

Human Settlements

Your ref:
Our ref: CF30/02377
Date: 19 September 2024
Who deals with this: Mr M Msimanga

Tel: +27 (0) 41 506 1095
Fax: +27 (0) 41 506 3430
PO Box 9, Port Elizabeth, 6000
Republic of South Africa
e-Mail: mmsimanga@mandelametro.gov.za

PER EMAIL

maartje@route2.co.za

Route² EC
Private Bag X0002
SUNRIDGE PARK
6008

Dear Madam

COUNCIL'S SPECIAL CONSENT (SC 48/2024) : ERF 2377, THEESCOMBE

I refer to previous correspondence in this regard and wish to advise that, by resolution of full Council at its meeting held on 16 July 2015 and in terms of Section 24(2) of the Spatial Planning and Land Use Management By-Law 2023, and Section 42 of the Spatial Planning and Land Use Management Act 16 of 2013, the Authorised Official on 18 September 2024 resolved as follows:

- (a) That the application for Council's Special Consent (SC 48/2024) to allow a function venue on Erf 2377, Theescombe **BE APPROVED**, subject to the following conditions:
- (i) the function venue to be restricted to 319m² (as per Plan No: 20240909_STABLES_MS01 dated 10 September 2024);
 - (ii) on-site parking being provided in terms of Nelson Mandela Bay Metropolitan Municipality Land Use Scheme, 2023;
 - (iii) the submission and approval of a Site Development Plan in accordance with Clause 70 of the Nelson Mandela Bay Metropolitan Municipality Land Use Scheme, 2023 for the approval by the Executive Director: Human Settlements prior to the submission of building plans. If considered necessary, the Executive Director: Human Settlements may at the time of assessing the Site Development Plan request the construction of a 2,4m brick high wall to protect the amenity of adjacent properties, and request landscaping measures to be implemented on the property;
 - (iv) in terms of the National Building Regulations and Building Standards Act 103 of 1977 and before the new use rights are exercised, building plans showing the new or change in use and the layout of the parking area shall be submitted for the approval of the Executive Director: Human Settlements;
 - (v) a Consent Use may not be implemented, where the Primary Use for Agriculture Zone 1 has not been exercised. The Consent Use will lapse if the Municipality establishes that the Primary Uses are no longer exercised on the Land Unit;
 - (vi) the Consent Use rights granted shall be subject to termination if any breach of a condition upon which such consent was granted is not remedied in compliance with a notice served in terms of the By-law upon the owner or occupier of the site concerned, which notice shall require that the breach be remedied within a specific period;
 - (vii) vehicular access being to the satisfaction of the Executive Director: Infrastructure and Engineering;
 - (viii) a Transportation Development Levy in respect of related traffic accommodation costs being payable. This levy, shall be determined by the Executive Director: Roads and Transportation on submission of the Site Development Plan, and will be payable prior to building plan approval;
 - (ix) all advertising and signage shall conform to Council's approved Outdoor Advertising Policy and shall be submitted to the Executive Director: Human Settlements for approval in terms of that policy;
 - (x) the requirements that may be specified by the Environmental Health Directorate with regard to the control of emissions such as smoke, noise, odors, disposal of refuse etc., shall be complied with at the cost of the owner;

