

# 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 5 MARCH 2020 AT 11:00 IN THE COUNCIL CHAMBERS, 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)  
External Member (Ms. D Kotze)

### OFFICIALS

Town Planner (East) (K Abrahams)  
Compliance Officer (A van Rossum)

### ACTION

**PTN001/03/2020**

### OPENING AND WELCOME

The Chairperson welcomed everyone to the meeting. The Town Planner (East) opened with a prayer.

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**PTN002/03/2020**

### REQUEST FOR LEAVE OF ABSENCE

3/3/14

Manager: Planning and Environmental Management (W Wagener) (sick leave)

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**PTN003/03/2020**

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

3/3/16

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 LUPA By-Law.

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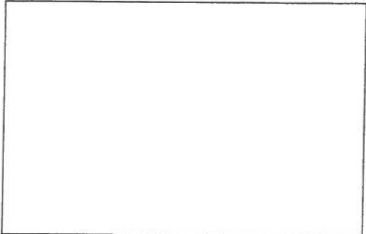
**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL HELD ON THURSDAY 5 MARCH 2020 AT 11:00 IN THE COUNCIL CHAMBERS, MUNICIPAL OFFICES, PIKETBERG**

**PTN004/03/2020  
COMMUNICATION BY THE CHAIRPERSON**

3/3/1/6

The chairperson requested that Mr Kobus Munroe (Director: Spatial Planning – DEA&DP) be invited to attend the next Municipal Planning Tribunal on 16 April 2020. She again expressed her appreciation for the quality and accuracy of reports from the Town Planners.

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**PTN005/03/2020  
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 16 January 2020 be confirmed with correction to page 6.

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**COMPLIANCE  
OFFICER**

**PTN006/03/2020  
APPLICATION FOR SUBDIVISION, REZONING AND CONSOLIDATION, ERF 254 & 267 PIKETBERG  
PB. 254 & 267**

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

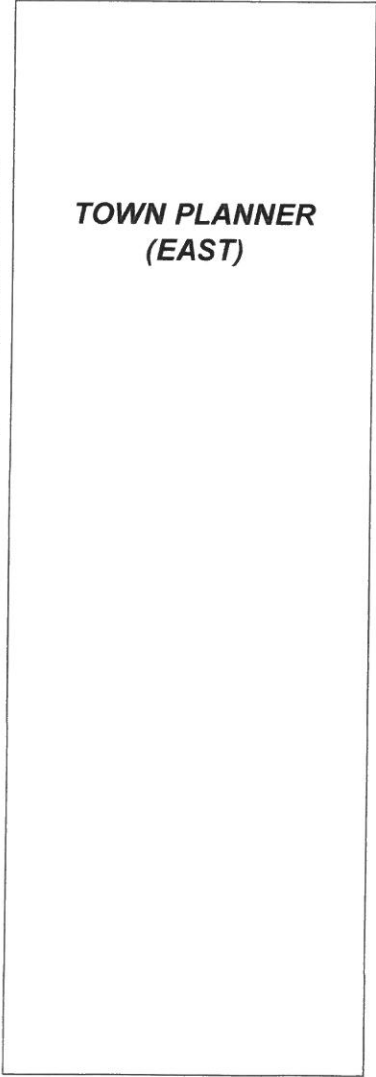
**RESOLUTION: REFUSED**

1. That the application for Subdivision of Erf 254, Piketberg into two portions namely: Portion A (±265m<sup>2</sup> in extent) and Remainder Erf 254 Piketberg (±1071m<sup>2</sup> in extent) and Rezoning of Portion A from Single Residential Zone 1 to Transport Zone 2 to bring the current use of Portion A as public street in line with the correct zoning **BE APPROVED**; in terms of section 65 of Bergrivier Municipality By-law on Municipal Land Use Planning; subject to the following conditions;
  - 1.1. The subdivision of Portion A be registered in the name of Bergrivier Municipality at the expense of the Municipality.
2. That the applications for rezoning of Remainder Erf 254 Piketberg from Single Residential Zone 1 to Business Zone 1; and consolidation of Remainder Erf 254 Piketberg (±1071m<sup>2</sup> in extent) with Erf 267 Piketberg (±2244m<sup>2</sup> in extent) for business purposes, **BE REFUSED**, in terms of sections 65 of Bergrivier Municipality By-law relating to Municipal Land Use Planning, **for the reasons provided in the reasons for recommendation.**

