

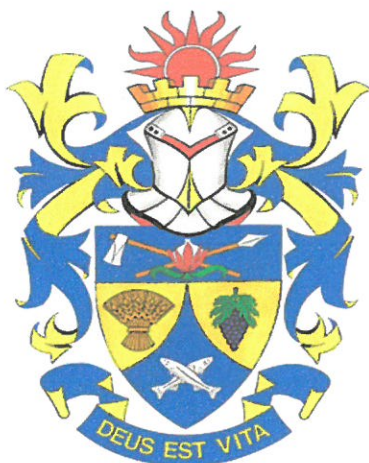
**BERGRIVIER MUNISIPALITEIT / MUNICIPALITY**

**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 20 AUGUST 2020 AT 08:00 ON ELECTRONIC PLATFORM**

**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**

Manager: Planning and Environmental Management (W Wagener)  
Compliance Officer (A van Rossum)

**ACTION**

**PTN001/08/2020**

**OPENING AND WELCOME**

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

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**PTN002/08/2020**

**REQUEST FOR LEAVE OF ABSENCE**

**3/3/1/4**

None

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**PTN003/08/2020**

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

**3/3/1/6**

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

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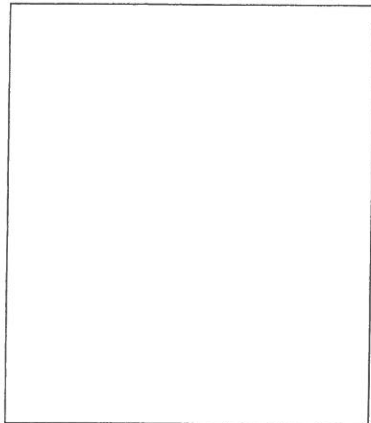




**PTN004/08/2020**  
**COMMUNICATION BY THE CHAIRPERSON**

3/3/1/6

- The Chairperson ruled that the Manager: Civil Services be excused from the two applications under discussion as he commented on the LUPA applications on behalf of the Municipality.
- She thanked all members for their flexibility and willingness to take the meeting at this earlier timeslot.
- The Chairperson read the Council decision regarding the re-appointment of members of the Municipal Planning Tribunal and thank the members for their willingness to serve on the Tribunal.



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**PTN005/08/2020**  
**CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: THURSDAY 4 JUNE 2020**

3/3/2/2

That the minutes of the Municipal Planning Tribunal meeting held on Thursday 9 July 2020 be confirmed with corrections on page 5.

**COMPLIANCE OFFICER**

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*The Manager: Civil Services leaves the meeting at 08:28.*

**PTA006/08/2020**  
**APPLICATION FOR REZONING AND CONSENT USE ERF 4420 PIKETBERG PB, 4420**

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

**RESOLUTION: APPROVED CONDITIONALLY**

1. That the land use applications for rezoning of Erf 4420 Piketberg from Open Space Zone 2 (Private Open Space) to Business Zone 1 (Business Premises) and Consent use in order to allow the operation of a motor repair garage (specifically only for a service station: the retail supply of fuel) on Erf 4420 Piketberg; **BE APPROVED** in terms of section 65 of Bergrivier Municipal By-Law Relating to Land Use Planning, for the reasons provided in the recommendation, **subject to the following conditions;**
  - a) Compliance with the conditions stated in Department of Transport & Public Works, letter referenced TPW/CFS/RP/LUD/REZ/SUB-02/57 (Job 27598) dated 13 May 2020;
  - b) Compliance with the conditions stated in SANRAL letter referenced W11/4/3-7/3-9 dated 04 May 2020;

**TOWN PLANNER (EAST)**



- c) The utilization and development of the property must be reasonably in accordance with the site development plan submitted with the application (plan no. 5 dated November 2019, by Urban Dynamics Western Cape);
- d) The proposed utilization of land must comply with Bergrivier Municipality Fire safety requirements;
- e) Signage and advertising must comply with Bergrivier Municipality Advertising & Signage By-Law;
- f) No lighting must be directed to neighbouring residential properties and hospital, including lighting from signage;
- g) The owner(s)/applicant/developer will be responsible for the provision and upgrading of all service infrastructure required as a result of additional burden created by the proposed utilization, for his/her/their own account, as negotiated and agreed upon with the Municipality's Directorate: Technical Services by means of a Services Level Agreement (SLA);
- h) That uses permitted under the Business Zone 1 zoning be restricted to part (a) of the definition of "business premises" as per land use description in the Bergrivier Municipality: Integrated Zoning Scheme By-law, which reads as follows:
  - (a) *"includes a shop, big box retail, supermarket, restaurant, sale of alcoholic beverages, two electronic or mechanical playing devices, plant nursery, office, funeral parlour, financial institution and building for similar uses, place of assembly, institution, hotel, hospital, conference facility, rooftop base telecommunication station and multiple parking garage"; and*
- i) Compliance with all controlling Environmental Health legislation including obtaining a Certificate of Acceptability from the West Coast District Municipality.

