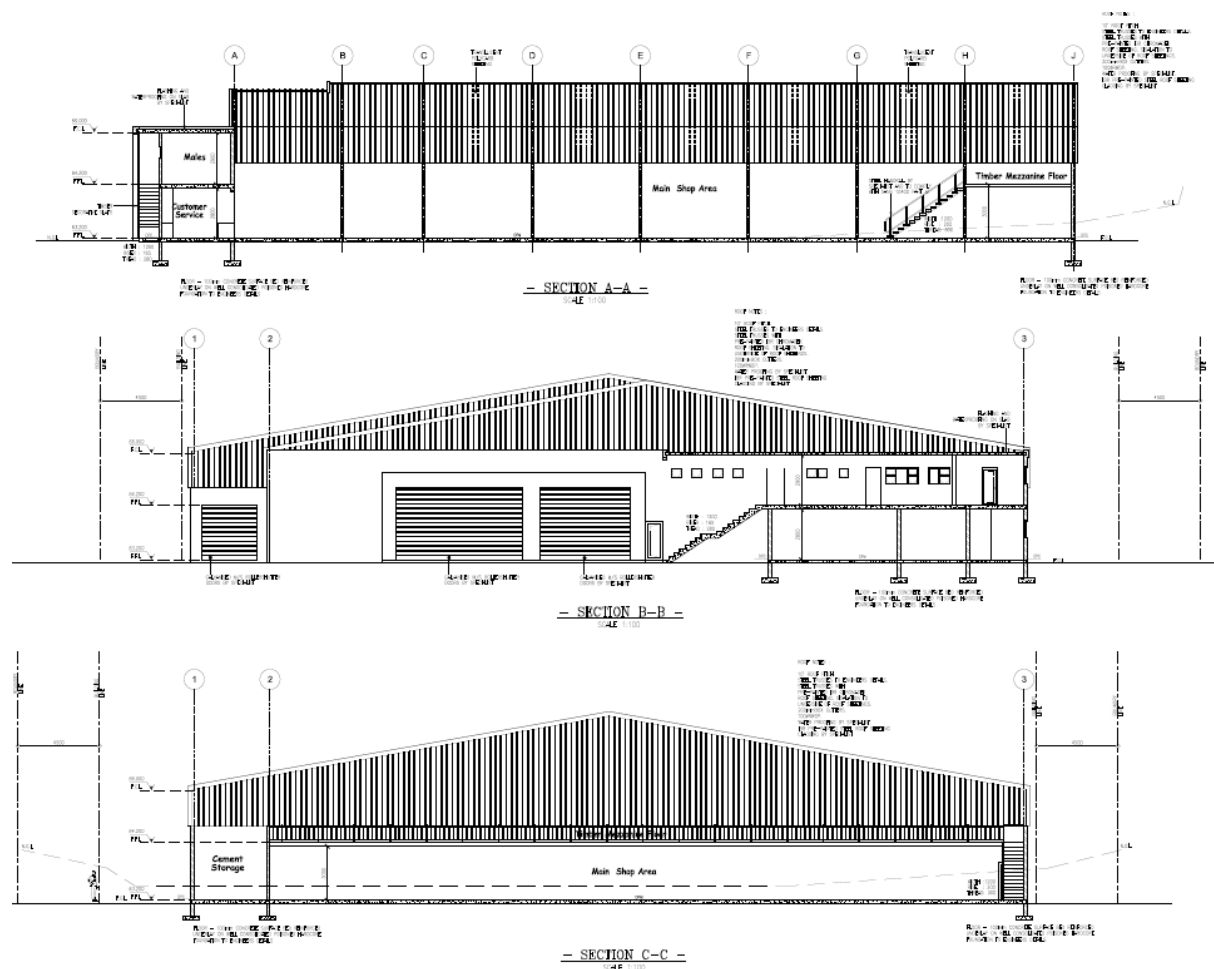


APPLICATION IN TERMS OF SECTION 27(1)(a) OF THE UMHLATHUZE SPATIAL PLANNING AND LAND USE MANAGEMENT BYLAW

PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, uMHLATHUZE MUNICIPALITY, FROM “FUEL FILLING STATION” TO “GENERAL INDUSTRY”



Revised on: 19 November 2019

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On behalf of:

Build-Rite Properties (Pty) Ltd
(Reg. No.: 2010/009182/07)

TABLE OF CONTENTS

	Pg
1 The Proposal and the Decision sought from the Municipality	3
2 Documents Attached	3
3 The Applicant	4
3.1 Power of Attorney.....	4
4 The Application Site.....	4
5 Restrictive Conditions of Title	5
6 Comments from the KZN Department of Transport.....	6
7 Land Claims	7
8 Current Development, Land Use and Zoning.....	7
9 Compliance with Relevant SPLUMA Principles.....	8
10 Compliance with the City of uMhlathuze's IDP and SDF.....	10
11 Compliance with the uMhlathuze Land Use Scheme.....	12
11.1 Zoning and Land Use Management Considerations and Controls.....	12
11.2 Parking Provision	14
11.3 Land Use Controls	14
11.4 Minimum Erf size	15
12 The Need for the Proposed Rezoning	15
13 Compliance with the National Building Regulations and Building Standards Act, 1977 15	
14 Desirability Considerations	15
14.1 The Development on the Site.....	15
14.2 Character of the Area.....	16
14.3 Local Benefits	16
14.4 Accessibility	16
15 Impacts of the Proposed Rezoning.....	16
15.1 Impacts on Engineering Services.....	16
15.1.1 Impact on Water	16
15.1.2 Impact on Sewer.....	16
15.1.3 Impact on Electricity.....	17
15.1.4 Impact on Access, Roads and Traffic Generation	17
15.1.5 Impact on Stormwater Management	18
15.1.6 Impact on Waste Management	19
15.2 Environmental Considerations and Heritage	19
16 Consents.....	19
17 Conclusion	20

