

Memorandum in support of an application in terms of the eThekweni Municipality: Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) to amend the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme by rezoning Erf 301, Botha's Hill, from Land Use Management Holding Area to General Commercial 1: situated at Number 2 Labistour Place, Botha's Hill.

Date: 30 March 2023



Prepared for: **Mnando Investments Pty (Ltd)**

(Registration 2017/027720/07)

Prepared by: **Pozza Planning and Development Consultants (Pty) Ltd.**

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## 1.Introduction and Background

- 1.1 The subject property is Erf 301, Botha's Hill, measuring 1853 m<sup>2</sup> (one thousand eight hundred and fifty-three square metres) in extent and it is situated at number 2 Labistour Place, Botha's Hill. The property falls within the development control area of the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme and is currently zoned Land Use Management Holding Area. The subject property is owned by Mnando Investments Proprietary Limited (Registration 2017/027720/07).
- 1.2 The application is based on an existing development, of which the property owner was not aware that the subject property falls within the requisites of the Land Use Scheme due to its location and proximity to kwaNyuswa rural area. During the development phase there was a team that lodged a special consent, which left the property owner believing that everything was in order until recently. However, upon establishing that compliance was required irrespective of the location, the property owner is committing himself to ensuring that he complies by all means possible and thereby ratify the errors that were not addressed during the development stage.
- 1.3 As a result, the applicant wishes to rezone the property so it can comply and enable it to reach its maximum potential by rezoning from land use management holding area to general commercial 1. The building is already operating as a small-scale shopping centre with U-Save being the key tenant and a few local entrepreneurs (including doctors rooms, hair salons, banking ATMs etc). The applicant now intends on ratifying and ensuring compliance with all planning approvals in line with municipal guidelines.

## 2.The Applicant, Category of Application and Planning Enquiry

- 2.1 Section 21 (4) (a) of Chapter 7 of the eThekweni Municipality: Planning and Land Use Management Second Amendment By-Law, 2021 (Notice 95 of 2021) (**the By-Law**) makes provision for the registered owner of the property to submit a

land development application to the eThekweni Municipality. Whilst Section 21(4) (b) allows for a submission by “a person acting on behalf of the owner in terms of a written consent to that effect or in any other capacity”.

- 2.2 Thus, it is recorded that in this instance the applicant is Mnando Investments Proprietary Limited (Registration 2017/027720/07) who is the registered owner of Erf 301 Botha’s Hill, with Deed of Transfer No T 17 12556/2017. Refer to attached **Annexure A** for ease of reference.
- 2.3 The application is thus submitted by Pozza Planning and Development Consultants (Pty) Ltd, (Registration number 2014/224129/07), acting on behalf of the land owner, as per the attached written consent **Annexure B**.
- 2.4 Section 25(1) of Chapter 8 of the By-law stipulates that the municipality must categorise all land development applications. This application to rezone land is category 3 application in terms of section 28(2)(f) of the By-law.
- 2.5 Section 22 of the By-law requires the applicant to consult with the municipality prior to making a land development application. In that regard an online planning enquiry was completed on the 25<sup>th</sup> of August 2022 and referenced ENQ202208250021/OW.
- 2.6. Application fees payment will be made on the .....2023, Proof of Payment attached as **Annexure C**.

### 3.Intent and Purpose of the Application

- 3.1 The intent and purpose of this application is to obtain the development rights for the proposed general commercial 1 on Erf 301 Botha’s Hill, in eThekweni Municipality.
- 3.2 Erf 302 is owned by Telkom and it covers the total area of ..... square metres in extent. In an endeavour to solve the parking issues, Mnando Investments

Proprietary Limited submitted an application letter to purchase Erf 302 from Telkom. Telkom's response advised Mr Langa of Mnando Investments Proprietary that, currently Telkom is undertaking the restricting process and that once the restructuring process is concluded, the land disposal process would be undertaken. The two parties agreed on a 5-year land lease agreement as a temporary measure and agreed that the subject property would be utilised only for parking of vehicles. Refer to attached **Annexure D** for the lease agreement.

- 3.3 The application is made in terms of Chapter 4, Section 39 (2) (b) of the KwaZulu-Natal Planning and Development Act of 2008 (Act No.6 of 2008) and in terms of Chapter 6, Section 33 (1) that reads with Section 45 (1) (a) of the Spatial Planning and Land Use Management Act (Act No. 16 of 2013) for the approval of the general commercial 1 development on ERF 301, Botha's Hill, eThekweni Municipality.

## 4.The Vision and Mission of eThekweni Municipality

- 4.1 In motivating for this application for the proposed general commercial 1 development, it is important to address the possibilities arising from the Vision of eThekweni Municipality, which reads as follows:

**“By 2030 eThekweni Municipality will enjoy the reputation of being Africa’s most caring and livable city, where all citizens live in harmony”.**

The Vision of eThekweni Municipality will be achieved by growing its economy and meeting people's needs so that all citizens enjoy a high quality of life with equal opportunities, in a city that they are truly proud of.

- 4.2 In terms of the eThekweni Municipality Spatial Development Framework (SDF) 2022, the application give effect to the SPLUMA development principles. The development principles provide guidelines for decision making in terms of this development. These development principles form the basis for decision made by the Municipality, relevant authorities, stakeholders and potentials investors. The development principles are as follows:

- a) Spatial Justice; - past spatial and other development imbalances must be redressed through improved access to and use of land;
- b) Spatial Sustainability; - promote land development that is within the fiscal, institutional and administrative means of government, give special consideration to the protection of prime agricultural land, uphold land use measures in accordance with environmental management instruments, promote land development in sustainable locations and limit urban sprawl, consider all current and future costs to all parties in the provision of infrastructure and social services to ensure the creation of viable communities;
- c) Efficiency; optimise the use of existing resources and infrastructure
- d) Spatial Resilience; - flexibility in spatial plans and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks, and
- e) Good Administration – all spheres of government must ensure an integrated approach to land use and land development; all departments must provide their sector input and comply with the prescribed requirements and follow a transparent public process.