- (xi) prior to the operation of the Function Venue the owner submitting a report together with an Acoustic Certificate confirming that the premises are soundproofed and that no disturbing noise and or noise nuisance will be created in the conduct of the proposed use that will be audible outside the limits of the property to the satisfaction of the Executive Director: Environmental Health failing which the Special Consent shall be withdrawn;
 - (xii) the acoustic certificate shall be issued by a competent authority registered with the Engineering Council of South Africa;
 - (xiii) the owner shall not cause or permit the playing of music (i.e. live or recorded music) that is audible outside of the Function Venue or music which is played inside the building and is audible outside of the building to the extent that it causes any type of common law nuisance;
 - (xiv) the owner taking all reasonable steps to ensure that patrons leave the premises in an acceptable and orderly manner;
 - (xv) the residential amenity shall not be adversely affected by the Function Venue activity. (This means that the resident neighbours must not be adversely affected by any Function Venue activities beyond those which flow from operating in compliance with all town planning conditions imposed on the business);
 - (xvi) If the Executive Director Roads and Transport Directorate determines that a Traffic Impact Assessment or Study is required, such approvals must be obtained before the approval of the Site Development Plan;
 - (xvii) the remaining conditions pertaining to the Agricultural Zone 1 use zone contained in the Nelson Mandela Bay Metropolitan Municipality Land Use Scheme, 2023 applying;
 - (xviii) the approval granted lapsing after 5 years, in terms of Section 43(2) of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) if Condition (iv) above is not complied with within the stated period.
- (b)** That the application for Council's Special Consent (SC 48/2024) to allow a convenience shop on Erf 2377, Theescombe **IS APPROVED** subject to the following conditions:
- (i) the convenience shop being restricted to 165.38m² (as per Plan No: 20240909_STABLES_MS01 dated 10 September 2024);
 - (ii) the submission and approval of a Site Development Plan in accordance with Clause 70 of the Nelson Mandela Bay Metropolitan Municipality Land Use Scheme, 2023 for the approval by the Executive Director: Human Settlements prior to the submission of building plans. If considered necessary, the Executive Director: Human Settlements may at the time of assessing the Site Development Plan request the construction of a 2,4 m brick high wall to protect the amenity of adjacent properties, and request landscaping measures to be implemented on the property;
 - (iii) in terms of the National Building Regulations and Building Standards Act 103 of 1977 and before the new use rights are exercised, building plans showing the new or change in use and the layout of the parking area shall be submitted for the approval of the Executive Director: Human Settlements;
 - (iv) a Consent Use may not be implemented, where the Primary Use for Agriculture Zone 1 has not been exercised. The Consent Use will lapse if the Municipality establishes that the Primary Uses are no longer exercised on the Land Unit;
 - (v) the Consent Use rights granted shall be subject to termination if any breach of a condition upon which such consent was granted is not remedied in compliance with a notice served in terms of the By-law upon the owner or occupier of the site concerned, which notice shall require that the breach be remedied within a specific period;
 - (vi) the remaining conditions pertaining to the Agricultural Zone 1 use zone contained in the Nelson Mandela Bay Metropolitan Municipality Land Use Scheme, 2023 applying;
 - (vii) the approval granted lapsing after 5 years, in terms of Section 43(2) of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) if Condition above is not complied with within the stated period.
- (c)** That the application for Council's Special Consent (SC 48/2024) to allow agriculture employee accommodation on Erf 2377, Theescombe **IS APPROVED** subject to the following conditions:
- (i) the agricultural employee accommodation is restricted to seven buildings (as per Plan No: 20240909_STABLES_MS01 dated 10 September 2024);
 - (ii) each agriculture employee dwelling unit or residential building not exceeding 50m² in size;
 - (iii) the agriculture employee accommodation is for the accommodation of bona fide agriculture employees engaged in agricultural activities on that Land Unit only;
 - (iv) agriculture employee accommodation shall not be utilized for sub-letting, other than sub-letting permitted in terms of the Nelson Mandela Bay Metropolitan Municipality Land Use Scheme, 2023;
 - (v) agriculture employee accommodation shall not be registered as a sectional title scheme;

