

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, 16 SEPTEMBER 2021 AT 11:00 ON ELECTRONIC PLATFORM

PRESENT

MEMBERS

Municipal Manager (Adv. H Linde: Chairperson)
Director Corporate Services (Mr Vivian Kotzee: Deputy Chairperson)
Manager Civil Engineering Services (Mr JJ Breunissen)
External Member (Ms D Kotze)
External Member (Mr J de Jongh)

OFFICIALS

Manager: Town Planning & Environmental Management (W Wagener)
Town & Regional Planner (West) (H Vermeulen)
Compliance Officer (A van Rossum)

ACTION

PTN008/09/2021

OPENING AND WELCOME

The Chairperson welcomed everyone to the meeting. The Director: Corporate Services opened with a prayer.

PTN001/09/2021

REQUEST FOR LEAVE OF ABSENCE

3/3/1/4

Town & Regional Planner (East) (K Abrahams) – sick leave

PTN002/09/2021

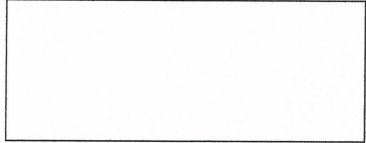
DECLARATION OF INTEREST IN ACCORDANCE WITH SCHEDULE 1: CODE OF CONDUCT FOR MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

3/3/1/6



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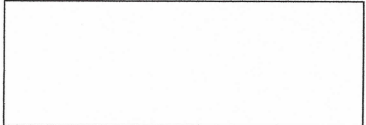
All members of the Municipal Planning Tribunal present declared that they have no personal interest with regards to the items on the agenda in terms of Schedule 1 of the Code of Conduct of Tribunal Members.



**PTN003/09/2021
COMMUNICATION BY THE CHAIRPERSON**

3/3/1/6

None



**PTN004/09/2021
CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: MONDAY 6 SEPTEMBER 2021
3/3/2/2**

That the minutes of the Municipal Planning Tribunal meeting held on Monday, 6 September 2021 be confirmed.

COMPLIANCE OFFICER

**PTN005/09/2021
APPLICATION FOR AMENDMENT OF HOME OWNERS ASSOCIATION CONSTITUTION AND AMENDMENT OF CONDITIONS OF EXISTING APPROVAL: ERF 1212, 1698 & 1699, PORTERVILLE (NOW ERF 3233 PORTERVILLE)
PTV. 3233**

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

TOWN PLANNER (EAST)

RESOLUTION: APPROVED IN PART

1. That the application made in terms of section 15 of Bergrivier Municipal By-Law on Municipal Land Use Planning for amendment of Home Owners Association Constitution **be approved** in terms of section 60 of Bergrivier Municipality By-Law on Municipal Land Use Planning as follow:
 - a) *Paragraph 1 and Paragraph 2.1. Amendment to the name of the Home Owners Association Constitution from "De Winterhoek" and replace it with, "Talana" Home Owners' Association, and throughout the rest of the constitution.*
 - b) *Paragraph 2.2 "Common Area" shall mean the public and/or private road reserve, park areas, public and/or private open space areas, ~~depicted on the proposed subdivision plan for ERVEN 1212, 1698 and 1699 PORTERVILLE (the PROPERTY)~~ **contained within Erven 3234, 3235, 3238, 3241 and 3246 as depicted on General Plan 2151/2007 for subdivision of Erf 3233 Porterville (the PROPERTY) as described by Surveyor General Diagram 2150/2007 and, annexed hereto as Annexure "A" and as will more fully appear from the GENERAL PLAN to be approved, in conformity to the above plan,***



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however, subject to any amendments required for approval;

- c) Paragraph 5.7.2 "responsibility for the payment of levies shall commence on the member taking transfer of the portion and shall be payable ~~annually~~ **monthly** in advance; "subject to the following condition:
- i) That the name of the Home Owners Association Constitution, must be changed in the Deed of Transfer(s) of the property/properties that has been registered at the Deeds Office.
 - ii) That proof of the above changes be submitted to the Town Planner (East).
2. That the application made in terms of section 15 of Bergrivier Municipal By-Law on Municipal Land Use Planning for amendment of condition 2.4 and 2.5 of Mayoral Committee land use decision Number BK1813 OF 06 March 2007 be **refused**, in terms of section 60 of Bergrivier Municipality By-Law on Municipal Land Use Planning for the **reasons provided in the reasons for recommendation**.

