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SPECIAL ZONE 44 : PHOENIX SOUTH – BRIDGE CITY

The purpose of this zone will be to accommodate a wide range of recreational, entertainment, residential, shopping, business, commercial, community, service industrial and related activities and any other activities that would ordinarily be accommodated within a city environment, in such a way that the uses contribute towards the creation of a dynamic, harmonious and well balanced city precinct of the highest aesthetic, landscaping and urban design quality that promotes the notion of African Urbanism.

UPPER PLATFORM

A Development Framework Plan for the Upper platform (reference no. PHZS118) dated 4 August 2003 and comprises the following:-

Rem of 433 (of 432) of the Farm Melk Houe Kraal no.789.
Rem of Sub 306 of the Farm Melk Houe Kraal no.789.
Erven 447 (of 306) : 434 (of 433) : 435 (of 433) and 436 to 444 (of 433) all of the Farm Melk Houe Kraal No. 789

LOWER PLATFORM

A Development Framework for the Lower Platform (reference 2010/11/LP VER. 09) dated 22nd August 2011 and comprising the following :

Portions 1 and 2 of Erf 5 Bridge City
Portion 1 Erf 6 Bridge City
Erf 9, 10, 11, and 12 Bridge City
Rem. of Erf 16 Bridge City
Rem. of Erf 17 Bridge City

A Development Framework Plan for the Upper Platform (reference 2002/10/02) and a Development Framework plan for the Lower platform (reference 2010/11/LP VER.09) provides a conceptual indicative portrayal of how the zone could develop over time. It is noted that these plans are purely conceptual and is subject to change to the satisfaction of the Head:Development Planning, Environment and Management.

1. MANAGEMENT OF THE SCHEME

The following development control principles will act as the critical guiding and managing 'mechanisms' in order to ensure that the vision for the PHOENIX SOUTH – BRIDGE CITY development is not jeopardised, but facilitated by :-

- (i) The creation of a flexible Scheme control mechanism, which provides key areas of certainty in order to ensure the basic integrity of the PHOENIX SOUTH – BRIDGE CITY development
- (ii) The use of defined, detailed Precinct Plans that provide certainty in terms of overall spatial frameworks and primary structuring elements, broad land use categories, potential minimum and maximum heights and potential minimum and maximum floor area ratios (FAR).

- (iii) The management of Development Rights in terms of a " Permitted Floor Area Bank" and the vesting of all of the Development Rights contained in the Bulk Floor Area with the Primary Developer and through whom and by whom, within the provisions of this zone, all Rights are allocated.
- (iv) The imposition of a Urban Design Guidelines, such as Build-To Lines, to which all sites must adhere .
- (v) The use of a Design Review Panel to review all development proposals prior to Local Authority approval of Building Plans.
- (vi) The preparation of Precinct Plans by the Primary Developer with local authority input and approval to guide the detailed development on a site by site basis.

1.1 Scheme Control Mechanism

- a) A critical feature of the PHOENIX SOUTH- BRIDGE CITY development is the carefully formulated Town Planning Scheme mechanism. This mechanism provides certainty on key aspects relating to both the control and management of the PHOENIX SOUTH - BRIDGE CITY development but also provides sufficient adaptability and flexibility to enable the PHOENIX SOUTH – BRIDGE CITY development to evolve and develop naturally in tune with changing demands and wider socio-economic conditions and to be managed in a facilitative and proactive manner.
- b) The Scheme control mechanism is based on the overarching vision and Development Framework as well as the particular planning and development controls as provided for below.

1.2 Permitted Floor Area Bank

- a) The total maximum Development Rights (bulk floor area) envisaged for the PHOENIX SOUTH – BRIDGE CITY is 725 000m². These are comprised of Primary and Secondary floor area rights (see sections 1.6 and 2.1 below)
- b) The current Primary Floor Area Rights (Rights immediately available to be sold and utilised) available is 100 000 m². The Primary Floor Area Rights are included within the amount indicated in (a) above.
- c) The total amount of Development Rights will be held in a " Permitted Floor Area Bank " which is effectively controlled and managed by the Primary Developer in conjunction with the Local Authority.
- d) All Rights which are sold/transferred/distributed or used shall be taken from the Permitted Floor Area Bank solely by the Primary Developer unless with the written consent (that may include a Sales Agreement) of the Primary Developer.
- e) The manner in which the Development Rights held in the " Permitted Floor Area Bank" will be sold/transferred/distributed and used will be in accordance with the Precinct Plans.