APPLICATION MOTIVATION

APPLICATION IN TERMS OF SECTION 27(1)(a) OF THE UMHLATHUZE SPATIAL PLANNING AND LAND USE MANAGEMENT BYLAW (HEREAFTER REFERRED TO: "UMHLATHUZE SPLUM BYLAW") TO REZONE ERF 60, KULEKA, EMPANGENI TOWN, UMHLATHUZE MUNICIPALITY, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

1 The Proposal and the Decision sought from the Municipality

The uMhlathuze Municipality Approval Authority is requested to consider and approve:

- 1) The Rezoning, in terms of Section 27(1)(a) of the uMhlathuze SPLUM Bylaw, of Erf 60, Kuleka, Empangeni town ("hereinafter referred to as "the site"), from "Fuel Filling Station" to "General Industry".

Note: Proof of Payment of the Application Fee is attached at Appendix 1.

2 Documents Attached

Appendix 1: Proof of Payment of the Application Fee

Appendix 2: Power of Attorney, Company Resolution and CM22 Document

Appendix 3: General Plan for Kuleka, Empangeni

Appendix 4: Deed of Transfer

Appendix 5: Letter, dated 16 April 2018, from the Commission on the Restitution of Land Rights

Appendix 6: Existing Land Use and Zoning Maps

Appendix 7: Site Development Plan

Appendix 8: Traffic Impact Assessment

Appendix 9: Stormwater Management Plan Report

Appendix 10: Comments from the KZN Department of Transport

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

3 The Applicant

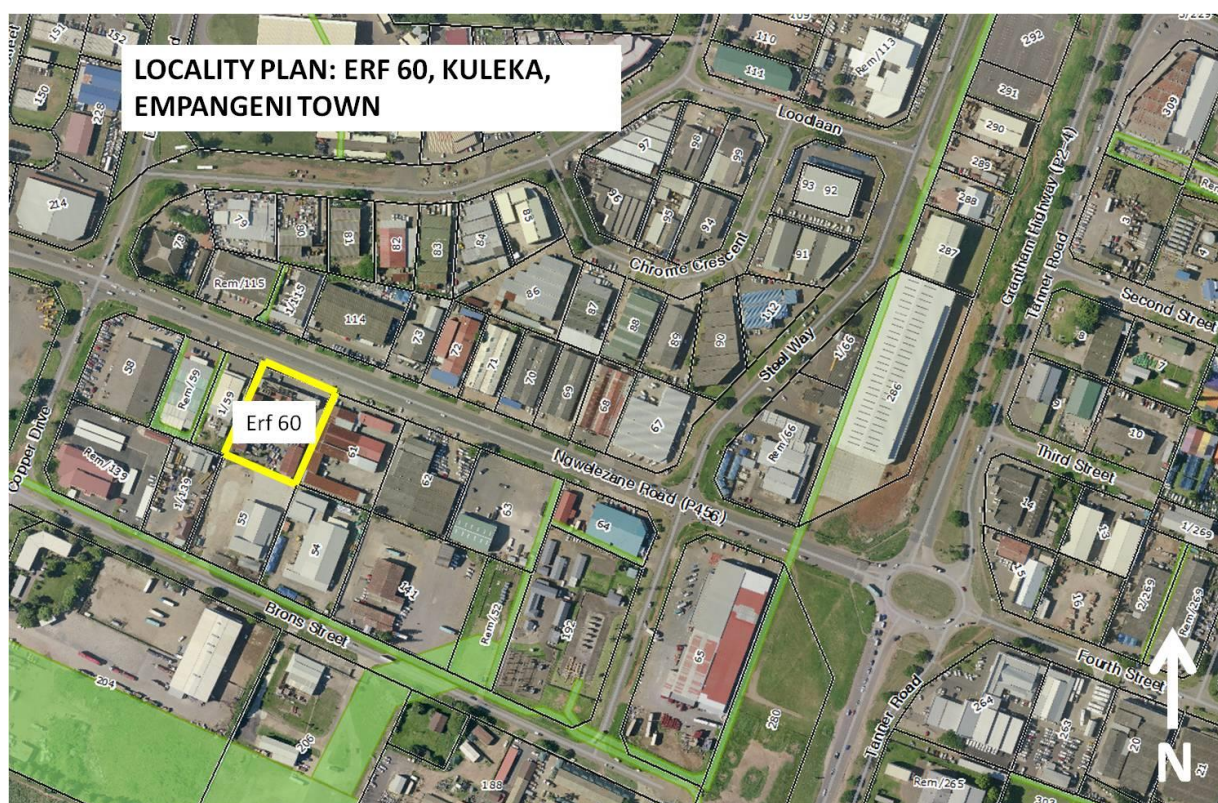
3.1 Power of Attorney

This Application is submitted in terms of the uMhlathuze SPLUM Bylaw by Inhloso Planning cc acting on behalf of the Applicant, Messrs. Build-Rite Properties (Pty) Ltd (Reg. No.: 2010/009182/07), who have consented to this application being made via a Special Power of Attorney dated 31 January 2019, accompanied by a Resolution from the Company's Board (see Appendix 2 for the Power of Attorney, Company Resolution and CM22 Document).

4 The Application Site

The Property	Extent	Landowner	Zoning	Current Land Use	Proposed Land Use	Deed of Transfer
Erf 60, Kuleka, Empangeni town (See General Plan for Kuleka attached at Appendix 3)	4645 m ²	Build-Rite Properties (Pty) Ltd (Reg. No.: 2010/009182/07)	"Fuel Filling Station"	Vacant	Hardware Store	T11455/2018 (see Deed of Transfer attached at Appendix 4)

The locality of the site is shown on the image below.



APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

Revision Date: 19 November 2019
Prepared By: Inhloso Planning cc

5 Restrictive Conditions of Title

There are no onerous restrictive Conditions of Title that can prevent the proposed Rezoning of the site (See Deed of Transfer attached at Appendix 4).

Please note that this application is for rezoning only and, thus, no new Conditions of Establishment will need to be prepared and adopted.

The table below, reflects the Conditions, that are considered applicable to the rezoning, and how they will be complied:

Deed of Transfer Condition		Comment
A.1, A.2 and A.3	<p>A. Subject to the terms and conditions of the Deed of Grant No. 93/1960 as may still be in force and applicable, particularly to the following :-</p> <p>1. All authorised roads, railways stations, telegraph and telephone lines and stations, thoroughfares, outspans, watercourses, drains, reservoirs and dams existing on the land shall remain free and interrupted unless closed or altered by competent authority.</p> <p>2. The land shall be liable, without compensation, to entry thereon by any persons by order of the Government for the purpose of removing there from such materials, not including timber or wood, as may from time to time be required for the construction or repair of any public roads, tramlines, railways, railway stations, telegraph and telephone lines and stations, watercourses, drains, reservoirs and dams running through or over or constructed upon the land.</p> <p>3. The land or any portion thereof shall be liable, without compensation, to have any roads, tramlines, railways, railway stations, telegraph and telephone lines and stations, watercourses, drains, reservoirs and dams made in or over any part of it, for the public use and benefit, by order of the Government; provided, however, that in respect of those areas on which any buildings are erected or which, are under permanent cultivation at the time when any such works may be required to be made, reasonable compensation shall be made by the Government.</p>	These Conditions are in favour of government and this is noted. These Conditions have no impact on the application.
C.1	Except with the consent of the Administrator, the lot shall not be used for other than industrial and/or manufacturing purposes and/or purposes incidental thereto.	The site is currently zoned "Fuel Filling Station" which does not comply with his Condition. The proposed rezoning to "General Industry" and the use of the site as an "Industry – Service" will comply with this Condition.
C.2	No industry or manufacture which in the opinion of the local authority is noxious or injurious to the health of the occupants of adjacent land, shall be conducted on the lot.	This Condition will be complied with.

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

Deed of Transfer Condition		Comment
C.3 and C.4	The local authority shall, without compensation, have the right to erect, lay and maintain electric wires and/or water supply piping over or under the lot along any boundary thereof, other than a road frontage and within a distance of two metres from such boundary, and shall have reasonable access thereto for the purpose of maintenance, removal or extension. Maintenance shall include trimming, cutting or otherwise dealing with trees so as to prevent interference with the electric wires.	These are 2m Omnibus Servitudes, which shall be complied with. (See Site Development Plan attached at Appendix 7).
C.7	No building or structure whatsoever, other than an enclosure, a fence, hedge or a wall which does not rise higher than 1,5 metres above the surface of the land on which it stands, shall be erected on the land within a distance of 7,5 metres measured from its boundary abutting the Provincial Main Road No. 456, without the written approval of the Controlling Authority as defined in Act No. 21 of 1940, as amended.	The building line restriction of 7.5m will be complied with (See Site Development Plan attached at Appendix 7).
C.8	Except with the consent of the Administrator, no business or trade relating to a retail motor fuel filling station whatsoever, shall be opened or constructed on the lot.	The site is currently zoned "Fuel Filling Station" which does not comply with his Condition. The proposed rezoning to "General Industry" and the use of the site as an "Industry – Service" will comply with this Condition.
D.5	No buildings shall be erected within 7,5 metres on the sides facing the street. No buildings shall be erected within 3 metres of boundaries other than those facing streets.	The building line restriction of 7.5m, as well as the 3m side and rear spaces, will be complied with (See Site Development Plan attached at Appendix 7).

6 Comments from the KZN Department of Transport

Since access the site is off a Provincial Road, namely Main Road 456, the comments from the KZN Department of Transport (referred to as "the Department" in this section of the application) were obtained – see attached at Appendix 10.

According to Section C.7 on page 4 of the Deed of Transfer (see attached at Appendix 4) – see extracted Condition overleaf – "No building or structure ... shall be erected on the land within a distance of 7.5 metres ..." from the road reserve abutting the erf's boundary. In its letter, the KZN Department of Transport stipulates an increase in this distance to 15m (see Section 3.3 of its letter attached at Appendix 10). In terms of 3.6 of its letter, no storage of building material will be allowed in this 15m building restriction line. This application complies with both Sections 3.3 and 3.6 of the department letter.

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

7. No building or structure whatsoever, other than an enclosure, a fence, hedge or a wall which does not rise higher than 1,5 metres above the surface of the land on which it stands, shall be erected on the land within a distance of 7,5 metres measured from its boundary abutting the Provincial Main Road No. 456, without the written approval of the Controlling Authority as defined in Act No. 21 of 1940, as amended.

