



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL (MPT) MEETING HELD ON MONDAY, 9 DECEMBER 2019 AT 10:00 IN THE COUNCIL CHAMBERS, AUDREY BLIGNAULT STREET, BREDASDORP**

**PRESENT:**

**MEMBERS:**

|                             |                                      |
|-----------------------------|--------------------------------------|
| Mr. D O'Neill (Chairperson) | Municipal Manager                    |
| Mr. A Jacobs                | Director Infrastructure Services     |
| Mr H Krohn                  | Director Community Services          |
| Mr. F Kotze                 | Overberg District Municipality (ODM) |
| Mr. J Benjamin              | Department of Environmental Affairs  |

**OFFICIALS:**

|                |                                      |
|----------------|--------------------------------------|
| Mr. B Hayward  | Manager: Town- and Regional Planning |
| Mr. A Theron   | Town Planner                         |
| Mr. GM Moelich | Administrative Officer: Committees   |

1. **WELCOME**

The Chairperson welcomed everyone present.

2. **APOLOGIES**

Ms. T Stone                      Divisional Head: Strategic Services, Planning and Administration

3. **APPROVAL OF MINUTES OF PREVIOUS MEETINGS**

3.1      Minutes: 20 November 2019 (*Attached on page 3 to 7*).

**DECISION:MPT 13/ 2019**

That the minutes are noted and approved.

4. **ITEMS FOR DISCUSSION**

4.1 **Proposed rezoning and departure: Erf 850 Napier (N850 - MTRP) (Ward 5)**

(Attached on page 8 to 185)

Mr. Hayward gave background regarding the item under discussion.

**REASONS FOR RECOMMENDATION**

The reasons for the recommendation are:

- 1 The proposed development is found to be desirable due to its consistency with all Local and Provincial Spatial Planning policies, including prioritized investment indication in the IDP.
- 2 The proposed development supports the principles as stipulated in Chapter VI of LUPA, which is in line with the principles of SPLUMA.
- 3 The application process is PAJA compliant, and the objections received have been sufficiently addressed.
- 4 No potential negative impacts could be identified as a result of the proposed development.
- 5 The owner is promoting investment opportunities in the town, which will benefit the general public, by for instance making land available for investment potential.
- 6 No basic environmental assessment will be issued, due to the fact that no regulations will be triggered.
- 7 The property in question is situated within an established commercial district and is in line with the Cape Agulhas Spatial Development Framework.

**RECOMMENDATION**

In view of the above, it is recommended that:

The following application made in terms of Section 15 of the Cape Agulhas Municipal Land Use Planning By-law (2015) be approved:

1. Rezoning on Erf 850 Napier in terms of Section 15 of the Cape Agulhas: By-Law on Municipal Land Use Planning, 2015 from Civic and Social Zone to Service Business Zone in order to use the site for small scale industry and manufacturing purposes.
2. Departure on Erf 850 Napier in terms of Section 15 of the Cape Agulhas: By-Law on Municipal Land Use Planning, 2015 in order to allow for the existing 2.6 meter building line on the north eastern boundary.

**CONDITIONS OF APPROVAL**

The following conditions of approval are imposed to section 66 of the Land Use Planning By-law (2015), that:

**City Planning**

- a) The property be revalued and accordingly taxed.
- b) All land use restrictions in terms of the Cape Agulhas Integrated Zoning Scheme be complied with.
- c) The main use of Erf 850 Napier shall be used for Service Business Zoned purposes (limited to small-scale, low impact manufacturing only).
- d) The applicant / owner / developer note that the rezoning approval will lapse within two years of the date of this letter, if all the conditions are not met.
- e) A Site development plan be submitted to the Building Control Officer of the Cape Agulhas Municipality for approval.
- f) A business plan to be submitted to Council for approval.
- g) Business hours to be from 08h00 to 17h00, only applicable from Monday to Friday.

**Building Division**

- h) Building plans of any alterations or any new buildings and structures be submitted to Council for consideration by the building control officer before construction commences.
- i) All advertising or tourism signs, to be according to the Council's specifications.
- j) On-premises advertising signs or similar notice of any kind shall be made solely in accordance with the Council's policy.

- k) Public facilities for disabled people be provided.

