LAND USE MANAGEMENT: ETHEKWINI MUNICIPAL LAND USE SCHEME: CENTRAL SUB-SCHEME

Ground Floor, 166 KE Masinga Road, Durban, Tel: (031) 311 7939

APPLICATION NO: LUMS202512100007/CN

APPLICATION FOR:

A Category 1 Application submitted in terms of Chapter 8, Section 26 (1) (b) of the eThekwini Planning and Land Use Management Second Amendment By-law (municipal notice 95 of 2021) for an amendment to the eThekwini Municipal Land Use Scheme (Central Sub Scheme) by way of an amendment to the Development Parameters as appearing on the development facilitation table specific to one erf, described as Remainder of Erf 657 Durban, located at 12 Mentone Road, Morningside.

The ONLY amendments to the Development Facilitation Table sought are: -

- **Height - three storeys**
- **Coverage - 50%**
- **A maximum height of 5m per storey for the ground and first storeys (inclusive of the width of each slab).**
- **A maximum height of 5,6m for the highest storey (inclusive of the width of the roof slab)**

CADASTRAL DESCRIPTION: THE REMAINDER OF ERF 657 DURBAN

SITUATED AT: 12 MENTONE ROAD

Date Application Advertised: 12 DECEMBER 2025

Date Application Closes for objections: 12 JANUARY 2026

Members of the public are invited to lodge written objections as follows:

1. To the Manager: Central Region, Land Use Management Branch,
   - City Engineers, Ground Floor, 166 KE Masinga Road, Durban, (drop in Box) or by
   - Registered post to P O Box 680, Durban, 4000, or by
   - e-mail edwin.sibiya@durban.gov.za , Tel No. 031-311 7939
   - Central Regional Office Telephone No. 031 311 7607/ 031 311 7939

   APPLICANT'S DETAILS:

   SiVest SA (PTY) LTD
   K Soni
   P. O. Box 1899
   Umhlanga Rocks
   4320
   Applicant's Tel. No: (031) 581 1500 Email address: kavis@sivest.com

MLM FAMILY TRUST

CATEGORY 1 APPLICATION SUBMITTED IN TERMS OF CHAPTER 8, SECTION 26 (1) (b) OF THE ETHEKWINI PLANNING AND LAND USE MANAGEMENT SECOND AMENDMENT BY-LAW (MUNICIPAL NOTICE 95 OF 2021) FOR AN AMENDMENT TO THE CENTRAL SUB SCHEME BY WAY OF AN AMENDMENT TO THE DEVELOPMENT PARAMETERS AS APPEARING ON THE DEVELOPMENT FACILITATION TABLE SPECIFIC TO ONE ERF, DESCRIBED AS REMAINDER OF ERF 657 DURBAN, LOCATED AT 12 MENTONE ROAD, MORNINGSIDE.

THE AMENDMENTS SOUGHT INCLUDE: -

A. HEIGHT - THREE STOREYS
B. COVERAGE - 50%
C. A MAXIMUM HEIGHT OF 5M PER STOREY FOR THE GROUND AND FIRST FLOORS (INCLUSIVE OF THE WIDTH OF EACH SLAB).
D. A MAXIMUM HEIGHT OF 5,6M FOR THE HIGHEST STOREY (INCLUSIVE OF THE WIDTH OF THE ROOF SLAB)

Land Development Application

Issue Date:	9 December 2025
Revision No:	Revision 2
Project No:	20413
Document No:	12 MENTON ROAD_SCHEME AMENDMENT APPLICATION (9 DECEMBER 2025)KSFINAL

Date:	9 December 2025
Document Title:	20413_12 Menton Road_Scheme Amendment Application
Revision Number	2
Author	Kavi Soni
Checked By:	Kavi Soni
Approved By:	Kavi Soni
Signature:	
Client:	MLM Family Trust

Confidentiality Statement

MLM FAMILY TRUST
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MLM FAMILY TRUST

LAND DEVELOPMENT APPLICATION

1. INTRODUCTION

1.1. Application proposal

Category 1 Application submitted in terms of Chapter 8, Section 26 (1) (b) of the eThekwini Planning and Land Use Management Second Amendment By-law (municipal notice 95 of 2021) for an amendment to the Central Sub Scheme by way of an amendment to the Development Parameters as appearing on the development facilitation table specific to one erf, described as Remainder of Erf 657 Durban, located at 12 Mentone Road, Morningside.

The **ONLY** amendments to the Development Facilitation Table sought are: -

Height - three storeys

Coverage - 50%

A maximum height of 5m per storey for the ground and first floors (inclusive of the width of each slab).

A maximum height of 5,6m for the highest storey (inclusive of the width of the roof slab)

1.2. Applicant Details

1.2.1. The applicant is the MLM Family Trust IT000463/2016 (D), the registered owner of Remainder of Erf 657 Durban ("subject property").

1.2.2. MUHAMMAD NOOR-MAHOMED, a duly authorised Trustee of the MLM Family Trust, has provided the requisite Owner's Consent on behalf of the landowner and Power of Attorney to the Applicant's duly appointed agent.