4.3 The proposed development is in line with eThekweni Municipality's Spatial Development Framework (SDF) 2022, which seeks to promote commercial development. The main intention of this proposed development is to provide additional services in the area that addresses socio-economic matters within the Botha's Hill area and through sustainable development principles and objectives.

4.4 The development aims to promote aesthetic appeal of the area and create job opportunities for the local people.

## 5. General Site Information

### 5.1 Local Authority

The application site is located in the jurisdiction of eThekweni Municipality.





## LOCALITY MAP

*Figure 1: Locality Map of the site - 2 Labistour Place*

The site is ideally located along Manqoba Road which is an existing movement corridor within the Both's Hill node as identified in the Shongweni LAP. The site is within the vicinity of already well established business and community facilities.

### 5.2 Property Description

The property that forms the subject of this application is described as Erf 301, Botha's Hill herein referred to as "**the site**" and which is situated on **number 2** Labistour Place in Botha's Hill.

### 5.3 Property Size


The site measures 1853 (one thousand eight hundred and fifty-three) **square metres** in extent and is registered to the ownership of Mnando Investments Proprietary Limited (Registration 2017/027720/07) Deed of Transfer No T 17 12556/2017 dated 11<sup>th</sup> May 2017. A copy of the Title Deed (**Annexure A**) and Surveyor General's Diagram SG No 6544/1950 are attached as below Figure 2.

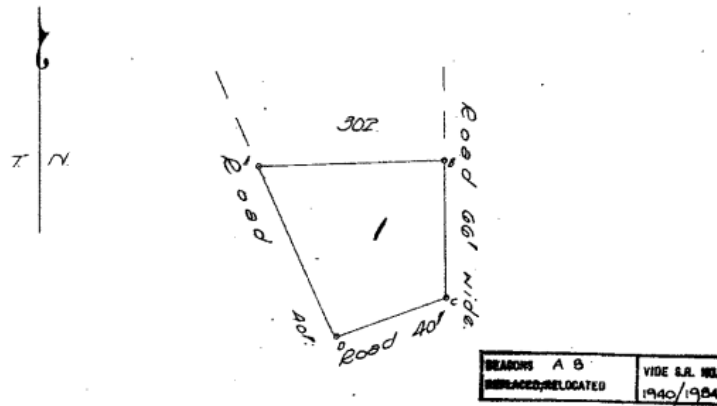
SG. 6544/1950

ORIGINAL PLAN No. 47412

S.G.N. 6544/1950

SIDES ENGLISH FEET	ANGLES OF-DIRECTION	CO-ORDINATES	
		Y	X
AB 165.21	A 67. 07.20		
BC 126.46	B 30. 00.00		
CD 107.13	C 100. 01.00		
DA 173.20	D 34. 51.40		

Approved  
  
 Surveyor General  
 23-11-1950



Reg. Div.  
**FT**

Beacons  
 A.B.C.D. 4/8" pegs in stones

NOW REGISTERED AS LOT 301  
 ...BOTH'S HILL TOWNSHIP.

SCALE 1 IN. 1250.

The Figure A.B.C.D.

1853 m<sup>2</sup>

represents

19,944 Sq. ft

of Land being

Lot 301 of Both's Hill Township of the farm Aazogey Kraai No. 823 of 1934 situate in the County of Pietermaritzburg, Province of Natal

Surveyed in May, 1934, by me,

  
 Land Surveyor


This Diagram relates to <i>Transfer</i> No. 232/1952. 14-1-52.  Registrar of Deeds. R. S. 9887 J. C. S. & Co.	Original Diagram is G. Vol. No. 20 fol. 22 relating to Deed of Grant No. 853.	File No. <del>4006</del> Survey Records 4006 Compilation <del>1952</del> Degree Sheet 59. Tracing P150-226 General Plan
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Figure 2: SG Diagram

#### 5.4 Cadastral Configuration

The site has a configuration as depicted by the extract of the Surveyor General Diagram No 6544/1950 presented below, of which the illustration further shows the dimensions of the site boundaries.

#### 5.5 Site Encumbrances

There are no restrictive conditions of the title in the Deed of Transfer No. T 17 12556/2017 dated 11<sup>th</sup> May 2017, that prevent or impede the rezoning of the site as proposed from Land Use Management Holding Area to General Commercial 1 for a purpose of the already developed centre. See **Annexure A** for copy of the Title Deed.

#### 5.5 Existing Land Uses

#### 5.6 Surrounding Land Uses

#### 5.7 Access to the Site

Access to the site is currently from Manqoba Road. Most of the road accessibility for the broader area is running past the proposed site to the large rural township development further to the north.

