

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

**SUBDIVISION OF THE FARM  
ADDINGTON PARK NO. 18366 INTO  
PROPOSED PORTION 1 AND  
REMAINDER, AND FOR THE  
NOTARIAL TYING OF PROPOSED  
PORTION 1 WITH REMAINDER OF  
ERF 14943 RICHARDS BAY.**

**IN THE**

**uMHLATHUZE MUNICIPAL AREA, REGISTRATION  
DIVISION GU**

**Date: November 2019**

**Submitted By:**

**Tarboton, Holder, Ross and  
Partners  
P.O Box 7  
Pietermaritzburg  
3201  
(T) 033 3453520  
(Email) thr@futurenet.co.za**

**Prepared For:**

**PJD Addison Farm (Pty) Ltd**

**Submitted To:**

**uMhlathuze Municipality  
City of uMhlathuze  
Private Bag X1004  
RICHARDS BAY  
3900**

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# **Application in terms of Sections 27(1)(e) of the uMhlathuze Spatial Planning and Land Use Management By-Law, 2017, for Subdivision of the Farm Addington Park No. 18366 into Proposed Portion 1 and Remainder, and in terms of Section 27(1)(h) for the notarial tying of Proposed Portion 1 with Remainder of Erf 14943 Richards Bay.**

## **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)(e) of the uMhlathuze Spatial Planning and Land Use Management By-Law, 2017, (the SPLUM By-law) for Subdivision of the Farm Addington Park No. 18366 into Proposed Portion 1 and Remainder.
  - b) in terms of Sections 27(1)(h) of the SPLUM By-law for the notarial tying of Proposed Portion 1 with Remainder of Erf 14943 Richards Bay.
- 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 Tarboton, Holder, Ross and Partners on behalf of the land owners, being PJD Addison Farm (Pty) Ltd for the Farm Addington Park No. 18366; and The Umhlathuze Valley Sugar Company (Pty) Ltd for Remainder of Erf 14943 Richards Bay.
- 2.2 The owner has appointed Richard Boote of Tarboton, Holder, Ross and Partners to act on his/her behalf, and the relevant Company Resolutions for the Farm Addington Park No. 18366 and Remainder of Erf 14943 Richards

Bay are attached as **Annexure 1**.

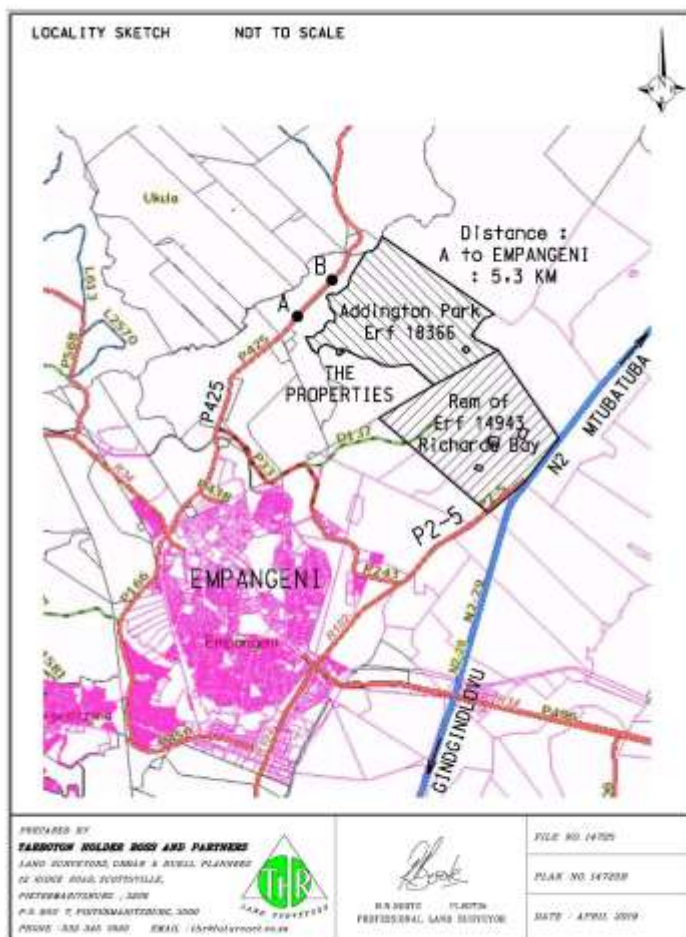
- 2.3 Consent for the application and notarial tie has been obtained from the owner of Remainder of Erf 14943 Richards Bay as outlined in Company Resolution for The Umhlatuzi Valley Sugar Company (Pty) Ltd dated 2 March 2018.