- f) Any Development Rights not used on any site (where the maximum FAR is not taken up) will automatically be reallocated into the "Permitted Floor Area Bank" for future use and sale by the Primary Developer.

1.3 Build - To Lines and Building Restriction Areas

- a) Notwithstanding what may be in the Scheme, Urban Design Guidelines, such as Building Lines and building-to-lines will be set in the Precinct Plan.
- b) The basis on which Urban Design Guidelines are to be determined relates to the need for buildings to express their edges and celebrate the adjacent public environment. Accordingly, Urban Design Guidelines such as Build-to-lines, Build- within zones, Primary and Secondary setbacks, Conceptual Primary Building Zones and Non-user Area's, are to be stipulated in the Precinct Plans and are subject to review by the Design Review Panel. These Urban Design Guidelines are defined in the appendix of definitions attached.
- c) Deleted

1.4 Design Review Panel

- a) A Design Review Panel will be established by the Primary Developer and will be responsible for the review and assessment of all development proposals in a manner to be determined in consultation with the Development Planning and Management Unit.
- b) Such review and assessment must lead to the recommendation for approval to the Local Authority, of the required Building Plans.
- c) The Local Authority will not approve any Building Plan unless it has been recommended for approval by the Design Review Panel and provided that the relevant Precinct Plan has been approved by the Local Authority.
- d) The recommendation of Building Plans by the Design Review Panel shall only occur once the purchaser / site developer has adhered to all requirements of this Zone.
- e) The composition, function and responsibilities to be agreed to by the Head: Development Planning and Management.

1.5 Precinct Plans

- a) The Special Zone area will be divided into a number of Precincts as determined by the Primary Developer.
- b) Each Precinct, which may be comprised of any number of sites, will have a Precinct Plan prepared for it by the Primary Developer.
- c) Such Precinct Plans are to be prepared with the Local Authority's input and must be formally submitted to the Local Authority for approval in terms of Section 2.7 below.
- d) The issues that need to be included within the Precinct Plan are indicated in Section 2.7 below.

1.6 Transport

A Traffic Impact Assessment (TIA) for Phoenix South has been prepared by Iiso Consulting. This outlines future traffic and parking requirements for the area. The parking requirements have been included in the proposed Special Zone 44 scheme controls. The following upgrading is required to achieve the potential Bulk Floor Area: -

- i) Road link between the top platform and the industrial platform will release 33 000m² GFA for development.
- ii) Construction of Ntuzuma Access road (Besters) link will release 67 000m² GFA for development (which together with i) above, comprise the Primary Floor Area rights.
- iii) Bhejane Road Link will release 187 500m² for development
- iv) New half diamond interchange on MR 93 will release 187 500m² GFA for development. An additional 250 000m² GFA will be released with the construction of the Inanda Rail and Station. This together with iii) and iv) above will comprise the Primary Floor Area rights.

In order to achieve the envisaged 725 000m² GFA, the above upgrades may be done in any order.