## 6. Land Legal Overview

The basic general information necessary to understand the context of the site is provided with the following sections:

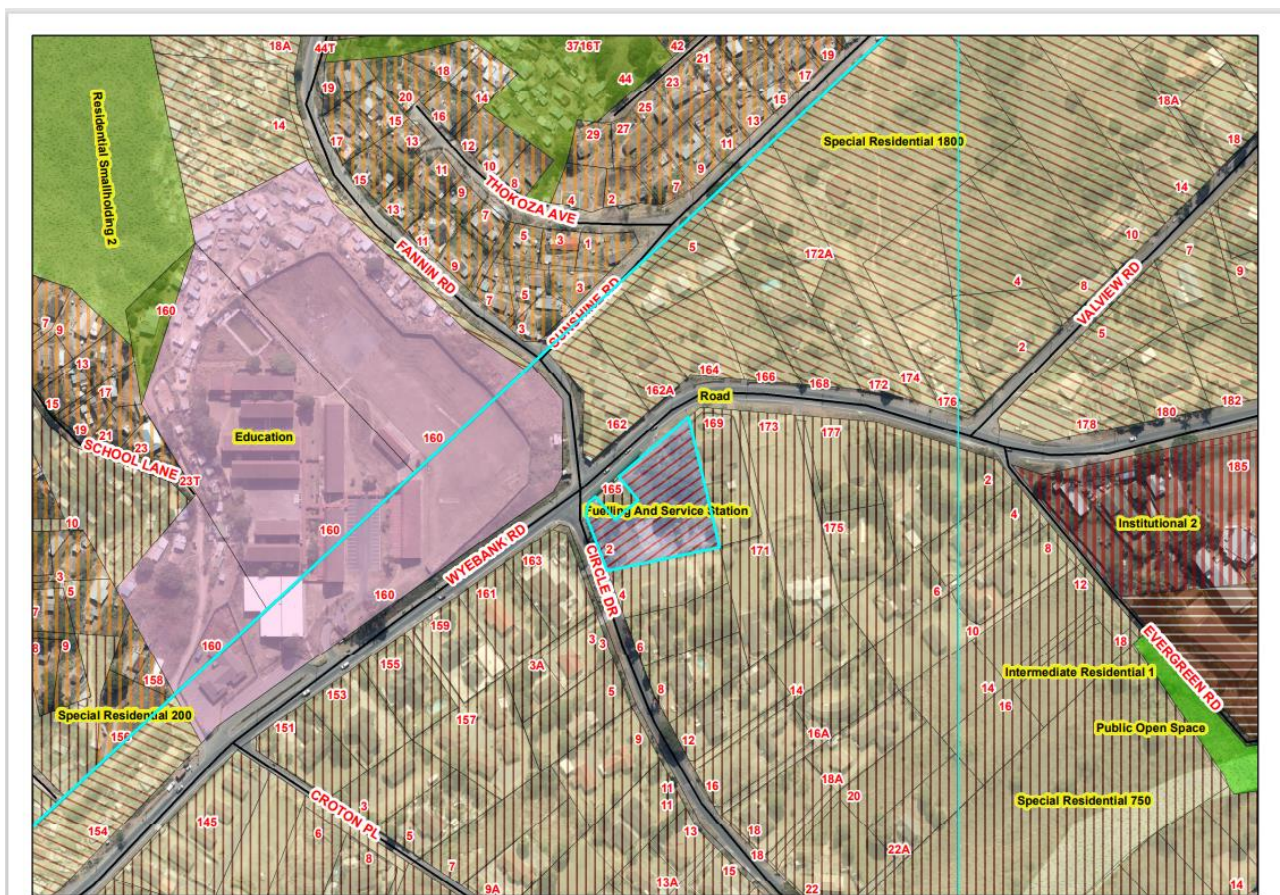
### 6.1 Property Ownership

Mnando Investments Proprietary Limited (Registration 2017/027720/07) is the registered owner of Erf 301 Botha's Hill, with Deed of Transfer No T 17 12556/2017.

### 6.2 Existing Zoning and Land Use Rights

The subject site is currently within eThekweni Municipality Land Use Scheme. The current zoning for the property falls within the development control area of the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme, in terms of which it is zoned Land Use Management Holding Area. Refer to figure 4 below for a map depicting the existing land use zones in the area.

Map 3 : Existing Land Use



The development facilitation table for Land Use Management Holding Area zone as per the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme, is presented below on figure 5 and provides the development controls currently applicable to the site, which allows the controls to be determined on application.

The following controls are proposed for this development:

Development Parameters as proposed for this development						
Space About Buildings		Dwelling units per ha.	Minimum erf size	Height in storeys	Coverage	Floor Area Ratio
Building Line Front	Building Lines side and rear					
See additional controls otherwise, to be determined on site	See additional controls otherwise, to be determined on site	To be determined on application	N/A	To be no higher than the highest flanking sites without seeking special consent, otherwise, to be determined on site.	To be no higher than the flanking sites without seeking special consent, otherwise, to be determined on site.	To be no higher than the flanking sites without seeking special consent, otherwise, to be determined on site.

The general commercial 1 zone contains controls that give consideration to relevant factors concerning the Shopping Complex/Mall being undertaken in relation to the surrounding environment. The development parameters in terms of building controls are in line with the nature and character of the surrounding developments.

The development underlies planning principles by:

- Adding to the integrated development and allowing for access to commercial facilities to areas at the edge of the city.
- Ensuring and encouraging sustainable development of the area.
- Restructuring the town by allowing access to employment opportunities to surrounding local residents.
- Poverty alleviation through employment opportunities

- Economic development, enabling local, national and international economic visibility thereby potential for future economic development.
- Efficient development through the optimal use of surrounding infrastructure and resources
- Building on the existing mix use nature of the area, in terms of creating a uniqueness of place.

The subject property measures 1853m<sup>2</sup> in extent and is situated at No.2 Labistour Place in Botha's Hill and is currently zoned Land Use Management Holding area. The proposed General Commercial 1 zoning will freely permit the current development of a small-scale shopping centre (for ratification), in terms of the provisions of the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme.

The application is based on the existing development. It is submitted that the property owner was unaware that the subject property falls within the requisites of the Land Use Scheme owing to its location and proximity to KwaNyuswa rural area. During the development phase, there was a team that lodged a special consent, which left the property owner under the impression that everything was in order until recently when he established that a rezoning application needs to be submitted.