2. This approval does not exempt the owner(s)/applicant from complying with the requirements of any other legislations e.g. Environmental legislation (listed activities that are triggered in terms of the EIA Regulations of 2014 (as amended).

### **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.

### **IDP 2017-2022**

Strategic goal 3: "facilitate an enabling environment for economic growth to alleviate poverty."

Strategic objective for abovementioned is among other as follow:



“To enable an environment for the creation of jobs”, “to alleviate poverty”

The proposed development will provide some job opportunities to the community thereby having some contribution in the form of alleviating poverty those who will be employed.

#### **MSDF 2019-2024**

During the compilation of the Bergrivier Spatial Development Framework 2019 – 2024 Erf 4420 Piketberg was placed within the integration zone and a portion of the site is earmarked as strategic sites/mixed use opportunities as well as gateway precinct. The following directive for the built environment on page 99 of the SDF states the following for the integration zone among other: “Promote spatial integration through the development of strategic land parcels within the town centre for community and recreational uses - identified central Integration Zone as new “heart” and gateway into town; Prioritise vacant land parcels within town for development over land on the periphery to accommodate existing infrastructure capacities.” The following directive apply for socio-economic activities among other:” Strengthen the local economy through consolidated commercial and retail node areas and activities in strategic locations.”

*The property is partially earmarked as strategic land site were mixed use activities should take place in accordance with the MSDF, to strengthen the local economy. The property is also identified as new gateway into town. The property is located within the urban edge and the proposed development can be accommodated on existing infrastructure. The proposed application is regarded consistent with various directives of the MSDF, and not regarded inconsistent therewith because only a portion is earmarked as strategic site/mixed use activities.*

*It is also submitted that the MSDF found that there were room for further mixed use development on the gateway precinct which may include a variety of land uses. Based on the aforementioned principle the MSDF did not place restrictions on what mixed land uses may be establish in Piketberg nor how many of one sort of development may establish in town.*

**Section 65 (j) of Bergrivier Municipal By-Law relating to Municipal Land Use Planning requires consideration of the integrated development plan of the district municipality, including its municipal spatial development framework, where applicable.**

The spatial directives in terms of Section 5:, the built environment subsection 5.1.3 provide the following spatial proposal:

“ Align future development towards the N7 regional transport corridor nodes of Malmesbury, Moorreesburg and Piketberg”. The proposed development is located on the corner of the N7 and R44, this development is therefore aligned with the regional transport corridor node.

In terms of West Coast District Municipality Spatial Development Framework’s 2020 (WCDMSDF 2020), spatial directives, Piketberg has also been identified as one of locations where main growth, development and investment areas



should occur to achieve sustainable economic development. The proposed development is in close proximity (walking distance) from RDP single residential housing area, the application is therefore in line with the concept of sustainable development. The proposed development is consistent with the spatial directives of WCDMSDF 2020.

**Section 65 (j) of Bergrivier Municipal By-Law relating to Municipal Land Use Planning requires consideration of the provincial spatial development framework.**

POLICY E3: REVITALISE AND STRENGTHEN URBAN SPACE-ECONOMIES AS THE ENGINE OF GROWTH

“2. Whilst public investment in the built environment to be spatially targeted to complement new regional economic infrastructure investments (in the dominant and emerging regional growth centres as identified), it will also be made available to any settlement that makes a business case for delivering on the Provincial Strategic Objectives. In this regard the Growth Potential Study (GPS) to be used as a tool to inform spatial investment decisions...”

The Western Cape Government conducted growth potential study 2013, for towns. The purpose is to establish growth potential classification of towns, ranging from very low to very high growth potential, which could inform and guide provincial decision making as well as investment decision making. Piketberg is classified as town with medium growth potential, which has been used as tool to inform investment decision, in this regard this proposed development.