1.2.3. The applicant has provided its Power of Attorney to SiVEST SA (Pty) LTD to act as its lawful agent, whose details are as follows: -

Contact person:	Kavi Soni
Address:	P O Box 1899 Umhlanga Rocks 4320
Ph.:	031 581 1500
Fax:	031 566 2371
Email:	kavis@sivest.com

1.2.4. SIVEST is duly and properly authorised by the applicant as its representative in these proceedings.

(See Annexure 1: Power of Attorney, Owners' Consent, Trust Resolution, Title Deeds, SG Diagram, and Application Form).

2. BACKGROUND

2.1 This is an application in part, seeking to address a conflict between a piece of National Legislation (National Building Regulations) and Local Government legislation (The Central Sub Scheme of the eThekwini Municipality), with the intention of regularising a building that complies with the Municipality's applicable Town Planning Scheme requirements but not the provisions of the NBR.

2.2 The applicant, MLM Family Trust, is the registered owner of the application property, Remainder of Erf 657, Durban, situated at 12 Mentone Road, Morningside, Durban, under and in terms of Deed of Transfer T32418/21 ("the property").

2.3 The property has been improved by the erection of an impressive dwelling house with ancillary outbuildings, with the construction thereof being virtually complete.

2.4 The erection of such dwelling house and outbuildings was in terms of building plans approved by the eThekwini Municipality in terms of the relevant provisions contained in the National Building Regulations and Building Standards Act number 103 of 1977 ("NBRBSA").

2.5 Such building plans were, however, reviewed and set aside by the High Court in terms of a judgment handed down by Acting Judge Shapiro on the 23rd of May 2025.

2.6 The High Court review application was made at the instance of disgruntled neighbours and the High Court review application was not opposed by the applicant, who despite filing an appearance to defend, did not advance any opposing papers as they were under the bona fide belief that it was not necessary for the applicant to do so on the basis that the Municipality would successfully defend its approval of the building plans.

2.7 In reviewing and setting aside the building plans approved by the eThekwini Municipality, the High Court did not order any demolition of the dwelling house and ancillary buildings erected on the property, and the applicant took the view that it was open to the applicant to do whatever was necessary to regularise what now became unlawful buildings as a result of the High Court Judgment.

2.8 To this end, the applicant made a special consent application which attracted a host of objections and, having taken legal advice, it appeared that the applicant was facing an insurmountable problem arising from the fact that there were two definitions for a "storey" which conflict with one another.\

2.9 This conflict became glaringly evident when the two land surveyors involved held different views regarding the scheme definition of a storey with the applicant's land surveyor, Mr. Clarkson, on behalf of the applicant was of the opinion that the maximum permissible height of 4,5 meters **between** the floor and the ceiling of a storey being complied with whereas the land surveyor of the objectors, Mr. Ausmeier, held a different view and considered that this height restriction was exceeded.

2.10 Rather than being involved with protracted application and appeal proceedings and possibly further High Court litigation, the applicant decided to withdraw the special consent application and instead proceed with a scheme amendment application with specific reference to the application property, which then gives the Municipality the necessary discretion to regularise all existing town planning related transgressions, should it decide to do so.

2.11 Unfortunately, the relevant town planning scheme provisions and the By-law of the eThekwini Municipality do not provide a mechanism to empower the eThekwini Municipality, in appropriate circumstances, to "regularise" innocent transgressions, and this may be considered a flaw in the provisions of the By-law as they currently exist.

2.12 As is well known, an "escape valve" previously existed in terms of the now-repealed Town Planning Ordinance number 27 of 1949, which gave the Town Planning Appeal Board the necessary power in terms of Section 73 (quat)(5)(d) to allow transgressions to continue despite such transgressions not being permitted in terms of the relevant scheme provisions.

2.13 In considering its powers in terms of Section 73 (quat)(5)(d), the former Town Planning Appeals Board considered whether the appellant deliberately flouted the relevant planning regulations and whether the removal of any transgression would be disproportionate to any harm which may arise if the transgression were permitted to remain.

2.14 Undoubtedly, the applicant would have succeeded in regularizing the transgressions through an order from the Town Planning Appeals Board.

2.15 The applicant built in terms of duly approved building plans, and there can be no question that the applicant is an innocent victim of the fact that the High Court ruled that the Municipality was wrong in approving the applicant's building plans.

2.16 Furthermore, the cost of demolition is totally disproportionate to any harm that will arise if the building is authorized through this scheme amendment application.

2.17 Without furnishing any quotations at this stage, it is patently obvious that it will cost millions of rand to demolish the existing dwelling house with ancillary buildings, as it will not be a case of simply reducing height if the objectors are correct in arguing that the maximum permitted height for all of the storeys exceeds the maximum.

2.18 A scheme amendment application gives the Municipality an opportunity to make a fair, reasonable, and rational decision in the exercise of the Council's discretion.

2.19 It is thus the respectful submission that, in the specific circumstances applicable to this matter, a scheme amendment application which is aimed at amending the controls specifically in respect of the property only, which is appropriate and competent, will then regularize a transgression which has come about through no fault of the applicant.