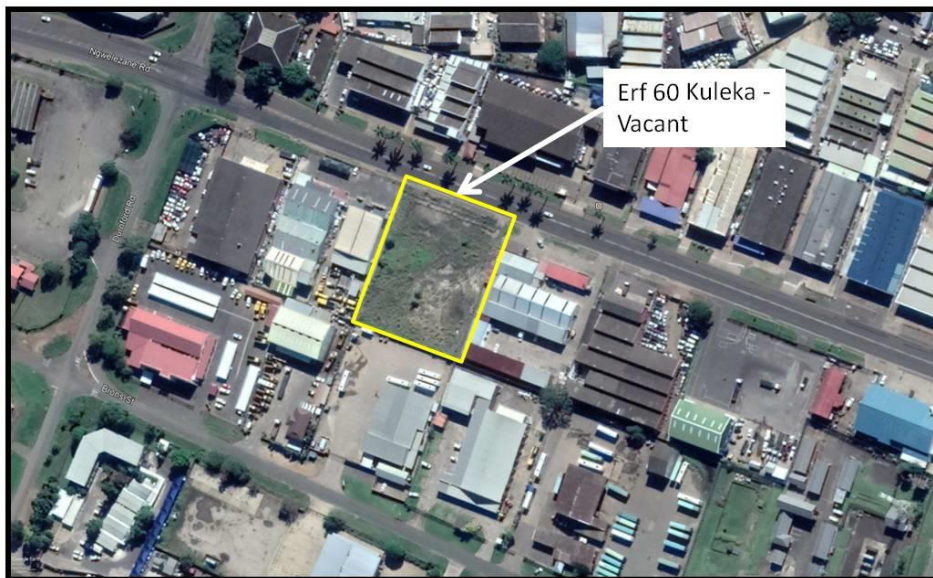
This application does not comply with the Department's requirement not to provide parking within 7,5m of the road reserve because: (a) parking is allowed within the building line as per the uMhlathuze Land Use Scheme Regulations; and (b) surrounding erven adjacent to the site does have parking within the 7,5m building line. Should this be a requirement in terms of the Department's relevant legislation (which might not be in-line with the uMhlathuze Land Use Scheme Regulations), then this matter could be dealt with as part of the submission of the Site Development Plan for approval by the Department prior to submission of building plans to the Municipality, in line with the Department's requirements in Section 3.1, 3.8 and 3.11 of its letter.

7 Land Claims

The site is not subject to any land claims for restitution (see Letter attached at Appendix 5).

8 Current Development, Land Use and Zoning

There are no structures or development on the site. **The site is vacant.**



The site is currently zoned "Fuel Filling Station". The zoning table and the controls table, as extracted from the uMhlathuze Land Use Scheme for "Fuel Filling Station" is reflected and discussed in Section 10 below.

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

It is proposed to rezone the site from “Fuel Filling Station” to “General Industry” (see existing Land Use and Zoning Maps at Appendix 6). The site is currently vacant.

Existing Land Use Zones surrounding and in close proximity to the site include the following (see existing Land Use Zoning Map at Appendix 6):

<u>Locality in Relation to the Application Site</u>	<u>Land Use Zone</u>
• Adjacent and surrounding the site	General Industry
• Further to the north of the site	General Industry
• Further to the west of the site	General Industry
• Further to the east of the site	General Industry

Existing Land Uses (see existing Land Use Map at Appendix 6) in the surrounding area of the properties are:

<u>Locality in Relation to the Application Site</u>	<u>Land Use/s</u>
• Adjacent and surrounding the site	General Industry land uses
• Further to the north of the site	General Industry land uses
• Further to the west of the site	General Industry land uses
• Further to the east of the site	General Industry land uses

9 Compliance with Relevant SPLUMA Principles

The table below sets out compliance with the relevant principles as contained in the Spatial Planning and Land Use Management Act (SPLUMA):

Development Principles			Compliance
(b)	The Principle of spatial sustainability		
	(i)	“promote land development that is within the fiscal, institutional and administrative means of the Republic”	The development will meet this criterion fully. The development will be privately developed. All costs will be carried by the developer and no onerous burden will be placed on the Municipality / state.
	(iv)	“promote and stimulate the effective and equitable functioning of land markets”	The proposed hardware Store will promote and stimulate the functioning of service industry markets in Richards Bay, through particularly job creation and provisioning of wider service industry choices.
	(v)	“consider all current and future costs to all parties for the provision of infrastructure and social services in land developments”	The costs of development will be carried by the developer. No future maintenance on-site costs will have to be borne by the Municipality. Rates and

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM “FUEL FILLING STATION” TO “GENERAL INDUSTRY”

Development Principles			Compliance
			service charges will be payable to the Municipality. The site can be serviced with all the required civil engineering services. Thus, this criterion is/will be fully met.
	(vi)	“promote land development in locations that are sustainable and limit urban sprawl”	The development will replace burned-out derelict buildings on the site and is located in a fully build-up area and will thus not contribute to urban sprawl. From an economic point of view, the proposed development is considered sustainable and is market-driven.
	(vii)	“result in communities that are viable”	The proposed hardware Store will make a long lasting contribution to community settlement. The development will be environmentally sustainable. In terms of institutional sustainability, the development is situated within a competent municipality which is in a position to manage the development and collect rates and service charges. In terms of affordability, the development is located in a serviced municipal area and will be developed with no cost to the municipality or the ratepayers. In terms of economic sustainability, the development will complement the existing service-industrial uses and developments in the City.
(c)	The principle of efficiency		
	(i)	“land development optimises the use of existing resources and infrastructure”	The development will be environmentally sustainable. In terms of institutional sustainability, the development is situated within a competent municipality which is in a position to manage the development and collect rates and service charges. In terms of affordability, the development is located in a serviced municipal area and will be developed with no cost to the municipality or the ratepayers. The development will optimize the use of existing resources and services. Water and electricity is already available to the site, as well as tarred road access (Ngwelezane road – P456) and stormwater runoff measures along the road.
	(ii)	“decision-making procedures are designed to minimise negative financial, social, economic or environmental impacts”	The development is situated within a competent and fully capacitated Municipality. The approval process for the proposed development will be <i>via</i> an established, in terms of the uMhlathuze Municipality SPLUM Bylaw, and competent Municipal Planning Approval Authority. Once developed and occupied, decision-making procedures,

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM “FUEL FILLING STATION” TO “GENERAL INDUSTRY”

Development Principles			Compliance
			in terms of Municipal matters, will take place via the Municipality.
(d)	The principle of spatial resilience		The site is very well suited for the intended development and will ensure continued spatial resilience.
(e)	The principle of good administration		The development is situated within a competent and fully capacitated Municipality. A Scheme is in place to control land use on the site.