**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 proposed application has a minimal impact on existing services, which can be managed by means of conditions imposed, to ensure that the application has no financial burden on the municipality or other rate payers.

**Relevant consideration were given to the development principles of Spatial Justice, Spatial efficiency, Spatial Sustainability, Spatial Resilience and Good Administration as prescribed in terms of Chapter VI of the Land Use Planning Act, 2014.**

• **Spatial Justice:**

The proposed development of Erf 4420 Piketberg will expand the mixed land use activities in Piketberg in the closure proximity (walking distance) of existing RDP residential area where the majority of previously and currently disadvantaged people reside (high density areas). Expanding business in this direction will assist in redirecting growth patterns within the earmarked integration zone of Piketberg thereby improving imbalances of the past.

The proposed development is located within the integration zone of Piketberg, along major vehicular access routes and pedestrian linkages, and will provide access to commercial ventures and employment opportunities to the larger community of Piketberg.



- **Spatial sustainability:**

The proposal facilitates development on the corner of two major activity streets of Piketberg (N7 and R44), represent natural expansion on a strategically located site as earmarked by the MSDF as new gateway precinct to town, will promote a more integrated and sustainable business node and town.

The proposed development promotes sustainable development by making optimal use of underutilized properties within the urban edge and effective use of existing infrastructure rather than expanding on the outskirts of town placing pressure on agricultural resources and necessitating expansion of infrastructure networks. Expansion of infrastructure networks do not just have costs implications in the short term, but have long term maintenance implications for the Municipality which get transferred to the community through rates and taxes. The technical services department of Bergrivier Municipality confirmed that the proposed development can be accommodated on existing infrastructure.

Conditions can be imposed to ensure that any upgrading of infrastructure will not result in a financial burden on the municipality, by ensuring that the cost of infrastructure arising as a result of the proposed development will be for the cost of the developer by means of a service level agreement.

The Municipal IDP, indicates a steady growth in population of Piketberg. Piketberg was furthermore

identified in the Western Cape Government Growth Potential Study, 2013 as a town with medium growth potential. The application was accompanied by a socio-economic impact assessment and market feasibility study which concluded that there is space for another filling station (service station) within Piketberg. No factual information was provided to prove the contrary.

- **Efficiency:**

Bulk infrastructure are already in place in the nearby vicinity. However, the developer will have to do upgrades as may be required as a result of the proposed utilisation of land at own cost. The applicant is aware of aforesaid. Conditions is imposed to address aforesaid.

The municipal technical directorate (civil and electrical departments) has been consulted, and stated in their comment on the application that engineering services can be accommodated which will be addressed in consultation with the applicants consulting engineers.

A more compact development through the optimal utilization of land promotes efficient service delivery by shortening delivery/collection routes e.g. for refuse removal.

- **Spatial resilience:**

Erf 4420 Piketberg has been used as camping site in the past which most of that property being underutilised. The opportunity presented through



redevelopment of Erf 4420 Piketberg promotes desirable spatial form and reflects the resilience of the property within a changing environment in line with current norms (MSDF).

Broadening the scope of suppliers create job opportunities and will contribute to the social wellbeing especially the previously disadvantage people that do not have the means to travel out of town in search of opportunities.

• **Good administration:**

The opportunity to influence land use within the Municipality is given through public participation processes during the compilation/review of the Municipal IDP, Municipal SDF, the Municipal Zoning Scheme as well as when land use planning applications are received.

The property is identified in the Municipal SDF as part of the envisaged new gateway precinct to town where mixed use activities should occur in the integration zone of town. The proposal is therefore in line with the relevant policy framework.

The application was advertised and processed in accordance with the regulations and principles prescribed in terms of the Bergrivier Municipal By-Law Relating to Land Use Planning. The required public consultation process was conducted and relevant departments and institutions were given the opportunity to provide input before consideration of the application.

The application in terms of the aforesaid are regarded to be consistent with relevant development principles of SPLUMA and LUPA in the context of the properties specific circumstances.

**Section 65 (d) of the Bergrivier Municipal By-Law relating to Municipal Land Use Planning requires consideration of comments in response to the notice of the application, including comments received from organs of state, municipal departments ...and (d) the response by the applicant.**

The information required for land use planning application is listed in Section 38 of Bergrivier Municipality By-Law on Municipal Land Use Planning.