2.20 Such scheme amendment applications made by a particular property owner are not uncommon, and decisions have been made by the Council where the Council has taken the view that it would be appropriate to amend the zoning controls for a specific property only, i.e. the proposed development at Tina's Hotel in Kloof and the expansion proposals in respect of the Beverley Hills Property in Umhlanga.

2.21 In discussion with Municipal Officials, representatives of the applicant were informed that the Municipality measured the height component of a "storey" from the floor level to the underside of the ceiling, and this interpretation now emerges as not being in alignment with the definition of a storey in the NBR.

2.22 In the circumstances, the applicant has no available remedies to it, having relied on an approval issued by the Municipality, which approval has been set aside, amongst other things, for being in conflict with the NBR.

2.23 Fundamentally, this application seeks, in part, to address an inconsistency not occasioned by the applicant, but rather the conflict between the scheme provisions and those of the NBR regarding the definition of a storey, and for the remainder to regularise the existing structure from a town planning perspective.

3. THE NBR AND SCHEME CONFLICT

3.1. The NBR definition of a storey reads as follows: -

'storey' *means that part of a building which is situated* ***between the top of any floor and the top of the floor next above it****, or if there is no floor above it that portion between such floor and the ceiling above it (any mezzanine floor, open work floor, catwalk or gallery being taken to be part of the storey in which it is situated), and in relation to a building (****emphasis****)-*

(a) the ground storey shall be taken as the storey in which there is situated an entrance to the building from the level of the adjoining ground or, if there is more than one such storey, the lower or lowest of these;

(b) a basement shall be taken to be any part of the building which is below the level of the ground storey;

(c) an upper storey shall be taken to be any storey of the building which is above the level of the ground storey; and

(d) the height expressed in storeys shall be taken to be that number of storeys which includes all storeys other than a basement;

3.2. The Central Sub Scheme defines a storey as: -

Storey(s): *means that part of a building* ***which is situated between two floors****, or if there is no floor above it, the underside of the ceiling. Such storey shall not exceed 4,5 metres for residential purposes and 5.5m for non-residential purposes in height, save that (****emphasis****):*

i) Spaces provided for lifts, elevators, and similar rooms or architectural features, and which are in proportion to the building, shall not constitute a storey or floor;

ii) in the event of a storey being higher than the height as indicated above, it shall be counted as two storeys;

iii) the prescribed height per storey as indicated above may be relaxed, provided that the total combined Height and number of all storeys prescribed in the Development Facilitation Table is NOT exceeded.

iv) A mezzanine shall not count as a storey

v) A basement shall not count as a storey;

vi) A roof which may contain or support any room shall count as a storey.

3.3. On the basis that height is measured in storeys, the scheme prescribes as follows: -

***Height:** means the vertical measurement of a building or the number of storeys permitted in a building unless otherwise prescribed.*

3.4. The NBR provides no definition for height.

3.5. On this basis, unless the Municipality amends its definition of a storey to align with that of the NBR and further, that amendment is made to align the respective height calculations, inclusive of the slab width, in the scheme, the innocent applicant has no remedy to address this unique town planning problem.

4. THE APPLICABLE DEVELOPMENT CONTROLS

4.1. It is indisputable that the subject property falls under the jurisdiction of the eThekwini municipality's Central Scheme ("Scheme") and that the property is zoned Special Residential 1200.

4.2. The current applicable development controls for the property are set out as follows: -

DEVELOPMENT PARAMETERS						
SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM SUBDIVISION (m^2)	HEIGHT	COVERAGE	FLOOR AREA RATIO
BUILDING LINE	SIDE AND REAR SPACE	One dwelling house for every 1200m^2	1200	2	40%	N/A
5m	2.0m					

5. PROPOSED AMENDMENTS TO THE DEVELOPMENT PARAMETERS SPECIFIC TO REMAINDER OF ERF 657 DURBAN (SEE ADDITIONAL CONTROLS)

	ZONE: SPECIAL RESIDENTIAL 1200	

SCHEME INTENTION: To provide, preserve, use land or buildings for:

- Single residential use in a form of a dwelling house and ancillary uses, and caters for multiple unit development and various building typologies.
- Protection of the quality and character of residential neighbourhood and the well-being of its residents.
- Limiting multiple uses of buildings to minimize adverse impact on the residential environment.
- Business that comply with residential amenity such as a Bed and Breakfast Establishment and Home Business at the discretion of the eThekwini Municipality (see Section 1.14 - Exemptions).

MAP COLOUR REFERENCE: Yellow with Orange cross hatch **MAP REFERENCE:**

PRIMARY	SPECIAL CONSENT	PRECLUDED
• Dwelling House • Multiple Unit Development	• Agriculture Land • Boarding House* • Crèche • Health & Beauty Clinic • Educational Establishment • *Institution • Place of Public Worship • *Retirement Centre • Special Building • Telecommunication Infrastructure • Uses authorised in terms of Sub-section 1.13 • Any other use authorised in terms of sub-section 9.4	• All other uses not indicated in the Primary and Special Consent columns

ADDITIONAL CONTROLS – LAND USE

1 The minimum ERF size for an Institution shall be 900m^2.

2. *Place of Public Worship:
The minimum Erf size for a Place of Worship shall be 900m^2.

