APPLICATION IN TERMS OF SECTION 27(1)(a) OF THE UMHLATHUZE SPATIAL PLANNING AND LAND USE MANAGEMENT BYLAW, 2017 AS AMENDED

PROPOSED REZONING OF ERF 10271, RICHARDS BAY FROM RESIDENTIAL ONLY DETACHED 2 TO WORSHIP

IN THE

uMHLATHUZE MUNICIPAL AREA, REGISTRATION DIVISION GU

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PROPOSED REZONING OF ERF 10271, RICHARDS BAY FROM RESIDENTIAL ONLY DETACHED 2 TO WORSHIP

1. THE LAND DEVELOPMENT APPLICATION

1.1 The land development application is submitted to the uMhlathuze Municipality for consideration.

1.2 The purpose of this document is to provide the motivation to enable the Municipal Planning Approval Authority to consider the following application submitted:

a) in terms of Section 27(1)(a) of the SPLUM Bylaw for the rezoning of Erf 10271, Richards Bay, from Residential Only Detached 2 to Worship.

1.3 The application is supported by various documents, which are attached to this application and discussed in more detail in this motivation.

2. THE APPLICANT

2.1 This Application is submitted by Biyela MM Geomatics, on behalf of the land owner, Perlene Govender.

2.2 The owner has appointed Biyela MM Geomatics to act on her behalf, and the relevant Power of Attorney is attached as **Annexure A**.

3. THE APPLICATION SITE

3.1 Locality of the Application Site

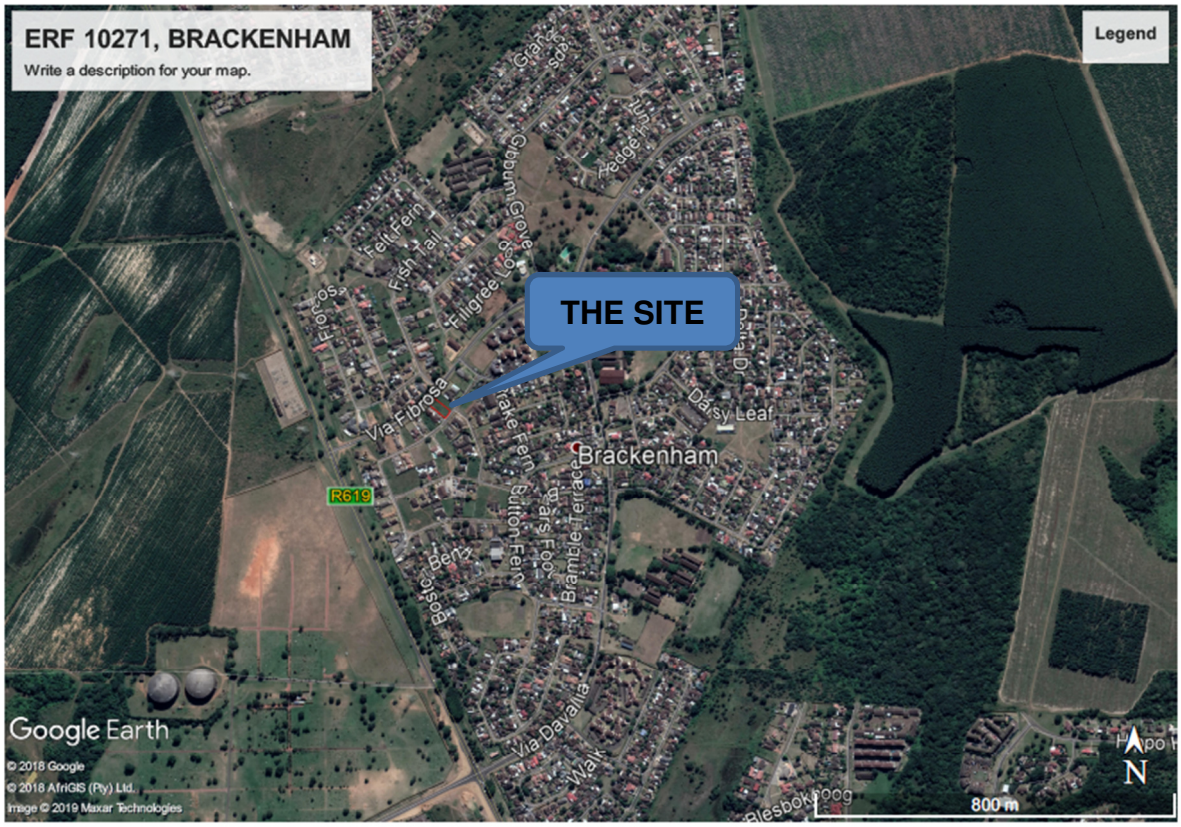
3.1.1 Erf 10271 is located at No. 12 Boulder Bend in the Brackenham suburb within the jurisdiction of the Umhlathuze Local Municipality in the King Cetshwayo District Municipality, Province of KwaZulu-Natal. The property is border by Via Fibrosa, and Boulder Bend.

