



OFFICE OF THE MUNICIPAL MANAGER  
BERGRIVIER MUNICIPALITY  
P.O BOX 60  
PIKETBERG  
7320

**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL HELD ON TUESDAY  
20 JUNE 2017 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL OFFICES,  
PIKETBERG**

**PRESENT**

**MEMBERS**

Municipal Manager (Adv. H Linde: Chairperson)  
Director Technical Services (H Kröhn)  
Director Financial Services (G Goliath)  
External Member (Ms S van der Merwe)

**OFFICIALS**

Manager: Planning and Development (W Wagener)  
Administration Officer: Planning and Development (Ms J Rosenberg)

**ACTION**

**PTN001/06/2017**

**OPENING AND WELCOME**

The Chairperson welcomed everyone to the meeting, where after  
ms. J Rosenberg opened the meeting with prayer.

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**PTN002/06/2017**

**REQUEST FOR LEAVE OF ABSENCE**

**3/3/1/4**

External Member (*Ms D Kotze*)  
Director Corporate Services (*deputy chairperson JWA Kotzee*)

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**PTN003/06/2017**

**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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**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON  
TUESDAY 20 JUNE 2017 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL  
OFFICES, PIKETBERG**

**PTN004/06/2017**

**COMMUNICATION BY THE CHAIRPERSON**

**3/3/1/6**

The Chairperson extended a special welcome to the Director Financial Services, for he is attending his first Municipal Planning Tribunal meeting.

The Chairperson informed the meeting that she had ordered copies of the SPLUMA: A Practical Guide books for all members and will distribute it when the order arrives.

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**PTN005/06/2017**

**CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: TUESDAY 11 APRIL 2017**

**3/3/2/2**

That the minutes of the Municipal Planning Tribunal meeting held on Tuesday 11 April 2017 be confirmed.

The Manager Planning and Development gave a brief update with regards to item **PTN007**, that the report which was referred back to the applicant for clarification purposes, is back with the Planning Department and will be resubmitted for consideration at the next Municipal Planning Tribunal meeting.

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**PTN006/06/2017**

**APPLICATION FOR CONSENT USE: ERF 740, LAAIPEK**

**15/3/5; L. 740**

The Manager: Planning and Development gave a brief summary of the item under discussion.

After thorough discussions the following resolution was taken:

**RESOLUTION**

1. That the application for consent use to allow the erection of a 25m freestanding telecommunication base station and associated infrastructure on Erf 740, Laaiplek, **be refused**, but that the application for consent use to allow the erection of a 15m freestanding telecommunication base station and associated infrastructure on Erf 740, Laaiplek, **be approved**; in terms of section 60 of Bergvriër Municipal By-Law relating to Land Use Planning, subject to the following conditions;
  - a) The telecommunication mast must be limited to a maximum height of 15m;
  - b) The telecommunication mast must be camouflaged as a sail boat mast, to the satisfaction of the Municipality;
  - c) The telecommunication base station and mast must allow for co-location of other service providers;
  - d) The base station must be securely fenced off and access must be restricted;
  - e) Existing shrubs and trees along the perimeter of the site must be retained/maintained to reduce visibility of the based station from

**ADMINISTRATION OFFICER:  
PLANNING  
&  
DEVELOPMENT**

**MANAGER: PLANNING  
AND DEVELOPMENT**



**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON  
TUESDAY 20 JUNE 2017 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL  
OFFICES, PIKETBERG**

Port Owen Drive; and

- f) 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.

2. That the objections received, **not be upheld**, for the following reasons:

- a) The proposed development will not be located adjacent to residential properties and is located within the mixed use section of Port Owen.
- b) The visual impact of the mast can be sufficiently mitigated by restricting the mast height to 15m and blending it in with the surrounding structures and buildings by camouflaging it as a sail boat mast.
- c) The department of Health confirmed that there was no convincing scientific evidence that the weak RF Signals from base stations and wireless networks cause adverse health effects. The department also confirmed that emissions from all existing and proposed base stations are in compliance with the Magnetic Fields exposure guidelines published by South Africa's department of Health, as endorsed by the International Commission on Non-Ionising Radiation Protection.
- d) The development is in line with the proposals of the Bergrivier Municipality Spatial Development Framework 2012-2017.

