

**Application in terms of Sections 27 (1)(....),
and (....) of the uMhlathuze Spatial
Planning and Land Use Management By-
Law, 2017, for:**

.....

.....

IN THE

**uMHLATHUZE MUNICIPAL AREA, REGISTRATION
DIVISION **GV / GU****

Date

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Application in terms of Sections 27(1)(...) and (...) of the uMhlathuze Spatial Planning and Land Use Management By-Law, 2017, for

1. THE LAND DEVELOPMENT APPLICATION

- 1.1 The land development application is submitted to the uMhlathuze Municipality.
- 1.2 The purpose of this document is to provide the motivation to enable the Municipal Planning Approval Authority to consider the following application/s:
 - a) in terms of Sections 27(1)(...) of the uMhlathuze Spatial Planning and Land Use Management By-Law, 2017, (the SPLUM By-law) for
 - b) in terms of Sections 27(1)(...) of the SPLUM By-law for
 - c)
- 1.3 The application is supported by various documents (**and specialist studies*), which are attached to this application and discussed in more detail in this motivation.

2. THE APPLICANT

- 2.1 This Application is submitted by, on behalf of the land owner
- 2.2 The owner has appointed to act on his/her behalf, and the relevant Power of Attorney and supporting documents are attached as **Annexure....**

3. THE APPLICATION SITE

3.1 Locality of the Application Site

- 3.1.1 The application site is located at(refer to the locality map attached as **Annexure ...**).

FIGURE 1 : LOCALITY OF THE APPLICATION SITE

3.2 Existing Development, Land Use and Zoning

- 3.2.1 The property is developed / undeveloped and is currently used as
- 3.2.2 Surrounding land uses include
- 3.2.3 The existing zoning of the property is The zoning provides for the following free entry, formal authority and consent uses as set out in the uMhlathuze Land Use Scheme:

.....

- 3.2.4 It is not proposed to amend the zoning of the application site.

OR

- 3.2.4 It is proposed to amend the zoning of the application site, as discussed in more detail under Section Of this motivation.
- 3.2.5 The existing land use and existing zoning maps are attached as **Annexure**

3.3 Title Deed and SG Diagram Information

- 3.3.1 The application property is ...m² in extent, as shown on SG. No.(attached as **Annexure**....).
- 3.3.2 The property is subject to the conditions and restrictions as set out in (~~delete what is not applicable~~) Deed of Transfer / Certificate of Registered Title / Certificate of Consolidated Title T..... (attached as **Annexure**).
- 3.3.3 The following restrictive conditions of title apply to the application site:

For example.....

	RESTRICTIONS
(A)(a)-(g)	Rights in favour of the Government are noted. These conditions will be transferred to the title deed applicable to the property which is to be created.
(A) (h)	Condition relating to building lines

Comment:	It is requested to delete this condition in terms of Section 27(1) (j) of the uMhlathuze Spatial Land Use Management By-Law, as building lines as adequately dealt with in terms of the uMhlathuze Land Use Scheme
(B)	2m omnibus servitude in favour of the Municipality.
Comment:	The omnibus servitude will not be affected by this application.
(C)	Condition relating to
Comment:	The restriction is noted, but is not applicable to the application site as

3.3.4 The property is also subject to a Notarial Deed of Servitude / Lease, etc. (attached as **Annexure**

For example.....

SERVITUDE	IN FAVOUR OF	SG DIAGRAM	STATUS	IMPACT ON THIS APPLICATION
Pipeline	Mhlathuze Water	SG	Registered	The existing servitude will not be affected
Sewer	Municipality	SG ...	Unregistered	<p>Servitude approved as part of a previous land development application discussed under Section 4.1 of this motivation.</p> <p>The servitude has been surveyed, but is not yet registered against the relevant Title Deed of the property.</p> <p>The servitude is to be registered as part of this application</p>
Electrical	Eskom	SG ...	Registered	<p>To be removed and relocated as part of this application as shown on the layout plan.</p> <p>Removal of the relevant condition is discussed in Section 4.5 below.</p>

4. DETAILS OF THE LAND DEVELOPMENT APPLICATION

4.1 History relating to the Application Site and Previous Approvals

If relevant - Include information relating to:

- history
- previous approvals that are still relevant, etc.
- indicate if the applicant wishes to cancel the previous approval or amend it.

4.2 The Proposed Development

Include information relating to:

- the development that would take place, phasing, management, etc.
- for substantial developments, consider the requirements as set out in Clause 3.1.2.6 of the uMhlathuze Land Use Scheme and the submission of a design concept prior to the land development application
- refer to the Site Development Plan (attach as an **Annexure**)
- refer to the Floor Plan (attach as an **Annexure**)

FIGURE 2 : SITE DEVELOPMENT PLAN

FIGURE 3 : FLOOR PLAN

4.3 Proposed Subdivision / Consolidation

Include information relating to:

- the proposed subdivisions/consolidations/township establishment.
- refer to the Layout Plan (attach as an **Annexure**)

FIGURE 4 : LAYOUT PLAN

4.4 Proposed Zoning

4.4.1 The existing land use and zoning is discussed under Section ...

4.4.2 It is proposed to rezone the property from to

Discuss the relevant zoning and details of land rights required.

4.5 Proposed Removal of Restrictive Conditions

4.5.1 It is proposed to remove the following conditions from the Title Deed.....
(highlight condition and reason for the removal).

Attach consent from the relevant person/body who holds the right or who may be affected as an **Annexure**.

4.6 Etc.

.....

5. MOTIVATION FOR THE DEVELOPMENT

The motivation for the proposed development is supported by a number of factors and specialist studies, which are summarized below:

5.1 Need and Desirability

5.1.1

5.2 Impacts on Access and Traffic Generation

5.2.1 Access to the site is proposed by means of ...(road) as shown on the Site Development Plan attached as Annexure

5.2.2 In terms of the Municipal Arterial Road Framework Plan.....

5.2.3 A Traffic Impact Assessment (TIA) for the proposed development was undertaken by(dated). The detailed findings of the traffic impact assessment are included as **Annexure**

5.2.4 The traffic impact assessment recommendations are summarised below:

(a)

(b)

5.2.5 New infrastructure requirements necessary for the development are as listed below:

(a)

(b)

- 5.2.6 In terms of pedestrian safety
- 5.2.7 In terms of access to public transport
- 5.2.8 The TIA was submitted to the KZN Department of Transport, who has approved the TIA and the development subject to conditions (refer to the letter of authorisation reference T.....dated and attached as **Annexure**).

5.3 Impacts on Engineering Services

5.3.1 Internal roads

- 5.3.1.1 The civil engineering design report prepared by (dated) is attached as **Annexure**
- 5.3.1.2 The report addresses the standard of internal roads within the development. All internal roads shall comply with the Municipality's standards.
- 5.3.1.3 The report recommends that

OR

- 5.3.1.1 The application site is adequately serviced from a roads perspective, as the application site/s would continue to gain access from(road name).

5.3.2 Sewage

- 5.3.2.1 The civil engineering design report prepared by (dated) is attached as **Annexure**
- 5.3.2.2 The report addresses the standard of sewer infrastructure within the development. All sewer infrastructure shall comply with the Municipality's standards.
- 5.3.2.3 The report recommends that

OR

- 5.3.2.1 The application site is adequately serviced from a sewer perspective, and no increase in services demand is expected as a result of the development.

OR

5.3.2.1 The application site is fully serviced. The proposed (*subdivision) would, however, necessitate an application to the Municipality for an additional service connection.

5.3.2.2 The development would require(indicate level of service required).

5.3.2.3 The applicant will apply to the Municipality upon approval of this application.

OR

5.3.2.1 The application site is fully serviced. The proposed (*consolidation) would, however, necessitate an application to the Municipality for a consolidated service supply.

5.3.3 Water

5.3.3.1 The civil engineering design report prepared by (dated) is attached as **Annexure**

5.3.3.2 The report addresses the standard of water infrastructure within the development. All water infrastructure shall comply with the Municipality's standards.

5.3.3.3 The report recommends that

OR

5.3.3.1 The application site is adequately serviced from a water perspective, and no increase in services demand is expected as a result of the development.

OR

5.3.3.1 The application site is fully serviced. The proposed (*subdivision) would, however, necessitate an application to the Municipality for an additional service connection.

