

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 THURSDAY 4 MARCH 2021 AT 11:00 ON ELECTRONIC PLATFORM

PRESENT

MEMBERS

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

OFFICIALS

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

PTN001/03/2021

OPENING AND WELCOME

The Chairperson welcomed everyone to the virtual meeting.

PTN002/03/2021

REQUEST FOR LEAVE OF ABSENCE

3/3/1/4

Director Community Services (Mr D Josephus) – sick leave

ACTION



PTN003/03/2021

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

3/3/16

A discussion about whether or not Mr Breunissen has a personal interest in item 008 concluded that although he did speak to the applicant, he did not comment on the application, therefore he has no personal interest to declare. The members of the Municipal Planning Tribunal present individually declared not to have any personal interest with regards to the item on the agenda in terms of Schedule 1 of the Code of Conduct of Tribunal Members.



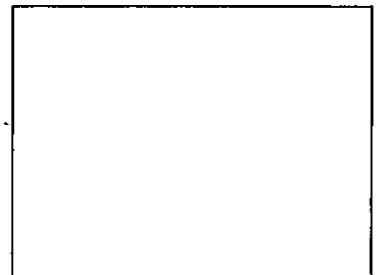
PTN004/03/2021

COMMUNICATION BY THE CHAIRPERSON

3/3/16

On enquiry from the chairperson the Manager: Planning & Environmental Management stated that no appeals were received since the last meeting of the MPT in November 2020.

One appeal authority meeting was held in January 2021 on a previous item and the MPT decision was upheld.



PTN005/03/2021

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: THURSDAY 12 NOVEMBER 2020

3/3/21

That the minutes of the Municipal Planning Tribunal meeting held on Thursday, 12 November 2020 be confirmed.

**COMPLIANCE
OFFICER**

PTN006/03/2021

APPLICATION FOR CONSENT USE: FARM GOEDVERWACHT NO. 146, DIVISION PIKETBERG

Farm 146

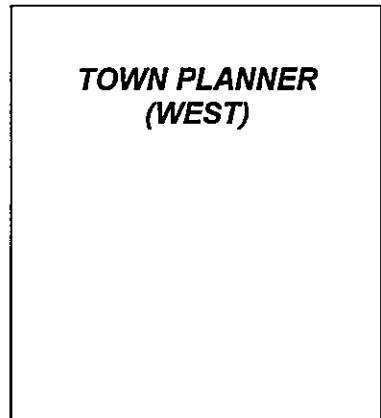
The Town Planner (West) gave a brief summary to the item under discussion.

RESOLUTION: APPROVED CONDITIONALLY

That the application for consent use for the as-built freestanding telecommunication base station and associated infrastructure on a portion of Farm Goedverwacht No. 146, Division Piketberg, **be approved**; in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to:

**TOWN PLANNER
(WEST)**

- a) The telecommunication mast must be limited to a maximum height





not exceeding 18m;

- b) The telecommunication base station and mast must allow for co-location of other service providers;
- c) The base station must be securely fenced off and access must be restricted;
- d) Existing trees around the proposed base station must be preserved;
- e) Should it be proven that there are negative health effects from the base stations (in accordance with acceptable standards), it must be rectified, or if it fails to comply, be decommissioned; and
- f) The structure and associated infrastructure be removed at the developer's cost if it falls into disuse.

REASONS FOR RESOLUTION

Section 59(1)(a) of the Land Use Planning Act, 2014 (Act 3 of 2014) requires consideration of Spatial Justice principle, whereby past spatial and other development imbalances should be redressed through improved access to, and utilisation of, land. The proposed infrastructure will help ensure greater access to telecommunication coverage for residents and visitors of the Goedverwacht mission station and help improve their quality of life and access to services.

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. The proposed site is centrally located within the Goedverwacht mission station, where network coverage is particularly required for the rural area. The development would allow for co-location of other network operators using the same telecommunication base station site and mast, thus reducing the need for additional base stations and masts in the area.