### 3. THE APPLICATION SITE

#### 3.1 Locality of the Application Site

- 3.1.1 The application site is located approximately 5,3 km from Empangeni on Main Road P425. GPS Co-ordinates at existing access:  
A: Lat 28° 42' 18.33" Long 31° 54' 13,41"  
(Refer to the locality map attached as **Annexure 2**).

**FIGURE 1: LOCALITY OF THE APPLICATION SITE**



## 3.2 Existing Development and Land Use

3.2.1 The property is an agricultural site and will continue to be utilised for agricultural purposes.

3.2.2 Surrounding land uses are also agricultural in nature.

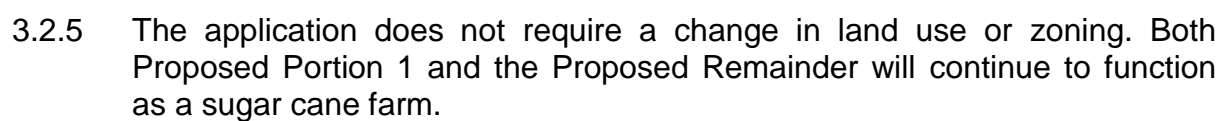
3.2.3 The property is zoned “Agriculture 1” in terms of the Umhlathuze Land Use Scheme and is subject to the subdivision of Agricultural Land Act, No. 70 of 1970. The zoning provides for the following free entry and consent uses as set out in the Scheme:

### LAND USE ZONE: AGRICULTURE 1

<b>STATEMENT OF INTENT:</b> A zone that provides for land and buildings where the primary activity is both intensive and extensive agricultural production of crops, livestock or products.		Fill: Pale Green; R 144, G 238, B 144	
USE OF LAND AND BUILDINGS			
COLUMN 1	COLUMN 2		COLUMN 3
PERMITTED USES	CONSENT USES		PROHIBITED USES
<ul style="list-style-type: none"> <li>• Additional Dwelling Unit</li> <li>• Agricultural Building</li> <li>• Agricultural Land</li> <li>• Heritage Purposes</li> <li>• Homestead</li> <li>• Hotel</li> <li>• Municipal Purposes</li> <li>• Place of Instruction</li> <li>• Plantations</li> <li>• Private Street</li> <li>• Residential - Dwelling House</li> <li>• Shop - General – (To be limited to 250m<sup>2</sup>)</li> <li>• Utilities Facility</li> </ul>	<ul style="list-style-type: none"> <li>• Agricultural Industry</li> <li>• Arts and Crafts Workshop</li> <li>• *Bed and Breakfast Establishment /Guest House</li> <li>• Camping and Caravan Park</li> <li>• Chalet Development</li> <li>• Conservation Purposes</li> <li>• Educational Building</li> <li>• Farm Stall</li> <li>• Impoundment Area (Animals Only)</li> <li>• Industry – Extractive</li> <li>• Industry – Noxious (Limited to Abattoir Only)</li> <li>• New Servitude, 15m or Wider</li> <li>• Place of Worship</li> <li>• Private Recreational Use</li> <li>• Public/Private Street</li> <li>• Racecourse</li> <li>• Railway Infrastructure</li> <li>• Recreational Building</li> <li>• Residential - Medium Density (Limited to 5 Units Including Main Dwelling and Additional Dwelling Unit)</li> <li>• Restricted Building</li> <li>• Special Use</li> <li>• Veterinary Purposes</li> <li>• Waste Transfer and/or Drop-Off Station</li> <li>• Waste Transfer and/or Recycling Centre</li> </ul>		Buildings and land uses not included in Columns 1 and 2.