However, upon establishing that compliance was required irrespective of the location, the property owner hereby commits itself to ensuring that they comply by all means necessary and thereby ratify the errors that were not addressed during the development stage.

The applicant notes the encroachment resulting from the development on the neighbouring sites (being Telkom owned site, Erf 302 and a municipal property). At the time of the development, the applicant was ill-advised hence the need to ratify now. In order to address the above, a lease agreement has been signed with Telkom in an endeavour to obtain approval and permission to utilise the site. The applicant and Telkom are in the process of finding mutual conditions and processes to have the site disposed and transferred through to the applicant as soon as the restructuring processes have been completed. Due to the delays these processes take, it was agreed

by both parties to have the agreement of lease signed in the meantime so as to ensure that all other processes endeavouring to ensure compliance are not stalled.

In respect of the municipal encroachment, the applicant is in the process of submitting and encroachment application which is anticipated before the submission of the rezoning application or simultaneously. These are the remedial measures that the applicant is taking in efforts of expediting and addressing all the issues.

Consequently, the applicant wishes to have the property rezoned so that it can be compliant and be enabled to reach its maximum potential by rezoning to General Commercial 1. The building is already operational as a small-scale shopping centre with U-Save being the key tenant and a few local entrepreneurs (including doctors rooms, hair salons, banking ATM's and so forth) in the building. The applicant now intends on ratifying and ensuring compliance with all planning approvals congruent to municipal guidelines.



Figure 5 Development control for the existing zone: eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme

ZONE: LAND USE MANAGEMENT HOLDING AREA						
<p><b>SCHEME INTENTION:</b> To provide, preserve, use land or buildings for areas previously not subject to a land use management scheme, including, at the discretion of the eThekweni Municipality, Ancillary uses may include the use of such premises for offices, shops and recreational, business and residential purposes.</p> <p><b>P COLOUR REFERENCE:</b> Olive green and mauve bands</p>						
PRIMARY	SPECIAL CONSENT	PRECLUDED				
<ul style="list-style-type: none"> <li>• Agricultural Land</li> <li>• Conservation area</li> <li>• Dwelling House</li> <li>• Government/Municipal</li> </ul>	<ul style="list-style-type: none"> <li>• Action Sports bar</li> <li>• Adult Premises</li> <li>• Agricultural Activity</li> <li>• Airport</li> <li>• Animal facility</li> <li>• Arts and Crafts Workshop</li> <li>• Betting Depot</li> <li>• Boarding House</li> <li>• telecommunications infrastructure</li> <li>• Builder's Yard</li> <li>• Car Wash</li> <li>• Cemetery/crematorium*</li> <li>• Chalet Development</li> <li>• Container Depot</li> <li>• Convention Centre</li> <li>• Correctional Facility</li> <li>• Crèche</li> <li>• Direct Access Service Centre</li> <li>• Display Area</li> <li>• Educational Establishment</li> <li>• Escort Agency</li> <li>• Flat</li> <li>• Flea Market</li> <li>• Fuelling and Service Station</li> <li>• Funeral Parlour</li> <li>• Garden Nursery</li> <li>• Health &amp; Beauty Clinic</li> <li>• Health Studio</li> <li>• Hotel</li> <li>• Industry – Extractive</li> <li>• Industry – General</li> <li>• Industry – Light</li> <li>• Industry – Noxious</li> <li>• Landfill</li> </ul>	<ul style="list-style-type: none"> <li>• Institution</li> <li>• Laundry</li> <li>• Mobile Home Park and Camping Ground</li> <li>• Mortuary</li> <li>• Motor Display Area</li> <li>• Motor Garage</li> <li>• Motor Vehicle Test Centre</li> <li>• Motor Workshop</li> <li>• Multiple Unit Development</li> <li>• Museum</li> <li>• Nature Reserve</li> <li>• Night Club</li> <li>• Office</li> <li>• Office – Medical</li> <li>• Parkade</li> <li>• Pet Grooming Parlour</li> <li>• Place of Public Entertainment</li> <li>• Place of Public Worship</li> <li>• Recycling Centre</li> <li>• Reform School</li> <li>• Refuse Disposal**</li> <li>• Restaurant / Fast Food Outlet</li> <li>• Restricted Building</li> <li>• Retirement Centre</li> <li>• Riding Stables</li> <li>• Scrap Yard</li> <li>• Shop</li> <li>• Student Residence</li> <li>• Special Building</li> <li>• Transport Depot</li> <li>• Truck Stop</li> <li>• Utilities Facility</li> <li>• Veterinary Clinic</li> <li>• Warehouse</li> <li>• Zoological Garden</li> </ul>	<ul style="list-style-type: none"> <li>• N/A</li> </ul>			
ADDITIONAL CONTROLS						
<ol style="list-style-type: none"> <li>1. All landscaping shall be to the discretion of the Municipality.</li> <li>2. Existing Permissions to Occupy, Leases or similar legal agreements shall not be affected by this land use template.</li> <li>3. Rezoning and land use shall be guided, where applicable, as contemplated by the approved Municipal IDP, Municipal SDF and approved guiding plans derived from them.</li> <li>4. * The requirement for Special Consent may be waived for a private cemetery, for the burial of deceased family members, but shall be subject to full compliance with the eThekweni Municipality: Cemeteries and Crematoria By-law 2015 (or any subsequent replacement bylaw).</li> <li>5. ** The requirement for Special Consent may be waived for domestic waste disposal, on premises used for residential purposes, but shall be subject to full compliance with the eThekweni Municipality: Waste Removal By-law, 2016 (or any subsequent replacement bylaw).</li> <li>6. For safety reasons all buildings should be set back from roads: <ul style="list-style-type: none"> <li>- Un-surveyed Main Roads: 30m measured from the centre line of the road.</li> <li>- Un-surveyed District Roads: 25m measured from the centre line of the road.</li> <li>- Un-surveyed Municipal Roads: 15m measured from the centre line of the road.</li> </ul> </li> <li>7. Accommodation for parking and loading to be provided on the erf as per Section 8</li> </ol>						
DEVELOPMENT PARAMETERS						
SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM ERF SIZE	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
BUILDING LINE: FRONT	BUILDING LINES: SIDE AND REAR	To be determined on application	N/A	To be no higher than the highest flanking sites without seeking special consent, otherwise, to be determined on site	To be no higher than the flanking sites without seeking special consent otherwise, to be determined on site	To be no higher than the flanking sites without seeking special consent otherwise, to be determined on site
See additional controls otherwise, to be determined on site	See additional controls otherwise, to be determined on site					