Section 42(1)(b) of the Spatial Planning and Land Use Management Act (SPLUMA) requires that decisions on land use planning applications must be consistent with the municipal spatial development framework. The Bergrivier Municipal Spatial Development Framework (BMSDF), 2019-2024 refers to the 2030 Agenda for Sustainable Development, sustainable development goal 9, highlighting that investment in infrastructure – transport, irrigation, energy, and information and communication technology (ICT) are crucial for achieving sustainable development and empowering communities. The BMSDF also recognises the advent of the Fourth Industrial Revolution and proposes: Promoting municipal-wide extension of broadband coverage, applying off-grid technologies in rural areas, including smart agri; Introducing smart urban infrastructure networks to serve new development areas; and replacing out-



dated systems with smart technologies when maintenance are prohibitive.

Section 42(2) of SPLUMA requires that compliance with environmental legislation must be considered when considering land use planning applications. The telecommunication base station and associated infrastructure was granted environmental authorisation by the Western Cape Department of Environmental Affairs and Development Planning on 17 May 2006. The authorised activity was commenced with and therefore did not lapse. The use of an existing telecommunication base station and associated infrastructure, for which environmental authorisation has already been granted, does not trigger the need for any further environmental authorisation.

The application is considered consistent with the development principles of LUPA and SPLUMA. The proposed application furthermore is 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 Bergvliet Municipal By-Law relating to land Use Planning.

PTN007/03/2021

APPLICATION FOR REMOVAL OF RESTRICTIONS AND CONSENT USE:

ERF 1688, LAAIPLEK

L. 1688

The Town Planner (West) gave a brief summary to the item under discussion.

RESOLUTION: HELD OVER

- 1) That the Municipal Planning Tribunal has identified the need to be able to use discretion regarding the current practical and economic situation when evaluating applications;
- 2) That the houseshop policy be revised to accommodate the abovementioned need; and
- 3) That the application be referred back to the Town Planner (West) pending the revision of the policy.

The abovementioned resolution 3 was reached by majority vote and the objection/opposition of the Manager: Civil Services was noted.

PTN008/03/2021

APPLICATION FOR REZONING, SUBDIVISION AND CONSOLIDATION: ERVEN 17, 19 & 3485

PIKETBERG

PB. 17, 19 & 3485

The Town Planner (East) gave a brief summary to the item under discussion.

**TOWN PLANNER
(WEST)**



RESOLUTION: APPROVED CONDITIONALLY

That the applications made in terms of section 15 of Bergrivier Municipal By-Law Relating on Municipal Land Use Planning for the following:

1. Consolidation of Erf 17, Piketberg ($\pm 30\text{m}^2$ in extent) and Erf 19, Piketberg ($\pm 2239\text{m}^2$ in extent) in order to create a consolidated business premises of ($\pm 2269\text{m}^2$ in extent);
2. Rezoning of Erf 3485, Piketberg (1933m^2 in extent) from Single Residential Zone 1 (dwelling house) to General Residential Zone 4 in order to develop six flats;
3. Subdivision in order to register a servitude of right of way ($\pm 682\text{m}^2$ in extent), over Erf 3485 Piketberg in order to create access/exit to Kloof Street in favour of Erf 19 Piketberg; and
4. Subdivision in order to register a servitude of right of way, ± 1.5 meters wide for pedestrian purposes only over the newly consolidated land unit between Erf 17 and 19 Piketberg, in order to create pedestrian access to Church Street in favour of Erf 3485 Piketberg,

be approved, reasonably in accordance with the site plan dated Sept 2019 (Project Nr. 219-15 and Dwg Nr. 1.102) and consolidation/servitude plan (Ref no. Erven 17, 19 & 3485, dated Oct 2020) in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to the following conditions:

- a) Bulk Services Contributions, as predetermined in the Municipal Budget, be paid as a result of the additional units 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);
- b) Should any existing bulk services be affected by the development, the applicant will bare the cost of relocation thereof;
- c) Distribution of municipal services on the property to the respective flats will be for the account of the owner(s)/developer;
- d) All flats must be planned, designed and built as a harmonious architectural entity;
- e) The flats on Erf 3485 Piketberg are restricted to a maximum height of 8.5 meter (double storey) to the ridge of the roof;

