

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, 19 OCTOBER 2023 AT 11:00 ON MS TEAMS, ELECTRONIC PLATFORM.

PRESENT

MEMBERS

Director Corporate Services (Mr JWA Kotzee: Vice Chairperson)
Director Community Services (Mr D Josephus)
Manager Civil Engineering Services (Mr J Breunissen)
External Member (Mrs D Kotze)
External Member (Mr J de Jongh)

OFFICIALS

Manager: Town Planning & Environmental Management (Mr W Wagener)
Town & Regional Planner- West (Mr H Vermeulen)
Town & Regional Planner- East (Mr K Abrahams)
Administrative Officer (Mr S Lombard)

ACTION

PTN001/10/2023

OPENING AND WELCOME

The Vice Chairperson opened and welcomed everyone to the meeting.

PTN002/10/2023

REQUEST FOR LEAVE OF ABSENCE

3/3/1/4

Municipal Manager (Adv. H Linde: Chairperson) - ILGM Conference.

PTN003/10/2023

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 items on the agenda in terms of Schedule 1 of the Code of Conduct of Tribunal Members.



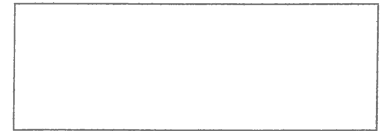
MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL HELD ON THURSDAY, 19 OCTOBER 2023 AT 11:00 ON MS TEAMS, ELECTRONIC PLATFORM.

PTN004/10/2023

COMMUNICATION BY THE CHAIRPERSON

3/3/1/6

None.



PTN005/10/2023

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING: WEDNESDAY, 19 JULY 2023

3/3/2/2

That the minutes of the Municipal Planning Tribunal meeting held on Wednesday, 19 July 2023 be confirmed.

ADMINISTRATIVE OFFICER

PTN006/10/2023

APPLICATION FOR TEMPORARY DEPARTURE: ERF 815, PIKETBERG

PB. 815

RESOLUTION: REFUSED

That the application for temporary departure (five years) in order to allow the operation of a house shop (±33m² in extent) from an existing garage/outbuilding on Erf 815, 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.

TOWN AND REGIONAL PLANNER (EAST)

REASONS FOR RESOLUTION

Section 65 of Bergrivier Municipality By-law on Municipal Land Use Planning requires among other 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.

Section 5(7) of the Bergrivier Municipality House Shop Policy states "The operation of the house shop may not be a public nuisance" In terms of Bergrivier Municipality By-law relating to Prevention of Public Nuisances and Public Nuisances Arising from the Keeping of Animals, public nuisance is defined as follow:

"Public nuisance means "means any act or omission or condition of any premises or public place, including any building, structure or growth thereon, which is offensive or dangerous, or materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of people; and nuisance has the same meaning. " The objections received proof that the house shop is currently a public nuisance/disturbance.

The continuation of the house shop do negatively impact the rights of surrounding residential property owners in the immediate vicinity. If not properly regulated retail facilities within residential areas can result in a negative impact on ordinary comfort, peace, quietness, safety, security and the ability to enjoy residential properties for the main purpose intended as well as



detract from the residential character. It is therefore submitted that the continuation of the house shop on a temporary departure is not desirable at this location or in the interest of the surrounding property owners.

Section 5(4) Bergrivier Municipality House Shop Policy states “No person may stay overnight inside a building, structure or portion of a building or structure which is used as a house shop.

During site inspection on 04 October 2023, it was confirmed that a portion of the outbuilding indicated as the house shop on the site plan, is also used for the living accommodation of a person, thereby contravening section 5. (4) of the House Shop Policy. Section 65. of Bergrivier Municipality By-Law on Municipal Land Use Planning prescribe “When the Municipality considers an application, it must have regard to the following, among other requirements, namely: (m) the applicable policies of the Municipality that guide decision making;”.

PTN007/10/2023

APPLICATION FOR CONSENT USE: ERF 2749, PORTERVILLE

PTV. 2749

The Director Community Services requested that the applicant be provided with clear reasons why the application was unsuccessful, regarding the size of the existing structure on the premises. Further request was made that the owner of Erf 2762, Porterville, across the street from the application property, be contacted in order to enquire if he intends to utilize that Consent Use for a House Shop on his property and if not, whether he will be willing to relinquish his use right in order to afford someone else the opportunity to operate a House Shop in the vicinity.