5.3.3.2 The development would require(indicate level of service required).

5.3.3.3 The applicant will apply to the Municipality upon approval of this application.

OR

5.3.3.1 The application site is fully serviced. The proposed (*consolidation) would, however, necessitate an application to the Municipality for a consolidated service supply.

5.3.4 Stormwater

5.3.4.1 The civil engineering design report / stormwater management plan prepared by (dated) is attached as **Annexure**

5.3.4.2 The report addresses the standard of stormwater infrastructure within the development. All stormwater infrastructure shall comply with the Municipality's standards.

5.3.4.3 The report recommends that

OR

5.3.4.1 The application site is adequately serviced from a stormwater perspective, and no increase in stormwater run-off is expected as a result of the development as no structures will be added.

OR

5.3.4.1 The application site is fully serviced from a stormwater perspective.

5.3.4.2 In accordance with the Site Development Plan, less than 60% of the site will be hardened, and a Stormwater Management Plan is therefore not required.

5.3.5 Electricity

5.3.5.1 The electrical engineering design report prepared by (dated) is attached as **Annexure**

5.3.5.2 The report addresses the standard of electrical infrastructure within the development. All electrical infrastructure shall comply with the Municipality's standards.

5.3.5.3 The report recommends that

OR

5.3.5.1 The application site is adequately serviced from an electricity perspective, and no increase in services demand is expected as a result of the

development.

OR

- 5.3.5.1 The application site is fully serviced. The proposed (*subdivision) would, however, necessitate an application to the Municipality for an additional service connection.
- 5.3.5.2 The development would require(indicate level of service required).
- 5.3.5.3 The applicant will apply to the Municipality upon approval of this application.

OR

- 5.3.5.1 The application site is fully serviced. The proposed (*consolidation) would, however, necessitate an application to the Municipality for a consolidated service supply.

5.3.6 Waste Removal

- 5.3.6.1 Waste removal services will be undertaken by the Municipality.
- 5.3.6.2 The Site Development Plan indicates the relevant waste storage areas, and

5.3.7 Telecommunications

- 5.3.7.1 Telecommunications will be provided by Telkom/OpenServe. Comment from the service provider is attached as **Annexure.....**

5.3.8 Access to other Engineering Services

For instance the marine outfall pipeline, rail services, etc.

Submit a letter of support by the relevant service provider as an **Annexure**.

5.3.9 The Need To Relocate Existing Services

Show location of existing and proposed services on the layout plan, together with an appropriate servitude.

5.3.10 The Need For New Services Servitudes

Assess the need for new servitudes within and outside the site boundary. Clearly indicate in whose favour the servitude is to be registered and cross reference to the

draft Conditions of Establishment.

If the servitude will affect another owner's property, please submit proof that an agreement has been reached between the parties.

5.4 Geotechnical Conditions and Slope

5.4.1 The application site is virtually level with a very gentle slope from south to north. The topography of the land throughout the development area lends itself to the development as proposed.

5.4.2 A geotechnical investigation for this project was carried out bydated (attached as **Annexure**).

5.4.3 The report indicates that

5.4.4 The geotechnical report concludes that

5.5 Impact on the Environment and Heritage Resources

5.5.1 Environmental Impacts

Consider environmental impacts and legislation. Submit a relevant environmental authorisation if necessary and cross reference with Conditions of Establishment.

5.5.2 Heritage Resources

Consider the need for a Heritage Impact Assessment in line with the KZN Heritage Act, 2008, and attach as an annexure if necessary.

Note that a permit from AMAFA is required for all buildings/structures that are to be changed or demolished and that are older than 60 years. Therefore, check the building plans prior to submission of the application.

5.5.3 Risk Assessment

Consider the need for the submission of a risk assessment (for instance if the development is in close proximity to the gas pipeline, etc.) and discuss the risks and outcomes here. Also include relevant conditions in the Conditions of Establishment.

In cases where the application site is affected by or in close proximity to a gas pipeline, obtain comment/consent from SASOL/Transnet Pipelines.

5.6 Impact on Agricultural Resources

Consider the need for Agricultural Consent in terms of the Subdivision of Agricultural Resources Act, Act 70 of 1970 and submit the consent as an annexure.

5.7 Socio-Economic Impacts

In terms of desirability the proposed development has a number of features to its benefit. These are as follows:

5.7.1 Local Benefits

.....

5.7.2 Employment Opportunities

.....

5.7.3 Market Analysis

Consider the need to submit a market study/analysis.

5.8 Impact on Public or Community Facilities

Consider the requirements of the “Guidelines for Human Settlement Planning and Design” / the “Red Book”, published by the CSIR. An assessment of compliance would be required for all large / substantial developments only.

For these type of developments it is recommended to first submit a design concept/layout plan to the Municipality in line with the provisions of Clause 3.1.2.6 of the uMhlathuze Land Use Scheme.

5.9 Comment from Relevant Stakeholders

5.9.1 Land Claims

There are no land claims applicable to this application site, as confirmed by the KZN Regional Land Claims Commissioner in their letter dated(**Annexure**).

5.9.2 Others

.....

6. ASSESSMENT OF COMPLIANCE WITH KEY LEGISLATION AND PLANNING GUIDELINES

The following key legislation and guidelines inform the application and development within the uMhlatuze area :-

- The National Development Plan (2011)
- The Provincial Growth and Development Plan (2016)
- The Provincial Spatial Economic Development Strategy (2007)
- Development principles as set out in the Spatial Planning and Land Use Management Act, 2013
- the uMhlatuze Integrated Development Plan (2017-2022)
- the uMhlatuze Spatial Development Framework (2017/2018)
- The uMhlatuze Land Use Scheme (2014)
- The National Building Regulations and Building Standards Act (1977)
- List other legislation relevant to the application (Sectional Titles Act, Health Act, Childcare Services Bylaw, other Bylaws, etc.)
- List other plans relevant to the application (Human Settlements Plan, Sector plans as part of the IDP, CBD Framework Plan, etc.)

The following section assesses compliance of the land development application with these documents, and aims to demonstrate how the application would comply with the provisions and guidelines set out in these documents:

6.1 National Development Plan - 2011

6.2 The Provincial Growth and Development Plan (2016)

6.3 The Provincial Spatial Economic Development Strategy (2007)

6.4 Development Principles as set out in the Spatial Planning and Land Use Management Act, 2013

The following development principles as set out under Section 7 of the Spatial Planning and Land Use Management Act (SPLUMA) would apply to the proposed development:

(* choose relevant principles applicable to the application and delete whatever is not applicable)

DEVELOPMENT PRINCIPLES IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013				
No	Principle		How the application complies with the principle	
(a)	The principle of spatial justice	(i)	past spatial and other development imbalances must be redressed through improved access to and use of land	
		(ii)	spatial development frameworks and policies at all spheres of government must address the inclusion of persons and areas that were previously excluded, with an emphasis on informal settlements, former homeland areas and areas characterised by widespread poverty and deprivation	
		(iii)	spatial planning mechanisms, including land use schemes, must incorporate provisions that enable redress in access to land by disadvantaged communities and persons	
		(iv)	land use management systems must include all areas of a municipality and specifically include provisions that are flexible and appropriate for the management of disadvantaged areas, informal settlements and former homeland areas	
		(v)	land development procedures must include provisions that accommodate access to secure tenure and the incremental upgrading of informal areas	
		(vi)	a Municipal Planning Tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application	
(b)	the principle of spatial sustainability, whereby spatial planning and land use management systems must-	(i)	promote land development that is within the fiscal, institutional and administrative means of the Republic	
		(ii)	ensure that special consideration is given to the protection of prime and unique agricultural land	
		(iii)	uphold consistency of land use measures in accordance with environmental management instruments	
		(iv)	promote and stimulate the effective and equitable functioning of land markets	
		(v)	consider all current and future costs to all parties for the provision of infrastructure and social services in land developments	
		(vi)	promote land development in locations that are sustainable and limit urban sprawl	
		(vii)	result in communities that are viable	
(c)	the principle of efficiency, whereby-	(i)	land development optimises the use of existing resources and infrastructure	
		(ii)	decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts	

DEVELOPMENT PRINCIPLES IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013			
No	Principle		How the application complies with the principle
		(iii) development application procedures are efficient and streamlined and timeframes are adhered to by all parties	
(d)	the principle of spatial resilience, whereby flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks		
(e)	the principle of good administration, whereby-	(i) all spheres of government ensure an integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in the Act	
		(ii) all government departments must provide their sector inputs and comply with any other prescribed requirements during the preparation or amendment of spatial development frameworks	
		(iii) the requirements of any law relating to land development and land use are met timeously	
		(iv) the preparation and amendment of spatial plans, policies, land use schemes as well as procedures for development applications, include transparent processes of public participation that afford all parties the opportunity to provide inputs on matters affecting them	
		(v) policies, legislation and procedures must be clearly set in order to inform and empower members of the public	

6.5 The uMhlathuze Integrated Development Plan (2017-2022)

6.5.1 An Integrated Development Plan (IDP) has been adopted by the uMhlathuze Municipality in terms of Section 35(1) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

6.5.2 The purpose of the IDP is:

“to describe the planning and implementation processes that will be followed by the municipality to deliver on the developmental agenda on government pursuant to the below-mentioned strategic objectives: Co-operative governance and informed decision-making, social and environmental sustainability, advanced economic growth, optimised infrastructural services, and organisational excellence.”