**TOWN PLANNER  
(EAST)**

**REASONS FOR RESOLUTION**

Section 65 (1)(a) to (s) & (2)(a) to (b) of Bergrivier Municipal By-law Relating to Municipal Land Use Planning prescribe the criteria for consideration of land use application, among other the following relevant criteria were considered:





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**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'S directive is given with regard to the local economy and commercial/retail notes for Piketberg, namely:

*" 1 Strengthen the local economy through consolidated commercial and retail node areas and activities in strategic locations"*

Erf 267 Piketberg is located in the CBD of Piketberg, but Erf 254 Piketberg is excluded. Erf 254 Piketberg is not located at or in the retail note areas or earmarked strategic location. By allowing the current application will deviate from die MSDF's spatial proposals. The applicant could have explored alternative options in Long Street, along the retail/activity corridors.

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

Erf 267 Piketberg as Business Premises (Hardware Store) is a non-conforming use as it has been used

for light industrial and retail activities, prior to previous land use planning legislation (LUPO). The nuisances and problem activities currently experienced on Erf 267 Piketberg, can't be made applicable to current zoning requirements, because it can't be applied retrospectively on a non-conforming land use. Current traffic contraventions should, be directed to the Municipal Traffic Department for enforcement.

Building plans has been approved for the erection of the boundary wall on Erf 254 Piketberg on 18 November 2019.

Relocating business activities on the remainder of Erf 254 Piketberg, to mitigate current resulting from the storage of sand, rock, vehicle loading and unloading in the road reserve, can mitigate the negative effects experienced by some owners in Eike Avenue, but will relocate the nuisances to other surrounding residential land owners. The objections from the Traffic Services Department and other objectors also confirms the current problem aspects experienced, and expanding the business utilization will give rise to more non-residential vehicular traffic and disturbance in the residential area.

It is noted that the development of the residential area in Eike Avenue came after the business activities on Erf 267, Piketberg. Circumstances and spatial directives has changed over the years in line with current need and trend, which exclude Erf 254 Piketberg as business premises.

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



### **Spatial Sustainability and Efficiency**

The proposed land use application will not result in addressing historical imbalances in terms of exclusion as it is existing business activities and not newly created.

The proposal do not require additional municipal engineering services, it already exist on Erf 254 and 267 Piketberg. The proposal efficiently optimise existing resources available, but Eike Avenue is not an activity or retail node, and will thus distribute non-residential traffic further into the residential area. Distributing non-residential traffic (delivery trucks) further down Eike Avenue, will create a financial burden in terms of maintenance and repair on the municipality and other rate payers as the road is not designed for such purposes.

Redirecting business activities closer to the single residential properties in Eike Avenue, is not in line with current norms and directives earmarked in the MSDF, which will result in an unsustainable environment and communities that are not viable, objections proof aforesaid.

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

The zoning of Erf 267 Piketberg remains unchanged.

Erf 254 Piketberg is currently zoned Single Residential Zone 1 with primary right for a dwelling house. The dwelling house and outbuilding on-site remains single residential zone 1 ( $\pm 188\text{m}^2$ ). The proposed subdivided portion ( $\pm 256\text{m}^2$ ) of Erf 254 Piketberg is proposed to be rezoned to Transport Zone 2 (Public Street) in order to confirm the current use thereof.

The remaining extent of Erf 25 Piketberg ( $\pm 1071\text{m}^2$ ) is proposed to be rezoned to Business Zone 1 to be consolidated with Erf 267 Piketberg to expand business activities of the current hardware store. The current dwelling house will be retained on Erf 254, Piketberg however business utilisation of the remaining extent will dominate, the residential use on site, that will detract from the residential character and infringe on the primary residential rights of owners in the area.

Parking requirements can't be applied retrospectively on the business utilisation of Erf 267 Piketberg. Business activities can be maximised to 100% coverage on site that will create other disturbances or nuisances affecting the neighbouring residential properties.

### **Desirability**

The eastern side of Eike Avenue is characterised by single residential properties. Allowing the rezoning of  $1071\text{m}^2$  for business utilisation further in



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an eastern direction is inconsistent with the character of the area. The MSDF exclude Erf 254 Piketberg for business purposes. Objections from owners in the street prove that there are currently nuisances from non-residential traffic and activities, it is therefore submitted that by expanding the current business utilisation will increase the negative effects experienced by owners in the vicinity that is affecting their social well-being.