Considerations in terms of the Petroleum Products Act is not a pre-requisite for land use application in terms of section 38 of Bergrivier Municipal By-Law on Municipal Land Use Planning or section 42 of The Spatial Planning and Land Use Management Act, 2013 and therefore the decision makers can't take into account these aspects.

In terms of section 42 (2) of the Spatial Planning and Land Use Management Act, "when considering an application affecting the environment, a Municipal Planning Tribunal must ensure compliance with environmental legislation. The comments on the Draft Basic Assessment report from Department of Environmental Affairs and Development Planning (DEA & DP) stated that the listed activity must not be commenced with prior to authorization being granted by DEA & DP. The applicant is therefore aware that they must comply with environmental legislation prior to commencement of the respective listed activities.



**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL HELD ON THURSDAY 20 AUGUST 2020 AT 08:00 ON ELECTRONIC PLATFORM**

Section 40(7) of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) states "A municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required." Approval in terms of other laws do not exempt the owner(s)/applicant from complying with the requirements of any other legislation e.g. Petroleum Products Act, NEMA authorisation". It is submitted that the wording of section 40(7) mentioned above do not make a land use planning application subject to approval in terms of other legislation, but merely state that the applicant is not exempted from complying with other requirements in terms of other parallel legislation.

In terms of section 65 (f) of Bergrivier Municipal By-Law on Municipal Land Use Planning (general criteria for consideration of applications) Bergrivier Municipality Planning Tribunal, "(f) investigations carried out in terms of other laws that are relevant to the consideration of the application;". Comments on the Draft Basic Assessment received from the Department of Environmental Affairs and Development planning, were considered and the aspects mentioned do need to be address by the applicant for consideration by competent authority in terms of NEMA. Planning law does not state that the final Basic Assessment Report must be considered, with a land use planning application, but regard must be given to environmental investigation.

Municipal Planning and EIA applications must each be subjected to the process set out in terms of their respective legislation and each much be considered on the relevant considerations stipulated in that legislation. The applicable legislation does not provide for the process in terms of the one act to be delayed because of another process required by another act. Neither does the legislation provide for one authority to wait for the other authority's decision to be issued.

These principles have been established by our courts and the following three Constitutional Court judgements, specifically highlight certain aspects:-

- **Maccsand (Pty) Ltd v City of Cape Town and Others (CCT103/11) (CC) [2012] ZACC 7; 2012 (4) SA 181 (CC); 2012 (7) BCLR 690 (CC) (12 April 2012).**
- **Minister of Local Government, Environmental Affairs and Development Planning of the Western Cape v Lagoonbay Lifestyle Estate (Pty) Ltd and Others (CCT 41/13) [2013] ZACC 39; 2014 (1) SA 521 (CC); 2014 (2) BCLR 182 (CC) (20 November 2013)**
- **Fuel Retailers Association of Southern Africa v Director-General: Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province and Others (CCT67/06) [2007] ZACC 13; 2007 (10) BCLR 1059 (CC); ; 2007 (6) SA 4 (CC) (7 June 2007)**

In Macsands the Constitutional Court found:

"The Constitution allocates powers to three spheres of government in accordance with the functional vision of what is appropriate to each sphere. But because these powers are not contained in hermetically sealed compartments, sometimes the exercise of powers by two spheres may result in an overlap. When this happens, neither sphere is intruding into the functional area of another. Each sphere would be

exercising power within its own competence. It is in this context that the Constitution obliges these spheres of government to cooperate with one







another in mutual trust and good faith, and to co-ordinate actions taken with one another.”

The Constitutional Court found in Lagoon Bay:

It seems clear that environmental authorities and planning authorities may therefore consider some of the same factors when granting their respective authorisations. But that cannot detract from their statutory obligations to consider those factors, and indeed to reach their own conclusions in relation thereto.”

In Fuel retailers the Constitutional Court found:

“By their own admission therefore the environmental authorities did not consider need and desirability. Instead they relied upon the fact that (a) the property was rezoned for the construction of a filling station; (b) a motivation for need and desirability would have been submitted for the purposes of rezoning; and (c) the town-planning authorities must have considered the motivation prior to approving the rezoning scheme. Neither of environmental authorities claims to have seen the motivation, let alone read its contents. They left the consideration of this vital aspect of their environmental obligation entirely to the local authority. This in my view is manifestly not a proper discharge of their statutory duty. This approach to their obligations, in effect, amounts to unlawful delegation of their duties to the local authority. This they cannot do.”

