

ZONING ASPECTS TO BE CONSIDERED WITH APPLICATIONS FOR TOURISM SIGNS:

A brief overview of the aspects concerning the zoning of properties is given below. The details surrounding zoning are too extensive to set out here, due to the vast amount of different specifications and different schemes that are applicable in the various local authorities. Should further clarification of specific issues be required, the concerned local authority should be contacted.

All land is zoned:

Since the promulgation of the Land Use Planning Ordinance, No 15 of 1985, in June 1986, all land in the Western Cape Province is deemed to be zoned, whether in terms of existing town planning schemes at the time, or in terms of new regulations made with the Ordinance 15 of 1985. Where formal zonings don't exist, zonings are determined by the local authority in terms of the land utilization on 1 June 1986.

Land use within all local authorities is therefore controlled by means of these different schemes and scheme regulations. Local authorities should have a zoning map and register of all the zonings of the properties within their areas of jurisdiction, but this is not the case in all municipalities. It is especially the rural areas of the previous district council that do not have detailed records available. A zoning must first be determined before a zoning certificate can be issued. This entails a thorough search of all records on the property before and on 1 July 1986, and any approvals granted since. With the capacity problems currently being experienced within municipalities, this request for a zoning certificate may take some time.

Zoning prescribes use and restrictions:

The zoning of each erf or property prescribes the land use restrictions and the specific use of the property. Should the property be used for any other purpose other than what it is zoned for, formal approval must have been obtained from the local authority for such a use. Should an owner of a property not comply with the zoning or land use restrictions applicable to that property, the local authority is bound by the Ordinance 15 of 1985 to take the necessary steps to set the situation right.

More than one zoning:

A zoning can be applicable to the entire erf/property, or can be made applicable to a certain portion/building(s) of that erf/property. More than one zoning can therefore be applicable on an erf, for example on an agricultural property approval may have been granted for a guesthouse or a restaurant or function hall as spot zonings.

There are also different uses that can be accommodated under the same zoning. For instance, in the rural areas of the District Municipalities, a restaurant, a tea room, craft shop or any other tourist related use are all accommodated under Consent use: Tourist facilities. However, when applying for a use, local authorities consider the specific use and grants approval for the specific use, not a carte blanche approval. Applications for tourism signs will therefore have to reflect the approvals that are in place, as tourism signs and their relevant warrants are also very prescriptive. Approval for a tearoom will not allow for a knife and fork sign of a restaurant, etc.

Procedures for land use/zoning applications:

Land use applications for different zoning have to go through certain procedures as prescribed in the scheme regulations. Land use applications must go through an advertising process. Various departments and institutions are required to comment and grant approvals in the process. An application can take between two to seven months, sometimes even longer if there are issues to be clarified. If there were objections to such an application, an appeal process follows the application period, which may delay a decision for a further two to seven months. Councils will not be able to support tourism sign applications if this process is not completed and approvals are in place.

Once this process has been completed and the application finalized, building plans must be submitted and approved. At the stage the land use conditions, services and fire regulations are checked on the plan by the various departments within the municipality.

Liquor licenses:

Then there is also the issue of the liquor license. The Liquor Board approves a liquor license. Approvals are very site- or building-specific. Different licenses are approved for different use. For instance, approval for a restaurant liquor license will not be granted for a tearoom, only for a bona fide restaurant. The zoning must therefore be correct prior to a liquor license being issued.

Conclusion:

The above information should give a little clarity on the issue of zoning and where it fits into the bigger picture where tourism signs are concerned. It is clear that the tourism sign is the last step in a relatively long legal process of obtaining land use rights. The frustrations of the tourist fraternity are understood. It is therefore important that applicants applying for tourism signs should make sure that all the required issues are in place to streamline the process when signs are applied for.