2. ZONE CONTROLS

2.1 Development Rights – General

- 2.1.1 The purpose of this Special Zone will be to accommodate a wide range of recreational, entertainment, residential, shopping, retail, business park, office, and commercially related activities, as well as micro enterprises and other SMME activities, in such a way that the uses contribute towards the creation of a dynamic, harmonious and well balanced new town centre of the highest aesthetic, landscaping and urban design quality.
- 2.1.2 In terms of the Permitted Floor Area Bank as envisaged in 1.2 above, the total maximum Development Rights envisaged for the PHOENIX SOUTH – BRIDGE CITY development is 725 000m². All Development Rights within the PHOENIX SOUTH – BRIDGE CITY development shall be allocated / distributed / transferred / used in accordance with the provisions of this Special Zone.
- 2.1.3 The Primary Floor Area Rights (Rights which are immediately available to be sold and used), which are part of the amount stipulated in 1.2 (b) above, is 100 000m². Secondary rights to a maximum of 625 000m² shall be subject to construction of public transport facilities and links to KwaMashu as agreed to by the Local Authority's Traffic and Transportation Department (see Section 1.6).
- 2.1.4 Any additional development rights sought, over and above the amount stipulated in 2.1.2 above, shall be subject to a full Town Planning Scheme Amendment.
- 2.1.5 The Local Authority and the Primary Developer shall maintain an accurate and up-to-date record of both the sale and use of development rights in a proper and accessible manner, which shall be subject to annual audit by an independent body if deemed necessary by any of the parties.

2.1.6 A Traffic Impact Assessment (TIA) must be prepared, where deemed appropriate and necessary by the Head: Engineering for site specific developments and shall be submitted for approval by the Head: Engineering as above prior to that development occurring on site.

2.2 Development Rights – Specific

2.2.1 A minimum and maximum FAR for any site shall be as indicated on the relevant Precinct Plan as approved by the Head : Development Planning, Environment & Management from time to time.

2.2.2 The maximum FAR shall be 6,0 with the increase above 1,5 being solely used for residential use, shall apply. Any increase for any use as indicated in clause 2.5.1. which exceeds the maximum FAR of 6,0 shall be subject to a special consent application.

2.3 Building Controls

2.3.1 The maximum height of any development within the Special Zone is as determined in the Precinct Plans. The maximum height of any development within the Special Zone is 40 metres. Height is calculated from the median natural ground level of the site to the top of the highest habitable storey. The roof is excluded as long as it is not habitable. A basement shall be included in the height envelope to the extent it exceeds the median height natural ground level of the site. This may be increased by way of an application to and approved by the Design Review Panel in a manner deemed appropriate by the Head : Development Planning, Environment and Management.

2.3.2 Notwithstanding anything to the contrary in the Scheme, parking areas, basement (covered and uncovered) shall not be included in FAR and coverage calculations.

2.3.3 Notwithstanding anything to the contrary in the Scheme, awnings, canopies, arbours, colonnades, balconies, within the sidewalk area shall not be included in coverage and FAR calculations.

2.3.4 Building Line = nil unless where otherwise indicated in the Precinct Plans.

2.3.5 Side and Rear space = nil unless where otherwise indicated in the Precinct Plans.

2.3.6 Every site shall be subject to Urban Design Guidelines, such as Build-To lines, Build-within Zones, Arcade and Colonnade responses, Primary and Secondary Setbacks, Conceptual Primary Building Zones and Non-user Area's as contemplated in 1.3 above and as indicated in the Precinct Plans.

2.3.7 Where a site is subject to Build-to Line, the boundaries of such site abutting a street or streets shall be subject to a Build-to-Line on which a minimum of 90% of a building's street facing façade must be built. This does not include overhanging elements such as balconies, eaves etc. which may extend beyond the Build-to-Line. Where these conditions cannot be met, then deviation from the above can be made at the discretion and to the satisfaction of the Design Review Panel.

2.3.8 The Build-To Line is to apply to all levels within a building's façade, provided that, where a site is subject to Primary and/or Secondary Setbacks, the façade should be set back as determined in the Precinct Plans. Where these conditions cannot be met, then deviation from the above can be made at the discretion, and to the satisfaction of the Design Review Panel. Similarly, applications may be made to the Design Review Panel for permission to apply set-backs where not prescribed in the Precinct Plans.