**TOWN PLANNER
(EAST)**



- f) Parking must be clearly marked out on the property as well as private and communal open space;
- g) Compliance with all other development parameters as provided in the Zoning Scheme By-Law;
- h) The servitude for pedestrians over the newly consolidated erf (between Erven 17 & 19 Piketberg) be registered in the deed of transfer, in favour of Erf 3485 Piketberg;
- i) The entrance/exit way servitude over Erf 3485 Piketberg in favour of the newly consolidated Erf (between Erven 17 and 19) be registered in the deed of transfer for primary land uses as provided in Bergrivier Municipality Zoning Scheme By-Law for Business Zone 1;
- j) That the vehicular access in Church Street be used as gated controlled entrance only and not as exit;
- k) Entry to the Church and Kloof Street entrances be limited to light motor vehicles (GVM not exceeding 3500kg) only; and
- l) The property owner of Erf 3485 Piketberg and the Municipality, must agree on a common boundary, which will prevent thoroughfare over the adjacent property of the municipality.

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:

Densification guidelines (page 153) in the MSDF has the following objective that National and provincial government has set municipalities for increasing the density of urban areas to an average gross based density of 25 dwelling units/hectare. The strategies through which this should be achieved among others are:

- **Promote urban renewal through the infill of erven and development of existing vacant land uses and buildings,**
- **Facilitate subdivision of erven, second dwelling units and sectional title developments – the development can especially take place in specific residential areas where large erven alongside wide streets were created and the area itself lends to densification.**

Spatial directives on page 99 for the built environment among others state, to promote densification and redevelopment of brownfield sites to accommodate housing in well located areas. One of the priority title projects on page 99 is to diversify housing delivery through various mechanisms and designs.



The rezoning of Erf 3485 Piketberg does promote urban renewal through the infill of erven and development of existing vacant land. The property is earmarked for residential purposes and in close walking proximity to the support services/facilities (SAPS, Municipal Offices, Department of Social Development, Banks, Churches, Schools), Central Business District, Public open space and the historic core of town that will contribute to integrated communities. The proposed rezoning, is for residential purposes, but with a higher density to promote rental accommodation/sectional title units within the area on vacant land. **Page 80 of the MSDF, development principle of efficiency is clear to integrate cities whereby the availability of residential and employment opportunities in close proximity to, or integrated with, each other is promoted** and this application does contribute to aforesaid spatial guidelines. The pedestrian servitude will also offer family's of the flats access to Church Street, a "**Safe NMT Walkway**" and "Tourism / Recreational Activity axis" in terms of Piketberg's SDF. The application is consistent with the MSDF 2019-2024.

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.

Erf 3485, Piketberg is located in close proximity to support public services/facilities (SAPS, Municipal Offices, Department of Social Development, Banks, Churches, Schools), Central Business District, Public open spaces and the historic core of town. Allowing the registration of a pedestrian servitude right of way in favour of Erf 3485 Piketberg to access these services will bring housing opportunities in closer walking proximity to these supporting services/facilities without the means to travel elsewhere saving the families time and money. The proposal contributes to restructuring Piketberg's lower density residential properties in Kloof Street, by promoting higher density housing opportunities on land that has been vacant and underutilised. The application has some contribution to new spatial norms and is considered acceptable and sustainable within its location.

The Electrical department of Bergrivier Municipality confirmed that electrical services are available to the property, but any additional municipal engineering services required as a result of the proposed utilisation will be for the account of the developer/owner at own expense to ensure that the application has no financial burden of the municipality or other tax payers. The development is efficiently proposed in an area where municipal services are available and can be accommodated.

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 property is located in close proximity to a public open space in Kloof



Street and surrounded by community facilities namely library, schools, churches, etc. Sufficient parking space is allowed on site for the 6 flats. The floor factor is 0.366. Coverage is 36.6%. Sufficient communal space is available on site as well as private space. The site development plan has been scrutinised for compliance with all other development parameters, and no departure is applicable. Considering that historical buildings are located in the vicinity of Church Street, it is proposed to restrict flats to 8.5meter (double storey) to the ridge of the roof to not infringe on the character of heritage resource (street scape) in Church Street. Single Residential Zoned properties also have a maximum 8.5meter height restriction.

