

Notule van vergadering van die Beplanningstribunaal van Langeberg Munisipaliteit op 18 Mei 2018 om 09h00 by die Langeberg munisipale kantore, Robertson.

1. Opening

Mnr van der Westhuizen, heet almal welkom by die vergadering.

2. Bywoning

Isak van der Westhuizen	-	Voorsitter (Interne lid)
Maynard Johnson	-	Adjunk voorsitter (Interne lid)
Kobus Brand	-	Interne lid
Jeremy Benjamin	-	Eksterne lid
Helene Janser	-	Eksterne lid
Hennie Taljaard	-	Eksterne lid
Carissa Pieters	-	Eksterne lid
Quinton Balie	-	Eksterne lid
Jack van Zyl	-	Assistent Bestuurder: Stadsbeplanning (Professionele Beplanner)
Tracy Brunings	-	Stadsbeplanner (Professionele Beplanner)

3. Aansoeke vir verlof tot afwesigheid

Geen

4. Bekragtiging van notule

- 4.1 Die notule van 'n gewone vergadering van die Beplannings Tribunaal van die Langeberg Munisipaliteit wat gehou was op 16 Maart 2018 in die Raadsaal, Munisipale Kantore, Robertson, word aanvaar.

5. Punte uit vorige notule

Geen

6. Dringende Aangeleenthede, Verklarings en Mededelings deur die Voorsitter

Geen

7. Oorweging van Verslae / Consideration of Reports

**1/2018 REM OF PORTION 1 OF THE FARM CLARENCEWOLD ANNEX NO. 95, ROBERTSON:
APPLICATION FOR TEMPORARY DEPARTURE FOR MINING**

The report to the Tribunal was presented and discussed. It was noted that regarding page 12 of the assessment report, soil test results were submitted by the applicant, but no accompanying explanatory report confirming the quality/suitability of the sand for building purposes.

Draft conditions of approval were also available, should the Tribunal decide to approve the application.

The Tribunal decided to conduct a site visit.

Following the site visit, the recommendation to not approve the application was not unanimous.

In support of the recommendation: Isak van der Westhuizen, Jeremy Benjamin, Helene Janser, Hennie Taljaard, Carissa Pieters, Quinton Balie

Not in support of the recommendation: Maynard Johnson & Kobus Brand

That, in terms of section 60 of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015, the Langeberg Municipal Planning Tribunal **refuses** the temporary departure from the Section 8 Zoning Scheme provisions, for mining a 5ha. area on Rem of Portion 1 of the Farm Clarencewold Annex No 95, Robertson.

This decision is based on a careful consideration of Section 65 of the said Bylaw, the "Relevant Considerations Guideline" (Western Cape), and the principles referred to the Land Use Planning Act 3 of 2014 and Spatial Planning and Land Use Management Act 16 of 2013, namely: spatial justice, spatial sustainability, efficiency, spatial resilience and good administration. The specific reasons for this decision are outlined in Annexure G, namely:

1. The proposed mining site is not considered to be in a suitable location given its poor accessibility. Access is via $\pm 1,5$ km of farm road and 3km gravel road (Minor Roads 5914 and 5915) through agricultural land, before reaching the tarred surface of Divisional Road 1342 (le Chasseur / Agterkliphoogte Road). This is the only available access to the site.
2. The right-of-way road servitude across the neighbouring farm (Portion 3 of Clarencewold Annex No 95) is not desirable as an access route for the proposed mine as the width and alignment of the servitude is not adequate for the proposed large scale mining vehicles. Further, the servitude crosses the CBR WUA canal where improvements are required to bridge this canal to accommodate mining vehicles, and such improvements have not been agreed to by the respective owners.
3. There is no written agreement between the respective owners regarding the conditions of use of this road servitude for mining-related activities and the respective maintenance responsibilities of the road surface and adjoining fencing relating to mining-related activities.
4. The proposed mining activity would generate 6-8 truck trips per day for the duration of the proposed ± 5 year mining period, with associated dust and wind-blown sand. The neighbouring farm (Portion 3 of Clarencewold Annex No 95), through which the road servitude runs, is farmed with vineyards for wine production. Vineyards are dust sensitive. The right of this neighbouring owner to continue to use his land for agricultural purposes in accordance with the required standards relating to dust, will be compromised by these truck trips and there is no agreement as to what compensation would be payable in the event of the anticipated deterioration in the existing grape crop.
5. The truck trips generated by the proposed mining activity will have a negative impact on: the existing agricultural activities in the surrounding agricultural area; local vehicular and pedestrian road users, particularly school children; and on the health and wellbeing of the residents in the dwelling units located immediately adjoining the access route.
6. The proposed access route includes Minor Roads 5914 and 5915, which fall under the jurisdiction of the Western Cape Department of Transport. The Western Cape Department of Transport does not support the proposed mining activities.