3. * Boarding House: The building shall conform to the appearance and definition of a Dwelling House and is limited to a maximum of 10 boarders.

4. With respect to the Remainder of Erf 657 Durban located at 12 Mentone Road, Morningside, the following development parameters shall apply: -

A. **Height:** 3 Storeys, with the Ground and First Storey Heights to be 5m inclusive of the width of each slab. The highest Storey height shall be a maximum of 5.6m (inclusive of the ceiling slab).

B. **Coverage:** 50%

DEVELOPMENT PARAMETERS

SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM SUBDIVISION (m^2)	HEIGHT	COVERAGE	FLOOR AREA RATIO
BUILDING LINE	SIDE AND REAR SPACE	One dwelling house for every 1200m^2	1200	2	40%	N/A
5m	2.0m					

6. MOTIVATION IN SUPPORT OF THE APPLICATION PROPOSAL

6.1 The Application in Context

a. This is not an application to address the provisions of Section 7 of the NBR.

b. It is strictly a town planning application seeking to amend the Development Parameters to, in part, address the conflict between the NBR and Scheme, and secondly, to regularise the existing structure insofar as it relates to the scheme provisions specifically relating to the application property.

c. Any submission in terms of the NBR can only be adjudicated at the building plan submission stage.

d. Importantly, there is no building plan that accompanies this application, as this application does not relate to **ANY** building plan submission whatsoever.

6.2 The basis of the application

a. As has been set out, the applicant at the time when it submitted its building plans to the Municipality had no reason to believe that its building plans were in conflict with the scheme provisions.

b. The process followed by the Municipality requires that a Planning Application ("PA") precedes a building plan submission in terms of the provisions of the NBR commonly referred to as a DAA submission.

c. The PA submission was approved, and subsequently, the building plans were approved in terms of the NBRBSA.

d. The applicant relied on both the PA and DAA decisions of the Municipality as the competent authority.

e. The conflict between the NBR and Scheme is of no doing of the applicant.

f. Now that the Municipality is aware of the conflict between the scheme and the NBR in terms of a definition of a “storey”, the Municipality needs to resolve this conflict through amending the scheme definition of a storey to bring it into line with the definition contained in the NBR.

g. Apparently, this is the first instance that the Municipality became aware of the conflict, as all five of the eThekwini Municipality Schemes comprise the same conflicting definition of a storey.

h. As it stands, there is no alternative remedy to the innocent applicant.

i. It is necessary to emphasise that the applicant will suffer severe and disproportionate hardship if the applicant is ultimately faced with a demolition versus the absence of any amenity interference being suffered by neighbouring properties.

6.3 The associated impacts of the proposal

a. A third storey on a site zoned Special Residential 1200 is permissible by Consent; however, an application for Consent for a third storey, based on the current scheme provisions, does not resolve the applicant’s challenge based on the conflict between the NBR and Scheme.

b. Similarly, an increase in coverage by 10% is allowed by Consent in the Scheme.

c. As opposed to piecemeal applications to separately address height and coverage, a singular application to address these development parameters by seeking to regularise the building is a logical, rational, and reasonable proposition.

7. SUMMARY AND CONCLUSION

a. This is an application in part to address a conflict between two pieces of unrelated but interdependent legislation.

b. As it stands, there are no alternatives available to the applicant, except an application to amend the Development Parameters associated with the subject property, which is not an uncommon occurrence, as there are many such examples approved by the Municipality.

c. The application is devoid of any building plans, as it primarily relates to the regularisation of an existing structure in terms of the provisions of the applicable scheme.

d. The applicant is an innocent party that has no other plausible, practical, or viable alternative other than an application to amend the development parameters.

e. The amendment of development parameters is not an uncommon practice adopted by the Municipality.

In the circumstances, it is respectfully submitted on behalf of the Applicant that the Applicant has presented a clear and good case for the granting of the application, and it is respectfully requested that the application seeking the Municipal Council's approval for an amendment to the development parameters specific to the Remainder of Erf 657 Durban, located at 12 Mentone Road, for: -

Category 1 Application submitted in terms of Chapter 8, Section 26 (1) (b) of the eThekwini Planning and Land Use Management Second Amendment By-law (municipal notice 95 of 2021) for an amendment to the Central Sub Scheme by way of an amendment to the Development Parameters as appearing on the development facilitation table specific to one erf, described as Remainder of Erf 657 Durban, located at 12 Mentone Road, Morningside in regards: -

Height - three storeys

Coverage - 50%

A maximum height of 5m per floor for the ground and first floors (inclusive of the width of each slab).

A maximum height of 5,6m for the highest floor (inclusive of the width of the roof slab).