Department of Environmental Affairs and Development Planning (DEA & DP), the competent authority for environmental consideration in terms of NEMA, confirmed in their letter referenced 16/3/31/F1/11/2008/20 dated 02 March 2020, that they received an application for basic assessment on 21 February 2020. Department of Environmental Affairs and Development Planning provided comment on the aspects that should be addressed in the draft BAR i.e. Risk of fire and other hazard that are likely during operational phase to the surrounding community in an urban context; measures to be implemented to avoid or if not possible mitigate any negative visual impacts during operational phase, measures to be implemented to avoid or if not possible mitigate any negative visual impacts during operational phase etc.

The comment from Department of Environmental Affairs & Development Planning (DEA & DP) on the initial Draft Basic Assessment report was considered. The specialist report and updated BAR address the aspects raised by DEA & DP. The updated BAR presented to this municipality, provided sufficient information on the aspects of concern that was addressed, as provided by DEA & DP, and this municipality regard it, sufficient from a land use planning perspective to enable informed decision. Conditions is imposed from a land use planning perspective on environmental aspects of concern.

The applicant did record in his application that the Environmental Impact Assessment/ Heritage Impact Assessment/Traffic Impact Assessment/Study/Major Hazard Impact Assessment/ Environmental Authorization. A traffic impact assessment and response to notification of intend to develop was indeed submitted by Heritage Western Cape. The other aspects was not attach to the application, the land use planning application still complied in its current format with section 38 of Bergrivier Municipality By-Law o Municipal Land Use Planning.



Notices were served on all surrounding property owners, advertised two times in die "Weslander", a newspaper with general circulation in the area and in the Provincial Gazette to provide reasonable public participation to those affected, to take into account the public interest and the respective rights of those concerned. Only two objections were received.

Objections regarding trade competition is not a criteria of consideration in terms of planning law. Any act amounting to an attempt to establish a monopoly, reduction of competition or restriction of competition in the market of any particular goods or any particular service cannot be viewed as a negative impact, of a proposed rezoning, on property rights.

During the compilation of the Bergrivier Spatial Development Framework 2019 – 2024 Erf 4420 Piketberg was placed within the integration zone and a portion of the site is earmarked as strategic sites/mixed use opportunities as well as gateway precinct. The following directive for the built environment on page 99 of the SDF states the following for the integration zone among other: "Promote spatial integration through the development of strategic land parcels within the town centre for community and recreational uses - identified central Integration Zone as new "heart" and gateway into town; Prioritise vacant land parcels within town for development over land on the periphery to accommodate existing infrastructure capacities." The following directive apply for socio-economic activities among other: "Strengthen the local economy through consolidated commercial and retail node areas and activities in strategic locations."

The property is partially earmarked as strategic land site were mixed use activities should take place in accordance with the MSDF, to strengthen the local economy. The property is also identified as new gateway into town. The property is located within the urban edge and the proposed development can be accommodated on existing infrastructure. The proposed application is regarded consistent with various directives of the MSDF, and not regarded inconsistent therewith because only a portion is earmarked as strategic site/mixed use activities.

It is also submitted that the MSDF found that there were room for further mixed use development on the gateway precinct which may include a variety of land uses. Based on the aforementioned principle the MSDF did not place restrictions on what mixed land uses may be establish in Piketberg nor how many of one sort of development may establish in town.

The socio-economic impact assessment and market feasibility study submitted by Urban-Econ with the application also confirmed that there is room in the market of Piketberg for an additional fuel station. It also stated in their recommendation that the proposed development would have an impact on the surrounding filling stations, albeit, a minimal short term impact. The objectors did not submit information that proofed the contrary.

In terms of the MSDF the property is not earmarked for housing purposes as stated by Marlene Walter for previous disadvantage people. The property is located in a vicinity where mixed uses exist and no objection were received from the single residential property owners direct opposite the proposed development or Ward Councillor and his ward committee. Heritage Western Cape do not object to the proposal and M Walters, objection regarding



heritage aspects was therefore addressed by the competent authority.

The applicant did not simultaneously submit an application for removal of restrictions together with the rezoning and consent use. SANRAL approved the proposed development, subject to conditions and among other stated that "No structures or other things (including anything which is attach to the land on which it stands even though it does not form part of that land) shall be erected within a distance of 30meters from the boundary of the national road without written approval of the SANRAL."