- 2.3.9 Overhanging elements of a building's street-facing facade, such as balconies, sun screening devices and eaves, are not regarded as the building's street-facing facade and may extend beyond the Build-To Line subject to Design Review Panel recommendation and Local Authority approval.
- 2.3.10 Where a site is subject to a Build-within Zone, 75% of any relevant street facing façade of a building shall be developed over such zone subject to review by the Design Review Panel.
- 2.3.11 Where a site is designated as a non-user area, both for individual sites and where the site is consolidated with other sites (subject to Design Review Panel recommendation), it is to be held as a Non-User Servitude, subject to review by the Design Review Panel.
- 2.3.12 deleted
- 2.3.13 deleted

2.4 Parking Requirements

- 2.4.1 Parking provisions within the Development Framework Plan area, shall be outlined in each of the Precinct Plans. Further, mechanisms to determine individual developer contribution to public transport facilities and such parking contributions shall be subject firstly to the recommendation of the Design Review Panel and thereafter to the approval of the Head : Development Planning, Environment and Management Department, at the Departments discretion.
- 2.4.2 Notwithstanding the above, planning and parking rates for different uses should be based on the following:
 - (i) Mixed Use, 1.5 bays per 100m² of usable building area;
 - (ii) Commercial, 2.5 bays per 100m² of usable building area;
 - (iii) Entertainment, 3.0 bays per 100m² of usable building area;
 - (iv) Civic / Offices/Institutional, 1.0 bays per 100m² of usable building area;
 - (v) Light/Service Industry 1.0 bays per 100m² of usable building area;
 - (vi) Residential,0.5 bays per unit
 - (vii) Transport, 2.5 bays per 100m² of useable building area(retail Component)

Any combination of two or more uses from (ii) to (vii) will be categorised as Mixed Use and a composite parking ratio as per (i) above will apply to the uses other than residential, subject to recommendation by the Design Review Panel and thereafter, to the approval of the Head : Development Planning, Environment and Management at his/her discretion

- 2.4.3 Application may be made to the Design Review Panel for recommendation to the Local Authority to reduce the total number of parking bays for any such use subject to the applicant providing a suitable motivation for such reduction based on certain factors including, but not limited to : target market of potential users/buyers, availability of on-street parking bays adjacent to the site, availability of any public bays in any central parking pool that may be reasonably accessible to the site and relevant precedent. Any such recommendation shall be further subject to the satisfaction of the eThekweni Transport Authority (ETA).

2.5 Land Use Categories

2.5.1 UPPER PLATFORM

2.5.1.1 The following uses that are freely permitted in Special Zone 44, in any combination on a site, are as follows: -

Ancillary unit, art gallery, bed & breakfast/guesthouse, bottle store, business premises, casino, change room, multiple unit development, conference hall, convention centre, crèche, dry cleaning or dyeing establishment, duplex flat, dwelling house, exhibition centre, extended residential buildings, fast food outlet, hairdressing salon, hospital, institution, laundry, library, licensed hotel, light and service industry, maisonettes, Medical suites, motor showroom and associated workshops, municipal building, museum, office, parking garage, parking lot, photographer's kiosk, place of amusement, place of assembly, place of entertainment, place of instruction, place of worship, police station post office, private open space, public open space, public convenience, recreational purposes, refreshment kiosk, residential building, restaurant, shop, social hall, special building, sports club, swimming baths, paddling pools, tearooms, totalisator depot, and any other use considered by the Head: Development Planning, Environment and Management to be ancillary to the aforementioned uses or deemed to be appropriate for development within this Land Use Category.

2.5.1.2 The following use is freely permitted in addition to the uses set out in 2.5.1.1. as shown on the approved Precinct Plan.

Petrol Service Station

2.5.1.3 The following uses are prohibited in Special Zone 44:

Agricultural Building, Agricultural Land, Noxious Industry, Heavy Industry, Extractive Industry.