RESOLUTION: REFUSED

That the application for consent use in order to allow the operation of a house shop from an existing structure (±18m² in extent) on Erf 2749, Porterville (15 Hendrick Singel), **be refused** in terms of section 60 of Bergrivier Municipal By-Law relating to Land Use Planning, for the reason provided in the reason for recommendation:

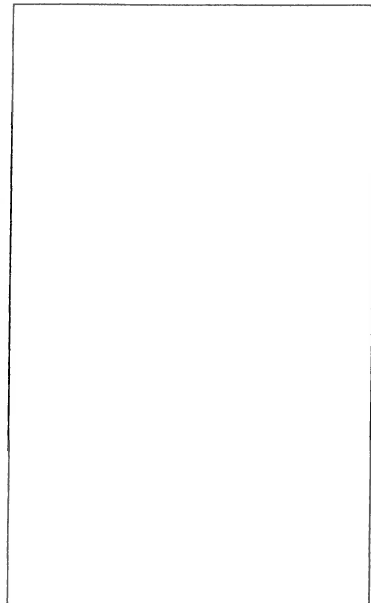
REASONS FOR RESOLUTION

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

The house shop is operating from an existing structure that is 18m² in extent and the dwelling house is 45m² in extent. The house shop retail trade, floor space is 40% of the dwelling house, that do not comply with the land use description of house shop, from which no departure may be granted.

Section 65 of Bergrivier Municipality By-law on Bergrivier Municipal Land Use Planning requires the consideration of the applicable policies of the Municipality that guide decision making;

The application does not comply with requirements in section 5. (3) of Bergrivier Municipality Policy relating to House Shops and factual information available proof aforesaid (consent use approval has been granted for the operation of house shop on Erf 2762, Porterville). The requirements read as



**TOWN AND REGIONAL
PLANNER
(EAST)**



follow:

“ 3. A house shop will only be allowed every 500m of street and not within a 100m radius from another house shop.”

Land use approval is assigned to land not a person, and the land use rights has vested for the operation of a house shop on Erf 2762, Porterville. Circumstances has therefore not materially changed and an alternative conclusion on this application for consent use could not be reached.

The application for consent use is not consistent with acceptable norms and standards and is therefore not desirable

PTN008/10/2023

APPLICATION FOR SUBDIVISION AND REZONING: ERF 1144, VELDDRIF V. 1144

RESOLUTION: APPROVED

1. That the application for subdivision of Erf 1144, Velddrif into two portions namely Portion 1 (± 4.689 ha) and Remainder Erf 1144, Velddrif (±33.174 ha), and rezoning of Portion 1 from Undetermined Use Zone to Subdivisional area to allow for two Business Zone 1 properties (± 9963m² and ± 33 862m² respectively), a Transport Zone 2 (public road) property (± 3 025m²), and two Authority Zone 1 properties (± 24m² each) in accordance with Drawing No. B2.022-S2-01 dated 13 Feb 2023, **be approved**, in terms of section 60 of the Bergrivier Municipality By-Law on Municipal Land Use Planning subject to:

- a) Development of the Business Zone 1 property (± 33862m² in extent) must be generally in accordance with the Site Development Plan, Drawing No. A (02) 1008 Rev. T12 dated 2023-03-31;
- b) A 5m building line be maintained along Voortrekker Street;
- c) Boundary walls and werf walls must be plastered and painted white, and limited to 1m in height on street boundaries of Voortrekker Street.
- d) External lighting must be preferably of down-lighting type to prevent light spilling over and causing disturbance to surrounding properties and oncoming traffic;
- e) The existing walkway adjacent to Erf 1144, Velddrif along the Southern side of Voortrekker Street, be upgraded/widened to at least 2m in width, and paved for pedestrian movement and landscaped with planting of suitable trees in accordance with the Velddrif/Laaipele Precinct Plan. A landscaping plan for the development and the sidewalks surrounding it must be submitted together with building plans of the development;
- f) That Smeda Street be widened from ±6.5m to ±7.4m and paved at the cost of the developer, to the satisfaction of the Directorate Technical Services.
- g) The provision of the subdivided portions with separate water and electricity connections, as well as sewer connections and access. Electrical connections up to the erf boundaries must be done by an electrical contractor, for the cost of the owner;