**MANAGER: PLANNING  
AND DEVELOPMENT**

**REASONS FOR RESOLUTION**

Section 59 (1) (f) of the Land Use Planning Act, Act 3 of 2014 (LUPA), states that a 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.

The property is centrally located within Port Owen, and will therefore enable network coverage to larger group of users as opposed to having the development located at the fringes of an urban area. The development would furthermore 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.

The site is located next to a boat repair yard where high sail boat masts is a common sight. The property is not located adjacent to any residential property and though the mast will be visible, it will not obstruct existing views. The buildings in the nearby surrounding area have a range in height between 8m to 15m, signifying the highest structures in Port Owen. Placing the proposed telecommunication base station and mast on Erf 740, Laaiplek will allow the height of the mast to blend in with other structures of similar height.

The MSDF proposes that mobility and economic links be strengthened, to promote communication corridors and zones as well as to strengthen communication networks. The proposed site is removed from any heritage or scenic landscapes or attractions. Therefore, the development is in line with the proposals of the Bergrivier Municipality Spatial Development Framework 2012-2017.

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**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON  
TUESDAY 20 JUNE 2017 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL  
OFFICES, PIKETBERG**

**PTN007/06/2017**

**APPLICATION FOR CONSENT USE: ERF 776, LAAIPEK  
15/3/5; L. 776**

The Manager: Planning and Development gave a brief summary of the item under discussion.

After thorough discussions the following resolution was taken:

**RESOLUTION**

1. That the application for consent use to allow the erection of a 12m freestanding telecommunication base station and associated infrastructure on Erf 776, Laaipek, **be refused**; in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, because;
  - a) the 12m telecommunication base station mast will be higher than other buildings or structures in the immediate surrounding area and will tower above the current skyline of the surrounding neighbourhood, detracting from the character of the surrounding area.
  - b) The site selection and proposed positioning on Erf 776, Laaipek will place the structure in the line of sight from surrounding residential properties and is therefore not considered desirable due to the negative impact it would have on residents' enjoyment of their properties, the marina and adjacent natural environment.
  - c) The site selected for the proposed telecommunication base station and associated infrastructure does not encourage spatial efficiency, considering that a large proportion of the area that will be provided coverage within this 500m radius, falls within the Berg River estuary. The proposed infrastructure furthermore does not allow for co-location. The location of the proposed infrastructure therefore does not make effective use of the coverage area, and a more inland property would be more effective for this purposes.
  - d) The applicant failed to adequately motivate why the proposed site is the most suitable for the proposed development, and did not appropriately consider alternative sites, or options for co-location, on existing high rise buildings/structures in areas less sensitive.
2. That strategic alternative places be identified for the placement of telecommunication base stations, masts and associated infrastructure during the review process of the Bergrivier Spatial Development Framework (SDF) of 2017/2018.

**REASONS FOR RESOLUTION**

The site and position of the proposed development is situated within a low density residential area, approximately 30m from the Berg River estuarine area. 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. This application fails to substantiate the principle of spatial efficiency by failing to consider or allow for co-location,

**MANAGER: PLANNING  
AND DEVELOPMENT**



**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON  
TUESDAY 20 JUNE 2017 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL  
OFFICES, PIKETBERG**

placement on existing infrastructure or buildings, and by being located at the fringe of the residential area it is intended to provide network coverage for. The 500m radius used by the applicant to determine optimal network coverage serve to illustrate that the proposed development would provide network coverage to a greater proportion of the town if the development were to be located more inland. Co-location and locations with optimum coverage will reduce the need for numerous telecommunication infrastructure visually impacting the landscape character and skyline of the small coastal town negatively.

Not allowing for co-location of telecommunication infrastructure, does not favour the principle of efficient use of land resources, and only serves to provide network coverage to clients of the particular network operator without benefitting the larger community.