BE APPROVED

Kavi Soni

Director

Town Planning Division

Pr. Plan Number A/1143/1999

Annexure 1:

Owner’s consent, Power of Attorney, Trust Resolution, Applicant’s Agents Professional Registration Certificates, Title Deed, SG Diagram and Application Form

THE MLM FAMILY TRUST

REG NO: IT000463/2016 (D)

POWER OF ATTORNEY AND OWNERS CONSENT

We, the undersigned,

RICHARD BRUCE DONACHIE (ID 6312015074084)

NAEEMA NOOR MAHOMED (ID 7606020182082

MASEEHA NOOR MAHOMED (ID 9512290069082)

MUHAMMAD NOOR-MAHOMED (ID 9801225093089)

In our capacity as the Trustees of the MLM Family Trust, Trust Number IT000463/2016 (D) ("the Trust"), do hereby confirm as follows: -

1. The Trust is the registered owner of Remainder of Erf 657 Durban located at the street address of 12 Mentone Road, Durban ("the property").

2. We are duly authorized to represent the Trust in our capacity as authorised Trustees as reflected in an extract from the Trust Deed registered in terms of Section 6(1) of The Trust Property Control Act 1988 (Act 57 of 1988)

3. We do hereby provide our **Consent** as owners and further, grant **Power of Attorney** to Kaviraj Soni (ID 7212215039086) and Malusi Ntsikelelo Khumalo (ID 9111185346083), both registered professional town and regional planners and representatives of SiVEST SA (Pty) Ltd, to act as our lawful representatives/agents to prepare and submit the necessary town planning application/s associated with securing the applicable planning rights and to apply for the necessary documentation and or to apply for the necessary actions for the finalization of the same in regards the property.

Dated on this 30th day of July 2025,

RICHARD BRUCE DONACHIE

NAEEMA NOOR MAHOMED

MASEEHA NOOR MAHOMED

MUHAMMAD NOOR-MAHOMED

WITNESS

WITNESS

CERTIFIED A TRUE COPY OF THE ORIGINAL DOCUMENT

Signature:
Biasha Pillay
COMMISSIONER OF OATHS
Admitted Attorney

Date: 22 SEPTEMBER 2025 Place: DURBAN

Business Address: 4 Pencarrow Crescent, La Lucia Ridge Office Estate

RESOLUTION OF THE TRUSTEES OF THE MLM FAMILY TRUST, TRUST NUMBER IT000463/2016 (D).

PRESENT: RICHARD BRUCE DONACHIE (ID 6312015074084)
NAEEMA NOOR MAHOMED (ID 7606020182082
MASEEHA NOOR MAHOMED (ID 9512290069082)
MUHAMMAD NOOR-MAHOMED (ID 9801225093089)

IN TERMS OF A MEETING OF THE TRUSTEES OF THE MLM FAMILY TRUST, HELD AT 12 MENTONE ROAD, DURBAN ON 30 JULY 2025 AT 11H00, IT IS RESOLVED THAT: -

1. **MUHAMMAD NOOR-MAHOMED (ID 9801225093089)**, is authorised to act for and on behalf of the Trust in regards any town planning application/s associated with the Remainder of Erf 657 Durban located at 12 Mentone Road ("the property").

2. **MUHAMMAD NOOR-MAHOMED (ID 9801225093089)** shall furthermore be entitled to engage, attend, speak, and vote in person or proxy to appoint Kaviraj Soni (ID 7212215039086) and Malusi Ntsikelelo Khumalo (ID 9111185346083), both registered professional town planners and representatives of SiVEST SA (Pty) Ltd.

3. The Trust hereby ratifies all documents and agreements to be signed by **MUHAMMAD NOOR-MAHOMED (ID 9801225093089)** on behalf of the Trust in regards the town planning application/s to be prepared and submitted to the eThekwini Municipality.

Dated on this 30th day of July 2025,

RBDonachie

RICHARD BRUCE DONACHIE

NAEEMA NOOR MAHOMED

MASEEHA NOOR MAHOMED

MUHAMMAD NOOR-MAHOMED

WITNESS

WITNESS

CERTIFIED A TRUE COPY OF THE ORIGINAL DOCUMENT

Signature
Blasha Pillay
COMMISSIONER OF OATHS
Admitted Attorney

Date: 22 SEPTEMBER 2025 Place: DURBAN
Business Address: 4 Pencarrow Crescent, La Lucia Ridge Office Estate

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
www.durban.gov.za

ENQUIRY REFERENCE NO. SAENQ20251250007/CN **DATE:** 9 December 2025

REGION: Central North

LUMA/PLANNER details: (Name) Edwin Sibiya **e-mail** Mpucuko.Sibiya@durban.gov.za

STATUTORY APPLICATION FORM FOR CONSIDERATION BY THE ETHEKWINI MUNICIPALITY PLANNING AND LAND USE MANAGEMENT SECOND AMENDMENT BY-LAW, 2021 (NOTICE 95 OF 2021) AND THE SCHEME

Please note that **ALL** sections of this form **MUST** be completed by Applicant.