			<ul style="list-style-type: none"><li>• Institution</li><li>• Lodge</li><li>• Municipal Purposes</li></ul>					
DEVELOPMENT CONTROL								
MINIMUM ERF SIZE	UNITS PER HECTARE	FRONTAGE (WIDTH)	STREET BUILDING LINE	SIDE BUILDING LINES	REAR BUILDING LINES	HEIGHT	COVERAGE	FAR
N/A	N/A	N/A	5m – Subject also to the Veld and Forest Management Act			3	12.5%	0.125
ADDITIONAL CONTROLS								
<ul style="list-style-type: none"><li>• Subject to the Subdivision of Agricultural Land Act (Act 70 of 1970), applications shall be accompanied by a consent issued by the relevant Department in terms of this Act</li><li>• Restrictions/ limitations are likely to be placed on any non-agricultural activities.</li><li>• Any change of land use from agriculture to non-agricultural purposes will generally not be supported except on an individual application basis and will require consents; these include but are not limited to the Consent Uses as listed.</li></ul> <p>Furthermore, consideration of alternatives will only be given on land which is considered to be of low potential and where the activity will complement existing farming practices, but must not negatively impact on existing or potential local or surrounding agricultural activities</p> <ul style="list-style-type: none"><li>• Any proposed changes of land use will require a detailed natural resources/agricultural study.</li><li>• The agricultural management layer which indicates the KZN Agricultural Land Potential categories should be referred to for further detail regarding optimal land uses.</li><li>• Cabinets and Chalets shall be limited in coverage and a restricted number will only be permitted.</li><li>• Camping areas will only be permitted in designated areas.</li><li>• A Place of Instruction shall refer to farm schools only.</li><li>• Any change of land use will be considered based on the following:<ul style="list-style-type: none"><li>○ The land has already been subdivided to such an extent that it is no longer agriculturally viable, in the opinion of the Department of Agriculture, Forestry and Fisheries;</li><li>○ The whole land or a significant portion has already been developed for non-agricultural purposes, which have been authorised prior to the Scheme;</li><li>○ The proposed development does not compromise the primary agricultural activity of the property;</li><li>○ The proposed development comprises a secondary activity to supplement a landowner’s income;</li></ul></li></ul> <p>It will facilitate the implementation of the Land Reform Programme and Labour Tenant Projects.</p> <ul style="list-style-type: none"><li>• For provisions relating to parking and loading refer to Clause 3.1.2.4 and 3.1.2.5</li><li>• For additional provisions refer to Clause 4.1.1.1</li><li>• Fishing for commercial purposes will require consent from the Department of Environment, Forestry and Fisheries.</li></ul>								

**FIGURE 2: ZONING OF THE APPLICATION SITE**



### 3.3 Title Deed and SG Diagram Information

- 3.3.1 The application property is 460,9275 ha in extent, as shown on SG. No. 931/2009. (Attached as **Annexure 3**).
- 3.3.2 The property is subject to the conditions and restrictions as set out in Certificate of Consolidated Title T38640/2009. (Attached as **Annexure 4**).
- 3.3.3 Bondholders Consent has been obtained (Attached as **Annexure 5**)
- 3.3.4 The following restrictive conditions of title apply to the application site:

