



GAUTENG PROVINCE

AGRICULTURE AND RURAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

Reference: GAUT 002/18-19/E2051
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Zingini Properties (Pty) Ltd
P O Box 1216
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Email: wayne@cenprop.co.za

By Registered Mail

Dear Mr. Wayne Philip Lochner

ENVIRONMENTAL AUTHORISATION REFUSED: THE PROPOSED ELDORADO PARK SHOPPING CENTRE PARKING EXPANSION ON ERF 4070 IN ELDORADO PARK EXTENSION 5, CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY.

Your Basic Assessment Report with respect to the application for expansion of Eldorado Park Shopping Centre received by this Department on 25 July 2019 in the above regard refers.

With reference to the above-mentioned application, please be advised that the Department has decided to refuse authorisation and the reasons for the decision are attached herewith as Annexure 1.

In terms of Regulation 4 (2) of the Environmental Impact Assessment Regulations, 2014, you are instructed to notify all registered interested and affected parties, in writing and within **twelve (14) calendar days** of the date of this letter, of the Department's decision in respect of your application as well as the provisions regarding the making of appeals that are provided for in the regulations.

Your attention is drawn to Chapter 2 of the National Appeal Regulations, 2014 which regulates the appeal process. Should you wish to appeal any aspect of the decision, you must within **twenty (20) days** of the date of notification of the decision submit your appeal including supporting documents to the appeal administrator by any of the following means:

Postal Address:

The Appeals Administrator
Department of Agriculture and Rural Development
PO Box 8769
Johannesburg
2000

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Office of the HOD
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Physical Address:

The Appeals Administrator
Department of Agriculture and Rural Development
56 Eloff Street, Umnotho House, 23rd Floor
Johannesburg
2000

Fax No: 011 344 3158/2700

Email Address: appeals@gauteng.gov.za

Your appeal must be submitted in the prescribed appeal form obtainable from the appeal administrator, Ms Tsholofelo Mere at telephone number 011 240 3204 or email address Tsholofelo.mere@gauteng.gov.za. The appeal form is also available from our website: www.gdard.gov.za. Should you have queries or require additional information regarding the appeal process, you can contact the appeal administrator on any of the mentioned contact details.

Kind regards



MS. MATILDA GASELA
HEAD OF DEPARTMENT: AGRICULTURE AND RURAL DEVELOPMENT

DATE: 26 August 2019

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GAUTENG PROVINCE

AGRICULTURE AND RURAL DEVELOPMENT
REPUBLIC OF SOUTH AFRICA

ENVIRONMENTAL AUTHORISATION REFUSED

Reference Number:	GAUT 002/18-19/E0251	
Holder of Authorisation:	Zingini Properties (Pty) Ltd	
Location of Activity / Activities:	ERF 4070 Eldorado Park Extension 5	
Coordinates:	Latitude (S)	Longitude (E)
	26° 17' 27.66"S	27° 54' 22.98"E

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Annexure 1: Reasons for Decision

1. Background

The applicant, **Zingini Properties (Pty) Ltd** applied for environmental authorisation to undertake the activities 19 and 27 of Listing Notice 1 and Activities 12, 14, and 23 of Listing Notice 3 of the Environmental Impact Assessment Regulations, promulgated in terms of the National Environmental Management Act, 1998, (Act No. 107 of 1998) (as amended) for the proposed Eldorado Park Shopping Centre Parking Expansion, which falls within the jurisdiction of the City of Johannesburg Metropolitan Municipality.

The applicant appointed **Jana Liebenberg** from **Water Use License Associates (Pty) Ltd** to undertake the Basic Assessment process.

2. Information considered in making the decision

In reaching its decision, the Department took, *inter alia*, the following into consideration -

- 2.1 The information contained in the Basic Assessment Report received by the Department on 25 July 2019.
- 2.2 Wetland Ecological and Impact Surveys prepared by EnviRoss CC dated 16 July 2019 attached to the Report.
- 2.3 Relevant information contained in the Departmental information base including-
 - Conservation Plan Version 3.3;
 - Geographic Information System (GIS);
 - Gauteng Provincial Environmental Management Framework, 2015 (GPEMF, 2015);
- 2.4 The objectives and requirements of relevant legislation, policies and guidelines, including:
 - Section 2 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
 - Gauteng Spatial Development Framework (GSDF);
 - Johannesburg Spatial Development Framework (JSDF).
- 2.5 The findings of the site inspection undertaken by Ms Kwanele Mdletshe, the official of this Department on 07 May 2019.