6.5.3 According to the IDP, the uMhlathuze Municipality’s long term vision is:

“The Port City of uMhlathuze offering a better quality of life for all its citizens through sustainable development and inclusive economic growth”.

6.5.4 The IDP provides a summary of the municipal strategies, goals and objectives as well as a summary of the alignment between the municipality, provincial and national government. The following Key Performance Areas would apply to the application:

(* choose relevant principles applicable to the application and delete whatever is not applicable)

NATIONAL KPA 1 : GOOD GOVERNANCE AND PUBLIC PARTICIPATION		
GOALS	OBJECTIVES	STRATEGIES
1.1 Democratic, Responsible, Transparent, Objective And Equitable Municipal Governance	1.1.1 To ensure effective and efficient administration complying with its Legal Mandates	1.1.1.1 Provide administrative support for all Council Committees
		1.1.1.2 Strengthening Council Oversight through training on Legislation and Policies
		1.1.1.3 Development of a Corporate Strategy
		1.1.1.4 Development and review of policies that will lead to improved service delivery and legislative compliance
		1.1.1.5 Compliance with the Occupational Health and Safety Act and Compensation for occupational injuries and diseases
	1.1.2 To maintain an organizational performance management system as a tool to monitor progress of service delivery	1.1.2.1 Monitor evaluate measure and review the performance of the municipality against indicators and targets set in the IDP
	1.1.3 Ensure Institutionalisation of Batho Pele Culture	1.1.3.1 Implement a Service Charter
		1.1.3.2 Increase sensitivity of municipal stakeholders to the aspirations of citizens
	1.1.4 To promote a municipal governance system that enhances and embraces the system of participatory Governance	1.1.4.1 Facilitate the Functionality of Ward Committees through continuous capacitation
		1.1.4.2 Development of a Credible Integrated Development plan within prescribed legislative guidelines
		1.1.4.3 Facilitation of Stakeholder and Community participation in policy making
		1.1.4.4 Implementation of communications strategy to help the organisation to communicate effectively
		1.1.4.5 Effective and efficient ICT Systems that enable Informed decision making and communication
	1.1.5 To promote Access to Information and Accountability	1.1.5.1 Ensure effective information and accountability prescripts
	1.1.6 To bring the organisation to an enabled risk maturity level	1.1.6.1 Implement and maintenance of a sound enterprise risk management
		1.1.6.2 Implement and maintenance of a sound fraud risk management system
		1.1.6.3 Implement and maintenance of business continuity management
1.1.7 Ensure reliability and maintain independence of internal audit activity	1.1.7.1 Effective Audit Committee	
	1.1.7.2 Effective and value adding internal audit activity	

NATIONAL KPA 2 : BASIC SERVICES AND INFRASTRUCTURE PROVISION		
GOALS	OBJECTIVES	STRATEGIES
2.1 Integrated infrastructure and efficient services	2.1.1 To expand and maintain infrastructure in order to improve access to basic services and promote local economic development	2.1.1.1 Eradicate water services backlogs through provision of basic water services
		2.1.1.2 Eradicate sanitation services backlogs through provision of basic sanitation services
		2.1.1.3 Eradicate electricity supply backlogs through provision of basic electricity supply services
		2.1.1.4 Provide a weekly domestic solid waste removal service to the community
		2.1.1.5 Provision of public transport infrastructure facilities
		2.1.1.6 Provision and Maintenance of storm water and coastal engineering infrastructure
		2.1.1.7 Strive to improve reliability and service life of Municipal infrastructure, facilities and assets
	2.1.2 To promote the achievement of a non-racial, integrated society, through the development of sustainable human settlements and quality housing	2.1.2.1 Improve community standard of living through accelerated development of Integrated Human settlement
	2.1.3 To ensure effective Fleet Management	2.1.3.1. Review and Implement Fleet management Plan

NATIONAL KPA 3 : LOCAL ECONOMIC DEVELOPMENT		
GOALS	OBJECTIVES	STRATEGIES
3.1 Viable Economic Growth And Development	3.1.1 To promote and facilitate investment	3.1.1.1 Develop investment promotion and facilitation plan
		3.1.1.2 Develop township economy
		3.1.1.3 Package council land to facilitate economic growth
	3.1.2 Stimulate key sectors that promote economic growth and create jobs	3.1.2.1 Provide support for prioritised sectors
		3.1.2.2 Developing and implement economic development sector plan
	3.1.3 To create enabling environment for the informal economy	3.1.3.1 Review and implement informal economy policy
	3.1.4 Clear City identity	3.1.4.1 To promote the city as destination of choice
	3.1.5 To implement and co-ordinate Expanded Public Works Programme (EPWP) in a manner that enhances skills development and optimizes decent employment and entrepreneurship	3.1.5.1 Promote economic growth by successful implementation of EPWP community based projects
		3.1.5.2 Promoting economic growth by providing employment opportunities for Women and Youth
		3.1.5.3 Promoting economic growth by providing skills empowerment to the unemployed
3.2 Public Safety and Security	3.2.1 Provision of efficient and effective security services	3.2.1.1 Review and implementation of crime prevention strategy
	3.2.2 To ensure Provision of fire and rescue services	3.2.2.1 Review and Implementation of a fire prevention strategy
3.3 Safe and Healthy Living Environment	3.3.1 Efficient an effective waste management services	3.3.1.1 Review and Implementation of Integrated Waste Management Plan
	3.3.2 To ensure air quality management	3.3.2.1 Implementation of Air Quality Management Strategy
	3.3.3 Cater for alternate future burial option	3.3.3.1 Provision of cemeteries
3.4 Social Cohesion	3.4.1 To promote social cohesion	3.4.1.1 Development of sports and recreation programmes
		3.4.1.2 Development of community facilities
		3.4.1.3 Development of Arts and Culture Strategy

NATIONAL KPA 4 : MUNICIPAL INSTITUTIONAL DEVELOPMENT AND TRANSFORMATION		
GOALS	OBJECTIVES	STRATEGIES
4.1 A Municipality that is Resourced and Committed to attaining the vision and mission of the organisation	4.1.1 To create an appropriate organisational climate that will attract and ensure retention of staff	4.1.1.1 Implement the talent management strategy
		4.1.1.2 Compliancy with Employment Equity Act
		4.1.1.3 Implement EAP programs that promote and support health and well-being of employees
		4.1.1.4 Improve Citizens Skills levels and Education
		4.1.1.5 Create and maintain sound Relationship between management and labour
		4.1.1.6 Maintenance of an organisational structure that is in line with organisational objectives and optimises service delivery

NATIONAL KPA 5 : MUNICIPAL FINANCIAL VIABILITY AND MANAGEMENT			
GOALS	OBJECTIVES	STRATEGIES	
5.1 Sound Financial And Supply Chain Management	5.1.1 Compliance with financial legislation and policies	5.1.1.1 GRAP compliance	
		5.1.1.2 mSCOA compliant	
		5.1.1.3 Review of all financial related policies	
		5.1.1.4 Compliance with all MFMA and related local government financial legislation	
	5.2.1 Sustainable Financial and supply chain Management		5.2.1.1 Provide continuous Internal Communication on Budget and Financial Management matters
			5.2.1.2 Asset Accounting Management
			5.2.1.3 Accurate and timeous billing and receipting of revenue
			5.2.1.4 Apply Adequate Internal controls
			5.2.1.5 Demand and acquisition management
			5.2.1.6 Contracts and Logistics management
			5.2.1.7 Apply adequate financial management methodologies