Retaining the dwelling house and outbuilding ±188m<sup>2</sup>, can't dominate the proposed business utilisation of 1071m<sup>2</sup> on Erf 254 Piketberg. The land use description of business premises include several land uses that can be accommodated on site if rezoned and consolidated that are not compatible with an earmarked residential area. The applicants could have explored alternatives along the activity/commercial nodes Long Street, where business utilisation is dominant, rather than exploring alternatives that is not in line with current norms and standards.

By expanding the business activities further into this residential street, which is not designed for delivery vehicles will create further complaints and effect the primary residential rights of the surrounding property owners. Delivery hours during early morning hours also disturb the peace of the single residential property owners.

Historical constraint with regard to space on Erf 267, Piketberg, mitigation by allowing on-site parking/loading bay and storage on the remaining extent of Erf 254 Piketberg is not regarded sufficient, at the expense of those that will most negatively be affected, by expanded business activities in Eike Avenue. The quality of life of the surrounding property owners in terms of their primary residential rights are of utmost importance to be preserved, Erf 254 Piketberg is clearly excluded as business premises in the MSDF.

During a discussion on 19 February 2020, with the Superintendent Traffic Services, it was confirmed that the altered utilisation proposed will not improve the situation for surrounding property owners in terms of traffic transgressions. A loading bay on site is also not sufficient, if delivery vehicles can't turn on premises. One direction traffic will also not improve traffic transgressions in the street.

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**PTN007/03/2020**

**APPLICATION FOR CLOSURE OF PUBLIC OPEN SPACE, SUBDIVISION, CONSOLIDATION AND REZONING: ERVEN 3407 AND 3431 TO 3439, PIKETBERG**  
**PB. 3407, 3431 & 3439**

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

**RESOLUTION: REFUSED**

That the application for:

- a) closure of public open space Erf 3407 Piketberg



**TOWN PLANNER  
(EAST)**





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- b) rezoning of Erf 3407 Piketberg from Open Space Zone 1 (Public Open Space) to Single Residential Zone 1
- c) subdivision of 3407 Piketberg into 4 Single Residential Zone 1 erven (Portion A, B, C and D)
- d) consolidation of Erven 3431 to 3435 Piketberg
- e) rezoning of consolidated Erven 3431 to 3435 Piketberg from Single Residential Zone 1 to Business Zone 2
- f) consolidation of Erven 3436 to 3439 Piketberg
- g) rezoning of consolidated Erven 3436 to 3439 Piketberg from Single Residential Zone 1 to Business Zone 2

in order to create 4 new Single Residential Zone 1 erven and 2 Business Zone 2 erven for future neighbourhood shop and trading stalls, **BE APPROVED**, in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning.

**REASONS FOR RESOLUTION**

Consistency is required with Section 42 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), read in conjunction with Chapter 2 of SPLUMA, and Section 59 of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA).

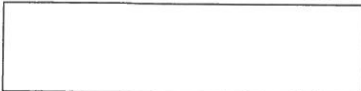
- **Spatial Justice**: The placement of the business development on Erven 3431 to 3439, Piketberg, which is located in the middle of the residential area in the vicinity of existing business zoned land thereby strengthening this neighbourhood business node, redress the past apartheid spatial development imbalances and aim for equity in the provision of access to opportunities, facilities and services. It creates a settlement that allow the poorest of the poor fair access to basic groceries and an opportunity to generate income by operating a small scale trading business.
- **Spatial Efficiency and Sustainability**: The proposed development promotes a compact, pedestrian accessible and mixed use urban environment that uptimes the use of space within the current urban edge reducing the need to travel long distances to access services and facilities and opportunities. The use of this land for a more productive purpose within the urban edge ensure the protection of valuable agricultural land as well as scenic and cultural landscapes and ultimately limits urban sprawl.
- **Spatial Resilience**: The proposed development's contribution to a compact integrated settlement where residential and improved support facilities are closer to each other strengthens the ability of the community to deal with economic impacts on particularly the poor by shortening the travel distance to support facilities and thereby also decreasing travel costs.
- **Good Administration**: The Bergrivier MSDF encourage sustainable development and economic and social upliftment. The proposed development is accommodated within an area that is proposed by the Bergrivier MSDF for development of a mix use community node.

The proposed application is consistent with the development principles of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) in



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terms of the aforesaid.