The erection of a telecommunication base station and mast with a height of 12m, will have a negative impact on the character of the surrounding area in Port Owen, being located among buildings with heights of at most 8m, and the mitigation features (disguise as lamp pole, disguise as yacht mast, or existing trees on the site) is not regarded sufficient to address the concerns. The proposed development will be directly adjacent to residential properties, with windows facing onto the proposed infrastructure, and will negatively impact on residents' enjoyment of their properties, the marina and adjacent natural environment.

The concerns of the objectors are considered to have merit.

The application is not regarded desirable from a planning perspective in terms of section 65 of Bergrivier Municipal By-Law relating to Land Use Planning taking into account the relevant desirability factors applicable.

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**PTN008/06/2017**

**APPLICATION FOR REMOVAL OF RESTRICTIONS AND DEPARTURE: ERF 643, PIKETBERG  
15/3/2, 15/3/8; PB.643**

The Manager: Planning and Development gave a brief summary of the item under discussion.

After thorough discussions the following resolution was taken:

**RESOLUTION**

1. That the application removal of restriction 5.(b) applicable to Deed of Transfer T079312/2001 in order to allow for a second dwelling on Erf 643, Piketberg, **be refused** in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, but **be amended** to read as follows:

*"Dit mag alleen gebruik word vir die doel om twee wooneenhede, tesame met die buitegeboue wat gewoonlik in verband daarmee gebruik word, daarop te rig;"*

2. That the application for removal of restriction applicable to Deed of Transfer T079312/2001 namely: condition 5.(d) in order to allow the existing approved dwelling house, existing and proposed carport within the prescribed building lines restrictions as well as permanent departures of the applicable street building line from 3m to 0m in order

**MANAGER: PLANNING  
AND DEVELOPMENT**

**MANAGER: PLANNING  
AND DEVELOPMENT**



**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON  
TUESDAY 20 JUNE 2017 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL  
OFFICES, PIKETBERG**

to allow the aforesaid carports and rear building line from 2m to 1m in order to allow a temporary structure for the storage of household equipment on Erf 643, Piketberg, **be approved**; in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, subject to the following conditions;

- 2.1. The carports be erected in accordance with the building plan drawn by TA Smythe dated 12/2016;
- 2.2. Building plans be submitted at this Municipality for approval in terms of the National Building Regulations and Buildings Standards Act, 1977 as amended;

2. The objections not be upheld because:

- 2.1. The applicant took objections into account by removing the fridges from the temporary structure currently used for storage of household equipment;
- 2.2. The adjacent owners of Erf 642 and 640, Piketberg, consented to the rear and side building line encroachments respectively in writing;
- 2.3. All the structures will have to comply with the National Building Regulations and Buildings Standards Act, 1977 and will therefore be of an acceptable standard;
- 2.4. Amending the condition regulating the amount of units from one to two units, as allowed for in terms of the zoning scheme by-law, will assist with densification, within the current norms and standards for Single Residential Zone 1 areas;
- 2.5. The application is consistent with Bergrivier Municipal Spatial Development Framework 2012-2017;
- 2.6. The application is in line with the development principles of the Land Use Planning Act, 2014 and the Spatial Planning and Land Use Management Act, 2014.

3. That the applicant in whose interest the restrictive title deed conditions are removed/amended, must, after the publication of a notice contemplated in terms of section 33 (7) of Bergrivier Municipal By-law 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.

**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).

The MSDF is a core component of the IDP (section 26.(e) of the Local Government: Municipal Systems Act and Regulations, Act 32 of 2000), which provide basic guidelines for a land use management system for the municipality.