#### General Services

- l) The applicant / owner / developer at his own expense be responsible for all internal and external services that may result from this application.
- m) The applicant / owner / developer to negotiate with the relevant adjoining owners, if any servitudes need to be registered.
- n) Amendment to Municipal infrastructure to be for the applicant / owner / developer's cost, including all connections and supervision costs.
- o) All service standards relating to the development must meet the "Guidelines for the provision of Engineering Services and Amenities in Residential Township Development" and "the latest SABS 1200 Series Standardised Specifications".
- p) Infrastructure levies payable according to Council's tariffs within the applicable financial year, if necessary.
- q) Parking must be 5.0 x 2.5 meters in size and clearly defined and demarcated on-site to the satisfaction of the Council.
- r) Access to the property must be taken from Main Road, Napier.
- s) Provision must be made for disabled parking.

#### Storm water and Water

- t) Storm water onto the site and from the site to be handled by the applicant / owner / developer at his own expense.
- u) Increasing of the water supply network to be for the applicant / owner / developer's account.

#### Cleansing and Purification

- v) Refuse should be stored at a place to the satisfaction of the building committee and the Head Cleansing and Purification.
- w) The applicant / owner / developer is responsible for the provision of refuse containers on site that is aesthetically acceptable to the Aesthetic Committee.

#### Other departments and institutions

- x) Compliance with health requirements as determined from time to time by the Overberg District Municipality: Department of Environmental Health.
- y) Comply with the conditions as determined by Breede Gouritz Catchment Management Agency, namely that:
  1. *"All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to.*
  2. *No storm water runoff from any premises containing waste, or water containing waste emanating from industrial activities and premises may be discharged into a water resource. Polluted storm water must be contained.*
  3. *The minimizing of waste must be promoted and alternative methods for waste management must be investigated.*
  4. *The disposal of sewage must at all times comply with the requirements of Sections 22 and 40 of the National Water Act 36, Act 36 of 1998.*

#### Post and Telecommunications

- z) Compliance with the conditions for granting a Telkom 'wayleave'. Any electrical work at Telkom poles or overhead cables must meet the requirements of Section 88 of the Act, post offices, Act 44 of 1985 and meet the "Code of Practice for Overhead Lines in South Africa". The conditions for granting a Telkom "wayleave" to be met.

- aa) The owner / developer to negotiate with the Department of Posts and Telecommunications for the underground installation of a telephone network.

Nuisance

- bb) No noise may be permitted causing a nuisance to neighbours.  
cc) No activities resulting in a public nuisance may be exercised.

**DECISION:MPT 14/ 2019**

*That the recommendations be accepted as a decision of the Tribunal.*

4.2 **Special Consent: Erf 854, Dunkirk Street, Struisbaai (W854 – TRP) (Ward 6)**

(Attached on page 187 to 317)

Mr. Hayward gave background regarding the item under discussion

**REASONS FOR RECOMMENDATION**

- 1 The proposed development is in line with the applicable principles stipulated in the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) as well as the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014).
- 2 All municipal services are existing.
- 3 Impact on traffic condition will not be influenced negatively, as access obtained from Minnetokka Street and Protea Road. Parking will be provided from the adjacent parking area.
- 4 The importance of tourism is vital as it create jobs and giving opportunities.
- 5 With Struisbaai being primarily a holiday destination the proposal is in line and consistent with uses in the surrounding areas.
- 6 No basic environmental assessment will be issued, due to the fact that no regulations will be triggered.
- 7 In determining desirability some of the considerations one could consider are as follows, as indicated by SPLUMA principles in SECTION 42(1):
  - A development of this nature will enable the Socio-economic potential of area by establishing a "sense of place", a destination for individuals to come to. The proposal is thus within the **Public interest** for capital investment to build a more resilient community.
  - The proposed development can be recognised to be **Spatial Sustainable** as the use of land is being use in an effective and compact use. It will unlock the potential pertaining to promote tourism of the Struisbaai area,
  - The proposal also proves **Effective** as it optimises the resources that are already existing and facilities of the area, socio-economic integration through the mixed-use land uses and the sustainable employment opportunities.
  - The proposal is consistent with the principle of **Good Administration** as it complies with various spheres of planning laws from National to District level.

This application took into consideration the site-specific circumstances of the subject property, title deed restrictions, and services connected to the property, various planning policies and the planning principles and the application therefore complies with the requirements of all the essential elements taken into consideration.