Development Site Geographical Positioning

Longitude	Latitude
28°43' 28"S	32° 02' 16"E

3.1.2 The subject property measures approximately 800 square metres in extent.

FIGURE 1: LOCALITY OF THE APPLICATION SITE



3.2 Existing Development, Land Use and Zoning

3.2.1 The property is currently vacant. The proposed rezoning will enable the owner to obtain a land rights for worship land use.

3.2.2 The application site is surrounded by the following land uses:

- Residential dwellings
- Vacant land/Open Spaces
- Church

3.2.3 Existing Land Use Map is attached **Annexure B** of this application.

3.2.4 The existing zoning of the property is “Residential Only Detached 2”. The zoning provides for the following free entry and consent uses as set out in the uMhlathuze Land Use Scheme (the Scheme):

ZONE CATEGORY: RESIDENTIAL ONLY DETACHED 2

STATEMENT OF INTENT: This zone is intended to promote the development of primarily detached dwelling units, limited to not more than 2 dwellings, and where a limited number of compatible ancillary uses, which have a non-disruptive impact on a neighbourhood amenity, may be allowed.	**See Legend Below**

USE OF LAND AND BUILDINGS

COLUMN 1	COLUMN 2	COLUMN 3	ADDITIONAL CONTROLS
PERMITTED USES	**CONSENT USES**	**PROHIBITED USES**	
• Additional Dwelling Unit • Residential - Dwelling House • Home Activity • Day Care Facility	• *Home Business • Special Use	Buildings and land uses not included in Columns 1 and 2.	• For provisions relating to parking and loading, refer to Clause 3.1.2.4 and 3.1.2.5. • For provision relating to the use of land refer to Clause 4.1.10 • *Refer to Bed & Breakfast and Guest House Facilities By-Laws. • Home Office not more than 25% of the floor area

DEVELOPMENT CONTROLS

ZONE	KEY	ERF SIZE	UNITS PER HECTARE	FRONTAGE (WIDTH)	STREET BUILDING LINE	SIDE & REAR BUILDING LINES	HEIGHT	COVERAGE	FAR
ROD 1		1200m² and more	N/A	22.5m	5m	2m or 1,5m per storey whichever the greater	3	50%	0.50
ROD 2		700m² but <1200m²	N/A	18m	5m		3	60%	0.60
ROD 3		500m² but <700m²	N/A	15m	4m		2	60%	0.60
ROD 4		300m² but <500m²	N/A	12m	3m		2	70%	0.70
ROD 5		120m² but <300m²	N/A	8m	3m		2	70%	0.70

3.2.5 It is proposed to amend the zoning of the application site, as discussed in more detail under Section 4 of this motivation.