PLEASE TICK APPROPRIATE APPLICATION TYPE

TYPE OF APPLICATION	
CATEGORY 1 – in terms of Section 26 of the Planning and Land Use Management By-law	
Amendment to the Schemes	☑
CATEGORY 2 - in terms of Section 27 of the Planning and Land Use Management By-law	☐
Rezoning of Land with Objections	☐
Introduction of a New Area (Extension of the Scheme)	☐
Land Development Applications Deviating from the Provisions of the Municipal Spatial Development Framework (MSDF)	☐
Zonings of Land	☐
CATEGORY 3 - in terms of Section 28 of the Planning and Land Use Management By-law	
Rezoning of Land With no Objections and in line with the MSDF	☐
Consolidation	☐
Removal of Restrictive Conditions	☐
Special Consent	☐
Subdivision	☐
CATEGORY 4 - in terms of Section 29 of the Planning and Land Use Management By-law	
Relaxation (Space About Buildings, Height, FAR & Coverage)	☐
Exemptions (Clause 1.13 of the Scheme)	☐

IS THIS A COMBINED APPLICATION? (Tick the appropriate box)	YES ☐	NO ☑

APPLICATION IS MADE IN TERMS OF ETHEKWINI MUNICIPAL LAND USE SCHEME:
Central ..... **SUB-SCHEME**

DETAILS OF APPLICATION: (detail what the application is for. Any exclusion renders the application null and void)

Scheme amendment to amend the development parameters as appearing on the development facilitation table

PARTICULARS OF SITE

Cadastral Description: Remainder of Erf 657 Durban .....

.....

Street Address: 12 Mentone Road .....

Area of Land: 3478 square meters ..... Title Deed No: T 32418/2021 .....

Rate number (for payment purposes): N/A .....

PARTICULARS OF APPLICANT *(applicant as defined in section 21(5) of the eThekwini Municipality Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021)*

NAME: Kavi Soni on behalf of MLM FAMILY TRUST REGISTRATION NO. IT000463/2016 .....

PHYSICAL ADDRESS: Refer to attached Power of Attorney and Company Resolution .....

.....CODE .....

POSTAL ADDRESS:.....

(If different to above).....CODE .....

Tel. No. (W) (…...) .... (H) (…….) .....

Cell No. ..... E-mail. .....

SIGNATURE OF APPLICANT .....I.D. No .....

PROFESSIONAL REGISTRATION NUMBER: ……..

PARTICULARS OF REGISTERED OWNER ***(to be signed by <u>all</u> registered owners)***

NAME: Refer to attached Power of Attorney and Company Resolution .....

PHYSICAL ADDRESS: .....

.....CODE .....

POSTAL ADDRESS:.....

(If different to above).....CODE .....

Tel. No. (W) (…...) .... (H) (…….) .....

Cell No. ..... E-mail. .....

I hereby declare that I am: ◯ Tenant (P.O.A.) ◯ Other (P.O.A.)

◯ Registered Owner ◯ Sectional Title Holder ◯ Legal Representative (P.O.A

Note 1: Where the owner is a Body Corporate, a member of the Body Corporate, Director or a Member of a Company, a Trust or a Close Corporation, a certified letter of Authority is required.
Note 2: Sectional Title applications require minutes of Body Corporate meeting at which consent was granted.

SIGNATURE OF REGISTERED OWNER/S .....I.D. No .....

SIGNATURE OF REGISTERED OWNER/S .....I.D. No. .....

The application (as referred in the eThekwini Municipality Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) <u>should consist</u> of the following:

1.	Owners Consent (Certified copy)	☑
2.	Copy of Title Deeds & S-G Diagram/ General Plan	☑
3.	Bond holders Consent (Certified copy)	☐
4.	Planning Motivation, Site/Layout Plans and Locality Plans.	☐
5.	Zoning and Land Use Plans	☐
6.	On-site Parking Provision and schedule	☑
7.	Approved Traffic Impact Assessment/Statement (where applicable)	☐
8.	Copy of Environmental authorisation from Department of Agriculture & Environmental Affairs (where applicable)	☐
9.	Geotechnical report (where applicable)	☐
10.	Body Corporate Consent/ Home/Property Owners Consent etc. (where applicable) (Certified copy)	☑
11.	In the case of a Trust- a resolution authorising such application be made (where applicable) (certified copy)	☑
12.	Power of Attorney / Authorization (if not signed by the Registered Owner) (Certified copy)	☑
13.	In the case of an application for the Alteration, Suspension or Deletion of Restrictions relating to Land, which creates a servitude in favour of another property, the names & contact details of all servitude holders	☐
14.	Any other information that may be considered by either yourself or the Municipality as being in support of your application	☐
15.	Water Use License Development of a site maybe subject to a water use license application (in terms of Section 21 of The National Water Act 36 of 2008) in the event of water course on site or within 500m of the property/ties/ the applicant must either obtain the necessarily approval or written confirmation that a license is not required from eThekwini Department of Water and Sanitation.	☐

I Kavi Soni on behalf of MLM FAMILY TRUST REGISTRATION NO. IT000463/2016 (Applicant) affirm that the information and documentation submitted in this application is as per the information and documentation assessed and commented on by the relevant internal and external departments and has not been altered in any form or manner.