7. The proposed mining site and the access road to the mining site fall within an environmentally sensitive ecological corridor determined as an Aquatic Critical Biodiversity Area and a National Freshwater Ecosystem Priority Area (NFEPA). In terms of the Langeberg SDF, the entire farm falls within a Core 1 Spatial Planning Category. The objective of these identified areas is to maintain natural land and ecological processes and promote conservation of natural vegetation and ecological corridors. The proposed mining activity is not consistent with this objective and mining activities will have an adverse impact on the natural environment. The boundaries of the proposed mining area do not comply with the recommendations in the wetland report (D Kotze, 9 May 2017) and the botanical report (J Krige, 9 February 2017).

That, the applicant be informed of their right to appeal in terms of Section 79(2) of the Langeberg Municipal Land Use Planning Bylaw PN 264/2015, of 30 July 2015.

2/2018 HERSONERING VAN ERF 2660, VOLSTRAAT 06, ROBERTSON

Die Tribunaal het 'n ter plaatse ondersoek uitgevoer. Na afloop van die ondersoek is eenparig besluit dat die aansoek goedgekeur word.

Dat die aansoek om hersonering van erf 2660, Robertson vanaf Nywerheidsone na Algemene Sakesone ingevolge Artikel 60 van die Langeberg Munisipale Verordening op Grondgebruikbeplanning, 2015, goedgekeur word, onderhewig aan die volgende voorwaardes:

1. Die aard van die gebruik word beperk tot die voorstelle in die aansoek en sluit ander sakegebruike soos kleinhandel, hotelle en diensstasies uit.
2. Voorsiening van voldoende parkering op die perseel, as volg:
 - 2.1. Ten spyte van die grondgebruikbeperkings in die Robertson Soneringskema, moet parkering op die perseel voorsien word teen 'n verhouding van 1 parkeerplek per 8 persone ten opsigte van die besigheidsarea (dansvloer, restaurant, kroëë, potspeltafels en buite-kuierareas ingesluit) en 1 parkeerplek vir die woonstel.
 - 2.2. Die aansoeker moet 'n gewysigde gebou-uitlegplan en parkeerplan voorlê waarop die vereiste aantal parkeerplekke uitgelê is, ooreenkomstig die huidige voorgestelde ratio van 5.75m² besigheidsarea per persoon (soos bereken volgens die maksimum van 220 persone wat deur die aansoeker voorgestel is vir die huidige voorgestelde vloerarea van 1,265m²).
 - 2.3. Die gewysigde plan moet voorgelê word en deur die Bestuurder Stadsbeplanning goedgekeur wees voordat die toegestane regte uitgeoefen mag word.
 - 2.4. Die parkeerplekke moet op die perseel uitgemerk word en die Bestuurder Stadsbeplanning moet skriftelik bevestig dat die parkeerplekke korrek uitgemerk en toeganklik is, voordat die regte uitgeoefen mag word.
 - 2.5. Die aansoeker/eienaar moet toesien dat klante van die aangewese parkering gebruik maak en mag nie straatparkering toelaat nie.
3. Die eienaar is verplig om toe te sien dat goeie orde op en om die perseel gehandhaaf word, spesifiek ook om die speel van harde musiek vanuit voertuie, alkoholgebruik en opruiende gedrag van klante op die perseel buite die gebou en in die straat buite die perseel te voorkom. In hierdie verband moet die eienaar 'n sekuriteitsmaatskapy kontrakkeer om die perseel en die hele doodloopstraat voor die perseel (Voltstraat) te patrolleer en te beskerm tydens die bedryfsure van die onderneming. Die regte mag nie uitgeoefen word

daarsonder nie. Die eienaar moet 'n afskrif van die kontrak met die diensverskaffer aan die Bestuurder Stadsbeplanning voorsien vir rekorddoeleindes, voordat die besigheid bedryf mag word.