3.2.6 The existing zoning map is attached as **Annexure C.**

3.3 Title Deed and SG Diagram Information

3.3.1 The application property measures 800 square metres in extent, as shown on SG. No. 842/1991 (attached as **Annexure D**).

3.3.2 The property is subject to the conditions and restrictions as set out in Certificate of Registered Title T14064/2019 (attached as **Annexure E**). The deed has no conditions that would affect this application.

4. DETAILS OF THE LAND DEVELOPMENT APPLICATION

4.1 The Proposed Development

4.1.1 The objective of the owner is to obtain approval for worship land use rights through amendment of the Scheme in order to build a church on the subject site.

4.1.2 The draft Site Development Plan, showing the proposed development on site, is shown below and attached as **Annexure F.**

4.1.3 In order to obtain the land use rights to build a church, the applicant applies for the rezoning of Erf 10271, Richards Bay, from “Residential Only Detached 2” to “Worship”. The proposed zoning map is shown below and attached as **Annexure G.**

FIGURE 2: SITE DEVELOPMENT PLAN

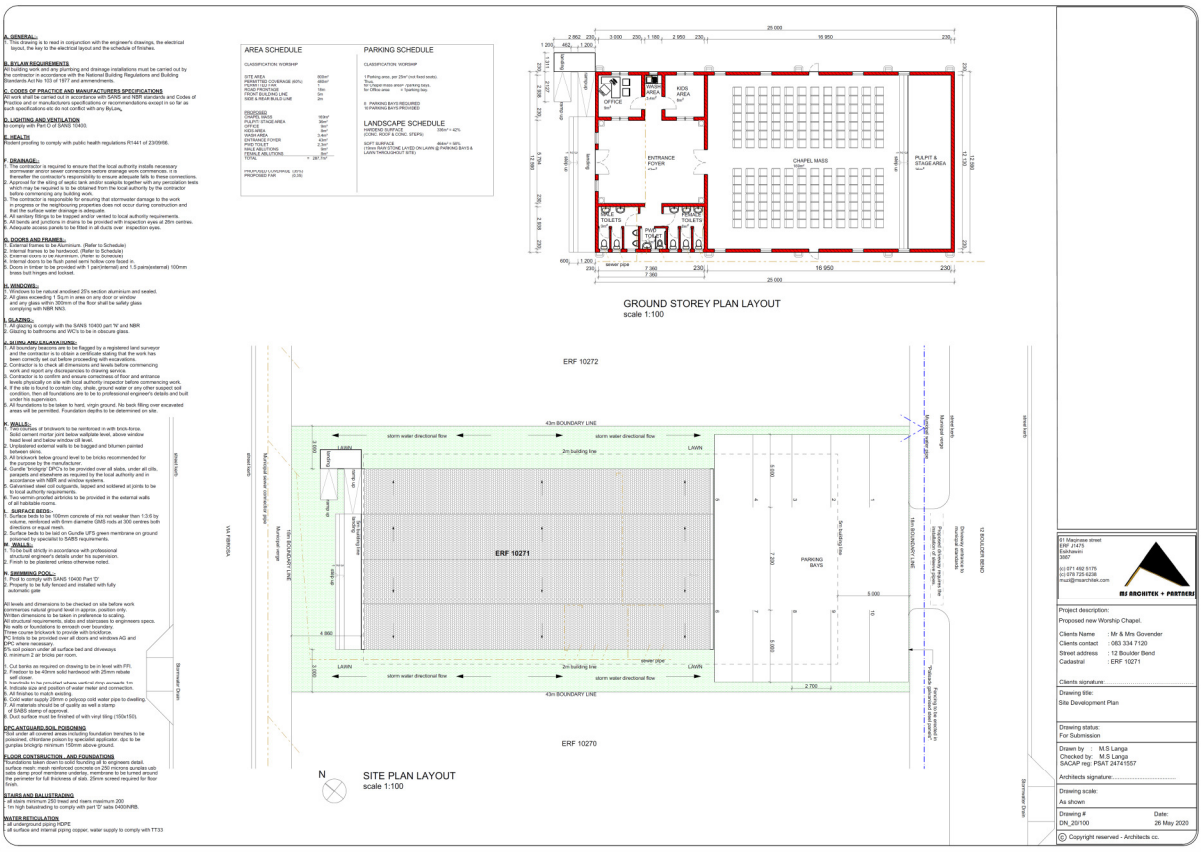
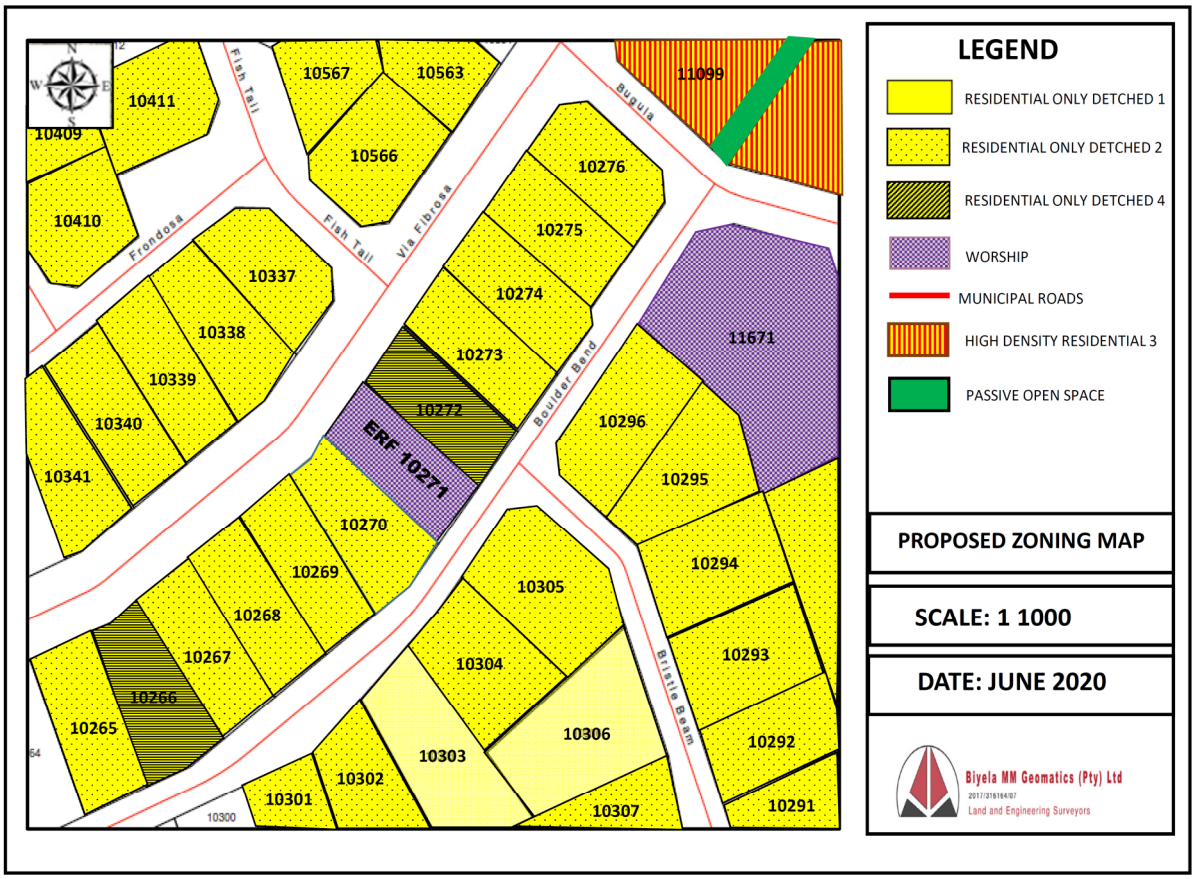


FIGURE 3: PROPOSED ZONING MAP



4.1.4 The proposed zoning "Worship" would allow for the following free entry, formal authority and consent uses as set out in the uMhlathuze Land Use Scheme:

ZONE CATEGORY: WORSHIP

STATEMENT OF INTENT: A zone that is intended for land and buildings to be used as a Church, Chapel, Oratory, Synagogue, Mosque, Temple, Sunday school, and other places of public devotion, but does not include a funeral chapel.