Signature of Applicant ……

The South African Council for Planners
SACPLAN

REGISTRATION CERTIFICATE

Issued in terms of Section 13(4) of the Planning Profession Act, 2002
(Act 36 of 2002)

This is to Certify that

Kaviraj Soni

ID number: 7212215039086

is registered as a

Professional Planner

in terms of the Planning Profession Act, 2002 and is authorised to act as such in accordance with the said Act and the Rules prescribed thereunder.

Issued under the Seal of the Council

SACPLAN PROFESSIONAL PLANNER

CHAIRPERSON

REGISTRAR

REGISTRATION NUMBER:
A/1143/1999

Date of Issue: 10-06-2025

The registered person remains in good standing with SACPLAN for the period ending as stipulated herein.

This certificate is valid until: **30-06-2026**

The South African Council for Planners
SACPLAN

REGISTRATION CERTIFICATE

Issued in terms of Section 13(4) of the Planning Profession Act, 2002
(Act 36 of 2002)

This is to Certify that

Malusi Ntsikelelo Khumalo

ID number: 9111185346083

is registered as a

Professional Planner

in terms of the Planning Profession Act, 2002 and is authorised to act as such in accordance with the said Act and the Rules prescribed thereunder.

Issued under the Seal of the Council

SACPLAN PROFESSIONAL PLANNER

CHAIRPERSON

REGISTRAR

REGISTRATION NUMBER:
A/2338/2016

Date of Issue: 11-06-2025

The registered person remains in good standing with SACPLAN for the period ending as stipulated herein.

This certificate is valid until: **30-06-2026**

Verification Number: 958146fbafa2a193d02ad1f9dc946921

DADA & ASSOCIATES

Attorneys | Conveyancers | Notaries

Established 2010

Nazeer Rashid Dada LLB (UKZN) | Nazima Dada BA LLB (Wits)
Associate: Avilasha Moonilal LLB (Unisa)
Candidate Attorneys: Declan Rochat LLB (UKZN) | Marushka Varsilla Hirachund LLB (UFS)
Rivona Ajodapersad LLB (UKZN) LLM (UKZN)

10TH DECEMBER 2021

OUR REF: MR DADA/AM/T81

YOUR REF:

THE MLM FAMILY TRUST

"TO BE COLLECTED"

RE: TRANSFER FROM 12 MENTONE ROAD PROPRIETARY LIMITED TO MLM FAMILY TRUST
PROPERTY: REMAINDER OF ERF 657 OF DURBAN

We refer to the above matter and enclose herewith **original** Deed of Transfer Number **T32418/2021**.

Kindly acknowledge receipt hereof.

Yours faithfully

DADA & ASSOCIATES
Encls.

Acknowledgement of receipt
Date: _____
Signature: _____
Print name: _____

Suite 35, Third Floor, Lornegrey Medical Centre, 280 Dr. Yusuf Dadoo Street, Durban, 4001
P. O. Box 70840, Overport, 4067
Tel: 031 309 7865 | Fax: 08666 76786
Email: info@dada.co.za | Website: www.dada.co.za

DADA & ASSOCIATES
Attorneys | Conveyancers | Notaries

DEED OF TRANSFER NO.:

T32418/2021

IN THE NAME OF:

MLM FAMILY TRUST

PROPERTY: REMAINDER OF ERF 657 OF DURBAN

Suite 35, Third Floor, Lornegrey Medical Centre, 280 Dr. Yusuf Dadoo Street, Durban, 4001
P. O. Box 70840, Overport, 4067
Tel: 031 309 7865 | Fax: 08666 76786
Email: info@dada.co.za | Website: www.dada.co.za

DADA AND ASSOCIATES
SUITE 35, THIRD FLOOR
LORNEGREY MEDICAL CENTRE
280 DR. YUSUF DADOO STREET
DURBAN
4001

Prepared by me

CONVEYANCER
NAZEER RASHID DADA
LPCM 70174

FEES

	AMOUNT	OFFICE FEE
ANY OTHER REGISTRATION		
PURCHASE PRICE/VALUE	R 8500 000.00	R 300.00
MORTGAGE CAPITAL AMOUNT	R.....	R.....
REASON FOR EXEMPTION	CATEGORY	EXEMPT IN TERMS OF SECTION..... ACT.....