REASONS FOR RESOLUTION

The amended constitution submitted for De Winterhoek Home Owners Association was scrutinized and do not alter the requirements in terms of section 29(3) and (6) of the Bergrivier Municipality: By-Law and Municipal Land Use Planning. The amended constitution remains largely the same as the previously approved constitution, with minor changes in terminology i.e. the change in name of the Home Owners Association Constitution (HOA) to Talana and amendment of payment of annual levies by members from yearly to monthly do not materially or financially have an impact on the municipality or other rate payers.

Bergrivier Municipality Spatial Development Framework: 2019-2024

Heritage guideline:

- approach heritage built form as an asset to the community
- enable conservation, enhancement and utilization of historic built form through adaptive re-use

Allowing the current built form by amending the architectural style of the dwelling unit, is not in keeping with aforesaid, heritage guidelines. The objectors also urged that the current architectural form and single storey height be retained in accordance with what was approved by the Mayoral Committee in 2007. Allowing dwelling unit to be developed in line with the new architectural style proposed in this residential area, do not approach heritage built form or similar development as the existing dwelling units in the area. The



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initial approval in accordance with 06/03/2006-1 do approach heritage built form and historic built form through adaptive re-use.

Objections received do not regard the application desirable in the vicinity, which will impact on privacy and sense of security if a double storey is developed in the area. The applicant did not apply for amendment of condition of approval 2.6 as imposed by the Mayoral Committee on BK1831 of 06 March 2007, which states: *“Dat die argitektoniese styl behoue bly soos aangedui op die huisplan en nie daarvan afgewyk word nie.”* The Mayoral Committee took into account the character of the surrounding area, and impact on existing rights of those affected by imposing this condition, which was also raised by an objector.

The property do not form part of the Porterville CBD Precinct Plan.

It should be noted that surrounding owners can't depend on views to remain intact when vacant land which is not developed. It is a fact that views would at least be partially changed by future development, however, the proposed amendment of height restriction will have a negative effect on privacy, safety and security that will infringe on the social well-being of the surrounding affected property owners. The objections received do emphasize the concern of privacy, security and safety should the height restriction be allowed. Additional land use rights should take into account the rights of those affected, and therefore it is proposed that the conditions remain the same, because the applicant is already entitled to develop the dwelling units in accordance with vested land use approval.

Section 59(1)(f) of the Land Use Planning Act, Act 3 of 2014 (LUPA), states competent authority may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property will be affected by the outcome of an application. This aspect can therefore not serve as a reason for refusal of an application.

PTN006/09/2021

APPLICATION FOR REZONING AND REMOVAL OF RESTRICTIONS: ERF 168, LAAIPEK

L. 168

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

RESOLUTION: CONDITIONALLY APPROVED

1. That the application for the removal of restrictive title conditions E. 14(a), (b), & (c) as held in Title Deed No. T4050/2020 pertaining to Erf 168, Laaiplek, **be approved**, in terms of section 60 of Bergrivier Municipal By-Law Relating to Land Use Planning;
2. Amendment of restrictive title condition E. 14(d) as held in Title Deed No. T4050/2020 pertaining to Erf 168, Laaiplek, **be approved**, in terms of section 60 of Bergrivier Municipal By-Law Relating to Land Use

**TOWN PLANNER
(WEST)**



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Planning, to read as follows:

(d) No building or structure of any portion thereof except boundary walls and fences, shall except with the consent of the Administrator, be erected nearer than 5 meters to the street line which forms a boundary of this erf, nor within 2 meters of the rear or 1.57 meters of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority, an outbuilding not exceeding 3.05 meters in height measured from the floor to the wall plate, and no portion of which will be used for human habitation, may be erected within the above prescribed rear space.