**RECOMMENDATION**

In view of the above, it is recommended that:

- i. The following application made in terms of Section 15 of the Cape Agulhas Municipal Land Use Planning By-law (2015) be approved in terms of Section 60 of the Cape Agulhas Municipality By-Law on Municipal Land Use Planning, 2015:
- ii. Special consent on the portion of Erf 854 Struisbaai on which the Sea Shack are currently situated in terms of Section 15 of the Cape Agulhas: By-Law on Municipal Land Use Planning, 2015 for a Restaurant (Sea shack).
- iii. The Tribunal is aware that the business is currently without a legal liquor license and the lessee must make the lessor aware of the fact.
- iv. The following conditions of approval are imposed into section 66 of the Cape Agulhas Municipal Land Use Planning By-law (2015):

#### **City Planning**

1. The property be revalued and accordingly taxed.
2. All land use restrictions in terms of the Cape Agulhas Integrated Zoning Scheme be complied with.
3. The main use of the erf shall be used for Open Space Zoned purposes.
4. The applicant / owner / developer note that the approval is valid till 30 April 2020 and no further extension will be considered.
5. The approval is linked generally in accordance with Site Development Plan No 2015 20 dated 30 December 2015 drawn by Urban Concept Architects.
6. The approval of the application does not exempt the applicant / owner / developer from compliance of any other legislation.

#### **Building Division**

7. No building plans of any alterations or any new buildings and structures will be submitted to Council for consideration by the Building Control Officer.
8. All advertising or tourism signs, to be according to the Council's specifications.
9. On-premises advertising signs or similar notice of any kind shall be made solely in accordance with the Council's policy.
10. A Fire Management Plan be submitted with the Fire Plan of the Facility and an evacuation plan for consideration within 2 weeks from the date of approval.

#### **General Services**

11. The applicant / owner / developer at his own expense be responsible for all internal and external services that may result from this application.
12. The applicant / owner / developer to negotiate with the relevant adjoining owners, if any servitudes need to be registered.
13. Any existing servitudes from the title deeds to be maintained.
14. Amendment to Municipal infrastructure to be for the applicant / owner / developer's cost, including all connections and supervision costs.
15. All service standards relating to the development must meet the "Guidelines for the provision of Engineering Services and Amenities in Residential Township Development" and "the latest SABS 1200 Series Standardized Specifications".
16. If additional capacity is required, a service level agreement be entered into with the municipality with regards to bulk capital contributions as per approved Council tariffs for that particular year.

#### **Parking and Streets**

17. Parking be on the adjoin parking area and must be at least 5.0 x 2.5 meters in size and clearly defined and demarcated to the satisfaction of the Council.

**Storm water and Water**

18. Storm water onto the site and from the site to be handled by the applicant / owner / developer at his own expense.
19. Increasing of the water supply network to be for the applicant / owner / developer's account.
20. No rainwater from the roof shall be discharged directly onto an adjoining land unit.

**Cleansing and Purification**

21. Refuse should be stored at a place to the satisfaction of the building committee and the Head Cleansing and Purification.
22. The applicant / owner / developer is responsible for the provision of refuse containers on site that is aesthetically acceptable to the Building Committee.

**Other departments and institutions**

23. Compliance with health requirements as determined from time to time by the Overberg District Municipality: Department of Environmental Health.
24. To comply with the conditions of the Breede Gouritz Catchment Management Area's letter reference 4/10/1/G50F/Erf854, Struisbaai dated 23 October 2019.
25. A legal liquor license must be in place from the Liquor Board for erf 854, Struisbaai

**Post and Telecommunications**

26. Compliance with the conditions for granting a Telkom 'wayleave'. Any electrical work at Telkom poles or overhead cables must meet the requirements of Section 88 of the Act, post offices, Act 44 of 1985 and meet the "Code of Practice for Overhead Lines in South Africa". The conditions for granting a Telkom "wayleave" to be met.
27. The owner / developer to negotiate with the Department of Posts and Telecommunications for the underground installation of a telephone network.

**Nuisance**

28. No noise may be permitted causing a nuisance to neighbours.
29. No activities resulting in a public nuisance may be exercised.

**DECISION:MPT 15/ 2019**

*That the recommendations be accepted as a decision of the Tribunal*

**5. CLOSURE**

The meeting adjourned at 11h45