2021 -09- 30

DEED OF TRANSFER

T 32418 21

BE IT HEREBY MADE KNOWN THAT

HARRY BUTLER McGREGOR
(66966)

appeared before me, Registrar of Deeds at Pietermaritzburg, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at Durban on 18 August 2021 granted to him by

12 MENTONE ROAD PROPRIETARY LIMITED
Registration Number: 2020/585319/07

And the appearer declared that his said principal had, on 22 July 2021, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

The Trustees for the time being of the
MLM FAMILY TRUST
Registration Number: IT000463/2016(D)

its successors in office or assigns, in full and free property

REMAINDER OF ERF 657 OF DURBAN
REGISTRATION DIVISION FU
PROVINCE OF KWAZULU NATAL
IN EXTENT 3478 (THREE THOUSAND FOUR HUNDRED AND SEVENTY EIGHT) SQUARE METRES

FIRST transferred by Deed of Transfer Number T818/1892 with Diagram annexed thereto and held by Deed of Transfer Number T36958/2020

THIS PROPERTY IS TRANSFERRED:

A. SUBJECT to all the terms and conditions contained in the original Government Grant No 1737 in so far as the same may now be in force and applicable.

B. WITH THE BENEFIT of a 3,05 metre wide Sewer and Drain Servitude over Sub B of Lot 143 Block D of the Town Lands of Durban No 1737 held by the Transferor under Certificate of Registered Title Number T21541/1974 as depicted by the figure g h D A on the diagram of the said Sub B annexed to said Certificate of Registered Title No T21541/1974, as created in said Deed of Transfer No 21542/1974.

C. With the benefit of a condition in favour of and enforceable by the Transferee, her successors in title or assigns, as owner of the said Remainder of Lot 143 over the said Sub B held by the Transferor under said Certificate of Registered Title Number T 21541/1974 to the effect that the highest point of any buildings to be erected on the said Sub B shall not exceed 90,13 metres above mean sea level, as created in the said Deed of Transfer No 21542/1974.

WHEREFORE the said Appearer, renouncing all right and title which the said

12 MENTONE ROAD PROPRIETARY LIMITED
Registration Number: 2020/585319/07

heretofore had to the premises, did in consequence also acknowledge it to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

The Trustees for the time being of the
MLM FAMILY TRUST
Registration Number: IT000463/2016(D)

its successors in office or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R8 500 000,00 (Eight Million Five Hundred Thousand Rand)

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the Registrar of Deeds at Pietermaritzburg on

2021 -09- 30

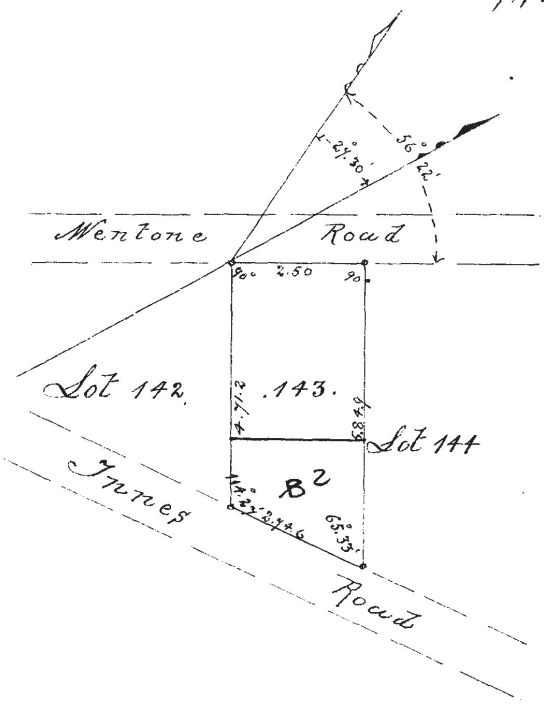
q.q.

In my presence

REGISTRAR OF DEEDS

1

S.G.O
Sub-Vol 104 fol 18
27/7/91
A.J.S.



Scale of 1 2 3 4 5 10 chains

~~Now known as:~~
~~Lot 143 Block D of the Town Lands of Durban No 1737~~

13.6.56.

No. 657

The above Diagram represents a Piece of Land, containing 1 Acres 1 Roods, 11·216 Perches, being ~~Sub-division of~~ Lot 143 Block D, situate on the Town Lands of the Borough of Durban, in the Colony of Natal. It is bounded on the Nor W by Wentone Rd N, East by Lot 144, Sou Es by Innes Rd, and S West by Lot 142.

Surveyed by me,

William Mc Lea

Government Surveyor.

Reg. Div. FU

T818/1892

May, 1890

12682

FOR ENDORSEMENTS, &c., SEE BACK

SV 104 F 18

THE FOLLOWING DEDUCTIONS HAVE BEEN MADE FROM THIS DIAGRAM:

SUBDIVISION	DIAGRAM NO.	S.R.	EXTENT	REMAINDER	TRANSFER NO.	INITS.	DATE
2	4369/68	1359/68	1864 Sq.m	3478 Sq.m	C.R.T. 21541/1974		14. 1. 1975

BEACONS REPLACED

SiVEST SA (Pty) Ltd
Town Planning Division

4 Pencarrow Crescent
La Lucia Ridge Office Estate,
Umhlanga Rocks. 4320
KwaZulu-Natal, South Africa
PO Box 1899, Umhlanga Rocks, 4320.
KwaZulu-Natal, South Africa

Tel +27 31 581 1500
Email info@sivest.com
Website www.sivest.com

Contact Person: Kavi Soni
Cell No.: 0829039824
Email: Kavis@sivest.com