TOWN AND REGIONAL PLANNER (WEST)



- h) Bulk Service Contributions, as predetermined in the Municipal Budget, be paid for each additional erf created by subdivision OR each additional unit created. In addition to this the developer will be responsible for the provision and upgrading of all service infrastructure required as a result of additional burden created by the development, as negotiated and agreed upon between the developer and the Municipality's Directorate: Technical Services by means of a Services Level Agreement (SLA). The SLA will be drawn up by a municipal appointed attorney for the account of the developer.
2. That the proposed street name for the 25m wide access road, Ankoveld Street, **be approved** in term of Section 60 read together with Section 98 of the Bergvliet Municipality By-Law on Municipal Land Use Planning, subject thereto that:
- a) Street name signage and the installation thereof will be for the cost of the applicant; and
- b) The developer constructs the street according to municipal standards and to the satisfaction of the Directorate Technical Services, where after the developer will transfer ownership of the street to the Municipality at the developer's cost.

REASON FOR RESOLUTION

Section 42(1)(c)(i) of the Spatial Planning and Land Use Management Act (SPLUMA) states that the public interest must be taken into account when considering and deciding on an application. Only one objection was received against the proposed development.

Being located in the Central Business District of Velddrif, and next to Voortrekker Street (a main road of Velddrif and Laaiplek with high volumes of traffic), the impact of the perceived tranquility of the area would be negligible. A Traffic Impact Assessment (TIA) conducted confirmed that the current road network can accommodate the proposed development, and recommended that the proposed development be approved from a transport engineering point of view.

With regards to safety, the proposed development of the vacant and overgrown property, would provide more public surveillance and thereby help deter criminals from seeking refuge on the property.

Initially a scoping report was drafted for the whole Erf 1144, Velddrif in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998) as amended and the Environmental Impact Assessment (EIA) Regulations, 2014 (as amended).

For the current application (phase 1), which relate to the proposed commercial development, only a Basic Assessment is applicable. The process of conducting a full Environmental Impact Assessment (EIA) for the proposed phase 2 (Southern side of the site), on which a residential development is proposed, will be dealt with as a separate application.



MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL HELD ON THURSDAY, 19 OCTOBER 2023 AT 11:00 ON MS TEAMS, ELECTRONIC PLATFORM.

Section 40(7) of the Land Use Planning Act, Act 3 of 2014 (LUPA), states that a Municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required. This decision is therefore not subject to the outcome of the Environmental Authorisation application process underway in terms of the National Environmental Management Act, 1998 (Act 107 of 1998), Environmental Impact Assessment Regulations, 2014.

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 Bergrivier Municipality Spatial Development Framework (BMSDF) 2019-2024 identifies the subject property as being located within the central business district (CBD) of Velddrif and earmarks the property as a strategic site for mixed use opportunities and residential infill, above the coastal management line. The subject property also falls within the spatial integration zone of the Velddrif and Laaiplek, and is identified as a CBD focus area and Commercial/Retail node. The BMSDF acknowledges that high levels of unemployment are evident due to limited economic diversity in the town itself and the historic dependence on the fishing industry. The BMSDF proposes that the local economy be strengthened through consolidated commercial and retail node areas and activities. The proposed development involves a business development on vacant property within the central business district of Velddrif, earmarked for mixed use in terms of the BMSDF, and within the spatial integration zone of Laaiplek and Velddrif. Voortrekker Street is identified by the BMSDF as a primary road where safe non-motorised walkways should be provided. The application is considered consistent and aligned with the proposals of the BMSDF.

Section 59 (1) (g) of the Land Use Planning Act, Act 3 of 2014 (LUPA), states that the right of owners to develop land in accordance with current use rights should be recognized. Section 42(c) (iv) of SPLUMA also requires that the impact of existing rights and obligations must be taken into account. Even though the property's current zoning, being Undetermined Use Zone, does not afford rights for development, it would be unreasonable and illogical to expect a property within the central business district and next to the main road of town to remain undeveloped.

