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**MOTIVATION
IN
SUPPORT OF
APPLICATION FOR THE PROPOSED SUBDIVISION OF REMAINDER OF
ERF 328 UMZINTO INTO PORTION 35 AND 36 OF THE REMAINDER OF
ERF 328 UMZINTO;

IN TERMS OF
SECTION 46(G) OF CHAPTER 4; OF THE UMDONI MUNICIPALITY SPATIAL
PLANNING AND LAND USE MANAGEMENT BY-LAW.

SITUATE IN THE UMDONI MUNICIPALITY,
REGISTRATION DIVISION – ET,
PROVINCE OF KWAZULU NATAL**

1. PURPOSE OF APPLICATION

This application is prepared and submitted by Stott, Milton and Conway Professional Land Surveyors, in terms of Section 33(1) of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), on behalf of the Owner of Remainder of Erf 328 Umzinto (The Vicar of Apostolio of the Vicariate of Marianhill); for the proposed:

- Subdivision of Remainder of Erf 328 Umzinto into Portion 35 and 36 of the Remainder of Erf 328 Umzinto; in terms of Section 46(g) of the Umdoni Municipality Spatial Planning and Land Use Management By-Law.

2. THE APPLICANT

In terms of Section 45(1) of Chapter 6 of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), person whom may initiate a land development Application are as follows:-

1. *An Owner, including the State, of the land concerned;*
2. *A person acting as the duly authorised agent of the Owner;*
3. *A person to whom the land concerned has been made available for Development in writing by an organ of state or such person's duly authorized Agent;*
or
4. *A service provider responsible for the provision of infrastructure, utilities or other related services.*

The applicant in this application is Stott, Milton and Conway Professional Land Surveyors as per Section 45(1) (b) of the above said Act.

The Special Power of Attorney from the Owner to make the application and providing the Planning Initiative authority to act as the Agent is attached together with this application.

3. PURPOSE OF THIS REPORT

In support of the motivation for the application, this report will address the following elements:

- The historical background information of the application site;
- Description of the site and existing development, in terms of land use and engineering services, as well as its zone/land use, related plans and current development rights;
- Outline the nature of the proposal;
- Providing Town Planning assessments of the impact partaking the application proposal, especially with regards to environmental services, infrastructure, economic performance and other considerations for the application sites and surrounding amenities; and
- Conclusion.

4. BACKGROUND INFORMATION AND TERMS OF REFERENCE

Remainder of Erf 328 Umzinto is situate within the Umdoni Municipality Planning Scheme and Umdoni Municipality. The Application site is located in two parcels of land (as shown on Layout Plan Reference: U526LP). The parcel of land located on the South Western area of the Layout Plan is zoned as Municipal and Government, in terms of the Umdoni Municipality Planning Scheme. This Portion of Remainder of Erf 328 Umzinto is described therein by a Church, Convent, School, scattered trees, a Drive Way giving access to Portion 1 of Erf 362 Umzinto and it obtains access from a Right of Way Servitude as per S.G. No. 1664/1977 on Main Road P197 (Nelson Mandela Road).

The second Parcel of Remainder of Erf 328 Umzinto is zoned as Cemetery, in terms of the Umdoni Municipality Planning Scheme. The application site is relatively flat with moderate steep slopes and is described therein by Cemetery area and scattered trees. This parcel of Remainder of Erf 328 Umzinto also obtains access from Main Road P197. (Nelson Mandela Road)

On the 11th of August 2011, the Diocese of Mariannhill Donated the land to the Sisters of Franciscan Missionaries of Mary, as follow:

“On behalf of the Diocese of Mariannhill, I would like to express our intention to donate a piece of land, Remainder of Lot No. 328 Umzinto, to the Sisters of Franciscan Missionaries of Mary. On this land the Sisters have expressed a desire to build a new home for the orphaned and vulnerable children (OVC). This donation is given on condition that, the property will always be used for this purpose.

The donation of this piece of land is made on the occasion of the centenary celebration of the foundation of St. Anne’s Convent next year (2012). With the best wishes and prayerful support for the FMM Sisters, I remain.” (Please see attached letter)

In addition to the Donation letter, the Diocese of Mariannhill has further granted Stott, Milton and Conway Professional Land Surveyors with Special Power of Attorney to prepare and submit an application for the proposed Subdivision of Remainder of Erf 328 Umzinto into Portion 35 and 36 of the Remainder of Erf 328 Umzinto; in terms of Section 46(G) of the Umdoni Municipality Spatial Planning and Land Use Management Bylaw.

Proposed Portion 35 of the Remainder of Erf 328 Umzinto will be of the Franciscan Missionaries of Mary as per Donation letter and the proposed Portion 36 of the Remainder of Erf 36 Umzinto will be sold off, for residential purposes.

