



DEVELOPMENT PLANNING ENVIRONMENT & MANAGEMENT UNIT

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GCFP No : 21/7/6
Our Reference : REL202210270047/CN
Enquiries : Mr M.M Ncayiyana
Telephone : (031) 3117291

DATE:

J. Maharaj & S. Naidoo
6 Thirlmere Place
DURBAN NORTH
4051

RELAXATION DECISION NOTICE

APPLICATION NO. : REL202210270047/CN

PROPOSED RELAXATION : PROPOSED RELAXATION OF BUILDING LINE FROM 5.0M TO 0.0M FRONTING THIRLMERE PLACE FOR THE WATER TANK AND SIDE SPACE FROM 2.0M TO 0.75M ON THE NORTH WEST BOUNDARY FOR THE PROPOSED KITCHEN YARD AND GARAGE TO EXISTING PROPERTY.

CADASTRAL DESCRIPTION : ERF 2785 DURBAN NORTH.

STREET ADDRESS : 6 THIRLMERE PLACE.

OWNER : J. MAHARAJ & S. NAIDOO.

In terms of Section 29(1) and Section 46(1)(b) of the eThekweni Planning and Land Use Management Second Amendment By-Law 2021 (Notice 95 of 2021) and Section 3 of the EThekweni Municipal Land Use Scheme: Central Sub-Scheme, the application for the relaxation as outlined above be **APPROVED** for the following reasons:

- The development of the site is rendered unreasonably difficult due to the existing buildings on site.

The decision complies with the provision of the EThekweni Municipal Land Use Scheme: Central Sub-Scheme in that where the siting of existing buildings, the shape of the site, size of the sites, levels, topography, environmentally sensitive areas, and servitudes, render the development of the Erf unreasonably difficult, the Municipality may approve the relaxation of building line and side space.

The decision is subject to the following conditions imposed in terms of Section 47(1) of the eThekweni Municipality Planning and Land Use Management Second Amendment By-Law 2021 (Notice 95 of 2021):

1. PLANS

The development shall be in accordance with the plan (REL202210270047/CN) submitted with the application.

2. EXTENT OF BUILDING LINE AND SIDE SPACE.

The authorised relaxations shall apply only to those portions of the side and rear spaces which are affected by the development as indicated on the plan.

3. COUNCIL INDEMNIFICATION

eThekwini Municipality shall be indemnified by the landowner against any claim for damages or compensation in respect of the authorised development in the case of the omnibus servitude being required for any purpose whatsoever.

4. LIABILITY

eThekwini Municipality accepts no liability or responsibility whatsoever for any damage to any encroaching structure that may occur, due to maintenance to or extension of the sewer reticulation system, carried out by itself or appointed agents. Possible removal of structure to be at owner's expense.

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 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(1) of the eThekwini Planning and Land Use Management Second Amendment By-Law 2021 (Notice 95 of 2021) 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 Planning and Land Use Management Second Amendment By-Law 2021 (Notice 95 of 2021), 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 days of the date of notification (registry postdate/email/collection) of the Decision Notice, as set out in the eThekweni Planning and Land Use Management Second Amendment By-Law 2021 (Notice 95 of 2021).

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

or PO Box 680

Durban

Durban

4001

4000

Attention: Ms A. Nkomonde

or Ms Lungile Silangwe

Email: anele.nkomonde@durban.gov.za

Email: lungile.silangwe@durban.gov.za

Tel: 031 322 8269


Tel: 031 311 7862

Note: An appeal fee of R5296.00 (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.

Section 63(2)(1) of the eThekweni Planning and Land Use Management Second Amendment By-Law 2021 (Notice 95 of 2021) requires that a 'Complete' appeal be submitted. Any additional information required to form part of the submission must be requested within the 21 days to 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 21day appeal period.

Should the Municipality not be notified within 21 days of an Appeal lodged in terms Section 60 of the eThekweni Planning and Land Use Management Second Amendment By-Law 2021 (Notice 95 of 2021) then this approval shall be deemed to have come into force and effect.

Yours faithfully

RECOMMENDED BY:	
 Signature	Date: 3 November 2022
E G PARKER REGIONAL MANAGER: LAND USE MANAGEMENT	