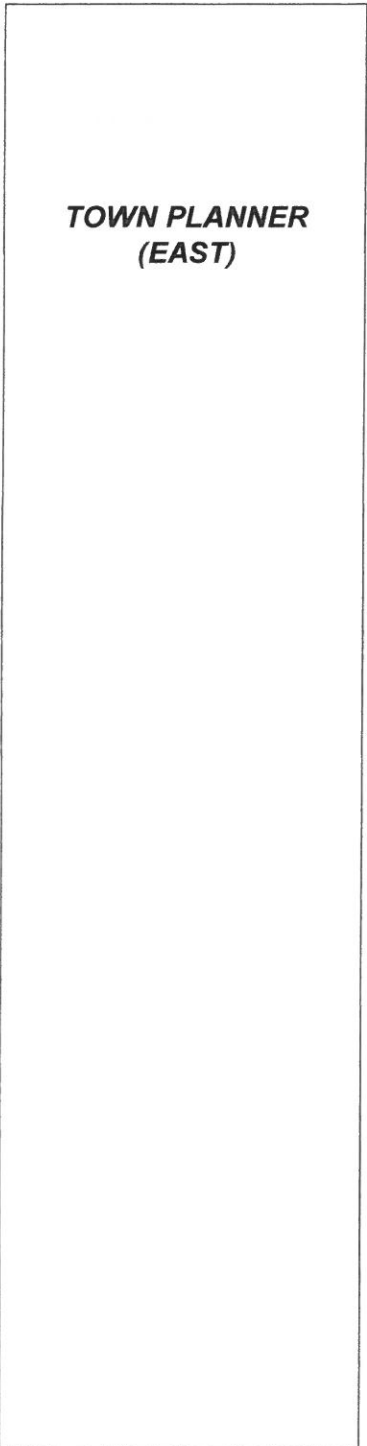
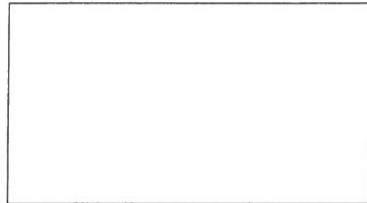
be approved in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, **for the reasons provided in the reasons for recommendation.**

2. That this approval does not extend the period of validity of decision No. BKN013/10/2015 of November 2015 which expires on 17 November 2020.

REASONS FOR RESOLUTION

Consistency with the development principles as provided in the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

Continued non-compliance and nuisances experienced by adjacent property owners do not result in communities that are viable, but creates an environment that is not spatially sustainable with the primary residential rights



**TOWN PLANNER
(EAST)**



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of the neighbours.

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);

The objection and response thereto were considered and it is submitted that the repositioning of the house shop will mitigate nuisances experienced by the objector.

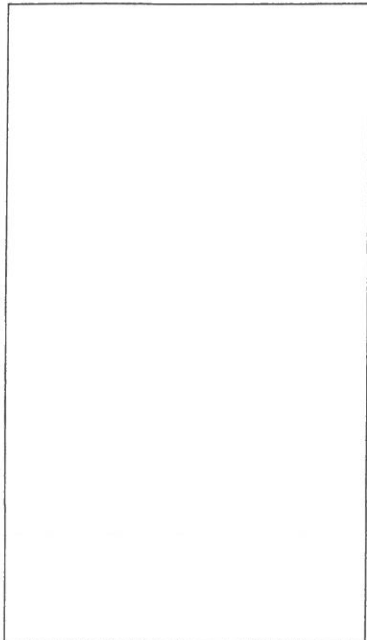
Section 65 (s) of the Bergrivier Municipal By-law on Municipal Land Use Planning requires consideration of the provisions of the applicable zoning scheme.

The house shop will not exceed 30m² of the total space of the dwelling house. A condition is imposed to ensure this. The house shop operation will continue from the garage until 17 November 2020, after which it will lapsed.

**PTN009/06/2020
DATE OF NEXT MEETING**

The next Municipal Planning Tribunal meeting will be held on **Thursday, 9 July 2020 at 11:00** in the Council Chambers, Municipal Offices, Church Street, Piketberg.

NOTED



COMPLIANCE OFFICER

**THE MEETING ADJOURNED AT 12:10
CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS**

CHAIRPERSON

**8/6/2020
DATE**