NATIONAL KPA 6 : CROSS CUTTING		
GOALS	OBJECTIVES	STRATEGIES
6.1 Integrated Urban and Rural Development	6.1.1 To plan and manage existing and future development	6.1.1.1 Review and Implement Spatial Development Plan
		6.1.1.2 Develop precinct framework plans
		6.1.1.3 Review of Human Settlement Sector Plan
		6.1.1.4 Incremental development of strategic environmental assessment for the entire municipal area
		6.1.1.5 Implementation of uMhlathuze Land Use Scheme
		6.1.1.6 Compliance with national SPLUM by-law and national Building Act.
		6.1.1.7 Efficient processing of development application and building plans
6.2 Immovable Property Management	6.2.1 To ensure fair valuation of properties	6.2.1.1 Development and maintenance of valuation roll in line with municipal property rates act.
		6.2.2 Effective Management of Council owned Immovable properties.
6.3 Disaster Management	6.2.3 To prevent and mitigate disaster incidents	6.2.3.1 Review and Implement Disaster Management Plan

The application therefore addresses KPA

Also assess other sections of the IDP that may be applicable to the application.

6.6 The uMhlathuze Spatial Development Framework

6.6.1 A Spatial Development Framework (SDF) is an integral part of the IDP.

6.6.2 The Municipal Systems Act Regulations (Act 32 of 2000) outline the following specific objectives of an SDF:

- Strategic guidance on the location and nature of development
- Set out basic guidelines for land use management
- Discourage low-density urban sprawl
- Generate social and economic opportunities
- Promote access to opportunities
- Maximize resource efficiency by protecting sensitive environments, protecting productive agricultural land and enhancing the regional identity and character.

6.6.3 In terms of Section 12 and 20 of the Spatial Planning and Land Use Management Act (Act 16 of 2013), each Municipality must prepare and adopt a Spatial Development Framework.

6.6.4 The uMhlathuze Municipality's SDF was adopted for the period 2017-2022. In terms of the application, the following should be noted:

- The application site falls with an area identified as(primary node / secondary node, etc.)
- Address any matters relevant to the application site as identified in the SDF

6.6.5 In terms of Section 22(1) of the Spatial Planning and Land Use Management Act, 2013, a Municipal Planning Tribunal or any other authority required or mandated to make a land development decision in terms of the Act or any other law relating to land development, may not make a decision which is inconsistent with a municipal spatial development framework.

6.6.7 It is confirmed that this application is consistent with a municipal spatial development framework.

OR

6.6.7 It is confirmed that this application is inconsistent with the Municipality's Spatial Development Framework. In line with the provisions of Section 22(2) of the Spatial Planning and Land Use Management Act, 2013, and subject to the provisions of Section 42, the Municipality is requested to consider departing from the provisions of the SDF, based on the following site-specific circumstances:

.....

6.7 The uMhlathuze Land Use Scheme

Assess compliance with the provisions of the Scheme in terms of :

- existing/proposed zoning against land use
- additional provisions for various zonings and land uses as per the Scheme clauses
- subdivision guidelines (Clause 3.1.2.2 and Clause 3.1.2.7 for instance minimum erf size, 1:3 ratio, street frontage, etc.)
- building lines, side and rear spaces (show on Site Development Plan. If the relevant Title Deed prescribes building lines which are not removed from the Title Deed, then these may apply. Kindly request guidance from the Land Use Management Section)
- the size of parking bays as set out under Clause ... of the Scheme was taken into consideration in the design of the Site Development Plan. In compliance with Clause ...of the Scheme, ??? parking bays have been provided.
- the size of loading bays as set out under Clause ... of the Scheme was taken into consideration in the design of the Site Development Plan. In compliance

- with Clauseof the Scheme, ??? loading bays have been provided.
- consider the requirements as set out in Clause 3.1.2.6 relating to substantial developments.
- consider the requirements for the provision of public facilities as required in terms of Clause 3.1.1.9 of the Scheme. If it is applicable, address these in detail in the motivation.
- Provision of common open space, utility areas, etc. for residential developments
- Etc.

6.8 The National Building Regulations and Building Standards Act - 1977

6.8.1 The property is developed and all structures have been approved by means of the submission of building plans. No illegal structures are present on site.

OR

6.8.1 The property is developed and all structures will be demolished.

OR

6.8.1 The property is undeveloped at present.

6.8.2 All future buildings shall be submitted for approval prior to construction, in line with the requirements as set out in the National Building Regulations and Building Standards Act, 1977.

6.9 List Others

Discuss the impact of any other legislation applicable to the application, for instance the Sectional Titles Act, Health Act, Childcare Services Bylaw, etc.

7. DRAFT CONDITIONS OF ESTABLISHMENT

7.1 The following draft Conditions of Establishment are proposed for the development:

With reference to the application submitted on behalf of, the Municipality is pleased to approve the application in terms of Section 42(3)(b) of the uMhlathuze Spatial Planning and Land Use Management Bylaw, 2017, and in accordance with

the accompanying Layout Plan No.dated, subject to the following conditions imposed in accordance with Section 43(2)(c) of the uMhlathuze Spatial Planning and Land Use Management Bylaw, 2017:

A. REGISTRATION ARRANGEMENTS

1. Lodging of General Plan and/or Diagrams with the Surveyor General's Office

The owner shall lodge relevant documents and diagram/s and/or general plan/s relating to the proposed (*subdivision, consolidation, etc.) with the Surveyor General for approval and submit a certified copy of the approved diagram/general plan to the Municipality within 30 days after the date on which the Surveyor-General has approved the diagram/general plan.

2. Lodging in the Deeds Office

When registration is sought, a copy of this decision, the approved diagrams/general plans together with the deeds and other documents that the Registrar of Deeds may require for the registration of the (*subdivision / consolidation of the land / opening of a township register for the land), as well as the certificate contemplated in Section 53 of the Spatial Planning and Land Use Management Act, 2013, read with Section 48(1) of the uMhlathuze Spatial Planning and Land Use Management Bylaw, 2017, are to be lodged with the Registrar of Deeds.

(* delete whichever conditions are not applicable to the application from here onwards under A. Conditions)

3. Prior Consolidation for Purpose of Subdividing

Prior to the registration of any subdivisions, the owner is to cause to be registered a Certificate of Consolidated Title in respect of Portion(s)_____ / Erven_____ which consolidation is to be designated _____ .

This condition is used when adjacent properties are to be consolidated to form a single property.

Example

Erven 40 and 41 Klipfontein to be consolidated to form Erf 42 Klipfontein. Erf 42 is to

be further subdivided into Portions 1, 2 and Remainder of Erf 42.

Prior to the registration of any subdivisions, the owner is to cause to be registered a Certificate of Consolidated Title in respect of Erven 40 and 41 Klipfontein which consolidation is to be designated Erf 42 Klipfontein.

4. Subdivision and Subsequent Consolidation

Simultaneously with the registration of Portion / Erf ____, such Portion / Erf and Portion / Erf ____ are to be transferred into common ownership and a Certificate of Consolidated Title registered in respect of the consolidated figure, which is to be designated ____.

This condition is used when a property is subdivided and the subsequent subdivision(s) / Remainder is consolidated with an adjacent property.

Example

(a) Erf 40 Klipfontein is subdivided into Portion 1 and Remainder of Erf 40 Klipfontein. Portion 1 is to be consolidated with an adjacent property Erf 41 Klipfontein

Simultaneously with the registration of Portion 1, such Portion and Erf 41 Klipfontein are to be transferred into common ownership and a Certificate of Consolidated Title registered in respect of the consolidated figure, which is to be designated Erf 42 Klipfontein.

(b) In this instance the Remainder is to be consolidated with Erf 41 Klipfontein

Simultaneously with the registration of Portion 1, the Remainder and Erf 41 Klipfontein are to be transferred into common ownership and a Certificate of Consolidated Title registered in respect of the consolidated figure, which is to be designated Erf 42 Klipfontein.