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**PTN008/03/2020**

**APPLICATION FOR REZONING OF ERF 4465, PIKETBERG  
PB. 4465**

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

**RESOLUTION: APPROVED IN PART**

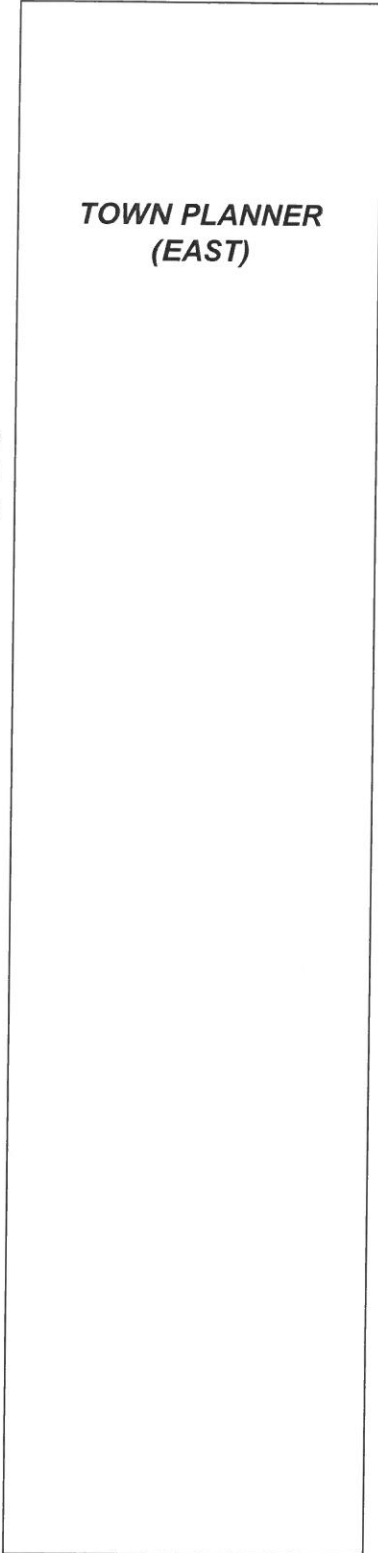
That the application for rezoning of Erf 4465, Piketberg from Open Space Zone 2 (Private Open Space) to Authority Zone (Authority Use) in order to construct a Multi-Purpose Facility, **BE APPROVED**, in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning.

**TOWN PLANNER  
(EAST)**

**REASONS FOR RESOLUTION**

Consistency is required with Section 42 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), read in conjunction with Chapter 2 of SPLUMA, and Section 59 of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA).

- Spatial Justice: The placement of the Multi-Purpose Facility on Erf 4465, Piketberg which is located in the identified integration zone redress the past apartheid spatial development imbalances and aim for equity in the provision of access to opportunities, facilities and services. It seeks to promote the integration of the community and create a settlement that allow the poorest of the poor fair access.
- Spatial Efficiency and Sustainability: Erf 4465, Piketberg is located in the area identified as integration zone. The infill development area promotes a compact, pedestrian accessible and mixed use urban environment that uptimes the use of space within the current urban edge reducing the need to travel long distances to access services and facilities and opportunities. The use of this land for a more productive purpose instead of expanding on agricultural land ensure the protection of valuable agricultural land as well as scenic and cultural landscapes and ultimately limits urban sprawl.
- Spatial Resilience: The proposed development's contribution to a compact integrated settlement where residential and support facilities are closer to each other, in lieu of urban sprawl, strengthens the ability of the community to deal with economic impacts on particularly the poor by shortening the travel distance to work opportunities and thereby also decreasing travel costs.
- Good Administration: The Bergrivier MSDF encourage densification within the existing urban edge in order to establish sustainable development. One of the most common forms of densification is through infill development. The proposed development is accommodated within an area that is being redeveloped to optimize the space available within the



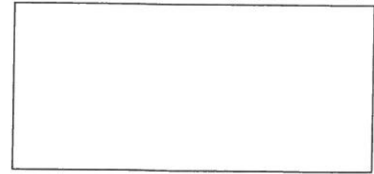


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current urban edge.

The proposed application is consistent with the development principles of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) in terms of the aforesaid.

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**PTN009/03/2020  
DATE OF NEXT MEETING**

The next Municipal Planning Tribunal meeting will be held on **Thursday, 16 April 2020** at **11:00** in the Council Chambers, Municipal Offices, Church Street, Piketberg.

**NOTED**

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**THE MEETING ADJOURNED AT 12:15  
CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS**

\_\_\_\_\_  
**CHAIRPERSON**

5/3/2020  
\_\_\_\_\_  
**DATE**

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