	RESTRICTIONS
1 (E)(1)-(2) (page 3)	<p>Subject to the following conditions imposed in favour of the Tongaat-Hullett Group Limited No. 02/000610/06, its successors-in-title, as will more fully appear on reference to the Notarial Deed No. K277/98</p> <p>1. The properties shall not be used for any purpose other than, or necessarily incidental to, the farming of Sugar Cane without prior written consent of the Grantor together with additional conditions.</p> <p>2. The properties shall not be transferred, sold or disposed of to any other person, nor shall any lease be registered over the properties prior to 31/03/2048, without the prior written consent of the Tongaat-Hulett Group Limited No. 02/000610/06 or its successor-in-title, together with certain additional conditions.</p>
Comment:	Tongaat-Hulett Group Limited as per their letter dated 11 May 2018 (Attached as <b>Annexure 6</b> ) have confirmed that they have no objection to the application for subdivision as reflected in Layout Plan 14725A dated September 2018.
2(C)(3)-(4) (page 4)	<p>Subject to the following conditions imposed in favour of the Tongaat-Hullett Group Limited No. 02/000610/06, its successors-in-title, as will more fully appear on reference to the Notarial Deed No. K277/98</p> <p>1. The properties shall not be used for any purpose other than, or necessarily incidental to, the farming of Sugar Cane without prior written consent of the Grantor together with additional conditions.</p> <p>2. The properties shall not be transferred, sold or disposed of to any other person, nor shall any lease be registered over the properties prior to 31/03/2048, without the prior written consent of the Tongaat-Hulett Group Limited No. 02/000610/06 or its successor-in-title, together with certain additional conditions.</p>
Comment:	Tongaat-Hulett Group Limited as per their letter dated 11 May

	2018 have confirmed that they have no objection to the application for subdivision as reflected in Layout Plan 14725A dated September 2018.
2. A. 4. 1 – 2 (page 7)	Subject to the following conditions imposed in favour of the Tongaat-Hullett Group Limited No. 02/000610/06, its successors-in-title, as will more fully appear on reference to the Notarial Deed No. K277/98 1. The properties shall not be used for any purpose other than, or necessarily incidental to, the farming of Sugar Cane without prior written consent of the Grantor together with additional conditions. 2. The properties shall not be transferred, sold or disposed of to any other person, nor shall any lease be registered over the properties prior to 31/03/2048, without the prior written consent of the Tongaat-Hulett Group Limited No. 02/000610/06 or its successor-in-title, together with certain additional conditions.
Comment:	Tongaath-Hulett Group Limited as per their letter dated 11 May 2018 have confirmed that they have no objection to the application for subdivision as reflected in Layout Plan 14725A dated September 2018.

3.3.5 The property is also subject to the following Servitude as indicated below:

SERVITUDE	IN FAVOUR OF	SG DIAGRAM	STATUS	IMPACT ON THIS APPLICATION
Electric Power Transmission Line	Eskom	SG 931/2009	Registered	The existing servitude will not be affected