5. Notarial Deed in Restraint of Free Alienation

Portion / Erf ____ is to be transferred into the same ownership as ____ and simultaneously therewith, a Notarial Deed in Restraint of Free Alienation stipulating that ____ and ____ shall not be sold, alienated, mortgaged, leased, dealt with or disposed of in any manner separately. Such condition shall be enforceable by the relevant Municipality.

This condition is used when properties need to be consolidated but cannot as they are not adjacent to one another (notarial tie). In these instances the properties can be tied which has a similar effect. An example where properties must be tied is where a commercial development does not have sufficient on-site parking but by tying the property to a property across the road (similar to consolidation), addresses the parking issue.

Example

Erf 40 Klipfontein is to be transferred into the same ownership as Erf 51 Klipfontein and simultaneously therewith, a Notarial Deed in Restraint of Free Alienation stipulating that Erven 40 and 51 Klipfontein shall not be sold, alienated, mortgaged, leased, dealt with or disposed of in any manner separately. Such condition shall be

enforceable by the relevant Municipality.

6. Subdivision of Land Subject to Sectional Title

Portion / Erf _____ of Erf _____ must first be removed from the Sectional Title Scheme and must then revert to the conventional land register by means of a Deed of Transfer, in accordance with the provision of Section 17 of the Sectional Title Act.

This condition is used when a property, which forms part of a sectional title scheme, is to be subdivided but this cannot occur until the property to be subdivided is removed from the sectional title scheme.

Example

Portion 1 of Erf 40 Klipfontein must first be removed from the Sectional Title Scheme and must then revert to the conventional land register by means of a Deed of Transfer, in accordance with the provision of Section 17 of the Sectional Title Act.

7. Incorporation into Sectional Title Scheme

Simultaneously with the registration of Portion___ / Erf___, such portion / erf shall be incorporated into the existing sectional title scheme on Portion / Erf _____ in accordance with the provision of Section 26 of the Sectional Title Act.

This condition is used when the area of a sectional title scheme is to be enlarged by incorporating additional land created by subdivision.

Example

Simultaneously with the registration of Portion 1 of Erf 40 Klipfontein, such portion shall be incorporated into the existing sectional title scheme on Erf 41 Klipfontein in accordance with the provision of Section 26 of the Sectional Title Act.

8. Removal of Restrictive Condition/s of Title

The following conditions as set out in shall be removed:

.....

B. CONDITIONS TO BE MET PRIOR TO REGISTRATION AND TRANSFER

Prior to the issuing of the certificate contemplated in Section 53 of the Spatial Planning and Land Use Management Act, 2013, read with Section 48(1) of the uMhlathuze Spatial Planning and Land Use Management Bylaw, 2017, the owner must comply with the following conditions, to the satisfaction of the local municipality:

1. Acceptance of Conditions

The owner is to signify in writing to the Municipality, formal acceptance of the conditions subject to which the application is approved.

2. Lodging of Diagrams with the Surveyor-General's Office

The owner shall lodge relevant documents and diagram/s and/or general plan/s relating to the proposed (*subdivision, consolidation, etc.) with the Surveyor General for approval and submit a certified copy of the approved diagram/general plan to the Municipality within 30 days after the date on which the Surveyor-General has approved the diagram/general plan.

3. Building lines and buildings (*applicable to all developed properties)

The Municipality shall issue a certificate to the effect that:

- (a) no new road boundaries and no new subdivisional boundaries have been positioned other than in accordance with the provisions of the by-laws and land use scheme;
- (b) no buildings other than those permitted in terms of the Building Regulations and Building Standards Act, 1977, read with the provisions of the uMhlathuze Land Use Scheme, exist on any one proposed lot;
- (c) dilapidated buildings have been renovated; and
- (d) unauthorised structures have been demolished,

provided that the certificate may stipulate that an agreement has been entered into between the applicant and the Municipality, exempting specified buildings under circumstances which must be stated by the Municipality in the certificate.

4. Provision of Engineering Services (*if applicable to the application)

The owner shall, to the satisfaction of the municipality, provide for engineering services in respect of each Erf to be registered and transferred, or where the municipality is not the supplier of a particular service, to the satisfaction of the

relevant service authority.

Written proof of compliance from the authority concerned will be required in respect of each condition.

The owner shall act on the advice of a professional engineer in respect of any work done in compliance with the conditions. For the purposes of this condition, a “professional engineer” shall mean:-

“a person who is registered as a professional engineer in terms of the Engineering Professions Act, 2000 (No. 46 of 2000) and who possesses cognate experience in the particular branch of engineering applicable to the service under consideration”.

The recommendations in the Geotechnical Report, prepared by dated in respect of drainage, excavation, earthworks, foundations and road construction shall be complied with in respect of services designs and during the construction phase.
(*delete if not applicable)

The owner shall enter into a services agreement with the Municipality and obtain the necessary approvals from the Municipality and/or service authority prior to construction. (*delete if not applicable)

a) Water and Sanitation

The owner shall provide a supply of potable water and an efficient and sanitary system for the disposal of sewage and waste water to within the normal connection distance of the boundary of (each application site / Ervento be registered), in accordance with the standards acceptable to the Municipality.

The outcomes and recommendations as contained in the Report by (dated), or such updated version thereof as may be required, shall be implemented at the cost of the owner and proof of compliance shall be submitted to the Municipality.

The application may/shall be subject to payment of bulk engineering contributions and connection fees, in line with Council’s Policy and Annual Tariff of Charges.

b) Electricity

The owner shall provide an efficient supply of electricity to within the normal connection distance of the boundary of (each application site / Ervento be registered) in accordance with the standards acceptable to the Municipality.

The outcomes and recommendations as contained in the Report by (dated), or such updated version thereof as may be required, shall be implemented at the cost of the owner and proof of compliance shall be submitted to the Municipality.

The application may/shall be subject to payment of bulk engineering contributions and connection fees, in line with Council's Policy and Annual Tariff of Charges.

c) Roads and Access:

The owner shall provide adequate roads, referred to on the approved layout plan as Erf, and all weather vehicular access to/from the application site/s, in accordance with the standards acceptable to the Municipality.

The outcomes and recommendations as contained in the following reports and statutory approvals shall be implemented at the cost of the owner and proof of compliance shall be submitted to the Municipality:

- TheReport by (dated), or such updated version thereof as may be required;
- The Traffic Impact Assessment Report prepared by (dated), or such updated version thereof as may be required;
- The letter from the KZN Department of Transport referencedated

The application may/shall be subject to payment of bulk engineering contributions and connection fees, in line with Council's Policy and Annual Tariff of Charges.

OR

Adequate Vehicular Access

Adequate, all weather vehicular access shall be provided to Portion(s)___ / Erf___ / Erven___. This requirement refers to the normal access to a subdivision via a public road, or a temporary access pending the provision of the future public road. It does not include the usual access from the street onto each portion / erf.

This condition is mainly utilised when access to a proposed subdivision(s) is via a ROW / temporary ROW servitude. In this instance the access is not a constructed road but is of such a nature that vehicles can gain access to the proposed subdivision(s) from a public road in all weather. This condition would therefore be cross referenced with a condition establishing a ROW / temporary ROW servitude to ensure adequate vehicular access is provided to the affected subdivisions.

d) Clearing of Obstructions

All obstructions on the road widening strip(s) and splayed corner(s) referred to in Condition___ [Cross reference to road widening / splayed Corner condition below], including fencing, buildings and other structures and trees and hedges, has been removed by the owner at his expense; provided that such fencing, buildings and other structures and trees and hedges or any part thereof, may remain on the road widening strip(s) and splayed corner(s) if the Municipality so agrees, and if such a written agreement is entered into between the township owner and the Municipality.

This condition is used to ensure that all obstructions (such as those mentioned above) on a splayed corner / road widening strip are either removed by the current owner or that an agreement has been concluded between the owner and the municipality that the obstructions can remain until an agreed upon date. It is more practical to remove obstructions (if there are any) prior to the registration of transfer.

e) Stormwater Management

The owner shall provide structures necessary for the control and disposal of stormwater from the application site, in accordance with the standards acceptable to the Municipality.