2.5.1.4 All other uses are permitted by special consent.

2.5.2 LOWER PLATFORM

2.5.2.1 The following uses that are freely permitted in Special Zone 44, in any combination on a site, are as follows :-

Ancillary Unit, bottle store, business premises, change room, conference hall, crèche, dry cleaning or dyeing establishment, exhibition centre, fast food outlet, hairdressing salon, medical suites, motor showroom and associated workshops, municipal building, museum, office, parking garage, parking lot, photographers kiosk, place of amusement, place of instruction, police station, post office, private open space, public open space, public convenience, recreational purposes, refreshment kiosk, restaurant, shop, special building, storage warehouse, tearooms, and any use considered by the Head : Development Planning, Environment and Management to be ancillary to the aforementioned uses or deemed to be appropriate for development within this Land Use Category.

2.5.2.2 The following uses are prohibited in Special Zone 44 Lower Platform:-

Art gallery, bed and breakfast/guesthouse, casino, multiple unit development, duplex flat, dwelling house, extended residential buildings, hospital, institution, laundry, library, licensed hotel, maisonettes, museum, petrol filling station, place of assembly, place of entertainment, place of worship, residential building, social hall, sports club, swimming baths, paddling pools, totalisator depot.

2.5.2.3 All other uses are permitted by special consent

2.6 Development

2.6.1 Every site shall have a Site Development Plan prepared for it by the developer prior to any construction on the site and development on the site shall be in accordance with such Plans.

2.6.2 All Site Development Plans will be reviewed by the Design Review Panel prior to submission to the Development Planning, Environment and Management Unit and prior to the submission of Building Plans to the Development Planning and Management Unit.

2.6.3 The Primary Developer will establish a Design Review Panel, including local authority representatives, that will be responsible for recommending for approval all Site Development Plans and Building Plans with the provision that no Building Plan may be approved unless a Site Development Plan has been reviewed and recommended for acceptance, in writing, by the Design Review Panel.

2.7 Precinct Plans

2.7.1 The Special Zone area will be divided into a number of Precincts as may be determined by the Primary Developer.

2.7.2 A Precinct Plan may be comprised of any number of sites

2.7.3 The Precinct Plans must be submitted to the Local Authority's Head: Development Planning and Management for approval.

2.7.4 A Precinct Plan shall include site specific details on each of the following, where relevant:

- a) Land Use Categories and Controls
- b) List of sites within the Precinct
- c) Details of total maximum Development Rights potential
- d) Max Floor Area Ratios per site
- e) Max Heights per site
- f) Coverage details
- g) Parking provisions and requirements
- h) Urban Design Guidelines such as arcades, colonnades, building lines, build-to lines and build within zones.
- i) Indicative side and rear space provisions
- j) Road network
- k) Pedestrian streets/squares/spaces
- l) Indicative landscaping of streetscape
- m) Identification of sites requiring specific architectural response
- n) Identification of important/sensitive features and/or landmarks
- o) Area's identified for street trading, if applicable
- p) Area's identified for bus/taxi rank and termini and ranking facilities, if applicable

- q) Area's identified for public transport facilities, if applicable
- r) Area's identified for parking, where applicable
- s) Areas identified for taxi stops, where applicable
- t) Indication of where additional details, investigations, approvals, are required
- u) Additional site specific design/planting controls where applicable
- v) Linkages to adjacent/future precincts
- w) Other specific conditions and features determined through detailed precinct design

2.8 Building Plans

- 2.8.1 The Local Authority will be responsible for approving all Building Plans.
- 2.8.2 The Local Authority will however only be able to approve Building Plans if such plans have been recommended for approval, in writing, by the Design Review Panel.
- 2.8.3 The Design Review Panel shall only recommend for approval of, Building Plans that have been completed in accordance with the Site Development Plan's provisions, processes and requirements and specifically once the relevant Precinct Plan have been approved as per 2.7 above.

GLOSSARY OF TERMS AND DEFINITIONS

Unless where described below, or otherwise described/provided for in Section 2 above, the definitions of the Scheme will apply.