The Traffic Services department has no objection against the application, subject thereto that Church Street only be used as vehicles entrance to Erf 19, and not exit as well as that entry to the Kerk and Kloof Street entrances be limited to Light motor vehicles (GVM not exceeding 3500kg), only. The site development plan in its current form is appropriate in terms of scale considering the immediate surrounding.

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

The Ward Councillor has no objection against the proposed rezoning, but suggests that a boundary wall be constructed between the municipality's Erf 45 and Erf 3485 Piketberg. An existing wire fence is located between Erf 45 (municipal property) and Erf 3485 Piketberg, but is dilapidated. A suggestion would be for the relevant municipal department and the property owner(s) of Erf 3485 Piketberg to come to an agreement, because it is a common boundary and both share equal responsibility to prevent municipal property to be used as thoroughfare and for safety purposes.

Erf 19 Piketberg is zoned Business Zone 1 in terms of Bergrivier Municipality Integrated Zoning Scheme By-Law with primary land use for a business premises. The land use description of business premises as provided in the zoning scheme By-Law includes multiple parking garage as primary land use on Erf 19, Piketberg.

"multiple parking garage"

Land use description: "*multiple parking garage*" means a place, excluding a road, street and onsite parking associated with a primary or consent use, which is used for parking of motor vehicles by the public, with or without a fee, and may include parking within a building.

The multiple parking garage is not a subject of this application and the objection regarding industrial storage units is not allowed under the current zoning. Final building plans for the multiple parking garage will have to be submitted at this municipality's building control department, which will be circulated to the department Planning and Environmental Management to



scrutinise primary land usage and compliance with the development parameters as provided in the Zoning Scheme By-Law. Garages used as storage units is a consent use (warehouse) in terms of Bergrivier Municipality Integrated Zoning Scheme By-Law, for which formal applications will have to be made in terms of section 15 of Bergrivier Municipality By-Law on Municipal Land Use Planning.

As stated by the applicant in his motivation the garages will provide secure covered parking for, among others, tenants and the public in general. A condition is imposed to ensure that the access/exit servitude is registered in favour of Erf 19, Piketberg for primary land uses as provided in the Zoning Scheme By-Law, exclusively. A condition is also imposed to limit entry in Kerk and Kloof Street entrances to Light motor vehicles (GVM not exceeding 3500kg), to prevent larger /heavy vehicles from entering the premises.

The applications applied for applicable to Erven 17 and 19 Piketberg are to formalise the existing entrance from Church Street by consolidating erven 17 Piketberg (30m²) with Erf 19 Piketberg and to register pedestrian access in favour of Erf 3485 Piketberg to Church Street as well as entrance/exit way servitude over Erf 3485 Piketberg in favour of the consolidation between Erf 17 and Erf 19 Piketberg, to which the owner of unit 9 (on Erf 4436 Piketberg) does not object, on condition that a secure gate be erected by the property owner at their expense at the entrance on Church Street. A site inspection dated 18 February 2021, revealed that a secure gate has been erected, along the entrance on Erf 17 Piketberg. An existing boundary wall and palisade fence are also erected between ±1.7m – 2m height between Erf 4436 and Erf 17 Piketberg.

It should be noted that surrounding owners can't depend on views to remain intact when vacant land is not developed. The owner of Erf 3485 Piketberg (1933m²) may erect a double storey single residential dwelling unit (maximum height 8.5m) that covers 50% and it is a fact that views would at least be partially changed by future development. The maximum height restriction for flats is 15meters, however the applicant submitted a site development plan indicating a double storey building which can be accommodated at 8.5meters. Only a portion of Erf 3485 Piketberg borders onto Erf 4436 Piketberg. The site development plan indicates that the proposed flats are located approximately in the centre of Erf 3485 Piketberg and comply with the prescribed 4.5meter side and rear building line restrictions, appropriately positioned to have limited impact on the surrounding owners privacy. Erf 4436 Piketberg's natural ground level is higher than Erf 3346 Piketberg, considering that Piketberg naturally slopes from East to West, which further limits the impact on privacy.