- 3. That the application for rezoning Erf 168, Laaiplek from Residential Zone 1 to Business Zone 1, **be refused**, in terms of section 60 of Bergrivier Municipal By-Law Relating to Land Use Planning.

REASONS FOR RESOLUTION

Sections 22(1) & 42(1)(b) of SPLUMA requires that land use planning decisions must be consistent, with the municipal spatial development framework, though the decision maker may depart from the provisions of the SDF in site specific circumstances (Section 22(2) of SPLUMA) for example physical and/or locational attributes. The property is not located within the earmarked central business area, and is not earmarked for a use other than the existing residential uses in the area. The proposed development is considered to be of a light-industry nature, and undesirable in a residential area.

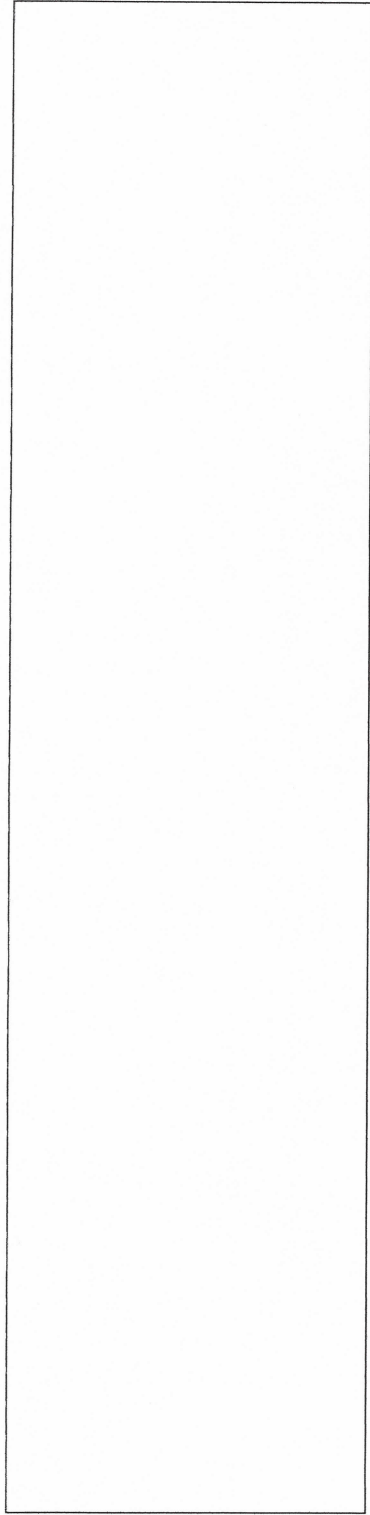
Section 42(c)(iv) of the Spatial Planning and Land Use Management Act (SPLUMA) requires that existing rights and obligations must be taken into account when considering land use applications. Apart from offices and other clerical or professional business uses, it is however understood that testing, cleaning and maintenance of tools and machinery could be a source of nuisance. It is not realistic to expect that the applicant will do testing, cleaning and general maintenance of tools and equipment off-site or within a sound-proof building.

Section 65(s) of the Bergrivier Municipality By-Law on Municipal Land Use Planning requires that the provision of the zoning scheme be considered when deciding on a land use planning application. Though sufficient space is available on the property to comply with the parking requirements, loading and unloading of equipment with trucks will result in traffic problems during peak times.

**PTN007/09/2021
DATE OF NEXT MEETING**

The next Municipal Planning Tribunal meeting will be held on **Thursday, 21 October 2021** at **11:00** on an Electronic Platform.

NOTED



**COMPLIANCE
OFFICER**



**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL HELD ON THURSDAY, 16
SEPTEMBER 2021 AT 11:00 ON ELECTRONIC PLATFORM**

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

CHAIRPERSON

22 SEP 2021

DATE