**MANAGER: PLANNING  
AND DEVELOPMENT**



**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON  
TUESDAY 20 JUNE 2017 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL  
OFFICES, PIKETBERG**

*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 amending the restrictive title condition to allow a second dwelling on a property of 1190m<sup>2</sup>. Erf 643, Piketberg is earmarked for residential purposes. The application for removal of restrictions and departures is to allow land uses generally associated with a residential area. The application is regarded consistent with Bergrivier Municipal Spatial Development Framework 2012-2017(BMSDF) in terms of the aforesaid.*

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

The municipality took into account the merits of the objections and the applicant's response to objection. The applicant removed the industrial fridges from the temporary structure taking into account objections (this was confirmed by municipal site inspection dated 09/05/2017). The additional rights obtained by the applicant will still be in line with the residential nature of the neighbourhood and will not impair the residential rights currently enjoyed by other residence in the neighbourhood. All the structures will have to comply with the National Building Regulations and Buildings Standards Act, 1977 and will therefore be of an acceptable standard.

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 was circulated to this municipality's Civil and Electrical Engineering Department. The Manager Electrical Services had no objection against the application. The application has no impact on municipal technical services and no new connections are required.

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 principle 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. T079312/2001 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 2 of Piketberg during the early 1950'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 throughout the years and that the proposed utilization of Erf 643 Piketberg complies with the current state of affairs.

Development principle 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...*"

It is submitted that the amendment of restrictive conditions to allow a

**MANAGER: PLANNING  
AND DEVELOPMENT**



**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON  
TUESDAY 20 JUNE 2017 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL  
OFFICES, PIKETBERG**

conversion of a portion of the existing approved and dwelling house as additional dwelling unit, is accommodated spatially efficient, without requiring additional services. No objections were furthermore 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.

No rezoning is proposed, the application for removal of restrictions and departure is to accommodate land uses generally associated with a dwelling house, compatible with the surrounding area.

The adjacent property owners gave permission in writing to erect a carport on the common boundary of Erf 643 and 642 Piketberg. The zoning scheme stipulates that no application for departure of a side building line is required if the abutting neighbour gives written consent for the encroachment of the relevant side building line. Application is made for departure of the rear building line to allow a temporary structure for the storage of household appliances. No objection has been received from municipal civil, electrical departments and ward councillor against the structures. The adjacent property owner (Erf 640, Piketberg) also consented to this temporary structure.

The application is furthermore determined desirable from a planning 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.

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**PTN009/06/2017**

**APPLICATION FOR CONSOLIDATION, REZONING AND CONSENT USE: ERVEN 3256, 3257 AND 3258 PIKETBERG**  
**15/3/4, 15/3/3, 15/3/5; PB. 3256, 3257 AND 3258**

The Manager: Planning and Development gave a brief summary of the item under discussion.

After thorough discussions the following resolution was taken:

**RESOLUTION**

1. That the application for consolidation of Erven 3256 (880m<sup>2</sup>), 3257 (2431m<sup>2</sup>) and 3258 (1150m<sup>2</sup>), Piketberg and rezoning of the newly created consolidated erf (4461m<sup>2</sup> in extent) from Single Residential Zone 1 to Business Zone 1 in order to allow a business premises/shop (sale of motor vehicles) as well as consent use in order to allow a motor repair garage and open air motor vehicle display on the property, **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 development must take place reasonably in accordance with the revised site development plan Tek no. 16000000 drawn by Anton de Klerk, dated 27/03/2017;
  - 1.2. The repair of vehicles and/or operation of machinery may only

**MANAGER: PLANNING  
AND DEVELOPMENT**

**MANAGER: PLANNING  
AND DEVELOPMENT**





**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON  
TUESDAY 20 JUNE 2017 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL  
OFFICES, PIKETBERG**

occur inside approved buildings;

- 1.3. Vehicle parts and material i.e. replacement/used parts, tires etc. is not allowed to be stored outside the approved buildings;
- 1.4. The repair/service of vehicles may only take place during business hours;
- 1.5. The developer will be responsible for the provision and upgrading of all service infrastructure required as a result of the 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);
- 1.6. Heavy vehicles that exceed BVM 10 ton, may not use the property entrance/exit in Voortrekker Street;
- 1.7. No advertising or displaying of vehicles may occur on sidewalks without prior consent of the relevant Roads Authority;
- 1.8. All the structures must comply with the National Building Regulations and Buildings Standards Act, 1977; and
- 1.9. Subject to compliance with the requirements/conditions imposed by the Department of Transport & Public Works and proof thereof must be submitted to Bergrivier Municipality prior to building plan approval.