Section 38 of Bergrivier Municipality By-Law on Municipal Land Use Planning (information required), does not require final detailed elevation or layout plans for land use planning application, but the development on Erf 3485 Piketberg is restricted in terms of condition to be reasonably in accordance with site plan



with drawing no 1.102 dated Sept 2019 and the consolidation/servitudes plan with ref no Erven 17, 19 and 3485 PB, dated Oct 2020.

Desirability

The scale of the development will be approximately 706.6m² (36.6% coverage) on a property of 1933m². The area is characterised by mixed land uses consisting of municipal offices, hair salon, crèche (Erf 1065), library, church, sectional title units and public open space and the scale of the development is proposed to have limited impact on the compatibility of the surrounding area. No objections were received from the immediate effected single residential property owners in Kloof Street.

The proposed rezoning will provide an economic and investment opportunity to the property owners and also rental opportunities/sectional title opportunities to potential tenant improving the social well-being by providing housing stock in close proximity to support services/facilities, saving possible tenants time and money to travel.

The servitude right of way in favour of Erf 3485 Piketberg will insure integration of land uses by bring housing opportunities in close proximity to these support services. The servitude over Erf 3485 Piketberg will ensure that Erf 19 Piketberg will be able to gain access from Kloof Street to primary land use rights on the property. The panhandle to Erf 3485 Piketberg is 10.36meter wide and the Traffic Services department has no objection against access/exit thereto, subject to conditions that will control vehicular traffic movement on site.

The development proposal of six flats is considered sustainable as it can connect to available municipal engineering services, subject to the condition that bulk services contribution and upgrading/additional services required as a result of the proposed utilisation of land will be for the account of the developer/property owners.

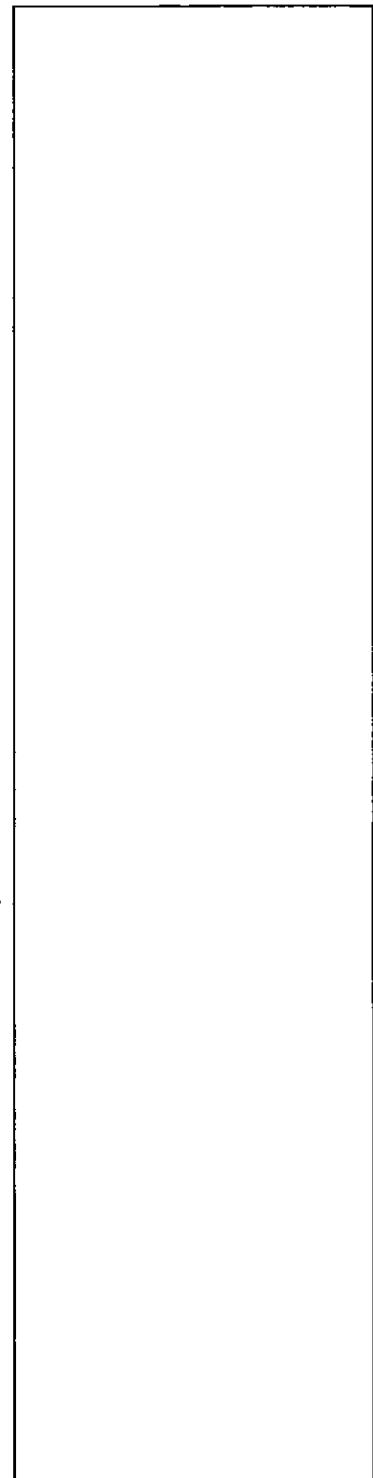
The application is determined desirable from a planning perspective taking into account the abovementioned relevant factors of consideration as determined in terms of section 65 of Bergrivier Municipal By-Law relating to land Use Planning, subject to conditions.