## 4. MOTIVATION FOR THE DEVELOPMENT

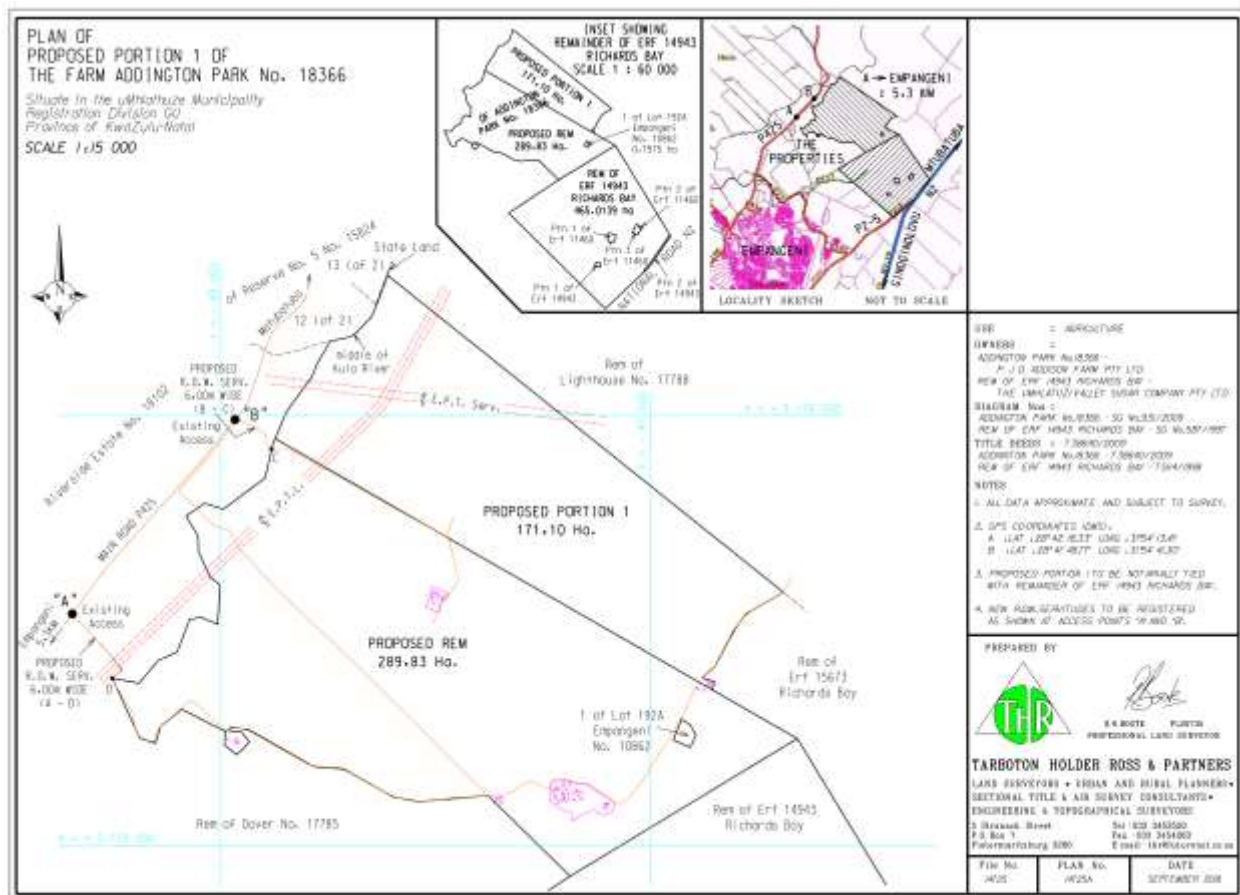
The motivation for the proposed development is supported by a number of factors, which are summarized below:

### 4.1 The Subdivision and Notarial Tie

This application is to facilitate the subdivision of the Farm Addington Park No. 18366 into Proposed Portion 1 and Remainder, and to notorially tie Proposed Portion 1 of the Farm Addington Park No. 18366 with Remainder of Erf 14943 Richards Bay. Refer to Layout Plan 14725A dated September 2018 prepared by Tarboton, Holder, Ross and Partners. (Attached as **Annexure 7**)

The subdivision layout plan is shown below:

**FIGURE 3: SUBDIVISION LAYOUT PLAN**



The purpose of the subdivision is facilitate the sale of Proposed Portion 1 of the Farm Addington Park No. 18366 to Tongaat-Hulett Group Limited. The application is a simple subdivision of agricultural land and there is no change in land use. Both Proposed Portion 1 and the Proposed Remainder will continue to function as a sugar cane farm.

The need for the subdivision is operationally and financially motivated. The farm Addington Park is owned by PJD Addison Farm Pty Ltd and is 460,9276 hectares in extent. Portion 1 which will be 171,10 ha in extent, will be sold to Umhlathuze Valley Sugar Company Pty Ltd. The Remainder will continue to function independently and will be 289,83 ha in extent. The subdivision has been agreed to by Department of Agriculture, Forestry and Fisheries as per consent 53880 dated 23 July 2018 (see Section 4.2 below).

The subdivision, Proposed Portion 1 of the farm Addington Park No. 18366 which is the portion being sold, and Remainder of Erf 14943 Richards Bay which is owned by Umhlathuze Valley Sugar Company Pty Ltd are not adjacent properties and therefore need to be notorially tied. Section 27(1)(h) of the Umhlathuze SPLUM Bylaw states that it is for the notarial tying of adjacent properties. The Bylaw does not state notarial tying of properties that are not adjacent so this is something that the

municipality will have to consider amending.