The Department of Transport and Public Works in their letter of comment on this application, removed conditions E, referred to in the deed of transfer of the property. A formal removal of restriction application was submitted by the applicant on 18 May 2020. The removal of restrictions application was advertised

in accordance with Bergrivier Municipality By-Law on Municipal Land Use Planning, and no objections were received from surrounding affected property owners or general public. The removal of restriction application has conditionally been approved by the Authorised Official on 21 July 2020.

All comment/objections and responses thereto contributed meaningfully in considering this application.

**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 portion of Erf 4420 Piketberg was previously used as a camp site by the municipality, mostly

underutilised/vacant. The area consist of mixed land uses namely Health Services (Hospital/Ambulance Station), sport fields, residential and services station/business premises on the opposite side of the N7 & R44. The proposed land uses being applied for is compatible with the area. Sufficient parking space has been provided on the site development plan submitted for both normal vehicles and bigger vehicles. This was also confirmed by the Head Traffic Services. The proposal comply with the zoning scheme by-law parking requirement. No departures is required from parking requirements.

The proposal has on access (entrance/exit being two directional), all road authorities is in agreement with the proposal subject to conditions. The proposal comply with the site access and exit requirement in the zoning scheme by-law and no departure is required from other development parameters.

**The desirability of the proposal**

Desirability are determined based on the current land use application in relation to its surroundings from a land use planning perspective, and not structural proposal which is considered in terms of the National Building Regulation and Building Standards Act, 1977 as amended. The property is located in an area where mixed uses exists, namely the Hospital, Ambulance Services, Sportfields, Existing Retail Services and Fuel Stations on the opposite side of the N7 direct across Erf 4420 Piketberg and also single residential properties. The proposed business use and service station applied



**MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL HELD ON THURSDAY 20 AUGUST 2020 AT 08:00 ON ELECTRONIC PLATFORM**

for is compatible with the mixed land uses in the area. No objections were received from single residential property owners on the opposite of the proposed development. The Ward Councillor including his ward committee also did not object against the application.

The proposed application will provide additional job opportunities in Piketberg and this in terms will contribute to the social well-being of those employed and their families. The proposed development is also in close proximity to previous disadvantage communities which can access these business services and job opportunities in close distance from their homes. The opportunities is brought in closure proximity to previous disadvantage communities which will change imbalances of the past. The Market feasibility study also found that there are room in the market for an additional service station and business activities which will have a positive socio-economic impact om Piketberg's community.

Environmental aspects are considered by the competent authority (Department of Environmental Affairs & Development Planning (DEA & DP) in terms of environmental legislation (NEMA). The municipality do not require a final basic assessment report to apply its mind on environmental aspects as is not a pre-requisite for a land use planning applications nor is it considered necessary within discretion, unless it was available. The amended (updated) Basic Assessment report and specialist report presented was considered sufficient to enable decision making on the land use planning. Conditions on fire safety, light/signage and advertising mitigation are imposed.

Objections regarding trade competition is not a criteria of consideration in terms of planning law. Any act amounting to an attempt to establish a monopoly, reduction of competition or restriction of competition in the market of any particular goods or any particular service cannot be viewed as a negative impact, of a proposed rezoning, on property rights.

All Road Authorities (Municipal, Dept. Transport & Public Works as well as SANRAL) gave consent the proposed development, subject to conditions. The relevant road authorities therefore address possible concerns regard traffic measures.

Heritage Western Cape has no objection on the proposed development.

The botanical study concluded that the site is acceptable to development, but it is recommended that where possible indigenous trees, particularly the large Ficus natalensis, should be conserved.

The application is considered desirable from a planning perspective in terms of the aforesaid and can be supported from a planning perspective subject to conditions.

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**PTA007/08/2020**  
**APPLICATION FOR TEMPORARY DEPARTURE, ERF 2037 PIKETBERG**  
**PB. 2037**

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

**RESOLUTION: REFUSED**

That the application made in terms of section 15 of Bergrivier Municipality By-Law relating to Municipal Land Use Planning for temporary departure in order to allow the operation of a liquor store from an existing structure ( $\pm 30\text{m}^2$  in extent) on Erf 2037, Piketberg, **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**

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

Spatial Justice

The application will not address spatial justice in a manner that improve the quality of overall life in the surrounding area or previously disadvantage communities, it will rather inconvenience the surrounding area, which will affect the social well-being of the community. The objections and supporting documentation received during public participation proof that such associated/similar activities did in the past have a negative effect on the surrounding affected property owners and community.