### 6.3 Proposed Zoning of the Site

This is a Category 3 application in terms of section 28(2)(f) of the By-law to amend the eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme by rezoning Erf 301, Botha's Hill, from Land Use Management Holding area to General Commercial 1.

The applicant's intention is to rezone the site to General Commercial 1. Section 22 of the By-law stipulates that the applicant must consult with the municipality prior to making a land development application. In that regard, an online planning enquiry was completed on the 25<sup>th</sup> of August 2022 and referenced ENQ202208250021/OW.

The site is ideally located along the Manqoba Road, which is an existing movement corridor with established business and community facilities. The area services several communities, and the site is centrally located and easily accessible.

The existing development (small-scale shopping centre) brings in fresh and relevant character in the area considering that the area is rural in nature. This will further increase the property values of the surrounding properties and uplift the socio-economic status of the people in the area.

Figure 6 Development control for the existing zone: eThekweni Municipal Land Use Scheme: Outer West Sub-Scheme

ZONE: GENERAL COMMERCIAL 1						
<p><b>SCHEME INTENTION:</b> To provide, preserve, use land or buildings for medium impact commercial purposes. Accommodation of commercial or business activities within a residential area where the commercial activity provides a service to the residential community and is not detrimental to the residential amenity of the area. <b>MAP COLOUR REFERENCE:</b> Blue</p>						
PRIMARY		SPECIAL CONSENT		PRECLUDED		
<ul style="list-style-type: none"> <li>Action Sports bar</li> <li>Builder's Yard</li> <li>Car Wash</li> <li>Conservation area</li> <li>Flat*</li> <li>Flea Market</li> <li>Government/Municipal</li> <li>Health &amp; Beauty Clinic</li> <li>Laundry</li> <li>Multiple Unit Development</li> <li>Office</li> <li>Office – Medical</li> <li>Pet Grooming Parlour</li> <li>Place of Public Entertainment</li> <li>Private Open Space</li> <li>Restaurant / Fast Food Outlet</li> <li>Shop</li> </ul>		<ul style="list-style-type: none"> <li>Adult Premises</li> <li>Agricultural Land</li> <li>Arts and Crafts Workshop</li> <li>Betting Depot</li> <li>Boarding House</li> <li>telecommunications infrastructure</li> <li>Convention Centre</li> <li>Crèche</li> <li>Display Area</li> <li>Educational Establishment</li> <li>Funeral Parlour</li> <li>Garden Nursery</li> <li>Health Studio</li> <li>Hotel</li> <li>Motor Display Area</li> <li>Motor Workshop</li> <li>Night Club</li> <li>Parkade</li> <li>Place of Public Worship</li> <li>Retirement Centre</li> <li>Recycling Centre</li> <li>Special Building</li> <li>Warehouse</li> </ul>		<ul style="list-style-type: none"> <li>Agricultural Activity</li> <li>Airport</li> <li>Animal facility</li> <li>Cemetery/crematorium</li> <li>Chalet Development</li> <li>Container Depot</li> <li>Correctional Facility</li> <li>Direct Access Service Centre</li> <li>Dwelling House</li> <li>Escort Agency</li> <li>Fuelling and Service Station</li> <li>Industry – Extractive</li> <li>Industry – General</li> <li>Industry – Light</li> <li>Industry – Noxious</li> <li>Institution</li> <li>Landfill</li> </ul>		<ul style="list-style-type: none"> <li>Mortuary</li> <li>Mobile Home Park and Camping Ground</li> <li>Motor Garage</li> <li>Motor Vehicle Test Centre</li> <li>Museum</li> <li>Nature Reserve</li> <li>Reform School</li> <li>Refuse Disposal</li> <li>Riding Stables</li> <li>Scrap Yard</li> <li>Transport Depot</li> <li>Truck Stop</li> <li>Utilities Facility</li> <li>Veterinary Clinic</li> <li>Zoological Garden</li> </ul>
ADDITIONAL CONTROLS						
<ol style="list-style-type: none"> <li>*Excluding Hotel</li> <li>Accommodation for motor vehicles to be provided on the erf as per Section 8</li> <li>Subject to the provisions of a sewage disposal system to the satisfaction of the Municipality.</li> <li>Other than for a manager's or caretaker's flat, where residential use is included in a composite building the residential portion shall not exceed a FAR of 0.35 and coverage of 50%.</li> </ol>						
DEVELOPMENT PARAMETERS						
SPACE ABOUT BUILDINGS		DWELLING UNITS PER HECTARE	MINIMUM SUBDIVISION SIZE	HEIGHT IN STOREYS	COVERAGE	FLOOR AREA RATIO
BUILDING LINE: FRONT	BUILDING LINE: SIDE AND REAR					
0 m / For Multi Unit Development site : 7.5m	3 m / Multi Unit Development site : 4.5m	N/A	Exclusively commercial-450 m <sup>2</sup> /Commercial and Residential-1800 m <sup>2</sup>	3	80%/ Residential 50%	1.00/ Residential 0.35

The surrounding vicinity has very limited retail facilities and the residents drive all the way to Hillcrest, Waterfall and Pinetown to access decent supermarkets. A successful rezone will present better opportunities.