#### **4.1.1 Extent of the properties**

- (a) The parent property, the Farm Addington Park No. 18366 is 460,9276 hectares in extent.
- (b) The extent of the subdivision and remainder are as follows:  
Proposed Portion 1 of the farm Addington Park No. 18366 – 171,10 ha;  
Proposed Remainder of the farm Addington Park No. 18366 – 289,83 ha.
- (c) Remainder of Erf 14943 Richards Bay is 468,2528 hectares in extent.
- (d) Portion 1 of the farm Addington Park No. 18366 will be notarially tied with Remainder of Erf 14943 Richards Bay. The extent of the notarially tied properties will be 639,35 hectares in extent.

#### **4.1.2 Ownership**

- (a) The Farm Addington Park No. 18366 is owned by PJD Addison Farm Pty Ltd.
- (b) Remainder of Erf 14943 Richards Bay is owned by Umhlatuzi Valley Sugar Company Pty Ltd.

#### **4.1.3 Title Deeds**

- (a) The Farm Addington Park No. 18366 – T38640/2009.
- (b) Remainder of Erf 14943 Richards Bay – T5114/1998.

#### **4.1.4 SG Diagrams**

- (a) The Farm Addington Park No. 18366 – SG No. 931/2009.
- (b) Remainder of Erf 14943 Richards Bay – SG No. 587/1997.

## **4.2 Impact on Agricultural Resources**

Consent 53880 in terms of the Subdivision of Agricultural Resources Act, Act 70 of 1970 dated 23 July 2018 has been submitted with this application (Attached as **Annexure 8**). Consent has been granted for the subdivision into proposed Portion 1 and Remainder.

There is no change in land use and agricultural resources will not be affected. The same number of labourers will be required for the farming operations.

### **4.3 Impacts on Engineering Services**

#### **4.3.1 Internal roads**

4.3.1.1 The application site is adequately serviced from a roads perspective, as the application sites would continue to gain access from Main Road P425. As per the Department of Transport letter dated 15 September 2018, existing access points are to be utilised. See Section 4.5.2 below for more detail. No additional traffic will be generated as there is no change in land use.

#### **4.3.2 Water and Sewage**

4.3.2.1 The application site is adequately serviced from a sewer perspective, and no increase in services demand is expected as a result of the development. As the application site is farmland, no municipal connections are available. Should the owner wish to connect to municipal services, he/she will apply for such.

#### **4.3.3 Stormwater**

4.3.3.1 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.

#### **4.3.4 Electricity**

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

### **4.4 Impact on the Environment and Heritage Resources**

#### **4.4.1 Environmental Impacts**

There are no environmental concerns. The property is an agricultural site and there is no change in land use.

#### **4.4.2 Heritage Resources**

No Heritage Impact Assessment is required.

## 4.5 Comment from Relevant Stakeholders

### 4.5.1 Land Claims

The applicant gave notice of its intent to subdivide the property in terms of Section 11(7)(aA) of the Restitution of Land Rights Act No. 22 of 1994 on 2 October 2018. The relevant section states that:

*“11(7) Once a notice has been published in respect of any land –*

*(aA) no person may sell, exchange, donate, lease, subdivide, rezone or develop the land in question without having given the regional land claims commissioner one month’s written notice of his or her intention to do so...”*

In terms of Section 11(7) the only requirement is that one month’s written notice be given of the intention to subdivide. It is not a requirement that permission be granted for the subdivision by the Land Claims Commissioner. The land claim will continue regardless, being unaffected by any land title changes that might transpire during the course of the claim. If the claim is upheld, it will be granted on the original property per the original claims, easily defined by the relevant component properties on new land parcels that will be created per the application.

The Regional Land Claims Commissioner on 12 October 2018 indicated that a land claim over the land has been Gazetted. The property falls under the Madlebe Community Claim as indicated in Gazette Notice 737 of 2016. The Commissioner on 20 June 2018 and again on 10 September 2019 confirmed in writing that they do not object to the application, unless the properties will change the land pattern or land use (all correspondence attached as **Annexure 9**).

In this instance, the land use will remain unchanged.