The outcomes and recommendations as contained in the following reports and statutory approvals shall be implemented at the cost of the owner and proof of compliance shall be submitted to the Municipality:

- TheReport by (dated), or such updated version thereof as may be required;

- The Stormwater Management Plan by (dated), or such updated version thereof as may be required;
- The letter from the KZN Department of Transport referencedated

The application may/shall be subject to payment of bulk engineering contributions and connection fees, in line with Council's Policy and Annual Tariff of Charges.

f) Refuse Removal

Satisfactory arrangements shall be made for the removal and disposal of refuse from the property according to Municipal Standards.

g) Relocation of Services

The owner shall relocate ...shown inon the approved plan of the township so that they are within the omnibus servitude / specific servitude to be registered.

C. APPLICATION SPECIFIC CONDITIONS

1. Minimum Lot Area and Frontage

The area of each of Portion(s) ____ / Erf ____ , Erven____ and the Remainder shall not be less than ____m² in extent (exclusive of access-ways in hatchet subdivisions, or of any road servitude) and the street frontage to each Portion____ / Erf____ / Erven____ and the Remainder (excluding hatchet subdivisions and Portion____ / Erf____ , Erven____). shall not be less than ____ metres.

This condition is used to mainly guide the Surveyor-General when approving diagrams / general plans. Whilst the town planning clauses attached to a land use scheme contain all the scheme controls, the Surveyor-General does not have access to these controls. The dimensions on a layout plan are approximate and subject to survey. Where dimensions, such as the lot area, frontage, width of access way etc are close to the minimum in terms of the scheme, one may find on survey that the area of a subdivision, lot frontage, width of access way is below the scheme requirements. The above condition can be included as a condition of approval to reflect the minimum lot size, minimum frontage width, minimum access way width contained in the scheme to guide the Surveyor-General and therefore ensure compliance with the scheme controls once proposed subdivisions have been surveyed.

2. Access-ways to Hatchet Subdivisions

The access strip(s) serving Portion(s)___/ Erf ____, Erven___ is/are to be not less than ___ m in width, and is/are to be included wholly within and form part of such Portion(s)___/ Erf___, Erven___.

This condition is used when a panhandle subdivision (subdivision with an access strip) is created. It stipulates the minimum width of an access strip in accordance with the scheme and indicates that the area of the subdivision excludes the area of the access strip. (The exclusion of the area of the panhandle from the area of a subdivision is standard in most schemes). This condition will guide the Surveyor-General and therefore ensure compliance with the scheme controls once proposed subdivisions have been surveyed.

3. Reserved Subdivisions

Portion___/ Erf ___ is to be transferred to ___ for ___ purposes prior to, or simultaneously with the first / subdivisational registration (***and at no cost to the Municipality, if properties are to be transferred to the Municipality**).

This condition is used to ensure that proposed subdivisions reserved for uses such as a road are transferred to the appropriate authority, which in this case is the municipality. The condition is important for the conveyancer as he must ensure to whom and by when the transfer takes place. The words “prior to or simultaneously with the subdivisational registration” indicates when the reserved subdivision must be transferred. If more than two subdivisions (excluding the remainder) are being created, the word “first” must be included before the word “subdivisational” to ensure that the transfer of the reserved subdivision takes place prior to or simultaneously with the registration of the first subdivision.

D. **IMPOSITION OF SERVITUDES**

1. Electricity Sub station

An electricity substation site is to be established on Portion/Erf ___ to the satisfaction of ____. Such substation site is to be beacons on the ground and registered as a servitude in favour of ____, prior to, or simultaneously with the first subdivisational registration.

A service provider such the municipality or Eskom may require the construction of a sub-station on a specific subdivision. In order to protect the sub-station and ensure the service provider access to the sub-station, a servitude is registered over the sub-station in favour of the service provider.

Note

The words “prior to or simultaneously with the **first** subdivisational registration” appear at the end of a condition of a condition requiring the registration of a servitude. This will instruct the Registrar of Deeds as to when the servitude must be registered in the registration process.

In the case where a single subdivision and remainder are being created the word “**first**”, highlighted above, is not necessary as the servitude will be registered prior to, or simultaneously with the registration of the subdivision. In the case of where multiple subdivisions are being created, a servitude must be registered prior to or

simultaneously with the first subdivisional registration. The word “first”, must therefore be included in a condition requiring the registration of a servitude.

2. Road Widening and Splayed Corners

The ____m road along the____ boundary of the property under subdivision is to be widened to___ / by not less than ___ metres within the property, as shown in ___ on the plan, along the whole length of such boundary.

The corner formed at the junction of _____ roads is to be approximately symmetrically splayed so that the base of such splayed corner is not less than ____m in length.

Such widening strip and/or splayed corner is/are to be beacons on its/their inner edge(s) and registered as a servitude road together with any adjacent existing road servitude within the property in favour of the Municipality, simultaneously with, or prior to the first / subdivisional registration.

This condition is used in conjunction with the condition entitled “clearing of obstructions” mentioned above.

Planning for future expansion in an area or an increase in traffic in an area may require a particular road to be widened. The above condition will require a servitude of a particular width (for example 1,5m) to be registered over the affected portion, adjacent to the existing road, in favour of the municipality. In recent times the Surveyor-General has encouraged the survey of the road widening strip as a subdivision to be transferred to the municipality.

The second part of this condition relates to splayed corners. In older layouts the corners created at the intersection of roads was in most instances a 90 degree angle. In the design of newer layouts these corners are splayed while in applications for the subdivision of properties created in older layouts the above condition requires the corners to be splayed (the base of the splay usually 8 metres) which assists with site lines at intersections.

Example – road widening

The road along the northern boundary of the property under subdivision is to be widened by not less than 1,5 metres within the property, as shown in pink on the plan, along the whole length of such boundary.

Such widening strip is to be beacons on its inner edge and registered as a servitude road in favour of the Municipality, simultaneously with, or prior to the subdivisional registration.

Example – splayed corner

The corner formed at the junction of James and Connor roads is to be approximately symmetrically splayed so that the base of such splayed corner is not less than 8 m in length.

Such splayed corner is to be beacons on its inner edge and registered as a servitude road in favour of the Municipality, simultaneously with, or prior to the subdivisional registration.

3. New road

A road not less than ___ metres in width is to be established in the layout as shown in pink on the approved plan of the township. Such road is to be beacons and registered as a servitude road in favour of the Municipality, simultaneously with, or prior to the first / subdivisional registration.

This condition is used when a new road is required for access to subdivisions in a township layout. The width of the road will be determined by the relevant scheme controls. The road is registered in favour of the municipality who is responsible for maintenance. The road is a public road. The words “simultaneously with, or prior to the first subdivisional registration” will guide the conveyancer as when the servitude must be registered. The conditions will also guide the Surveyor-General and Registrar of Deeds.

In recent times the Surveyor-General has encouraged the survey of the new road as a subdivision to be transferred to the municipality. This is beneficial to the owner of a subdivision as rates are payable on land traversed by a servitude.

4. Road with a turning space

A road not less than metres in width, together with a turning space / portion of a turning space which, if it is in the form of a turning circle, shall have a diameter of not less than 21m is to be established in the layout as shown on the approved plan of the township. Such road is to be beaconed and registered as a servitude road in favour of the Municipality, simultaneously with, or prior to the first / subdivisional registration.

This condition is used when a new road which terminates in a turning space is required for access to subdivisions in a township layout. The width of the road will be determined by the relevant scheme controls. The words “simultaneously with, or prior to the first subdivisional registration” will guide the conveyancer as to when the servitude must be registered. The condition will also guide the Surveyor-General and Registrar of Deeds.

In recent times the Surveyor-General has encouraged the survey of the new road as a subdivision to be transferred to the municipality. This is beneficial to the owner of a subdivision as rates are payable on land traversed by a servitude.

5. Temporary turning space

A temporary turning space / portion of a temporary turning space which, if it is in the form of a turning circle, shall have a diameter of not less than 21 m, is to be established as shown on the approved plan of the township. The turning space is to be registered in the relevant subdivisional transfer(s) as a road servitude in favour of the municipality in such a manner, that it may be cancelled with the consent of the Municipality, as soon as the public street has been extended to form a through route linking with another public street, or to a point where a permanent turning space has been provided.