USE OF LAND AND BUILDINGS			
COLUMN 1	**COLUMN 2**	**COLUMN 3**	**ADDITIONAL CONTROLS**
PERMITTED USES	**CONSENT USES**	**PROHIBITED USES**	
• Care Taker Accommodation • **Community Garden • *Educational Building • Home Activity • Municipal Purposes • Office - Professional • *Residential Dwelling House • Place of Assembly • Place of Worship • Private Recreational Use • Utilities facility	• ***Freestanding Telecommunication Infrastructure • Home Business • Institution • Recreational Building • Residential Building (Only if incidental to Place of Worship) • ***Rooftop Telecommunication Infrastructure • Shop (ancillary to Place of Worship)	Buildings and land uses not included in Columns 1 and 2.	• *Education building and Residential dwelling house shall be ancillary to the place of worship. • **Refer to Clause 4.1.3.2. • For provisions relating to parking and loading refer to Clause 3.1.2.4 and 3.1.2.5 • For provisions relating to the use of land refer to Clause 4.1.2.1 • ***All telecommunication infrastructure are subject to submission of Building plans for municipal approval.

DEVELOPMENT CONTROLS								
MINIMUM ERF SIZE	**UNITS PER HECTARE**	**FRONTAGE (WIDTH)**	**STREET BUILDING LINE**	**SIDE BUILDING LINES**	**REAR BUILDING LINES**	**HEIGHT**	**COVERAGE**	**FAR**
N/A	N/A	18m	5m	2m or 1,5m per storey, whichever is the greater	4,5m or 1,5m per storey, whichever is the greater	UR	60%	1

5. MOTIVATION FOR THE DEVELOPMENT

The motivation for the proposed rezoning is supported by a number of factors, which are summarized below:

5.1 Need and Desirability

5.1.1 The need for this application stems from the fact that the property owner, Mrs Perlene Govender wishes to amend the Scheme by rezoning her property from Residential Only Detached 2 to Worship in order to build a church.