**PTN009/03/2021
APPLICATION FOR REZONING AND DEPARTURE: ERF 104, PIKETBERG
PB. 104**

The Town Planner (East) gave a brief summary to the item under discussion.

RESOLUTION: APPROVED CONDITIONALLY

The applications for :



**TOWN PLANNER
(EAST)**



1. Rezoning of Erf 104 Piketberg from Single Residential Zone 1 to Business Zone 2 in order to redevelop the property as a shop;
2. Permanent departure to permit more than one street access in order to allow for direct street access parking along Long Street and Pepper Street to enable 20 on-site parking bays for customers; and
3. Permanent departure to extent the maximum width for carriageway crossings from 10m for each street boundary of Erf 104 Piketberg to $\pm 44.8\text{m}$ along Long Street (to accommodate 13 parking bays and pedestrian access) as well as approximately $\pm 28\text{m}$ along Pepper Street (to accommodate 7 parking bays and 5.5m service and loading entrance);

be approved; in terms of section 60 of Bergvliet Municipal By-Law relating to Land Use Planning, subject to the following conditions:

- a) That clear and sufficient signage and road markings be put in place by the owners/developer to assure the free flow of traffic, to the satisfaction of Bergvliet Municipality Traffic Services Department,
- b) That an amended site plan be submitted, with building plans submission, to indicate **one entry** (Pepper Street) and **one exit** (Long Street) for fleet vehicles and 19 parking bays be reserved for clients;
- c) That fleet vehicles be parked within the shop or elsewhere on the premises, and not within the parking reserved for clients;
- d) Delivery of replenished goods must occur within the shop;
- e) The cost of additional services that may be required as a result of the proposed utilisation of land must be borne by the developer/owner(s) as negotiated and agreed between the owners/developer and this Municipality's Technical Department; and
- f) Compliance with all other development parameters of the Zoning Scheme By-Law.

REASONS FOR RESOLUTION

Section 65 (1)(a) to (t) of Bergvliet Municipal By-Law Relating to Municipal Land Use Planning prescribe the criteria for consideration of land use application, among others the following relevant criteria were considered:

Section 65 (i) of Bergvliet Municipal By-Law relating to Municipal Land Use Planning requires consideration of the integrated development plan, including





the municipal spatial development framework.

Piketberg is identified as a service and commercial centre of the surrounding agricultural area. Erf 104 Piketberg is located along the retail/commercial node (Long Street) of Piketberg, and borders on the CBD area and integration zone of Piketberg. The proposed site also border onto the earmarked strategic site areas where the local economy should be strengthen through consolidated commercial and retail node areas and activities at these locations.

The rezoning of Erf 104, Piketberg to Business Zone 2 in order to allow agricultural support services, in area which is historically characterized by such land uses i.e. Kaap Agri, 2 Acres Hardware, AFGRI, will contribute to expanding support services in closer proximity to the rural area. Similar rezonings have occurred in Pepper Street which identifies the growing need and current trend for agricultural support services/shops in this area.

By allowing the rezoning of Erf 104 Piketberg along an existing retail node will achieve the desired land use for the area being in line with Bergrivier Municipal Spatial Development Framework 2019-2024.

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

The traffic transgressions occurring, which have a result on to the objector by vehicles parking in front of his entrance within the Pepper Street, should be referred to the traffic department of this municipality, to address. The current applicant can't be held accountable for nuisances and disturbances arising as a result of primary land use activities occurring on other properties.

There are existing land uses in the vicinity that has historically been used as support services to the construction and agricultural sector of Piketberg and surrounding farms, which borders onto Long Street (retail/node), where noise generation occur 24hrs a day as a result of transportation of good/services.

The ward councillor, technical department and two road authorities have no objection which contributed meaningfully in considering this application. The objections were taken into account and conditions are imposed to provide some traffic control of fleet vehicles in Pepper Street and to ensure that 19 parking bays are strictly reserved for clients. Delivery of replenished goods is also restricted to occur within the building (shop) to mitigate further nuisances.

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 electrical services department has no objection against the proposal, as services are existing on the premises. The Civil Services Department did not comment on the application, it is therefore deemed that they have no



comment, however additional/upgrading required as a result of the proposed utilisation of land will be for the account of the developer/owner(s).