This condition is used in conjunction with the condition when a new road is required for access to subdivisions in a township layout. The design of the layout is such that the proposed road will in future be extended onto the adjacent property when developed. As indicated in the condition a temporary turning circle is provided which will lapse when the adjacent property is developed and road infrastructure linked to a public road.

6. Right-of-way Servitude

A right-of-way servitude not less than ___ metres in width, as shown on the approved layout plan of the township, and traversing Portion___/ Erf ___ is to be surveyed in accordance with the Survey Regulations and registered in favour of the Portion___/ Erf___ in order to ensure access to such portion / erf.

This condition is used to provide access to individual subdivisions, in particular the rural areas. It is registered in favour of subdivisions for access and not in favour of a municipality. The owners utilising the servitude are responsible for maintenance.

This condition is used in conjunction with the condition entitled "Adequate vehicular access". This condition ensures that the owner provides adequate vehicular access via the servitude to the affected subdivision(s) at all times.

7. Servitude indicated on the plan

A sewer and drain servitude not less than metres in width, as shown on the approved plan of the township, and traversing Portion___/ Erf___ is to be surveyed in accordance with the Survey Regulations and registered in favour of the Municipality prior to, or simultaneously with the first subdivisional registration.

OR

A conservation servitude not less than metres in width, as shown on the approved plan of the township, and traversing Erf is to be surveyed in accordance with the Survey Regulations and registered in favour of the Municipality prior to, or simultaneously with the first / subdivisional registration.

This condition is used when new servitudes such as a sewer and drain servitude / conservation servitude must registered over a proposed subdivision. These are usually depicted as proposed on the layout plan at the request of the municipality to protect a sewer line / conservation areas etc.

This condition is used in conjunction with a condition of title condition, entitled "Servitudes"

The above servitudes can be private servitudes in favour of specific subdivisions and not in favour of the municipality. In this instance the condition of title condition entitled "servitudes" is not required.

8. General Right of Access

The owner of the subdivision, any further subdivision, or any unit thereon shall have a general right of access over Portion___ / Erf ___/ Remainder subject to whatever rules, conditions and restrictions are laid down from time to time by the parties concerned for the purpose of ensuring proper control, management and administration of the use and enjoyment thereof.

This condition is utilised in a gated estate development where a home owners association is to be established. This allows an owner of a subdivision to traverse the subdivisions which are transferred to the home owners association.

All the above servitudes will be reflected in the title deed of the affected subdivision(s).

E. CONDITIONS TO BE MET PRIOR TO DEVELOPMENT OF THE LAND DEVELOPMENT AREA

1. The owner shall not commence with development of the land development area until such time as Building Plans have been approved in compliance with the provisions of the National Building Regulations and Building Standards Act, 1977.
2. The owner shall comply with the conditions set down in the Environmental Authorisation of the Department of Economic Development, Tourism and Environmental Affairs, (Reference DC28/.....), and such other environmental requirements as may apply to the development.

F. CONDITIONS OF TITLE

1. Portion ___ / Erf ___ shall be subject to the following condition:-

Omnibus Servitude for Services

The land shall be subject to a servitude for the provision of storm-water drainage, water supply, irrigation, sewerage, electricity, gas and/or fuel supply, telecommunications, radio and television services, over or under the land, along any boundary thereof, other than a road frontage and within a distance of 2 metres from such boundary. Reasonable access shall be provided to such servitude at all times for the purpose of installation, maintenance, removal or extension of such services. The owner of the land shall, without compensation, be obliged to allow the servicing of any other land or street to be conveyed along such servitude. Maintenance shall include cutting, trimming or otherwise dealing with vegetation so as to prevent interference with any service. The right conferred by this condition shall be exercised by the Municipality or any other body or person legally authorised to provide such services for the benefit of the inhabitants of the township.

This condition is used to impose a 2 metre servitude along all internal boundaries of proposed subdivisions, excluding the road frontage, for the provision of infrastructure as indicated, by service providers. Service providers have access to the servitude to lay services and maintenance. If such a servitude is already reflected in the title deed of the parent property it will be carried forward in the new title deed for each proposed subdivision and therefore need not be imposed as a condition of approval.

2. Portion / Erf shall be subject to the following condition:-

Reserved Subdivisions and Public Open Spaces

In the event of the land, or any portion /Erf thereof, being registered in the name of any person other than the Municipality, a public services authority or the State, such land shall, thereupon become subject to such conditions as may be decided by the Municipality.

Reserved subdivisions and public open space are not subject to an omnibus servitude. If a reserved subdivision or POS is registered in the name of any other person other than the Municipality, a public services authority or the State, the municipality has the right to impose the omnibus or other conditions it deems necessary.

3. Portion(s) / Erf / Erven shall be subject to the following condition:-

New Servitudes

The land shall be subject to a servitude in favour of as depicted on the diagram SG No. ____.

The Municipality shall, without compensation, have the right to construct, alter, extend and maintain within the boundary of the servitude, and shall have reasonable access thereto for the purpose of maintenance, removal or extension, and the owner of the land shall, without compensation, be obliged to allow services from any other land or street to be conveyed along such servitude; provided that if the owner of the land be aggrieved by the unreasonable exercise of these rights, he shall have the right of appeal to the Municipality whose decision shall be final. Maintenance shall include trimming, cutting or otherwise dealing with vegetation so as to prevent interference with such service. The right conferred by this condition shall be exercisable by any Municipality or other body or person legally authorised to provide services for the benefit of inhabitants of the township.

This condition is used in conjunction with a condition entitled “sewer and drain servitude”

This condition is utilised in conjunction with the registration of a sewer and drain servitude in favour of a municipality. This condition appears in the title deed of the subject property and gives rights to the municipality to access the servitude for maintenance purposes.

This condition is not utilised if the servitude is a private servitude registered in favour of an adjacent property.

Example

Servitudes

The land shall be subject to a sewer and drain servitude in favour of the municipality as depicted on the diagram SG No. ____.

The Municipality shall, without compensation, have the right to construct, alter, extend and maintain sewers within the boundary of the servitude, and shall have reasonable access thereto for the purpose of maintenance, removal or extension, and the owner of the land shall, without compensation, be obliged to allow services from any other land or street to be conveyed along such servitude; provided that if the owner of the land be aggrieved by the unreasonable exercise of these rights, he shall have the right of appeal to the Municipality whose decision shall be final.

Maintenance shall include trimming, cutting or otherwise dealing with vegetation so as to prevent interference with such service. The right conferred by this condition shall be exercisable by any Municipality or other body or person legally authorised to provide services for the benefit of inhabitants of the township

4. Portion(s) ___ /Erf ___ / Erven ___ shall be subject to the following condition:-

Conservation Servitude

The land shall be subject to a conservation servitude in favour of the ___ as depicted on the diagram S.G. No. ___.

The ___ shall, without compensation, have the right to forbid any building, structure, drainage, terracing or cultivation of exotic species of vegetation within the boundaries of the servitude, except with its written consent.

Example

Conservation Servitude

The land shall be subject to a conservation servitude in favour of the municipality or home owners association as depicted on the diagram S.G. No. ___.

The municipality or home owners association (~~delete which is not applicable~~) shall, without compensation, have the right to forbid any building, structure, drainage, terracing or cultivation of exotic species of vegetation within the boundaries of the servitude, except with its written consent.

This condition is used when a specific area needs to be protected due to its environmental sensitivity. The above condition can be registered in favour of the municipality or a home owners association in a gated estate both of which will ensure the area within the servitude is managed correctly.

5. Portion(s) ___ /Erf ___ / Erven ___ shall be subject to the following condition:-

(a) Omnibus Servitude for Services

The "Home Owners' Association" reserves in perpetuity the right, without being required to pay compensation therefore, to erect, lay, maintain, use and remove standards, lines, cables, pipes and the like under, on and over the said land for the purpose of conveying electric current, water, drainage, sewerage and the like and the owner agrees not to obstruct or interfere with any such standards, lines, cables, pipes and the like or to erect any building or other permanent structure within.....metre of any such standards, lines, cables, pipes and the like without the prior express consent of the "Home Owners' Association" provided that any damage done during the process of erecting, laying, maintaining, using or removing such standards, lines, cables, pipes and the like shall be made good by the "Home Owners' Association". The owner also agrees that the "Home Owners' Association" by itself, or others, may enter upon the said property at all reasonable times for the purpose of enforcing the rights reserved and the obligations accepted in this clause.