10 Compliance with the City of uMhlathuze's IDP and SDF

The following was extracted from the uMhlathuze IDP Review for 2018/2019:

Vision:

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

Mission Statement that underpins the above vision (**note**: own underlining of relevant mission statement elements):

- Job creation and inclusive economic growth through accelerated economic development and transformation;
- Enhancing industry based skills development and strategic support to education priority programmes;
- Community based initiatives to improve quality of citizens health and well-being;
- Creating safer city through integrated and community based public safety;
- Planned and accelerated rural development interventions;
- Promotion and maintenance of spatial equity and transformation;
- Optimal management of natural resources and commitment to sustainable environmental management;
- Use of Information, Communication and Technology Systems (ICT) to improve productivity and efficiencies in line with Smart City principles; and
- Good governance, capable and developmental municipality.

The proposed Rezoning of the site in order for it to be utilized for a hardware Store, will contribute towards job creation and economic growth, bearing in mind that the site is not currently being used for any purpose. The site is currently vacant.

The proposed rezoning supports the implementation of the City of uMhlathuze's IDP.

In the uMhlathuze Spatial Development Framework ("SDF") Review for 2018, Empangeni is recognized as the "Empangeni Node" and its analysis is presented in the table overleaf, which was extracted from the SDF:

Analysis of Empangeni Node

Role in the City	<ul style="list-style-type: none"> • <u>It is regarded as the major service and retail centre of uMhlathuze Municipality.</u> • The CBD commercial floor space presently exceeds 7200 sq. metres. • <u>Centres of employment, industrial, residential, offices and commercial activity are provided.</u>
Role in the Region	<ul style="list-style-type: none"> • It functions as a major gateway to the world economy through the nearby Richards Bay Harbour. • <u>It plays a dominant role in KZN, especially within the commercial and Industrial Sector.</u> • <u>It plays a major role in the regional economy as a service centre</u> (commercial, business, transportation, administrative and office core etc.) (Note: <i>own enlargement, highlighting and underlining</i>)
Movement System	<ul style="list-style-type: none"> • N2, P2-4, R102, P230, MR166, P425 John Ross Highway and MR496 are major access and linkage systems traversing the Empangeni Node. • P166, Ngwelezane highway, Ngwelezane and Turner Road provide access and linkage within and between the other Municipal nodes.
Current Urban Form & Land Uses	<p>Social Infrastructure: Public & private administration offices, recreation, medical facilities (Note: <i>own enlargement, highlighting and underlining</i>), residential, public transport facilities, educational facilities, social/welfare facilities, SAPS, churches, post office, library, cemeteries, entertainment, magistrate court, tourism and petrol filling stations .</p> <p>Commerce & Industry: manufacturing, hotel, restaurants, informal trading, <u>retail</u>, finance & insurance, banking facilities, <u>building supplies</u>, furniture, motor showrooms, wholesalers</p> <p>Transportation: Rail and Road.</p> <p>Rail: Linked to the National System</p> <p>Road: Highways- Public (Buses, minibuses, vans & metred taxis) & Private transportation.</p> <p>Residential: Mixed used development (low-high density).</p>
Service Levels	<p>Physical Infrastructure: Water supply, waterborne system, electrification, solid waste disposal, storm-water management and telecommunication services. Existing capacity will be upgraded to accommodate increased densities and expansion of urban residential areas as well as industrial areas.</p>
Open Space/Environment	<p>Open Space and Conservation: Public parks, private open spaces and conservation areas.</p>

Note: Important sections in the above table has been underlined.

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

It is clear from the table on the previous page that:

- Empangeni is a major Centre of Employment; and
- Empangeni's role in the region is, *inter alia*, to provide a high level of choice in terms of commercial and industrial land uses. The provision of retail facilities and building supplies facilities are specifically mentioned.

The provision of the proposed Hardware Store on the site will contribute towards the creation of employment opportunities and the provisioning of building supplies facilities in Empangeni. It will thus strengthen the role of Empangeni in the Region.


The proposed development thus also complies with the uMhlathuze SDF.

11 Compliance with the uMhlathuze Land Use Scheme

11.1 Zoning and Land Use Management Considerations and Controls

The following tables have been extracted from the uMhlathuze Land Use Scheme:

LAND USE ZONE: FUEL FILLING STATION

STATEMENT OF INTENT: This zone permits activities such as service station, public garage, and a restricted amount of space devoted to restaurants, shops and related services.								
USE OF LAND AND BUILDINGS								
COLUMN 1		COLUMN 2		COLUMN 3		ADDITIONAL CONTROLS		
PERMITTED USES		CONSENT USES		PROHIBITED USES				
<ul style="list-style-type: none">• Public Garage• Rooftop Telecommunication Infrastructure• *Shop-General• Carwash Facility		<ul style="list-style-type: none">• Automotive Showroom• Freestanding Telecommunication Infrastructure• Commercial Workshop• Recreational Building• Utilities Facility• Special Use		Buildings and land uses not included in Columns 1 and 2		<ul style="list-style-type: none">• A service industrial building shall be limited to the repair and servicing of vehicles.• *A Shop limited to a Convenience Store and / or Restaurant/ Fast-food outlet is permitted when ancillary to a Service Station and not to exceed a combined Floor Area of 300m².• 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 4.1.6		
DEVELOPMENT CONTROLS								
MINIMUM ERF SIZE	UNITS PER HECTARE	FRONTAGE (WIDTH)	STREET BUILDING LINE	SIDE BUILDING LINES	REAR BUILDING LINES	HEIGHT	COVERAGE	FAR
1800m ²	N/A	36m	7.5m	3m	3m	3	70%	0.7

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

It is evident from the above tables that a Hardware Store, which falls under the “Industry - Service” land use, is not allowed on a “Fuel Filling Station” zoned erf. Hence; the purpose of this proposed rezoning application.