#### 6.4 Conditions of Title (Restriction Conditions in Title Deed)

There are conditions in the title deeds that can restrict this development from taking place in the subject site. Refer to the Title Deeds attached for ease of reference.

#### 6.5 Mineral Rights and Holder Consent

The site falls within an existing township establishment, any mineral rights issues would have been dealt with, during the formal establishment process of the town. The Title Deed does not reflect any Mineral Rights.

## 6.6 Bond Holders Consent

After examination of the Title Deed, there is no bond registered on the property. Refer to **Annexure C: Title Deed & Conveyance Certificate** for confirmation of this.

## 6.7 Registration of Servitudes

No servitudes are registered against the subject portion/s of land, within which the Title Deed, or at the Surveyor General. Refer to **Annexure C: Title Deed & Conveyance Certificate** for confirmation of this.

## 6.8 Encroachments

Encroachment by eThekweni Municipality through the approved township establishment layout plan and encroachment by Mnando .....on P528. Refer to the Township Establishment Layout Plan attached.

## 6.9 Relaxation????/

# 7. Physical Characteristics of The Site

## 7.1 Topography, Slope and Drainage

The topography of the site is flat and suitable for the proposed development. There are no dams, rivers and /or streams near the proposed site. The proper drainage system exists especially along the main road.

## 7.2 Floodline and Wetland Analysis

The subject site is not in proximity of floodline and wetlands. The proposed development confirms with Section 114 of the National Water Act, 1996 (Act 36 of 1998).

# 8. Need and Desirability

The main intention of this section is to provide evidence that there is a need for additional commercial development services in Botha's Hill which will also promote local economic development and entrepreneurship. The proposed development will be evaluated in terms of the strategic development plans of eThekweni Municipality, such as Integrated Development Plan and Spatial Development Framework.

## 8.1 The Need

The existing Botha's Hill development trends indicate that there is a demand for additional commercial services in the area. The proposed development will offer

additional commercial facility to the residents and visitors of KwaNyuswa, Valley of Thousand Hills, Botha's Hills and surrounding areas.

The proposed development will not have a negative impact to the existing development **but will promote competition**. The applicant intends to obtain development approval for a shopping centre to the extent of 1853 m<sup>2</sup>.

## 8.2 Desirability

As much as the need has been identified for the proposed development, the current site is a desirable location for the proposed development.

The proposed site is situated **north-west** of Botha's Hill. It is surrounded by commercial, administrative services (government), residential, health facilities, informal trading (minimal), workshops, etc the land uses. The application is highly accessible through P528 (Manqoba Road) traversing Botha's Hill. **In terms of the Municipal Spatial Development Framework, P528 (Manqoba Road) is classified as Primary corridor connecting with the local access roads as well as the Old Main Road to Drummond, Pietermaritzburg, Hillcrest, Pinetown and Durban.**

The existing road P528 (Manqoba Road), has significant capacity to handle the additional traffic generation and will therefore have no negative impact on the traffic flow and will not pose any nuisance in the surrounding area. **Primary corridors (Socio-economic function-multiple functions).**

The proposed development has positive implications with regards to the socio-economic services including the provision of job creation, pre and post construction phase.

The area has very limited retail facilities, however, the proposed development will add value in the surrounding area by providing convenience and level of choices to the community. It will contribute to socio-economic values of the Botha's Hill **as a secondary (level 2) economic node** of the municipality.

## Figure 11: Proposed Land Use Map

??/

### 8.3 Management of the Proposed Development

The development will be managed by the developer guided by the conditions of the establishment that will be determined by the Municipality and other relevant development authorities. The proposed development will in future be managed via the mechanisms provided in the land use management controls of the eThekweni Municipality Land Use Scheme and Bylaws.

#### 8.3.1 Municipal Strategic Planning Directives

##### 8.3.1.1. *Integrated Development Plan (IDP): 2022/2023*

The proposed development is in line with the provisions of the Municipal Integrated Development Plan. eThekweni Municipality 2022/2023 IDP contains six (6) priority strategic priority areas that need to be taken into account in order to achieve its vision and address the development challenges. These are, namely:

- a) A safe city
- b) An accessible city ;
- c) An environmentally sustainable city;
- d) A city creating sustainable livelihoods;
- e) A socially cohesive city
- f) A financially sustainable city

##### 8.3.1.2 *Spatial Development Framework (SDF)*

eThekweni Municipality SDF has been prepared taking into consideration the National and Provincial legislation and policy framework. The primary purpose of the eThekweni Municipality SDF is to represent the spatial development goals of the Municipality that result from an integrated consideration and sifting of the spatial implications of different sectoral issues.

eThekweni Municipality SDF informed and guided by the following principles:

- Areas of environmental interest
- Settlement patterns and structure
- Movement patterns and routes
- Areas presenting opportunities

- Areas in need of intervention

The proposed development is situated within the boundaries of the New Hanover which is the primary node and primary economic hub of Umshwathi Municipality.

