



**DEVELOPMENT PLANNING ENVIRONMENT & MANAGEMENT UNIT**  
**Development Planning Department**  
**Land Use Management Branch**

166 K E Masinga Road, Durban, 4001  
P O Box 680, Durban, 4000  
Tel: 031 311 1111, Fax: 031 311 7776  
www.durban.gov.za

GCFP No : 21/7/3  
Our Reference : LUMS 20210226036/CN  
Enquiries : Ms A Bothma  
Telephone : (031) 3117166  
e-Mail : Adele.Bothma@durban.gov.za

DATE:



Zimanga Urban and Rural Design (Pty)(Ltd)  
PO Box 264  
Izinga Ridge  
Umhlanga  
4021

**REZONING DECISION NOTICE**

**APPLICATION NO.** : LUMS 20210226036/CN  
**PROPOSED DEVELOPMENT** : REZONING FROM SPECIAL RESIDENTIAL 400 & EXISTING STREET TO INSTITUTIONAL 1 & EXISTING STREET  
**CADASTRAL DESCRIPTION** : PORTION 10 OF ERF 853 BRICKFIELD  
**STREET ADDRESS** : 36 HATTON AVENUE  
**REGISTERED OWNER** : TRUSTEES OF THE ISLAMIC MEDICAL ASSOCIATION BAYTUL-NAR  
**DATE OF MUNICIPAL PLANNING TRIBUNAL DECISION** : 29 APRIL 2022

In terms of Section 46(1)(b) of the eThekweni Municipality Planning and Land Use Management By-Law 2016 (Municipal Notice 114 of 2017) the application for the amendment to the eThekweni Municipal Land Use Scheme: Central Sub-Scheme by the Rezoning of Portion 10 of Erf 853 Brickfield, situated at 36 Hatton Avenue, from Special Residential 400 to Institutional 1 be **APPROVED** for the following reasons:

1. The location of the subject property lends itself to the development of a Frail Care Facility as it is in close proximity to the N2 and N3 freeway and is thus easily accessible for visiting families and supporting staff.
2. The proposed development is unlikely to impact negatively on the surrounding neighbourhood as the proposed land use of a Retirement Centre is residential in nature and thus in alignment with the city's strategic intentions for the area. There is also a need for a greater variety of social facilities within the greater Durban area which include Old Age Homes and Frail Care Centres.
3. The proposal is congruent with the provisions of the eThekweni Municipality Land Use Scheme: Central sub-scheme in that a Retirement Centre is permitted by Special Consent in all Special Residential zones, however the proposed Institutional 1 zone is viewed as being able to better achieve the overall development envisaged.

4. The eThekweni Transport Authority has confirmed that the hardened surface width of 4.5 m of Hatton Avenue is sufficient to cater for two-way vehicle movement and the Traffic Statement Report submitted with the application, has shown that the proposed development of a Frail Care Facility limited to 20 beds, will not generate more peak vehicle trips than the development potential of the site under its current zoning.
5. The proposal is consistent with the SPLUMA principles of Efficiency, Spatial Sustainability and Good Administration as the proposed zone will facilitate development in an area with existing resources (land) and services/infrastructure.
6. The objections received have been considered however the Municipal Planning Tribunal however the Development Planning Environment & Management Department is of the opinion that the issues raised have been properly responded to.

Subject to the following conditions in terms of Section 47(1) of the eThekweni Municipality Planning and Land Use Management By-Law 2016 (Municipal Notice 114 of 2017):

1. The following conditions imposed by, and subject to any changes by, the eThekweni Transport Authority:
  - (a) The development is restricted to a 20-bed Frail Care facility.
  - (b) Any further development of the site may require a traffic report.

**This Decision Notice must be submitted with any Building Plan submission.**

You are hereby advised that the approval of this application:

- a) does not absolve the applicant from any duties or responsibilities which may be imposed on the applicant by virtue of the title deeds of the property.
- b) does not bind the Council to issue or to authorise the issue of any licence, permit or further consent.
- c) does not constitute an approval in terms of the National Building Regulations or any other law.

**Your attention is drawn to the following:**

**Effective Date of this authority:**

This authority shall become effective upon –

- a) the expiry of the 21 business day period if no appeal was lodged against the decision of the municipality; or
- b) the finalisation of the appeal, if an appeal was lodged against the decision of the municipality.

It should be noted that in terms of Section 47 of the eThekweni Municipality: Planning and Land Use Management By-Law 2016 (Municipal Notice 114 of 2017), this application will have no force or effect until such time as the above conditions have been complied with and the Compliance Certificate has been issued. The responsibility remains with the applicant/owner to provide proof of compliance and initiate the Compliance Certificate process.

The conditional approval of this application lapses if a condition is not complied with, within–

- a) a period of two years from date of this decision, if no period for compliance is specified in the conditions; or
- b) the period for compliance if specified in this approval, which, together with any extension which may be granted, may not exceed five years.

## Rights of Appeal:

A person whose rights are affected, as set out in Section 60 of the eThekweni Municipality Planning and Land Use Management By-Law 2016 (Municipal Notice 114 of 2017), by this decision may appeal against such decision by giving written notice of the appeal and reasons to the **Municipal Manager, the Applicant, any person granted intervener status and any other person who has noted an appeal** within 21 business days of the date of notification (registered post/date/email/collection or other reasonable legal method of notification) of the Decision Notice, as set out in the eThekweni Municipality Planning and Land Use Management By-Law 2016 (Municipal Notice 114 of 2017).

An appeal may be lodged as follows:

### The Municipal Manager

c/o

eThekweni Municipality SPLUMA Office

First Floor Room 117

166 K E Masinga Road

Durban

4001

or

PO Box 680

Durban

4000

Attention: Ms A Nkomonde

Email: [anele.nkomonde@durban.gov.za](mailto:anele.nkomonde@durban.gov.za)

Tel: 031 322 8269

or

Ms Lungile Silangwe

Email: [lungile.silangwe@durban.gov.za](mailto:lungile.silangwe@durban.gov.za)

Tel: 031 311 7862

**Note:** An appeal fee of R5 296.00 (incl. VAT) shall be payable on lodging of the memorandum with the eThekweni Municipality SPLUMA Office for the attention of the Municipal Manager. In the event of the fee not being paid, the appeal shall be deemed as not being lodged. Please request banking details for payment of the appeal fee from the SPLUMA Office.

Section 63(2)(1) of the eThekweni Municipality Planning and Land Use Management By-Law 2016 (Municipal Notice 114 of 2017) requires that a 'Complete' appeal be submitted. Any additional information required to form part of the submission must be requested within the 21 business days of the appeal period. The Municipality reserves its rights to use its discretion in granting extensions and the supplementing of information where the information requested is not made available within the 21-day appeal period.

Should the Municipality not be notified within 21 business days of an Appeal lodged in terms Section 60 of the eThekweni Municipality Planning and Land Use Management By-Law 2016 (Municipal Notice 114 of 2017) then this approval shall be deemed to have come into force and effect.

Yours faithfully



**CHAIRPERSON: MUNICIPAL PLANNING TRIBUNAL**  
**MR M PHEWA**

### COPIES TO:

- Valuations
- Senior Manager: Information Systems
- Senior Manager: Strategic Spatial Planning
- Name and address of objectors: S Mahomed Attorneys on behalf of various property owners via Email address: [shuayba@smahomedattorneys.co.za](mailto:shuayba@smahomedattorneys.co.za)