LAND USE ZONE: GENERAL INDUSTRY

STATEMENT OF INTENT: To provide land and buildings that permits industrial activities which may not be compatible with other industrial use and which have major externalities on the adjacent land uses. This zone permits industrial activities that may produce significant vibration, noise, fumes, odour, and high volumes of automobile and truck traffic.

USE OF LAND AND BUILDINGS

COLUMN 1	COLUMN 2	COLUMN 3	ADDITIONAL CONTROLS
PERMITTED USES	CONSENT USES	PROHIBITED USES	
<ul style="list-style-type: none">Commercial WorkshopFuneral ParlourGeneral ShowroomImpoundment AreaIndustry – GeneralIndustry – LightIndustry – SalvageIndustry – ServiceMotor Vehicle Fitment CentreMunicipal PurposesRailway InfrastructureUtilities FacilityVehicle Testing StationVeterinary PurposesWarehouseCar Wash FacilityShop – General (<80m2)	<ul style="list-style-type: none">Agricultural BuildingAgricultural IndustryAgricultural LandCrematoriumEducational Building (limited to a training facility ancillary to industrial purposes)Gambling PremisesIndustry – ExtractiveInstitution, (Restricted to a Clinic)Night Club / Bar / TavernOffice – GeneralPlace of AssemblyActive Open SpacePublic OfficePassive Open SpaceRecreational BuildingRestricted BuildingShop – FactoryShop – WholesaleWaste Transfer / Recycling CentreShop – General (>80m2)Special Use	Buildings and land uses not included in columns 1 to 2.	<ul style="list-style-type: none">A shop must be structurally part of the main industrial building It retails only products of the industry to which it relates and directly associated products.<ul style="list-style-type: none">Its total floor area does not exceed 10% of the total floor area of all buildings on the erf of 150m², whichever the lesser.There shall only be one shop for each industrial undertaking on the erf.The nature of the shop or the products to be sold is of such a nature that the council is of the opinion that the shop should be located in the General Industrial area.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 4.1.8

DEVELOPMENT CONTROLS

MIN. ERF SIZE	UNITS PER HECTARE	FRONTAGE (WIDTH)	STREET BUILDING LINE	SIDE BUILDING LINES	REAR BUILDING LINES	HEIGHT	COVERAGE	FAR
1800m²	N/A	18m	7.5m	3m	3m	UR	80%	2,00

It is evident from the above tables that “Industry – Service” is a free-entry land use in the “General Industry” zone.

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM “FUEL FILLING STATION” TO “GENERAL INDUSTRY”

“Industry – Service” is defined in the Scheme as an enterprise which is:

- (a) Primarily involved in the rendering of a service for the local community such as the repair of household appliances or the supply of household services; and
- (b) Not likely to be a source of disturbance to surrounding properties;
- (c) Not liable, in the event of fire, to cause excessive combustion, give rise to poisonous fumes or cause explosions; and
- (d) Includes a builder’s yard / **hardware store** and allied trades, laundry, bakery, dairy depot, distribution centres, storage purposes (excluding Bulk Storage as defined in the Scheme), laboratories, grooming parlour, transport and cartage activities and a workshop or other area used for the repair, restoration, lubrication and/or service of motor or leisure vehicles and/or parts thereof and/or electrical and/or mechanical equipment and may include facilities such as service bays, grease pits and wash bays, but shall not include facilities for panel beating or spray painting. (*own highlighting and underlining*)

11.2 Parking Provision

It is proposed, as reflected on the Site Development Plan (see attached at Appendix 7), to provide 41 parking bays, of which two parking bays will be for the disabled.

The table below reflects the required minimum parking bay requirements versus the actual number of parking bays proposed:

Minimum No of Parking Bays Required	16
Actual No of Parking Bays Proposed	32
Surplus No of Parking Bays provided	16

Loading and off-loading bays have also been provided.

11.3 Land Use Controls

On the Site Development Plan (see attached at Appendix 7), the following Coverage and F.A.R. has been provided:

	Coverage	F.A.R.
Maximum Permissible	80%	2.00
Proposed Actual as reflected on the Site Development Plan	46.4%	0.464

The actual F.A.R. and Coverage, as reflected on the Site Development Plan, is well below the maximum permitted Coverage and F.A.R.

11.4 Minimum Erf size

The Minimum Erf Size for the “General Industry” zoned erf is 1,800m². The site is 4,645m² and thus complies with this requirement.

12 The Need for the Proposed Rezoning

The Applicant has identified the need to develop a Hardware Store on the vacant Erf 60, Kuleka, Empangeni town. The site’s current zoning, i.e. “Fuel Filling Station” will not be developed for Fuel Filling Station purposes, since there is several Fuel Filling Stations already situated in close proximity to the site.

The applicant considers that a Hardware Store on the site will be a financially feasible option, given the fact that the site is easily accessible from all parts of the City of uMhlathuze and Empangeni’s rural hinterland where there is a large demand for building supplies.