5.1.2 The site is currently vacant and the church will not have negative impact on the surrounding land uses.

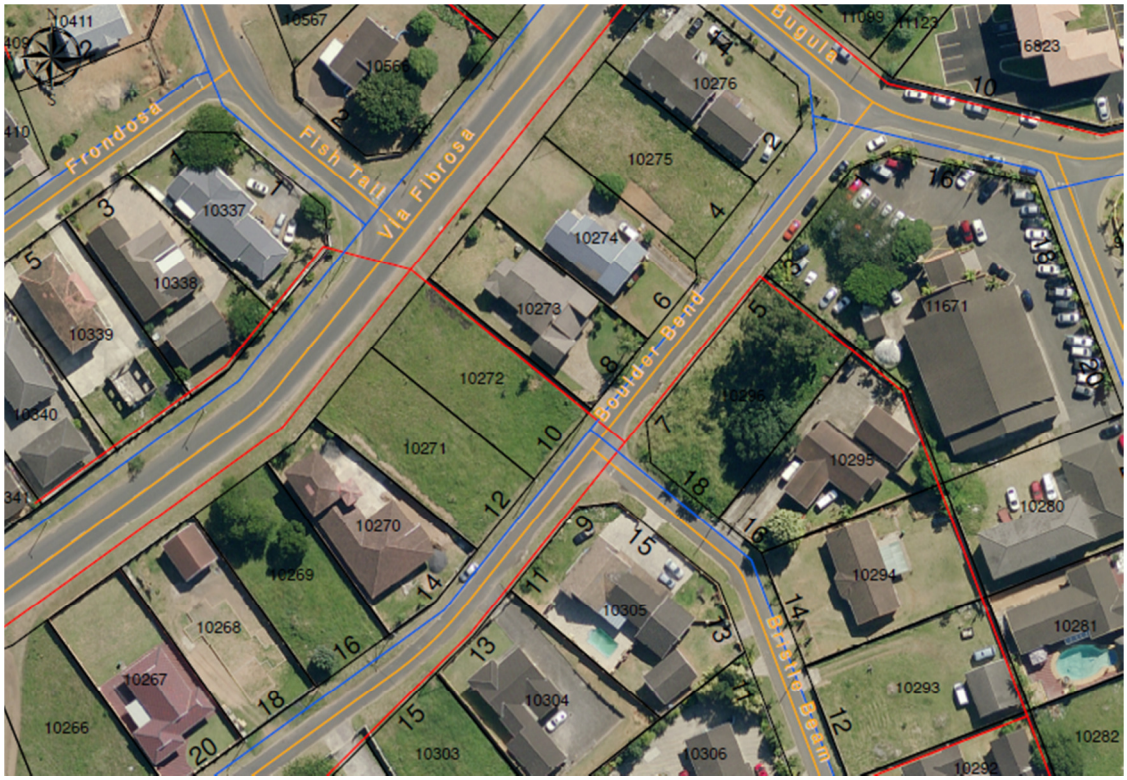
5.2 Impacts on Access and Traffic Generation

5.2.1 The church site will gain access from Boulder Bend. This application will have no impact on existing access to the sites.

5.3 Impacts on Engineering Services

5.3.1 The application site is fully serviced with electricity, water and sanitation services, and where increase in capacity is required, the owner will lodge an application with the municipality relevant departments.

FIGURE 4: EXISTING MUNICIPAL SERVICES



5.4 Physical Site Characteristics

The application site is relatively flat and poses no geotechnical threats to the development and surrounding environment. The subject site is not situated within wetlands or flood lines.

5.5 Impact on the Environment and Heritage Resources

5.5.1 Environmental Impacts

The desired development does not have negative impacts on the environment and therefore does not require environmental authorisation.

Matters relating to energy efficiency, stormwater management, etc. shall be scrutinised in more detail during the building plan submission phase.

5.6 Comment from Relevant Stakeholders

5.6.1 Land Claims

There are no land claims applicable to this application site, as confirmed by the KZN Regional Land Claims Commissioner's Office in their letter dated 12 September 2019, attached as **Annexure H.**

5.7 Waste Management

Waste generated by the Church will be collected by the municipality on weekly basis and such services will be charged on rates and taxes.

6. ASSESSMENT OF COMPLIANCE WITH KEY LEGISLATION AND PLANNING GUIDELINES

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

- Development principles as set out in the Spatial Planning and Land Use Management Act, 2013
- the uMhlathuze Integrated Development Plan (2017-2022)
- the uMhlathuze Spatial Development Framework
- The uMhlathuze Land Use Scheme (2019)
- The National Building Regulations and Building Standards Act (1977)

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 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:

Principle	Analysis	Proposal
(a) the principle of spatial justice	(v) land development procedures must include provisions that accommodate access to secure tenure	The subject property is owned by the previously disadvantaged individual.
(b) the principle of spatial sustainability	(i) promote land development that is within the fiscal, institutional and administrative means of the Republic;	All financial requirements will be borne by owner.

(c) the principle of efficiency	(i) land development optimises the use of existing resources and infrastructure	The application will ensure the optimisation of available and existing infrastructure and resources as guided by the municipality.
(d) the principle of spatial resilience	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.	The application complies with the municipal Spatial Development Framework The application complies with the municipal Spatial Planning and Land Use Management Bylaw which is found to be flexible as it allows for the combined application process
(e) the principle of good administration	(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. (ii) The requirements of any law relating to land development and land use are met timeously.	The application will be submitted to all relevant authorities for their scrutiny and inputs. The application will adhere and meet to all the planning related legislation and policies.