4. Voordat enige bouwerk aan nuwe geboue op die perseel of omskakeling van die bestaande gebou vir die voorgestelde besigheid mag geskied, moet bouplanne daarvoor en vir die verandering van okkupasie eers by die Boubeheerafdeling ingedien en goedgekeur word. Bouplanne moet ondermeer voorsiening maak vir voldoende brandveiligheid en sanitêre geriewe soos vereis volgens die Nasionale Bouregulasies.
5. Daar mag geen advertensietekens op die perseel aangebring of vertoon word sonder formele aansoek by en vooraf skriftelike toestemming van die Bestuurder Stadsbeplanning nie. Geen ekstra vlae, baniere of losstaande tekens wat van die straat af sigbaar is, word toegelaat nie.
6. Indien daar enige verandering of opgradering aan die bestaande elektriese netwerk, meetpunt of aansluitings aangebring moet word., sal die koste daarvan vir die eienaar se rekening wees, met inbegrip van enige toepaslike grootmaatsdiensheffing, teen die tariewe soos op daardie stadium van toepassing.
7. Die eienaar moet voldoen aan die volgende vereistes van die Kaapse Wynland Distriksmunisipaliteit se Departement Omgewingsgesondheid voordat die regte uitgeoefen mag word, sowel as enige ander verdere voorwaardes wat dié departement in die toekoms mag stel:
 - 7.1. Aansoek moet gedoen word vir 'n Geskiktheidsertifikaat in terme van Regulasie 962, ten opsigte van die bediening en hantering van voedsel
 - 7.2. Daar moet 'n rookbeleid opgestel word ingevolge die Wet op die Beheer van Tabak en Tabakprodukte Produkte, tot bevrediging van die Kaapse Wynland Distriksmunisipaliteit se Gesondheidsdepartement.
 - 7.3. No health nuisance may be caused on the premises.
8. Die eienaar aansoek doen vir en 'n handelslisensie bekom ingevolge die Wet op Besighede Nr 71 van 1991 ten opsigte van die voorsiening van voedsel en bedryf van 'n nagklub/diskoteek, voordat die regte uitgeoefen mag word.
9. Die bepalinge van enige wetgewing en regulasies betreffende geraasbeheer is op die perseel van toepassing en die eienaar is verplig om toe te sien dat die onderneming geen geraasoorlas veroorsaak nie, soos beskryf in die Regulasies Insake Geraasbeheer, afgekondig kragtens die Wet op Omgewingsbewaring, nr. 73 van 1989 (PK200/2013 van 20 Junie 2013).
10. Die aanoecker is daarvoor verantwoordelik om voldoende klankdigting binne die gebou te installeer om die vlak van klank uit die gebou binne aanvaarbare standarde te hou ten opsigte van woonbuurte en ander gebruiksareas in die omgewing, ten einde te voldoen aan die Wes-Kaapse Geraasbeheerregulasies (PK 200/2013 van 20 Junie 2013). Die klankdigting moet installeer, getoets en gesertifiseer word deur 'n gekwalifiseerde persoon en bewyse daarvan moet voorgelê word aan die Bestuurder Stadsbeplanning vir sy skriftelike aanvaarding, voordat die regte uitgeoefen mag word.
11. Vir die toepassing van Artikel 17(5) van die Langeberg Munisipaliteit: Verordening op Grondgebruikbeplanning, 2015 is die geldigheidsduur van die goedkeuring waarbinne die regte uitgeoefen moet word, 5 jaar vanaf die registrasiedatum van die goedkeuringsbrief, of in die geval van 'n appél, vanaf die datum waarop die beslissing van die appél skriftelik bekend gemaak word.

3/2018 REZONING AND CONSENT USE OF ERVEN 31 & 1324, C/O BREE- AND VOORTREKKER STREET, MCGREGOR

The Tribunal decided to conduct a site visit.

Following the site visit the recommendation to approve the application was unanimous.

- A. That the application for rezoning of erven 31 and 1324, Mcgregor from Residential zone I to Residential zone V and Business zone I respectively be approved in terms of Section 60 of the Langeberg Municipality: Land Use Planning Bylaw, 2015, subject to the conditions stated below.
- B. That the application for departure from the land use restrictions for building lines on erf 31 and on-site parking requirements on erf 1324 be only partially approved in terms of the said Section 60, as follows:
 - a) Side building lines along the north-western and south eastern boundaries to remain 4m, excluding the boundary with erf 1324. Other side boundaries reduced to 2m and street boundary to 4m.
 - b) On-site parking must be provided in accordance with the zoning scheme requirements, except that some of the required parking for erf 1324 may be provided wholly or partially in the Voortrekker Street road reserve.