5. OWNERSHIP; TITLE DEED; S.G. DIAGRAM; REGISTRATION DIVISION; EXTENT AND CONDITIONS OF TITLE:-

Ownership of Sub B of the Farm Umbeli Belli No. 1288 is held by The Vicar of Apostolio of the Vicariate of Marianhill; vide Certificate of Amended Title on Consolidation No T289/1943 and S.G Diagram Number S.G No. 2311/1941. The property is Eighty Seven decimal Three One Nought Three (87, 3103), of approximately Thirty Five comma Three Three Three Two hectares (35, 3332 ha) in extent; situate within the Umdoni Municipality, Registration Division ET, Province of KwaZulu Natal.

As per Certificate of Amended Title on Consolidation the following properties were consolidated to form Sub B of the Farm Umbeli Belli No. 1288, situate in the Umzinto Health Committee area.

- i. *Sub B" of B' of 1 of Umbeli Belli No. 1288 held under Deed of Transfer No. T1321/1923;*
- ii. *Sub B' of A of 1 of B of Umbeli Belli No. 1288, held under Deed of Transfer No. T1321/1923;*
- iii. *Lot 28 of B of Umbeli Belli No. 1288, held under Deed of Transfer No. T893/1929;*
- iv. *Sub 2 of Lot No. 1 of Lot B of Umbeli Belli No. 1288, held under Deed of Transfer No. T1391/1932*
- v. *Remainder of Sub 1 of 3 of Umbeli Belli No. 1288, held under Deed of Transfer No, 2131/1932.*

The Remainder of Erf 328 Umzinto held vide the same Certificate of Amended Title on Consolidation No T289/1943 as per S.G. Diagram No. 2311/41. The property is Three comma Nought Six (3, 415 ha) hectares in extent and is subject to the following Conditions of Title:

B. Subject to the following conditions imposed by the Administrator of the Province of Natal in terms of Ordinance No. 27 of 1949, amended, namely:-

1. *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 land along any boundary thereof other than a road frontage and within a distance of 1, 80 metres from such boundary, and shall have reasonable access thereto for the purpose of maintenance shall include trimming, cutting or otherwise dealing with trees so as to prevent interference with the electrical wires.*

The rights conferred by this condition shall be exercisable by any Local Authority or other body of reason legally Authorised to supply electric current or water for the benefit of the inhabitants of the Township.

If the Owner of the land be aggrieved by the unreasonable exercise of these rights he shall have the right to appeal to the Administrator, whose decision shall be final.