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6.2 The uMhlathuze Integrated Development Plan (2017-2022)

6.2.1 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).

6.2.2 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."

6.2.3 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*".

6.2.4 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.

6.2.5 There are six (6) key Municipal Development Goals which are linked to the National Key Performance Area, which the application has to ensure that it aligns itself to either one or more of them. These are:

1) Democratic, Responsible, Transparent, Objective and Equitable Municipal Governance: Good Governance and Public Participation
2) Integrated infrastructure and efficient services: Basic Service Delivery and Infrastructure Provision;
3) Viable Economic Growth and Development: Local Economic and Social Development
4) Public Safety and Security: Local Economic and Social Development
5) Safe and Healthy Living Environment: Local Economic and Social Development
6) Social Cohesion: Local Economic and Social Development
7) A municipality that is resourced and committed to attaining the vision and mission of the organisation: Municipal Institutional Development and Transformation
8) Sound Financial and Supply Chain Management: Municipal Financial Viability and Management
9) Integrated Urban and Rural Development: Cross Cutting
10) Immovable Property Management: Cross Cutting

6.2.6 This application is in line the following municipal development goals:

- Social Cohesion: Local Economic and Social Development
- Democratic, Responsible, Transparent, Objective and Equitable Municipal Governance: Good Governance and Public Participation

6.3 The uMhlathuze Spatial Development Framework

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

6.3.2 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.

6.3.3 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.

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

6.3.4.1 The primary purpose of the municipal Spatial Development Framework is to represent the spatial development goals of the Municipality that result from an integration perspective. The Municipal SDF is informed by the following principles:

- Provide guidance for spatial distribution of desirable land development and promote densification
- Promote spatial justice and an efficient land use management system
- Promote socio-economic balance and improve quality of life for all citizens through sustainable development

6.3.4.2 The application site is situated in the Brackenham in Richards Bay. Richards Bay is classified as a primary node consisting of formal and informal, residential dwellings as well as socio-economic activities, while Brackenham is classified as formal urban area.

6.3.5 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.

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

6.4 The uMhlathuze Land Use Scheme

6.4.1 The Site Development Plan illustrates the proposed development **(Annexure F).** The Site Development Plan indicates 5m street building line and 2m side building lines requirements as set out in the municipal Scheme for a Worship zoned property. Based on the Site Development Plan provided, it can be confirmed that the proposed building is situated within building lines.

6.4.2 In terms of parking, 10 parking bays will be provided. The Scheme requirements indicate that 1 parking bay per 25 square metres must be provided if seats are not fixed, or 1 parking bay per every 6 seats if seats are fixed. It can be confirmed that the seats are not fixed and that the church building (hall area) measures 169 square metres. Therefore 8 parking bays are required (including 1 for the proposed office which measures 9 square metres) in terms of the provisions of the Scheme. However, 10 parking are provided as outlined in the Site Development Plan (**Annexure F**).

6.4.3 The application sites therefore comply with the provisions of the Scheme.

6.5 The National Building Regulations and Building Standards Act - 1977

The property is still vacant and the owner will ensure compliance with the National Building Regulations for the proposed Church structure by submitting a new set of building plans for municipal consideration once the application is approved.

7. CONCLUSION

7.1 The motivation clearly sets out the land development application and supports the application by means of various documents.

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

7.3 The uMhlathuze Municipality is therefore respectfully requested to consider the application in terms of the following sections of the uMhlathuze Spatial Planning and Land Use Management Bylaw:

a) in terms of Section 27(1)(a) of the SPLUM Bylaw for the rezoning of the Erf 10271, Richards Bay, from Residential Only Detached 2 to Worship.