The reasons for partially rejecting the departure applications are:

- a) The possible negative impact of development of erf 31 for guest accommodation on the privacy of residents of abutting properties will be increased the closer such development is to their properties.
- b) There is enough space on the premises to accommodate the new buildings within the building line restrictions, without compromising the design concept of a central open space.
- c) Adherence to the 4m building line will afford the developer the space to establish effective screening between the development and neighbouring properties, which would have been more difficult to achieve within a 2m space.
- d) A shortage of parking on the premises may result in uncontrolled on-street parking during peak use, which could impact negatively on the traffic and pedestrian movement, the character of the area and the privacy and comfort of surrounding residents.

The approval is subject to the following conditions:

1. The position, size and basic design of the new buildings have to correspond with the plans marked MCG31&1324-LBM-TP and MCG31&1324-LBM-LO, subject to amendments necessitated by the provision of adequate parking and applicable building lines.
2. The applicant is required to provide adequate parking and access for both components of the development on the following basis:
 - 2.1 Parking must be provided at 1 parking bay per 25m² total floor area of the business building (including verandas and outside seating areas) and 0.7 parking bay per bedroom of the residential buildings. (According to the proposal on plan MCG31&1324-LBM-TP a total of 26 parking bays must be provided, of which 17 bays must be allocated to the business use on erf 1324 and 9 bays to the residential accommodation on erf 31).
 - 2.2 A combined parking area for erven 31 and 1324 may be created, but with access from Voortrekker Street only. Alternatively, two separate parking areas may be created for the two components, each on its own cadastral unit and own direct street access. A maximum of 9 parking bays may be accessed from Bree Street.
 - 2.3 Where a combined parking area is created on one erf to serve both erven, a notarial tie must be registered.
 - 2.4 The applicant must submit a revised parking / site layout plan to the Manager: Town Planning for approval before the land use rights may be executed or building plans may be considered.
3. The land use rights of erf 1324 exclude Place of Entertainment and Place of Assembly as defined in the relevant zoning scheme regulations and therefore no functions or events may be offered, except for those that can be accommodated entirely within the proposed business building according to its design capacity and - function. No other structures or outdoor facility or - area - whether temporary or permanent – other than the approved business building may be used for business purposes.
4. The applicant must screen the development from all abutting properties, by retaining existing trees, new planting and other built elements. Before any building plans for the development may be considered, the applicant must submit a landscaping and screening plan to the Manager Town Planning for approval. The land use rights may not be executed before the screening has been put in place to the satisfaction of the Manager Town Planning.
5. Building plans for all new buildings first have to be submitted to and approved (stamped) by Heritage Western Cape before submission to the municipality for approval. Such building plans must conform to the McGregor Building Guidelines as compiled and administered by the McGregor Aesthetics Committee and must be evaluated by the committee before final approval may be given by the municipality. No building work may commence without approved plans.
6. Erven 31 and 1324 must each make use of its own municipal services erf connections. No internal service connections are allowed across the boundary between the two properties and no more than one connection per service per erf will be provided.

7. Any changes to the existing electrical connections that may be required by the owner will be for the owner's account at the applicable tariff at that stage, including a bulk supply levy if the connection is upgraded. The electrical connections are subject to any restrictive measures the national government may deem necessary for saving electricity.
8. The applicant is liable for a bulk civil engineering services contribution as must be determined by the Manager: Civil Engineering Services. Such contribution must be paid for each erf before the allocated land use rights may be executed on that erf and before an occupation certificate may be issued for the buildings on that erf..
9. The accommodation facility on erf 31 must always be managed by the owner or an agent who resides on or close to the property. In case of an agent, they have to be formally contracted by the owner and have to be available full time to tend to any complaints regarding disturbance of peace. The municipality may at any time require of the owner to provide proof of such contract and contact details within a specified period, failing which the guest house rights may be retracted.
10. Any advertising sign for the establishment (including name signs on the premises and directional signs) will be subject to prior approval by Department of Town Planning.
11. The stipulations of any legislation and regulations re noise control will be applicable to this premises and the owner is obliged to ensure that the establishment does not cause any noise nuisance as described in the Regulations regarding Noise Control, promulgated in terms of the Environmental Conservation Act, no 73 of 1989 (PN 200/2013 of 20 June 2013).

8. **Ander Sake**

Geen

9. **Afsluiting**

Vergadering het om 14:00 afgesluit.