

Human Settlements

Your ref:
Our ref: CF45/05046
Date: 12 March 2024
Who deals with this: Mr M Msimanga

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Dear Madam

REMOVAL OF RESTRICTIONS APPLICATION IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT 16 OF 2013) : ERF 5046, UITENHAGE TOWN PLANNING DEPARTURE APPLICATION (TPD 5144) : ERF 5046, UITENHAGE

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 42 read with Section 47 of the Spatial Planning and Land Use Management Act 16 of 2013, the Municipal Planning Tribunal on 23 November 2023 resolved as follows:

- (a) That the Title Deed Conditions C.6(a)-(d) in Deed of Transfer No. T63100/2022 and any subsequent applicable to Erf 5046, Uitenhage, **BE REMOVED**, subject to:
- (i) compliance with the requirements of the Registrar of Deeds;
 - (ii) the provisions of applicable zoning scheme regulations applying;
 - (iii) compliance with the provisions of National Building Regulations;
 - (iv) the use rights granted lapsing after 5 years, in terms of Section 43(2) of the Spatial Planning and Land Use Management Act 2013 (SPLUMA) if conditions imposed are not completed within the above stated period.
- (b) That the application for Departure (TPD 5144) to relax the side building line 3m to 2.7m applicable to Erf 5046, Uitenhage, **BE APPROVED**, subject to:
- (i) the departure is limited to the **Building Plan No. 20220803_Bothma_MS11 dated 03 Aug 2022** only;
 - (ii) building plans showing the proposed addition being submitted for approval by the Executive Director: Human Settlements in terms of the National Building Regulations, before the rights are exercised;
 - (iii) the remaining conditions applicable to the Single Residential 1 Use Zone in terms of the Uitenhage Zoning Scheme applying;
 - (iv) the use rights granted lapsing after 5 years, in terms of Section 43(2) of the Spatial Planning and Land Use Management Act 2013 (SPLUMA) if conditions imposed are not completed within the above stated period.

The MPT's decision was based on the following reasons:

- The function of restrictive Title Deed conditions is adequately regulated by the zoning scheme regulations.
- The removal of restrictive conditions complies with SPLUMA principles of Spatial Efficiency, Spatial Sustainability and Good Administration;
- The application for departure is in line with the principles of the MSDF.
- The application for departure is not in conflict with the provisions of the Uitenhage/Despatch LSDF.
- The application is within the provisions of the Uitenhage Zoning Scheme's provisions in terms relaxations that may be permissible in terms of the scheme.

- The removal of restrictive conditions and departure will not have a negative impact on surrounding properties.
- There were no objections received from affected property owners.

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 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 R4307,00 (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)

In terms of the above Act, you are required to arrange for the publication of the notice of approval in the Provincial Gazette: Eastern Cape. Kindly therefore email your draft notice to info.egazette@gpw.gov.za in order to obtain a quote, application form and the bank details from the Government Printer. Please also note that the notice together with the proof of payment and the completed form should be emailed to submit.egazette@gpw.gov.za for the Publication Department to place the notice in the Provincial Gazette.

Kindly arrange for the endorsement of your Title Deed with the Registrar of Deeds, King William's Town to ensure that the conditions/clause are/is removed once the notice has been published in the Provincial Gazette: Eastern Cape.

Below is an example of the Provincial Gazette Notice:

Nelson Mandela Bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

ERF, (erf no. and area), PORT ELIZABETH, EASTERN CAPE

Under Section 47 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that condition/s..... in Deed of Transfer No. T..... applicable to Erf is/are hereby removed.

Yours faithfully



SENIOR DIRECTOR: LAND PLANNING AND MANAGEMENT

ENCLOSURE : As stated

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