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.

Spatial Justice

Erf 104, Piketberg is located adjacent to Long Street. Existing residential land within a predominant business area along Long Street (retail node) is made available to the market by rezoning Erf 104, Piketberg to Business Zone 2, in line with spatial guidelines and supports professional agricultural services in closer proximity to the surrounding rural agricultural community, saving them time and money to travel elsewhere outside the municipal area.

Spatial Sustainability and efficiency

The proposed development is within the urban edge of town and outside any natural or conservation areas within close proximity of available municipal engineering services. The property has electrical services and any additional/upgrading services required as a result of the proposed utilisation of land will be borne by the property owner(s). The proposal can be regarded sustainable on account of aforesaid.

The property is located along a main retail/commercial node of Piketberg. This area is historically characterised by agricultural support land uses and the opportunity presented itself to provide an additional agricultural support service in this part of Piketberg. Businesses are furthermore driven by the concept of supply and demand, and the location of Erf 104 Piketberg is considered sustainable, considering that similar agricultural support services i.e. Kaap Agri, 2 Acres Hardware, AFGRI are successful along this retail/commercial node area of Piketberg. Piketberg is a service and commercial centre of the surrounding agricultural area and by allowing this land use will expand support services in closer proximity to the rural 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.

Bergrivier Municipality Integrated Zoning Scheme By-Law provided the following development parameters with regard to parking and loading bay requirements, under the proposed Business Zone 2.

- Shops (excluding supermarket) : 3 bays per 100 m² GLA;
- for 0 -1000 m² floor space: 0 off-street loading bay needs to be provided.





The competent road authorities have no objection against departures to obtain direct parking access from Pepper and Long Street. The site development plan was scrutinized and complies with required off-site parking bays. No loading bay is required based on the footprint size of the proposed shop.

Heritage Western Cape as competent authority for heritage resources provided approval in their letter referenced *HMMWEST COST/PIKETBERG/BERGRIVIER/ERF104*, dated 23 December 2020, for the total demolition of the dwelling house and structures on Erf 104 Piketberg.

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.

PTN010/03/2021

**APPLICATION FOR REZONING & CONSENT USE: ERF 1587 , PIKETBERG
PB. 1587**

The Town Planner (East) gave a brief summary to the item under discussion.

RESOLUTION: REFUSED

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 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

The application takes into account low income housing areas by bringing retail services at residential scale closer to this community, saving them time to travel to shops further in Piketberg, but spatial justice should be achieved without creating an inconvenience to surrounding owners in a dominant residential area, by continued non-compliance with legislation attribute to a negative effect on social well-being of the surrounding residential neighbourhood. The application under consideration is inconsistent with the development principle of spatial sustainability of The Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) taking into account the aforementioned.

House Shop Policy

Erf 4245 Piketberg has approved consent use for the operation of a house shop (granted in 2019 by the MPT), and even though it was approved within

**TOWN PLANNER
(EAST)**



the validity period of Erf 1587 Piketberg, approving the house shop on Erf 1587 Piketberg will be in conflict with the 200m radius of the House Shop Policy.

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):

Submissions by the objector are factually based on historical proof of non-compliance with legislation available on municipal records and the current contravention by allowing the house shop to continue to be operated after approval has lapsed proof aforesaid and does have merit and are therefore upheld.

It is submitted that the owner continues to deviate from norms and standards and allowing the application on a permanent basis can result in 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.

The Ward Committee of Ward 4 also recommended refusal.

The owner/applicant did not respond to these objections to proof the contrary, and in the absence of this no evaluation could be made, it is therefore deemed that he has no comment.

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 area (garage) is 11.27m X 3.89m = ±43.8m². A site inspection conducted on 12 February 2021, confirmed that the area under the translucent roof area and proposed house shop on the site plan are used in relation with one another, thereby occupying ±37% floor area of the total floor space of the dwelling house. The size of the existing dwelling house and second dwelling house is ±120.65m². The size of the house shop's percentage of floor space in relation to the dwelling house is thus ±36%. 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 application can't be supported from a land use planning perspective taking into account the above-mentioned relevant factors of consideration provided in terms of section 65 of Bergrivier Municipal By-Law.