### 4.5.2 Department of Transport

The Letter from Department of Transport dated 14 September 2018 at paragraph 1 states that “...the Minister as the Controlling Authority as defined in the KwaZulu-Natal Roads Act No. 4. of 2001, has in terms of Section 20 of the said Act, been pleased to approve the proposed layout as represented on the accompanying layout Plan No. 14725A...”.

Of significance, as stated in paragraph 2.3, the owner is advised of the following in terms of Section 10 of the KwaZulu-Natal Provincial Roads Act No. 4 of 2001 (Attached as **Annexure 10**):

*“2.3.1 No random access whatsoever to Main Road 425 will be permitted.*

*2.3.2 Only the existing access points to Main Road 425 (marked “A” and “B”*

*on layout Plan No. 14725A), will be permitted to serve the proposed Portion A and the Remainder of the farm Addington Park No. 18366.*

*2.3.3 The existing access points to Main Road 425 (Marked “A” and “B” on layout plan No. 14725A) shall be upgraded in consultation with and to the satisfaction of this Departments Cost Centre Manager Eshowe to a type “B3” blacktop standard.”*

Further, at section 2.5, the Department of Transport state that *“it is the applicant’s responsibility to register the 6,00m Right-of-Way Servitudes between points A - D and B – C with the Survey General’s Office, in order to secure access to the proposed Portion A and the Remainder of the farm Addington Park No. 18366.”*

#### **4.5.3 Eskom**

The Letter from Eskom dated 12 November 2018 states that there is Eskom infrastructure on the subject properties. (Attached as **Annexure 11**)

There is no objection to the proposed application subject to the following:

##### **Building Restriction for a 88-kV Overhead Power Line**

No building or other structure may be erected or installed above or below the surface of the ground, neither may any material which might endanger the safety of this power line be placed within 16 (sixteen) meters from the centre line of this power line, on either side (overall servitude width 32 meters), without prior written confirmation from Eskom.

##### **Building Restriction for a 22-kV and 11-kV Overhead Power Line**

No building or structures may be erected or installed above or below the surface of the ground. Neither may any material which might endanger the safety of this power line be placed within 12 (twelve) meters from the centre line of this power line, on either side (overall servitude width 24 meters), without prior written confirmation from Eskom.

#### **4.5.4 Telkom**

The e-mail from Telkom dated 9 October 2018 states that no Telkom infrastructure will be affected. (Attached as **Annexure 12**)

## 5. ASSESSMENT OF COMPLIANCE WITH KEY LEGISLATION AND PLANNING GUIDELINES

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

- The Provincial Growth and Development Plan (2016)
- 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 (2017/2022)
- 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:

### 5.1 The Provincial Growth and Development Plan (2016)

In terms of the Provincial Growth and Development Plan (2016) Strategic Objective 1.1 is to Develop and Promote the Agricultural Potential of KZN. This application does not take away any agricultural land. There is no change in land use.

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

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

DEVELOPMENT PRINCIPLES IN TERMS OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013				
No	Principle			How the application complies with the principle
(c)	the principle of efficiency, whereby-	(i)	land development optimises the use of existing resources and infrastructure	It optimizes the use of existing resources and infrastructure. The property is agricultural in nature and will remain agricultural. Existing resources and infrastructure for the farming operations are already in place.

### 5.3 The uMhlathuze Integrated Development Plan (2017-2022)

- 5.3.1 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).

5.3.2 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.”*

5.3.3 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”.*

5.3.4 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:

NATIONAL KPA 3 : LOCAL ECONOMIC DEVELOPMENT		
GOALS	OBJECTIVES	STRATEGIES
3.1 Viable Economic Growth And Development	3.1.2 Stimulate key sectors that promote economic growth and create jobs	3.1.2.1 Provide support for prioritised sectors

The application therefore addresses KPA 3: Local Economic Development

One of the key focus areas of the Integrated Development Plan is to grow the economy in order to ensure that the municipality generates additional revenue to support its service delivery mandate (IDP pg 231 – 232). A job creation, economic development and transformation roadmap has been developed and identifies the following key industries:

- **Agriculture, agri-processing and rural economy;**
- Tourism,
- Maritime and blue economy;
- Manufacturing;
- Township economy;
- Mining and beneficiation;
- Built environment;
- Wholesale, retail, trade and services;
- ICT and innovation. (IDP pg 232).