- (vi) proof of compliance with agriculture employee accommodation to be submitted in the form of an affidavit containing the names and identity numbers and a copy of identity documents of agriculture employees to be submitted with the Site Development Plan;
 - (vii) the Municipality may require the property owner to provide an updated list of the employees occupying the agriculture employee units;
 - (viii) the submission and approval of a Site Development Plan in accordance with Clause 70 of the Nelson Mandela Bay Metropolitan Municipality Land Use Scheme, 2023 for the approval by the Executive Director: Human Settlements prior to the submission of building plans. If considered necessary, the Executive Director: Human Settlements may at the time of assessing the Site Development Plan request the construction of a 2,4m brick high wall to protect the amenity of adjacent properties, and request landscaping measures to be implemented on the property;
 - (ix) in terms of the National Building Regulations and Building Standards Act 103 of 1977 and before the new use rights are exercised, building plans showing the new or change in use shall be submitted for the approval of the Executive Director: Human Settlements;
 - (x) a Consent Use may not be implemented, where the Primary Use for Agriculture Zone 1 has not been exercised. The Consent Use will lapse if the Municipality establishes that the Primary Uses are no longer exercised on the Land Unit;
 - (xi) the Consent Use rights granted shall be subject to termination if any breach of a condition upon which such consent was granted is not remedied in compliance with a notice served in terms of the By-law upon the owner or occupier of the site concerned, which notice shall require that the breach be remedied within a specific period;
 - (xii) the remaining conditions pertaining to the Agricultural Zone 1 use zone contained in the Nelson Mandela Bay Metropolitan Municipality Land Use Scheme, 2023 applying;
 - (xiii) the approval granted lapsing after 5 years, in terms of Section 43(2) of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) if Condition above is not complied with within the stated period.
- (d)** That the application for Council's Special Consent (SC 48/2024) to allow a Place of Entertainment on Erf 2377, Theescombe **IS REFUSED**.

The Authorised Official's decision was based on the following reasons:

- The application is in line with the Nelson Mandela Bay Metropolitan Municipality Land Use Scheme, 2023.
- The application is in line with the Spatial Planning and Land Use Management Act, 2013 Development Principles.
- The property is on the edge of the urban edge and close to properties earmarked for Peri Urban zone and Mixed-use development in terms of the Nelson Mandela Bay Metropolitan Municipality Spatial Development Framework.
- The proposal is compatible with surrounding land uses.
- The proposed development is within the 20% coverage permitted on the property.
- No objection submitted during the Public Participation process.
- A Place of Entertainment is envisaged to have negative impacts on the properties in the vicinity as far as noise is concerned. There are Single Residential erven at the back of the property that will be impacted by the proposed Place of Entertainment.

Please note, should you have any query relating to the above decision, please contact Ms N Ketelo, 506 3324 (Town Planning Admin), alternatively Town Planning Reception, 506 2241.

Your attention is also drawn to the provisions of Section 43 of the Spatial Planning and Land Use Management Act in respect of the lapsing of applications.

Furthermore, your attention is also drawn to the provisions of Section 51 of the Spatial Planning and Land Use Management Act in terms of which a right of appeal exists. Should you wish to exercise your right in terms hereof, such an appeal, accompanied by proof of payment in the amount of R4565,00 (VAT included) in favour of the Nelson Mandela Bay Municipality, must be directed to the Office of the City Manager (mailto:sthebe@mandelametro.gov.za, Attention: Senior Director: Strategic Planning and Co-ordination), Nelson Mandela Bay Municipality, P O Box 9, Port Elizabeth, 6000 within 21 days of the date of notification of the decision. (please refer to the attached Appeal Application Form)

Bank details:

1. Fees to be paid on Electronic Funds Transfer (EFT) into the following Municipal account:

Bank	ABSA Bank
Account Name	NMBMM
Account Number:	40 7953 3826
Account Type:	Current Account
Branch Code:	632005

2. The bank reference must be in the following format:

1021307082 xx xxxxx
 $\left[\begin{array}{c} 1 \end{array} \right] \left[\begin{array}{c} 2 \end{array} \right] \left[\begin{array}{c} 3 \end{array} \right]$

NB: Refer to [Our ref: CF xx/xxxxx] above for Nos. 2&3

1. The first 10 digits is the vote number for Properties.
2. Followed by a space - then 2 digits for the allotment area number.
3. Followed by a space - then 5 digits for the erf number of the subject property.
4. Applications that comprise of multiple erven - only one erf number will be sufficient.

Yours faithfully



SENIOR DIRECTOR: LAND PLANNING AND MANAGEMENT

ENCLOSURE : As stated

2377-Theescombe-Route2/MMsimanga