Spatial Sustainability

Allowing this application will not result in communities that are viable, but will create an environment that is not spatially sustainable within a primary residential neighbourhood.

The proposed application is not consistent with the relevant development principles of The Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) taking into account the aforementioned.

Section 65(d) of Bergrivier Municipality By-Law on Municipal Land Use Planning required the consideration of the comments in response to the notice of the application, including comments received from organs of state, municipal departments and the Provincial Minister in terms of section 45 of the Land Use Planning Act;

The Petition, ward committee objections and SAPS Piketberg report proof that illegal activities in the sale and possession of drugs has previously occurred on the property more than ones. These criminal activities result in an unsafe and non-sustainable environment, to the surrounding community, which had a negative effect on the social well-being of the community. Considering historical contraventions on the property the sale of alcoholic beverages can't be supported.

**TOWN PLANNER**  
**(EAST)**

Section 65(d) of Bergrivier Municipality By-Law on Municipal Land Use Planning required the consideration of (e) the response by the applicant, if any, to the comments referred to in paragraph (d):

The applicant was provided the opportunity to submit a written reply on the comments/objections received in this municipality registered mail letter dated 11 March 2020. No written response was received from the applicant.

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

Allowing a liquor store will require an additional parking space/delivery space, and no additional space exist on the property. Parking of clientele and delivery vehicles off-site on the side walk or in the street will inconvenience pedestrian and surrounding neighbouring properties, which should not be allowed as this can result in an unsafe environment.

Desirability

Alcohol abuse do affect the social well-being of communities. The sale of alcoholic beverages and proof of historical criminal activities on this property has inconvenienced the surrounding property owners, and will create an unsafe environment and non-sustainable if allowed which is not compatible with the surrounding single residential neighbourhood. These activities on the property will have a negative effect on the social well-being of the community. Objections from SAPS Piketberg, surrounding neighbours and Ward Committee proof aforesaid and is hereby upheld.

Allowing a liquor store on this property will give rise to additional non-residential traffic (i.e. delivery and clientele) and no space exist for parking for business activities on site. The proposed land use will hinder pedestrian movement on sidewalks and create vehicle and pedestrian conflict point creating an unsafe and non-sustainable environment.

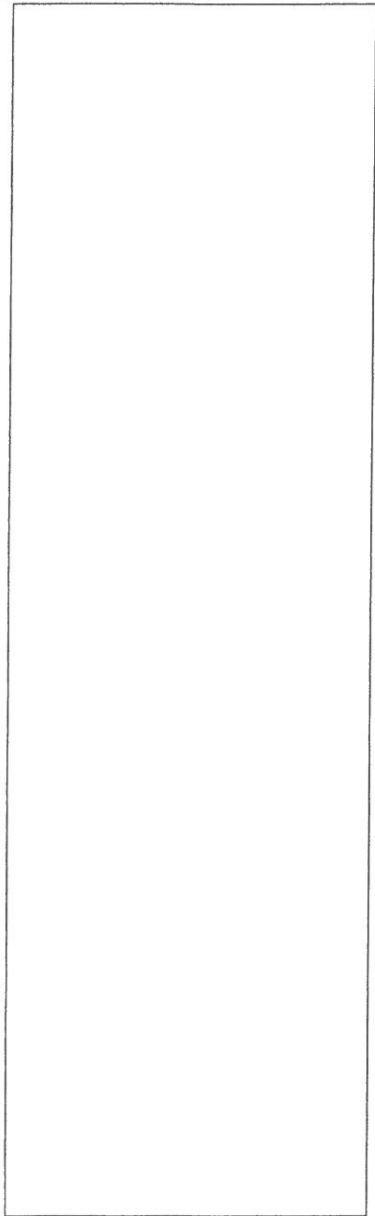
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**PTN006/08/2020**  
**DATE OF NEXT MEETING**

The next Municipal Planning Tribunal meeting will be held on **Thursday 10 September 2020 at 11:00** on Electronic Platform.

**NOTED**

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**COMPLIANCE OFFICER**

**THE MEETING ADJOURNED AT 09:23**  
**CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS**

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

  
\_\_\_\_\_  
**DATE**