3. Key factors considered in making the decision

All information presented to this Department was taken into account in the Department's consideration of the application. A summary of the issues which, in this Department's view, were of the most significance is set out below.

- 3.1 The size of the site as well as the footprint of proposed Eldorado Park township.
- 3.2 Terrestrial Screening Assessment, prepared by VBT Town Planning attached to the Basic Assessment Report.
- 3.3 Wetland Ecological and Impact Surveys prepared by EnviRoss CC dated 16 July 2019 attached to the Report.
- 3.4 The current status of site and unsuitability of the development.
- 3.5 Public participation process undertaken during the EIA process.
- 3.6 Potential cumulative impacts the development will cause in that area.

4. Findings

After consideration of the information and factors listed above, the Department made the following findings –

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- 4.1 The proposed development is within a fully functioning wetland, and in the events of floods, over the years, the site might increase the impacts downstream. The proposed development is also within a 30m buffer according to the Locality Map WGS84, this is against the guidelines of GDARD requirements for biodiversity assessment which designate any development to be outside 30m buffer zone (the minimum), within a build-up area.
- 4.2 According to wetland ecological and impact surveys conducted, the area surveyed has associations with wetland habitat units, and therefore conservation buffer zones are applicable. The report on page 21 further indicate that the wetland habitat should be regarded as being ecological sensitive regardless of ecological state. It recommends that the conservation buffer be reduced to coincide with the 1:100 year flood line level. However, the propose parking area still encroaches the 1:50 year flood line according to WGS84. The report further indicates that the developer would have to adhere to strict guideline and conditions of construction, one being the appropriate management and attenuation of the present as well the increase in impermeable surface area.
- 4.3 The specialist indicated that erosion of the watercourse as well as exotic vegetation management were considered to be two main ecological impact points that will require active management. This does not preclude that flooding might occur in future and impose risk to the shoppers.
- 4.4 The report on Terrestrial Screening by Carami van Schalkwyk (reviewed by Nelanie Cloete) recommended that wherever possible the development activities must stay clear of the wetland and their associated buffer zones as proposed by EnviRoss (2018).
- 4.5 The City of Johannesburg Catchment Management Policy, states that no development shall be permitted within either a wetland or the riparian zone or within a buffer zone of 30m from such wetland and riparian zone. This proposed development is within the extent of the wetland.
- 4.6 The development is not in line with the City of Johannesburg Spatial Development Framework (2040), which requires that the environment be considered at a structural element and for the proposed development to be outside the 1:100 year food line and 1: 50 year flood line, including the wetland and its buffer area. The proposed 1: 50 year flood line still encroaches into the wetland area.
- 4.7 There are some contradiction in the report in that the facility illustration in Appendix C shows a small portion of the parking area encroaching into 1: 100 year flood line hence it is proposed that the relaxation of the buffer will coincide with the 1: 100 year flood lines. The is no concrete suggestion of a reduced size of a buffer except to coincide with the 1:100 year flood line.
- 4.8 The Department does not agree the situation where there is no proposal for a buffer size. Beside the economic advantage of the proposed development and possible job creation, the risk of flooding and danger to the shoppers and the surrounding communities including impacts of rivers downstream outweighs the economic advantages.
- 4.9 Although the applicant promised a well-managed storm water system and permeable parking area, the Department hereby applies NEMA principle of a risk-averse and cautious approach, which takes into account the limits of current knowledge, as to what will happen in future, about the consequences of the decisions.
- 4.10 The applicant did not consider any compromise of a reduced parking area, alternative site or a revised layout plant as requested by this Department on the letter dated 16 May 2019.
- 4.11 In addition, the report is difficult to follow, some of the pages are not properly arranged.
- 4.12 The public participation was carried out according to the requirements of EIA Regulations, 2014.

In light of the above, the Department is of the view that the proposed activities cannot can be undertaken without conflicting with the general objectives of integrated environmental management laid down in Chapter 5 of the National Environmental Management Act, 1998 (as amended), nor that any potentially detrimental environmental impacts resulting from the proposed activity can be mitigated to acceptable levels. Therefore, the environmental authorisation for the proposed activities is accordingly refused.

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