The proposed development addresses the following principles which are largely based on the Spatial Planning and Land Use Management Principles:

- The principle of spatial justice
- The principle of spatial sustainability
- The principle of efficiency
- The principle of spatial resilience
- The principle of good administration

The proposed development is situated in Botha's Hill, eThekweni Municipality, which is classified as a Secondary (Level 2) node. It will contribute towards job creation. Refer to Figure-11

## 9. Botha's Hill Retail Market Study

Urban Studies conducted Botha's Hill Retail Market Study in 2021, and the main objectives of the research were as follows:

- To understand the dynamic nature of the surrounding market;
- Population and catchment area analysis;
- Market profile and changes taking place;
- To understand the dynamic nature and growth prospects of the market;
- To focus on all the new developments taking place in the surrounding market;
- To quantify the current and future retail market potential for the proposed site
- To provide strategic input for a sustainable retail development.

### 9.1 Population and Catchment Area Analysis

According to Urban studies 2021, the research revealed that a catchment area for the site was demarcated conferring to the dynamic nature of the area, movement of the market and the road network system. According to Table 4.1 note the following:

- ±7 200 households forming part of the primary trade area serving the immediate vicinity;
- A total population of almost 33 000 people in this area;
- Limited growth of less than 1% per annum, indicating a well-established catchment area;
- A secondary trade area consisting of more than 40 000 people which also support the centre because of the location at the entrance of the area;
- This secondary trade area is also growing at a much faster pace.

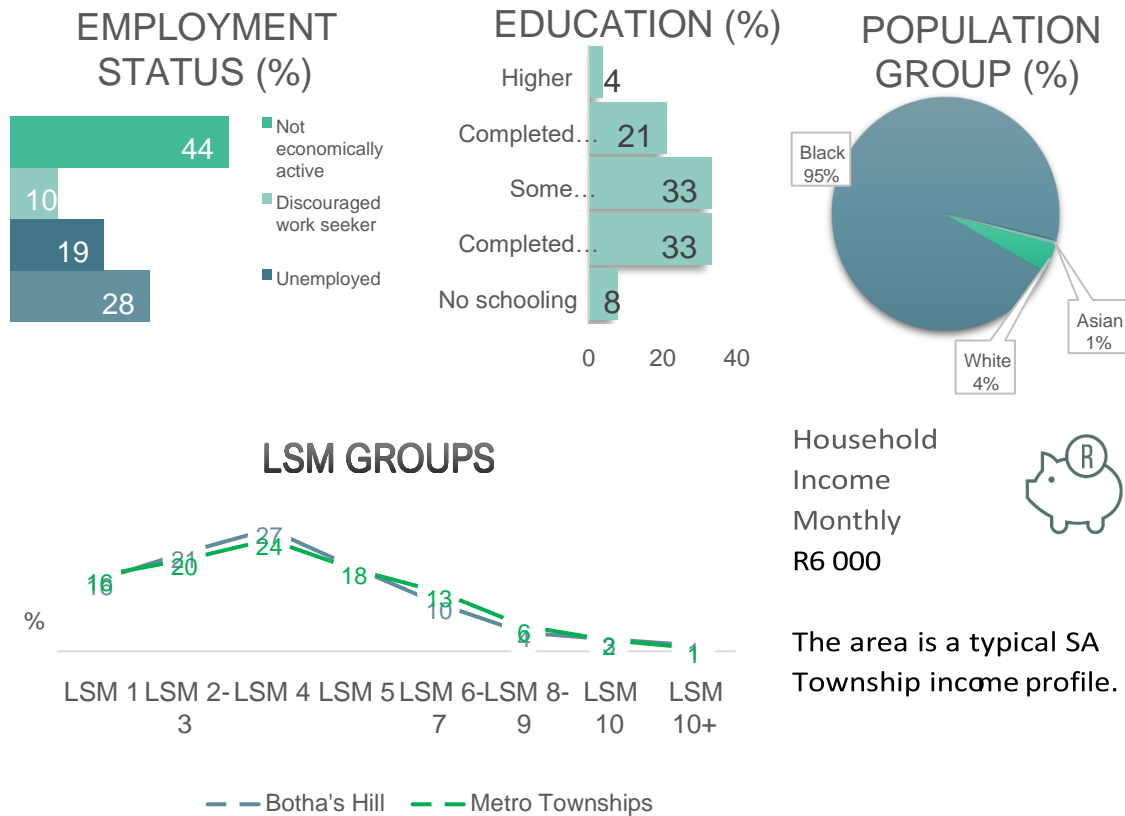
Table 7: Population Numbers and Projections – Primary Trade Area

Suburbs	Population	Households
Inthuthuko SP	710	115
Mabedlane C SP	3 168	625
Mabedlane E SP	842	160
KwaNyuswa SP	3 890	880
St. Lawrence SP	2 081	366
Vulindlala SP	2 735	503
KwaSondela SP	7 660	1688
Thusumuntu SP	1 255	197
Mkholombe SP	2 072	350
Bothas Hill	2 673	821
Botha's Hill SP	2 190	761
Total 2011	29 276	6466
1% Growth 2021	32 340	7 144
1% Growth 2026	33 990	7 508

Source: Stats SA



## 9.2 Market Profile



\*LSM = Living Standard Measurement – a South African classification used countrywide. The income per LSM category reflects the monthly household income.

LSM 1-4	<R5 000	LSM 6	R7 000	R10 000	LSM 8	R15 000	R25 000	LSM 10	R35 000	R60 000
LSM 5	R5 000	R7 000	LSM 7	R10 000	R15 000	LSM 9	R25 000	R35 000	LSM 10+	>R60 000

The table above gives an indication of the households per LSM group represented in the area. 81% of the total market forms part of LSM 1 – 5. The focus should be on this primary target market. The shopper profile from the secondary trade area is very similar adding a large proportion of additional 200 000 shoppers.