PTN011/03/2021

**APPLICATION FOR PERMANENT DEPARTURE: ERF 2156, PIKETBERG
PB. 2156**

The Town Planner (East) gave a brief summary to the item under discussion.

RESOLUTION: APPROVED CONDITIONALLY

1. That the application for permanent departure of the street building line from 5meter to 0meter and 2.7meter respectively in order to allow extensions (covered stoep) to the existing dwelling house and outbuilding (storeroom ±11.16m²) on Erf 2156 Piketberg , **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 outbuilding (storeroom) may only be used for storage of household equipment/appliances and not be used as a habitable room.

1.2 That the applicant take note that a 0m street building line could be problematic if the municipal services that run underground in that area need to be upgraded or repaired and that if any buildings constructed within a 2m distance from the requested 0m building line are damaged, the Municipality may not be held responsible for repairs and any repair costs to structures within the abovementioned distance will be at the owner's expense.

REASONS FOR RESOLUTION

Section 65 (j) of Bergrivier Municipal By-Law relating to Municipal Land Use Planning requires consideration of the Integrated Development Plan, including the Municipal Spatial Development Framework (MSDF). No spatial directive is given with regard to building line or coverage relaxations in Bergrivier Municipal Spatial Development Framework 2019-2024 (Bergrivier MSDF). The land use of the property remains the same and as such it is consistent with MSDF.

Relevant consideration was given to the development principles as prescribed in terms of Chapter VI of the Land Use Planning Act, 2014. The proposed departures will allow a more spatially compact land unit on a property with limited expansion potential taking into account its dimensions and position of the existing structures/buildings on the property. The Town housing units in Tarentaal street are relatively small with erven sizes that vary between 280m² to 300m², this encroachment situations often occur on such small land units with 5meter street building line parameters. The proposed departure of building line does not affect municipal engineering services. The application can therefore be efficiently accommodated. The relaxing of the building lines will help to alleviate some of the physical constraints built into the original planning design of the property, providing the owner some opportunity in the

**TOWN PLANNER
(WEST)**



**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL HELD ON THURSDAY 4 MARCH 2021
AT 11:00 ON ELECTRONIC PLATFORM**

form of a larger developable 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.

The neighbours directly affected provided written consent for the building line relaxations. The application is to accommodate land uses that will not affect the privacy of neighbours. The store room will not be used as habitable room, which is restricted to be used exclusively as storeroom for household purposes.

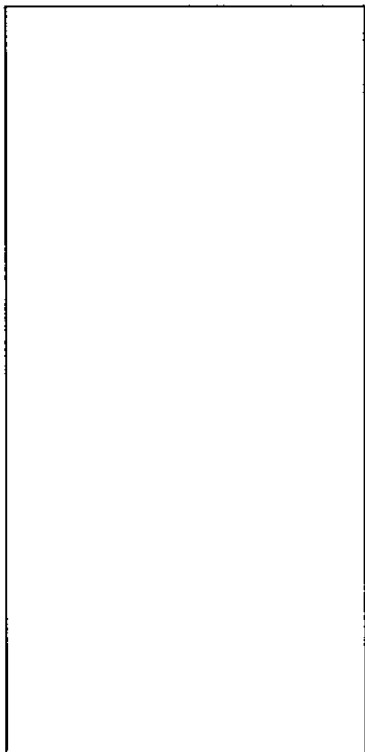
The Traffic Department has no objection against the proposed street building line departure.

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 Bergrivier Municipal By-Law relating to land Use Planning, subject to conditions.

**PTN012/03/2021
DATE OF NEXT MEETING**

The next Municipal Planning Tribunal meeting will be held on **Thursday 8 April 2021 at 11:00** on an electronic platform.

NOTED



**COMPLIANCE
OFFICER**

**THE MEETING ADJOURNED AT 12:45
CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS**

CHAIRPERSON

16 MAR 2021

DATE