2. The objections not be upheld because:

- 2.1. Conditions are imposed to mitigate potential objectionable elements that may arise from the proposed activities;
- 2.2. Rezoning of the consolidation of Erf 3256, 3257 and 3258, Piketberg is consistent with Bergrivier Municipal Spatial Development Framework, 2012 – 2017, based on site specific circumstances;
- 2.3. The application is considered consistent with the relevant development principles of the Spatial Planning and Land Use Management Act, 2013 and Land Use Planning Act, 2014; and
- 2.4. The application under consideration does not include a service station (supply of fuel); should the applicant wish to operate a service station (supply fuel) from this property, it will be subject to an additional land use application that will be considered on its own merits in terms of planning legislation.

**MANAGER: PLANNING  
AND DEVELOPMENT**

**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 (MSDF). The MSDF earmark Erf 3257, Piketberg for future business use. Erf 3256 and 3258, Piketberg are earmarked for higher density residential development. Once Erven 3256, 3257 and 3258, Piketberg are consolidated, the newly consolidated property will have both higher density residential as well as business use allocations



**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON  
TUESDAY 20 JUNE 2017 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL  
OFFICES, PIKETBERG**

assigned to it. Given the consolidated property's location next to an existing business property as well as adjacent to the town's main road, namely Long Street, it can be concluded that the property is suitable for either high density residential, mixed use or business development. The application is therefore considered consistent with MSDF.

Section 65 (d) consideration of comments on response to the notice of the application. The municipality took into account the merits of the objections and the applicant's response to objection. Long Street as Piketberg town's main activity route, distribute high numbers of traffic (light and heavy vehicles) and noise is generally associated therewith, which already has an impact on the surrounding property owners. Activities on site will occur during business hours and conditions are imposed to mitigate the motor repair/service activities.

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 department of this municipality has no objection against the proposed development. Furthermore the civil services department also indicated that they support the application and that civil services can be provided, subject to conditions

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 principle 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*". It is submitted that the proposed rezoning is an extension of the central business area in closer proximity to people from residential neighbourhoods where businesses and services are limited. The proposed development may provide economic spinoff opportunities and will create job opportunities closer to a part of town where the largest part of unemployed people reside. The proposed application can therefore promote access to economic opportunities, jobs as well as additional facilities and services. The proposed development therefore make some contribution (in the wider context) to redress spatial and other development imbalances of the past.

Development principle 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...*" The proposed development will establish new business space for investment on previously undeveloped land. The electrical department of this municipality has no objection against the proposed development. Furthermore the civil services department also indicated that they support the application and that civil services can be provided. This proves that the proposed development is located spatially efficient in relation to available municipal 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. A zoning comparison for compliance with the development parameters established compliance.

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**MANAGER: PLANNING  
AND DEVELOPMENT**

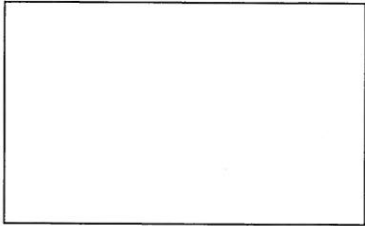


**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON  
TUESDAY 20 JUNE 2017 AT 14:00 IN THE COUNCIL CHAMBERS, MUNICIPAL  
OFFICES, PIKETBERG**

**PTN010/06/2017**

**DATE OF NEXT MEETING**

That the next meeting of the Municipal Planning Tribunal is scheduled for Tuesday 04 July 2017 at 14:00 in the Council Chambers, Municipal Offices in Piketberg, but the attendees requested that the meeting be moved to an alternative date in July and be communicated to the members.



**NOTED**

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**THE MEETING ADJOURNED AT 15:25**

**CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS**

*[Handwritten signature]*  
\_\_\_\_\_  
**CHAIRPERSON**

*28/6/17*  
\_\_\_\_\_  
**DATE**

*28/06/17*

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