It is possible, as mentioned in the previous Section, to obtain Council’s Formal Authority for the site to be used as “Industry – Service”, which would allowed for the site to be used for Hardware Store purposes. However, the site’s feasibility for a Hardware Store, if the zoning remained “Fuel Filling Station”, would have been significantly reduced since the F.A.R. would have been restricted to 0.5 and the Coverage to 60%.

As it is, it is proposed to develop a Hardware Store with a F.A.R. of 0.58 (see Site Development Plan attached at Appendix 7).

13 Compliance with the National Building Regulations and Building Standards Act, 1977

The site is currently vacant. Buildings plans will be submitted to the Municipality once the site has been rezoned from “Fuel Filling Station” to “General Industry”. The buildings will be substantially in accordance with the Site Development Plan and the Building Regulations and Building Standards Act, 1977, will be adhered to.

14 Desirability Considerations

14.1 The Development on the Site

The proposed Site Development Plan is attached at Appendix 7.

Provision is made for a Hardware Store on the ground floor, with a customer centre, an office and a kitchen. In addition, covered facilities are provided for the storage of various building materials. Female and male ablutions are provided on a proposed first floor.

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM “FUEL FILLING STATION” TO “GENERAL INDUSTRY”

Adequate parking bays and off-loading areas are provided on site (dealt with in more detail at 10.2 above).

14.2 Character of the Area

It is considered that the character of the area will not be adversely affected by the rezoning of the site from “Fuel Filling Station” to “General Industry”.

In fact, it is considered that the character of the area will be enhanced once the site has been rezoned and the Hardware Store constructed on the site and in operation, bearing in mind that the site currently is vacant.

14.3 Local Benefits

Local Municipal benefits will include the following:

- Continued income to the Municipality *via* the payment of rates and services;
- Contributing towards the optimal use of existing engineering and infrastructure services.

Local Community benefits will include the following:

- The provision of wider service industrial options in Empangeni, in the form of a proposed Hardware Store.

14.4 Accessibility

The site enjoys very easy access from Ngwelezane Road (P456) which links up with the old main road between Empangeni and Mtunzini (R34). The site is thus easily accessible to all residents from Empangeni, Ngwelezane and further afield.

15 Impacts of the Proposed Rezoning

15.1 Impacts on Engineering Services

15.1.1 Impact on Water

The property is already fully serviced. Should there be a need to increase services capacity, the owner will apply to the Municipality and be liable for payment. At the moment, however, there is no need to increase the level of services.

15.1.2 Impact on Sewer

The property is already fully serviced. Should there be a need to increase services capacity, the owner will apply to the Municipality and be liable for payment. At the moment, however, there is no need to increase the level of services.

There is an existing gravity main and sewer reticulation on site, which are not protected by servitudes other than the 2m omnibus servitude mentioned in the title deed. These have been indicated on the Site Development Plan (see attached at Appendix 7).

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM “FUEL FILLING STATION” TO “GENERAL INDUSTRY”

15.1.3 Impact on Electricity

The property is already fully serviced. Should there be a need to increase services capacity, the owner will apply to the Municipality and be liable for payment. At the moment, however, there is no need to increase the level of services.

15.1.4 Impact on Access, Roads and Traffic Generation

A Traffic Impact Assessment ("TIA"), dated 27 August 2018, was undertaken by NDA Consulting Engineers (Pty) Ltd (see attached at Appendix 8).

The TIA has considered the proposed development on the site, as per the Site Development Plan, in terms of traffic impact, as fully explained in the report (see TIA attached at Appendix 8). The report concludes that no mitigation measures are required and it does not foresee, from a traffic impact assessment point, any reason why the proposed Rezoning cannot be supported.

The Report concludes as follows:

- 1) The proposed development is situated on Erf 60 Kuleka, Empangeni
- 2) The proposed development is also known as No.12 Ngwelezane Road, Kuleka.
- 3) The total site area is 4 645m².
- 4) The proposed development will be rezoned from Fuel Filling Station to General Industry.
- 5) The worst-case scenario under the existing zone is Fuelling Fuel Filling Station while the proposed zone worst-case scenario is Vehicle Fitment Centre. The maximum developable area for the worst-case scenario under the proposed zoning is 4 645m².
- 6) The summary of the actual worst-case scenario trips that will be applied on the road network is illustrated below.

Trip Generation – Summarised Worst Case Scenario

Land Use		Trips/Area m ²	Rate	No. of Trips
Existing Zone - Fuelling Service Station	AM	1329	0.04	53
	PM	1275	0.04	51
Proposed Zone - Vehicle Fitment Centre	AM	4 645	3.00/100m ²	139
	PM	4 645	4.30/100m ²	200
Total New Worst Case Trips	AM	86		
	PM	149		

The worst-case scenario trips that will be applied to the road network is 86 trips in the AM and 149 Trips in the PM.

- 7) The actual development will consist of a Buildrite that will have a maximum developable area of 2 649.240m².
- 8) The tables below illustrates the total trips generated for the Existing Zone Worst case Scenario, the Proposed Zone worst-case scenario and the Actual Proposed Buildrite proposed development.