Section 59 (3) of LUPA requires land development should optimise the use of existing resources, infrastructure, agriculture, land, minerals and facilities. The proposed development would ensure more optimal use of an underdeveloped property within the Central Business District of Velddrif.

Section 59 (3)(b) of LUPA requires that integrated cities and towns should be developed, whereby the availability of residential and employment opportunities in close proximity to, or integrated with, each other, and a diverse combination of land uses is promoted. The proposed development would include residential and commercial land uses within a very accessible part of town and along a primary vehicular traffic and pedestrian route.



Section 7(a) (vi) of SPLUMA states that the Municipal Planning Tribunal/Competent Authority considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application.

The application is consistent with the development principles of LUPA and SPLUMA. The proposed application furthermore is aligned with the guidelines of Municipal Spatial Development Framework, the Municipality's Integrated Development Plan and the zoning scheme requirements. The application is furthermore determined desirable from a planning perspective taking into account the relevant factors of consideration as determined in terms of section 65 of Bergrivier Municipal By-Law relating to land Use Planning.

PTN009/10/2023

APPLICATION FOR REMOVAL OF RESTRICTIONS, CONSOLIDATION AND SUBDIVISION: ERVEN

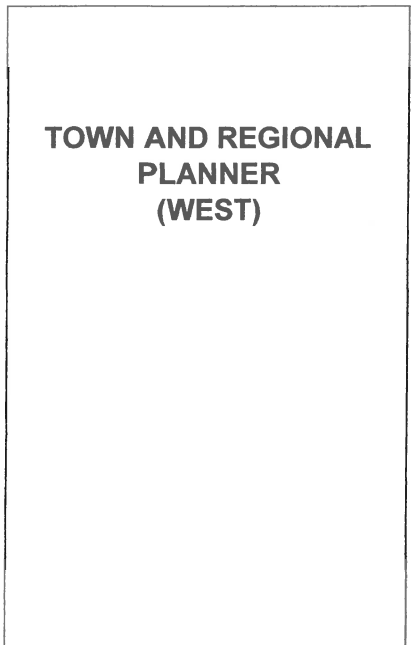
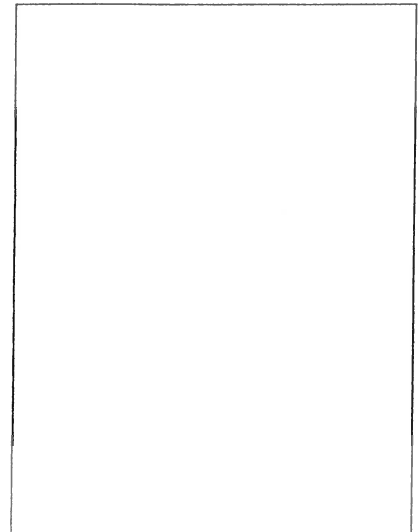
337 & 338, VELDDRIF

V. 337 & 338

RESOLUTION: TO BE REFERRED BACK FOR FURTHER INFORMATION

That the application be referred back to obtain clarification from applicant/ developer, pertaining the following aspects:

1. The upgrading of the electrical substation applicable to the proposed development;
2. To provide clarity on future responsibility of maintenance of the right of way servitude and increase of width of the servitude from 6m to 10m for ease of Municipal service vehicle movement; and
3. That a report be submitted to a future Municipal Planning Tribunal for consideration of the application.



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MINUTES OF THE MUNICIPAL PLANNING TRIBUNAL HELD ON THURSDAY, 19 OCTOBER 2023 AT 11:00 ON MS TEAMS, ELECTRONIC PLATFORM.

PTN010/10/2023

DATE OF NEXT MEETING

The next Municipal Planning Tribunal meeting will be held on **Thursday 16 November 2023 at 11:00** on an Electronic Platform.

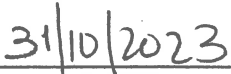
**ADMINISTRATIVE
OFFICER**

NOTED

**THE MEETING ADJOURNED AT 12:00
CONFIRMED AS A TRUE VERSION OF THE PROCEEDINGS**



CHAIRPERSON



DATE