Services within a gated estate are the responsibility of the home owners association. This condition is utilised to enable the home owners association to lay and maintain services in accordance with the above condition. The above condition will be included in the title deed of the new subdivisions.

(b) Home Owners' Association

"Home Owners' Association" shall mean its orders or assigns.

Neither the subdivision, nor any further subdivision, nor any unit thereon, as defined in the Sectional Titles Act 95 of 1986, shall be transferred to any person until he has bound himself to become and remain a member of "Home Owners' Association" for the duration of his ownership, and a clearance certificate has been issued by such association to the effect that its articles of association have been complied with.

This condition is utilised in a gated estate type development and where a home owners association will be created to manage the development. It ensures that a purchaser of a proposed subdivision cannot take transfer of a subdivision unless he becomes a member of the home owners association and will be included in the title deed of each subdivision.

(c) General Right of Access

The owner of the subdivision, any further subdivision, or any unit thereon shall have a general right of access over Portion(s)___/ Erf ___ / Erven___ subject to whatever rules, conditions and restrictions are laid down from time to time by the "Home Owners' Association" for the purpose of ensuring proper control, management and administration of the use and enjoyment thereof.

This condition is utilised in a gated estate type development where a home owners association will be created to manage the development. The roads and open spaces are transferred to the home owners association and the above condition gives each owner the right to traverse roads and open space and will be .

6. Portion(s) ___ / Erf ___ / Erven ___ shall be subject to the following condition:-

Party Wall Servitudes

- (a) Subject to a half width party wall servitude(s) in favour of the adjoining portion / Erf, as shown on the Diagram S.G. No. ___ / General Plan No___; and
- (b) With the benefit of a half width party wall servitude(s) over the adjoining portion / erf, as shown on the Diagram S.G. No. ___/ General Plan No.____.

This condition is used in instances where land containing semi-detached buildings (buildings attached by a common wall) is to be subdivided to give the owners title to the buildings. The common wall between buildings requires the registration of a party wall servitude in the title deed of the affected subdivisions.

7. Portion(s) ___ / Erf ___ / Erven ___ shall be subject to the following condition:-

Deposit of Material

The owner of the land shall, without compensation, be obliged to permit such deposit of material or excavation on the land as may, in connection with the formation of any street in the township and owing to differences in level between the land and the street, be deemed necessary by the responsible authority, in order to provide a safe and proper slope to the cut and fill commencing from the boundary of the land, unless he/she shall elect, at his own cost, to building a retaining wall.

Condition of title permitting depositing of materials on the property and the excavation of the property for the purposes of road construction. This condition may therefore be included if roads have not yet been constructed within a township to be

established.

G. INSTRUCTIONS AND INFORMATION

1. Selling Prior to Registration of Subdivision/Consolidation

In terms of section 50 of the uMhlathuze Spatial Planning and Land Use Management By-law, an agreement for the alienation of a subdivided or consolidated portion of land that was approved by a Municipality, but for which it has not issued a certificate of compliance with conditions of approval, must contain a clause disclosing –

- (a) that the owner has not yet complied with the conditions of approval; and
- (b) that the property is not registrable as contemplated in Section 1 of the Alienation of Land Act, 1981 (Act No. 68 of 1981).

2. Effect of change of ownership of land to which a land development application relates

In terms of section 115 of the uMhlathuze Spatial Planning and Land Use Management By-law, if land, which is the subject of a land development application, is transferred to a new owner, the new owner may continue with the application as the legal successor-in-title of the previous owner and the new owner shall be regarded as the applicant for the purposes of this By-law. The new owner must inform the Municipality in writing that he or she wishes to continue, or not, with the application and provide the Municipality with his or her contact details.

3. Petroleum Pipeline Servitude

Attention is drawn to the existence of the petroleum pipeline servitude crossing the property and to the regulations governing the erection of buildings or other improvements in its vicinity. Details of these regulations may be obtained from the Regional Manager, Petronet.

4. Telkom

Telkom's existing overhead infrastructure may be affected by the subdivisional proposal. Alterations to the existing infrastructure may be necessary. An estimate of the cost involved will be furnished upon receipt of a written request to Telkom. Any request to relocate the plant shall be undertaken at the owners request and cost. Telkom cannot accept responsibility for any re-instatement costs and their infrastructure should be accessible at all times.

Or

Telkom's approval of the proposed subdivision is valid for six months. If construction has not commenced within this time period then the application must be resubmitted for approval. Any changes / deviations from the original planning during construction must be immediately communicated to the Telkom office.

5. Eskom

Eskom services will be affected as there is a wayleave agreement in favour of Eskom over the property. This constitutes a building restriction of _____ metres over Portion(s)____ / Erf____ / Erven____ which may not be encroached upon by the owner/s. Should these lines need to be moved an application must be made to Eskom's _____ office (tel. _____) and the cost of such removal shall be borne by the developer.

Or

Attention is drawn to Eskom's requirement that no building or structure is to be permitted within.....metres either side of the centre line of any Eskom reticulation power lines.

The developer can make an application to Eskom when taking a new supply from Eskom, an increase of supply or requirement of line deviation, which will be processed in terms of Eskom's standard customer connection tariffs, conditions and policies.

Or

Attention is drawn to Eskom's requirement that should any of their assets have to be relocated the cost shall be borne by the owner.

The owners' attention is drawn to the fact that confirmation from Eskom is required confirming that a supply of Electricity can be made available to the subdivision and that this application cannot be finalized until such time as the relevant certificate can be issued by Eskom.

6. South African National Roads Agency Limited (SANRAL)

Attention is drawn to the conditions imposed by the South African National Roads Agency Limited as set out in the letter reference____, dated_____.

7. Access (Department of Transport: KwaZulu-Natal)

The owner's attention is drawn to the conditions imposed by the Head: Transport, Department of Transport as set in the letter reference____, dated_____.

The above conditions are utilised to draw an owners to the requirements of a service provider whose infrastructure is affected by an application for subdivision.

8. Omnibus Servitudes

The owner's and Municipality's attention is drawn to the omnibus servitudes along the common boundaries of Portion(s)____ / Erven____ that will remain on consolidation. If it is likely that such servitudes will hamper future development of the consolidated erf, the owner is advised to have the servitudes cancelled through an application to the Municipality.

Title deed conditions, such as the omnibus servitude are carried forward where a property is consolidated or subdivisions of a property unless the omnibus servitude condition is cancelled. In the instance where two properties which are subject to an omnibus are consolidated, the omnibus will apply along the common boundary of the two properties. A building should not be built over this common boundary and omnibus servitude. This condition draws the owners and municipalities attention to

the omnibus servitude which must be cancelled if the servitude will hamper future development.

9. Restriction on Development

The owner is advised that no further development in addition to the first dwelling and outbuildings or improvements usually associated therewith on a separately registered subdivision, including a secondary self-contained residential unit which may be attached or detached but must be clearly associated with the first dwelling house and may not exceed 80m² , make take place without the Municipality's prior approval having been obtained.

Properties outside a land use scheme are often subdivided and sold without development rights. Each new owner is permitted to erect a single dwelling and self-contained residential dwelling as mentioned above on a new subdivision. Any further development will require the necessary planning approval.

10. Flood line

The owner's attention is drawn to the fact that:

- (1) Erven as depicted on the layout plan are subject to a 1:100 year flood line and that no development may occur below the 1:100 year flood line.
- (2) It is agreed that any deed of sale shall include a condition drawing the purchaser's attention to the fact that the property/ies are subject to flooding, and that construction of any buildings and/or structures, will be subject to the requirements of relevant national legislation, local municipality bylaws and building regulations.
- (3) Any development not authorized in terms of relevant legislation shall be at the owner's risk.

8. **CONCLUSION**

8.1 The motivation clearly sets out the land development application and supports the application by means of various specialist studies.

8.2 Compliance with National, Provincial and Local legislation, policies and guidelines have been addressed.

8.3 The uMhlathuze Municipality is therefore respectfully requested to consider the application in terms Section/s 27(1)(...) and (...) of the the the uMhlathuze Spatial Planning and Land Use Management By-Law, to :

- a)
- b)