### Number of Households per LSM Group

LSM Groups	% of Total	Households 2020	Households 2025
LSM 1-4	63	4 535	4 766
LSM 5	18	1 300	1 367
LSM 6-7	10	738	775
LSM 8-9	4	290	304
LSM 10	3	187	196
LSM 10+	1	94	99
<b>Total</b>	<b>100</b>	<b>7 144</b>	<b>7 508</b>

### 9.3 Expenditure Levels

Table Average Monthly Spending on Consumer Goods

Product categories	LSM 4-5	LSM 1-3
Groceries	R1 405	R993
Clothing and shoes	R526	R349
Health & Beauty	R331	R158
Furniture & appliances	R279	R153
Household goods	R238	R176
Takeaways/restaurants	R226	R168
Entertainment	R65	R66
Other	R385	R143
<b>Total</b>	<b>R3 455</b>	<b>R2 206</b>

Source: Urban Studies 2020

## 10. Environmental Considerations

In terms of the 2020 Municipal Spatial Development Framework, the subject area falls within an area that is classified as a Primary Node.

### 10.1 The Impact of the New Hanover Shopping Mall

The development of this shopping mall will play an important role in strengthening the Municipality's economic and social perspective. The proposed development intends to strengthen the municipality's image.

### 10.2 Parking

The on-street parking has been closed off completely due to a fact that it is very close to P528. The intention of the development is to keep the area and its customers safe at all times. As a result, the road safety measures have been put in place to prevent vehicles from parking on the on-street parking using the Department of Transport guidelines and standards. **Please refer to the site development plan.** A total number of .....parking bays will be provided on Erf 302.

### 10.3 Noise Nuisance

There will be no noise generated by the earth moving machines, delivery vehicles, piling works as the development is already operating.

### 10.4 Heritage Consideration

No archaeological material has been identified on the subject site. However, the developer will ensure that any archaeological or historical findings will be reported to the relevant authorities in order to be protected.

### 10.5 Impact on Bulk Infrastructure

#### 10.5.1 Water

Water is already available in the area and is provided by the eThekweni Municipality. **The applicant will enter into an agreement with the Municipality for the provision of water services.**

#### 10.5.2 Sanitation

The proposed development will use the recommended sanitation services and facilities by eThekweni Municipality Waste Water Department, thus conservancy tank. As a result,

the detailed design plans and summary report for the proposed conservancy tank have been prepared. Refer to Annexure.....Furthermore, the recommended services will be regularly serviced to reduce the risk of surface or groundwater pollution.

#### 10.5.3 Stormwater

The suitable stormwater system will be provided on site to ensure that the stormwater is channelled to the nearest natural watercourses.

#### 10.5.4 Electricity

The application site falls within the service area of eThekweni Municipality. The applicant will enter into agreement with the Municipality with regards to the provision of electricity services.

#### 10.5.5 General Waste

A waste cage will be built on site and the waste will be disposed by the developer in the Municipality designated landfill site on a regular basis. Waste disposal will take place in terms of Section 20 (6) of the Environmental Conservation Act (Act No.73 of 1989).

#### 10.5.6 Geotechnical Investigation

The geotechnical conditions of the subject site deemed suitable for the proposed development and there is no evidence of unstable soil conditions.

## 11. Compliance with Planning Legislative Framework

### 11.1 SPLUMA Principles

Section 7, of Chapter 2 of the Spatial Planning and Land Use Management Act (Act No. 16 of 2013) prescribed twenty-two (22) principles that needs to be considered when submitting the development application to the Municipality. The Municipality will use these principles to determine the merits of the development.

The application complies with SPLUMA development principles, which are listed below:

- a) The principle of spatial justice
- b) The principle of spatial sustainability
- c) The principle of efficiency
- d) The principle of spatial resilience
- e) The principle of good administration

### 11.1.1 Compliance with SPLUMA Principles

The development comply and achieves the objectives of principle (b) (i) and (iii); principle of principle (c) (i) and principle (e) (i)-(ii):

(b) the principle of spatial sustainability

(i) promote land development that is within the fiscal, institutional and administrative means of the Republic;

- All the development financial requirements will be borne by the developer, and in case the Municipality is responsible for any financial activities it will be in line with the approved 2016/2017 fees and tariffs

(iii) uphold consistency of land use measures in accordance with environmental management instruments

- The development promotes environmental protection and consideration as well as sustainable land development.

(c) the principle of efficiency

(i) land development optimises the use of existing resources and infrastructure

- The development will ensure the optimisation of available and existing infrastructure and resources.

(e) the principle of good administration

(i) all spheres of government ensure and integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in this Act.

- The application has been submitted to all relevant authorities for their scrutiny and inputs

(iii) the requirements of any law relating to land development and land use are met timeously.

- The application will adhere and meet to all the planning related legislation and policies.

### 11.2 Compliance with Municipal Land Use Scheme

The application site is situated within eThekweni Municipality, Botha's Hill, which is incorporated into the Municipal Land Use Scheme. Due to the fact that the Land Use Scheme has not been finalised and implemented, the application is treated as the development situated outside the Scheme Area. However, the conditions of establishment to be issued by the Municipality will address the land development control parameters in with the Municipal Land Use Scheme which is yet to be adopted.

### 11.3 Occupation Health and Safety Implications

The applicant will ensure that occupation and safety requirements are in place at all times and that workers are provided with adequate protective gear.

### 11.4 Environmental Health Implications

The applicant will ensure that the hygiene requirements are met in order to promote health environment within the development.

### 11.5 Land Claims Status

The application will be submitted to the Regional Land Claims Commission for verification whether the sites are subjected and land claims. The outcome of the verification will be submitted to the municipality.