- **Primary Developer** refers to Moreland developments (Pty) Ltd which is appointed in terms of the Joint Venture Agreement set up by the eThekweni Municipality and Moreland Developments (Pty) Ltd. The Primary Developer is responsible for the administration, planning and detailed design of the PHENIX SOUTH - BRIDGE CITY area and it's development.
- **Local Authority** refers to the eThekweni Municipality and is the competent authority under which the Primary Developer discharges its development undertakings, duties and responsibilities.
- **Development Rights** refers to bulk floor area and all development parameters ascribed to a Lot in terms of the Development Framework Plan and the relevant Precinct Plan
- **Design Review Panel** refers to a body set up by the Primary Developer in consultation with the Development Planning, Environment and Management Unit, to assess the plans required in terms of this zone and to assess all development proposals prior to the submission of Building Plans to the Local Authority for approval.
- **Permitted Floor Area Bank** is a term referring to the pool of development rights (bulk floor area), which is allocated by the Primary Developer within the ambit defined by this zone
- **Primary Floor Area Rights** refers to the total approved bulk floor area rights, which are available to the Primary Developer.

- **Scheme** refers to the Durban Town Planning Scheme in the course of preparation.
- **Special Zone Area** refers to the properties that are included within Special Zone 44: PHOENIX SOUTH – BRIDGE CITY
- **Floor Area Ratio** = Plot Area Ratio as defined in the Durban Town Planning Scheme in the course of preparation.
- **Secondary Floor Area Rights** refers to further approved bulk floor area rights that will automatically be made available to the Primary Developer on the construction of certain public transport facilities and links to KwaMashu as provided for in the controls
- **Build-To Line** is the boundary of a lot abutting a street or streets and is unless otherwise indicated, regarded as a build-to line on which a minimum of 90% of a building's street facing façade must be built. Overhanging elements of a building's street facing façade, such as balconies, sun screening devices and eaves, are not regarded as defining the building's street facing façade and may extend beyond the build-to line
- **Build-within zones** Where a lot is specifically designated as being subject to a build-within zone, such zone shall extend along the full street boundary or boundaries to a depth of 5 metres measured from such boundary, unless otherwise specified. Where a site is subject to a build-within zone, 100% of the relevant street facing façade shall be within the build-within zone and 75% of any relevant street facing façade of a building shall be completely over such zone
- **Colonnade** refers to a predominately covered canopy over the sidewalk or the public domain. A minimum height of 4,5 metres shall apply and the width can vary depending on local conditions and the extent of the public edge
- **Arcade** refers to a covered walkway that will occur predominately within the envelope of a building and within the private domain. A minimum height of 4,5 metres shall apply and a minimum width of 2 metres shall be provided.
- **Primary and Secondary setbacks** The build- within zone is to apply to all levels within a building's façade provided that , beyond a height of 2 storeys, the façade of the building shall be developed on a line no closer to the boundary than 3 metres (the primary setback) and beyond a height of 4 storeys, the façade of the building shall be developed on a line no closer to the boundary than 5 metres (the secondary setback). Changes can be motivated subject to Design Review Panel recommendation
- **Primary Building Zones** These define where the preferred bulk of the building should be located. Any changes can be motivated for the Design Review Panel's recommendation.
- **Non-User Servitude or Area's** Where a site is subject to a non-user servitude, the bulk and coverage calculations are to be based on the gross site area although the development itself is to be confined to the net area of the site alone. The area designated as non-user servitude is to be used for paving, planting, and parking purposes only and kept free of structures save that basements, which, subject to written recommendation by the Design Review Panel in cases of individual merit, may encroach partially or wholly into the non-user servitude area.

In the case of corner sites (unless otherwise indicated on a precinct plan or at the discretion of the Design Review Panel), a splayed non-user servitude measuring 3 metres by 3 metres may be applied as indicated on the precinct plans, in respect of ground floor level only, leaving clear headroom of a minimum of 3,5 metres. On all other sites (unless otherwise indicated or at the discretion of the Design Review Panel), any designated non-user servitude restriction applies to all levels of the building other than a basement level. A lot owner may be released from the requirement of a non-user servitude at the discretion of the Primary Developer after reference to the Design Review Panel. Additional non-user servitudes may be designated, or designated non-user servitudes removed, as may be indicated on a detailed precinct plan from time to time.