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

Summary of Trip generation- Existing Zone: Fuelling Service Station

Land Uses		Existing trips	Total Trips	Spilt Ratio	Spilt In/Out
Fuelling Service Station	AM	1329	53	100:100	53:53
	PM	1275	51	100:100	51:51

Summary of Trip generation- Proposed Zone: Worst Case Scenario

Land Uses		Area m ²	No. of Trips	Spilt Ratio	Spilt In/Out
Vehicle Fitment Centre	AM	4 645	139	65:35	90:49
	PM	4 645	200	45:55	90:110

Summary Trip Generation – Actual development Service Industry (2 649.240m²)

Land Use		Area m ²	No. of Trips	Split Ratio	Split in/out
Service Industry	AM	2649.240	24	75:25	18:6
	PM	2649.240	24	25:75	6:18

- 9) All access requirements is discussed in section 12.1 of this report.
- 10) All parking requirements is discussed in section 12.1 of this report.
- 11) The proposed development will require 47 parking bays based on the worst-case scenario and 28 parking bays based on the actual development.
- 12) All parking facilities, accesses and driveways are to be designed and dimensioned in accordance with the schedule of guidelines for off-street parking.
- 13) All mitigating measures are illustrated in Section 14.
- 14) All driveway ramps to have a maximum gradient of 15% with a minimum 30m vertical curve radius.
- 15) All internal roads are to be designed in conjunction with the Guidelines for Human Settlement planning and Design (Red Book).

15.1.5 Impact on Stormwater Management

In terms of slope: the site is relatively flat.

A Stormwater Management Plan Report has been compiled by K2014029109 (South Africa) PTY (LTD) t/a Enginuity Consult, dated September 2018 (see attached at Appendix 9).

The Report concludes as follows:

“An attenuation system will be required to facilitate a slower discharge rate for storm water exiting the site. The site will be graded after development and this will reduce risk of severe erosion anticipated after vegetation of embankments and landscaping. During the construction process the contractor is urged to have provisions in place to prevent/minimise severe erosion and damage during heavy rainfall events.

Finished ground levels are required to be sloped away from foundations and towards catchpits that tie into the stormwater system.”

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM “FUEL FILLING STATION” TO “GENERAL INDUSTRY”

15.1.6 Impact on Waste Management

Waste will be stored at a demarcated area on the site. It will be collected by the Municipality for disposal.

15.2 Environmental Considerations and Heritage

There will be no notable environmental or heritage impacts. The proposed development, on the site after its successful rezoning, is a proposed hardware Store. This does not trigger any of the activities that will require an environmental impact assessment.

16 Consents

The site takes access off Ngwelezane road (P456), which is a KZN Provincial Road. As such, it was necessary to obtain the consent from the KZN Department of Transport. Consent was duly given by the Department via a letter, dated 10 December 2018 (see attached at Appendix 20).

The following relevant sections were extracted from the letter:

2. **ONLY** the planning for the proposed **REZONING** may proceed in terms of the Spatial Planning and Land Use Management Act No 16 of 2013 read in conjunction with the uMhlathuze Municipality By-laws.
- 3.9 On assessing the Traffic Impact Assessment Report (TIA) NSA 1080 – 2018 Rev 00 dated 27 August 2018 the following comments and requirements are made.
 - 3.9.1 Subject to the Municipal approval of the application, authority is hereby granted in terms of section 10 of the Provincial Roads Act No. 4 of 2001, for the establishment of **ONLY one** access from Main Road 456 to the abovementioned property for the purpose of serving the proposed development will be permitted. This is Departmental policy and no deviation to this will be considered.
 - 3.9.2 Due to its classification in terms of RISFSA and the implementation of TRH 26, the access may in future be amended to a left-in/left out standard of access.
 - 3.9.3 All other recommendations made in the report are acceptable to this Department.
 - 3.9.4 It is also advised the in terms of section 10 (2) (d) of the said Roads Act this Department reserves the right to amend or cancel the authorisation of access or service road.
- 3.10 Adequate parking facilities must be provided within the property itself. The proposed development must comply with the number of parking bays prescribed for **GENERAL INDUSTRY 2** Gross Leasable Area (G.L.A) requirements. No on street parking will be permitted.

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

17 Conclusion

It is hereby respectfully requested that the uMhlathuze Municipal Planning Approval Authority approve the following:

- 1) The Rezoning, submitted in terms of Section 27(1)(a) of the uMhlathuze SPLUM Bylaw, of Erf 60, Kuleka, Empangeni town ("hereinafter referred to as "the site"), from "Fuel Filling Station" to "General Industry".

APPLICANT :



Coenraad H. Strachan

Registered Professional Planner (Pr. Pln A/988/1997)

Inhloso Planning cc

Date : 19 November 2019

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

Revision Date: 19 November 2019
Prepared By: Inhloso Planning cc

Proof of Payment of the Application Fee

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

Revision Date: 19 November 2019
Prepared By: Inhloso Planning cc

Power of Attorney, Company Resolution and CM22 Document

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

Revision Date: 19 November 2019
Prepared By: Inhloso Planning cc

General Plan for Kuleka, Empangeni

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

Revision Date: 19 November 2019
Prepared By: Inhloso Planning cc

Deed of Transfer

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

Revision Date: 19 November 2019
Prepared By: Inhloso Planning cc

Letter, dated 16 April 2018, from the Commission on the Restitution of Land Rights

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

Revision Date: 19 November 2019
Prepared By: Inhloso Planning cc

Existing Land Use and Zoning Maps

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM “FUEL FILLING STATION” TO “GENERAL INDUSTRY”

Revision Date: 19 November 2019
Prepared By: Inhloso Planning cc

Site Development Plan

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM “FUEL FILLING STATION” TO “GENERAL INDUSTRY”

Revision Date: 19 November 2019
Prepared By: Inhloso Planning cc

Traffic Impact Assessment

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM “FUEL FILLING STATION” TO “GENERAL INDUSTRY”

Revision Date: 19 November 2019
Prepared By: Inhloso Planning cc

Stormwater Management Plan Report

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

Revision Date: 19 November 2019
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Appendix 10

Comments from the KZN Department of Transport

APPLICATION: PROPOSED REZONING OF ERF 60, KULEKA, EMPANGENI TOWN, FROM "FUEL FILLING STATION" TO "GENERAL INDUSTRY"

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