Agriculture is thus identified as a key sector which would contribute to job creation.

## **5.4 The uMhlathuze Spatial Development Framework**

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

5.4.2 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.

5.4.3 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.

5.4.4 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 within an area identified as having moderate agricultural land potential. It does not fall within any node and is not identified for future growth.
- The application site is within the broad outline area for the proposed new regional airport development.

5.4.5 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.

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

## **5.5 The uMhlathuze Land Use Scheme**

5.5.1 Both properties are zoned "Agriculture 1" in terms of the uMhlathuze Land Use Scheme. It is not proposed to amend the land use or zoning of the properties.

5.5.2 In terms of minimum erf size, the uMhlathuze Land Use Scheme does not prescribe a minimum erf size. However, it does require that consent be granted for the subdivision of agricultural land in terms of the provisions of the Subdivision of Agricultural Land Act, Act 70 of 1970. The relevant consent is attached as **Annexure 8**.

## **5.6 The National Building Regulations and Building Standards Act - 1977**

5.6.1 The property is an existing farm and has buildings which are related to agricultural uses. There are no building plans for structures on site.

5.6.2 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. DRAFT CONDITIONS OF ESTABLISHMENT**

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

With reference to the application submitted on behalf of PJD Addison Farm Pty Ltd, 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.14725A dated September 2018, 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 Diagrams with the Surveyor General's Office**

The owner shall lodge relevant documents and diagrams relating to the proposed subdivision and notarial tie with the Surveyor General for approval and submit a certified copy of the approved diagram to the Municipality within 30 days after the date on which the Surveyor-General has approved the diagram.

#### **2. Lodging in the Deeds Office**

When registration is sought, a copy of this decision, the approved diagrams together with the deeds and other documents that the Registrar of Deeds may require for the registration of the subdivision and notarial tie, 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.

3. Notarial Tie

Upon registration of Portion 1 of the Farm Addington Park No. 18366, such Portion and the Remainder of Erf 14943, Richards Bay, shall be notarially tied.

**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, PJD Addison Farm Pty Ltd, is to signify in writing to the Municipality, formal acceptance of the conditions subject to which the application is approved.

2. Engineering Services

2.1 Municipal Services

The owner shall note that the property is considered unserved from a Municipal perspective, as it is agricultural land. Should the owner require Municipal services connections, the relevant fees as required shall be paid to the Municipality or relevant service provider.

2.2 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 T10/2/2/4062/1, dated 14 September 2018.

Proof of compliance shall be submitted.

**C. IMPOSITION OF SERVITUDES**

1. Right-of-way Servitude

Two right-of-way servitudes not less than 6 metres in width, as shown on the approved layout plan, and traversing the farm Riverside Estate No. 18102 are to be

surveyed in accordance with the Survey Regulations and registered in favour of Proposed Portion 1 and Remainder of the farm Addington Park No. 18366 in order to ensure access to such portions.

## **D. 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 2 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. Telkom**

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. No underground Telkom infrastructure will be affected.

### **4. Eskom**

Attention is drawn to Eskom's requirement that no building or structure is to be permitted within sixteen metres either side of the centre line of the 88 kV Overhead Power Line, within twelve metres either side of the centre line of the 22 kV Overhead Power Line, and within twelve metres either side of the centre line of the 11 kV Overhead Power Line.

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.

## **7. CONCLUSION**

- 7.1 The motivation clearly sets out the land development application.
- 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 Section/s 27(1)(e) and (h) of the the the uMhlathuze Spatial Planning and Land Use Management By-Law, to:
  - a) Subdivide the Farm Addington Park No. 18366 into Proposed Portion 1 and Remainder; and
  - b) Notarially tie Proposed Portion 1 with Remainder of Erf 14943 Richards Bay.