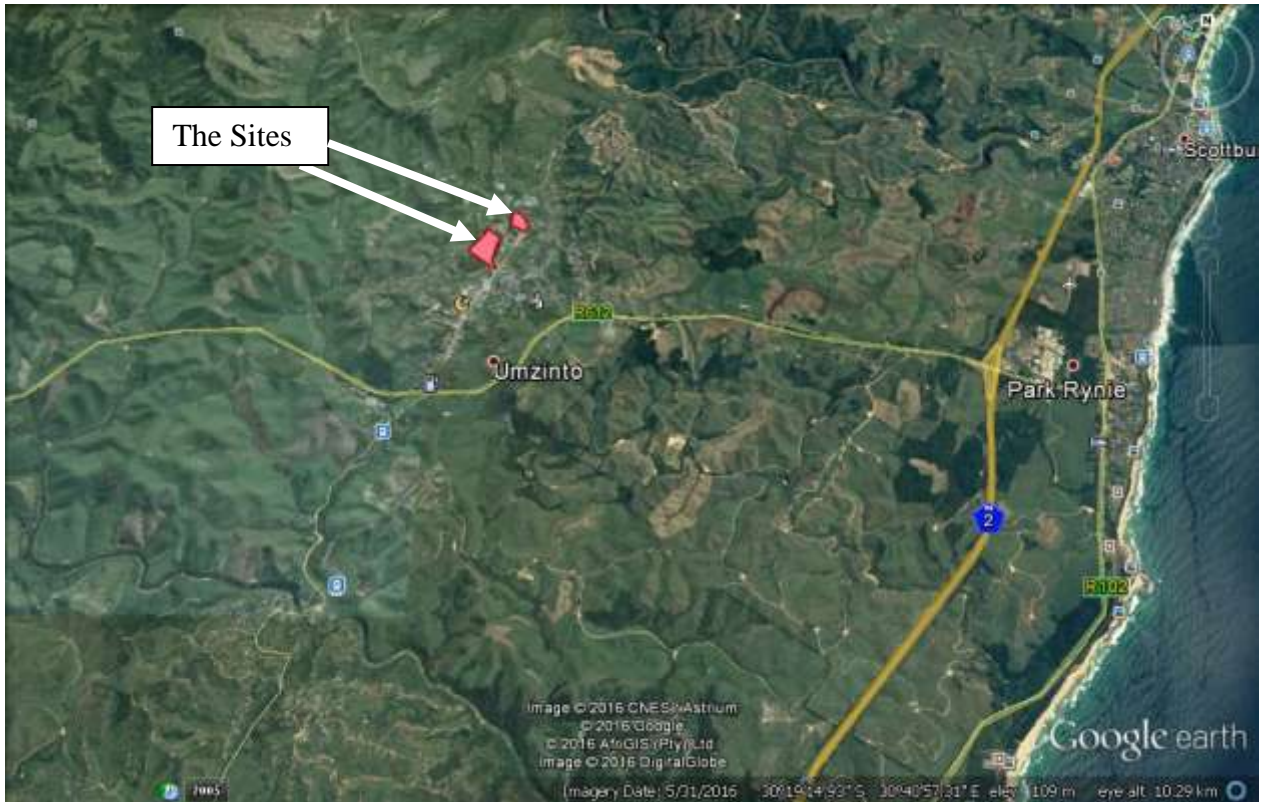
- 2. The Local Authority shall, without compensation, have the right to construct and maintain sewers and drains over or under the land along any boundary thereof other than a road frontage and within a distance of 1, 80 metres from such boundary and shall have reasonable access thereto for the purpose of maintenance, removal or extension, and the Owner of the land shall, without compensation, be obliged to allow sewerage and drainage of any other land or street to be conveyed along such sewers and drains; provided that if the Owner of the land be aggrieved by the unreasonable exercise of these rights he shall have the right of appeal to the Administrator, whose decision shall be final.*
- 3. Where two or more pieces of land subject to similar conditions imposed at the instance of the Administrator are consolidated, such conditions shall apply to the consolidated area as a whole.*
- 4. Except with the consent of the Administrator, no building or structure whatsoever other than an enclosure, fence, hedge or wall which does not rise higher than 1, 50 metres above the surface of the land on which it stands shall be erected on the land within a distance of 7, 50 metres from its boundary abutting the road reserve boundary of Main Road 197.*

6. LOCALITY

The two Parcels of Remainder of Erf 328 Umzinto are situate approximately about 248 metres East of Main Road P197 (Nelson Mandela Road), about 2, 20 kilometres North of Main Road R612, about 5 kilometres West of N2 Freeway and about 1, 45 kilometres North of Umzinto CBD.

(Refer to the Locality Sketches on the next page)

Locality Sketch 1



Ref: Google Maps

Locality Sketch 2



7. EXISTING ZONING

Parcel “A” of the Remainder of Erf 328 Umzinto is currently zoned Cemetery and Parcel “B” of the Remainder of Erf 328 Umzinto is currently zoned Municipal and Government; both in terms of the Umdoni Municipality Planning Scheme. (Refer to Existing Zone Use Plan below)

Existing Zone Use Plan



In terms of the Umdoni Municipality Planning Scheme, the Development Controls for Cemetery are described as follows:

ZONE: CEMETERY
Statement of intent:
A zone that is intended for public and private cemeteries, memorial parks and funeral chapel.

PERMITTED USES/BUILDINGS	PERMITTED VIA SPECIAL CONSENT
Cemetery Crematoria Mortuary	Agricultural Building Agricultural Land Place of Public Assembly Shop (restricted to the sale of products related to the Cemetery use such as flowers and light refreshments)
All other uses not specified above are prohibited	
DEVELOPMENT CONTROLS	
Minimum Erf Area (m ²)	To Department of Health Standards
Minimum Erf Width (m) Frontage	18
Depth to Frontage Ratio	3:1
Building Line (m)	7, 50
Rear Space (m)	2, 00
Side Space (m)	2, 00
Floor Area Ratio (FAR)	1.00
Coverage (%)	30
Height	3 Storeys
Minimum Width of Access Way (m)	6
Additional Controls: <ol style="list-style-type: none"> 1. <i>Clauses 4.1 to 4.8 of the Umdoni Municipality Planning Scheme shall apply and cover Relaxations and other Additional Controls.</i> 2. <i>Parking shall be provided in accordance with clause 6.4(1) Umdoni Municipality Planning Scheme.</i> 3. <i>Prior to development occurring, an application for development shall be screened to establish if it is within an area regarded as Environmentally Sensitive. Reference shall be made to Clause 3.3 of the Umdoni Municipality Planning Scheme.</i> 	

In terms of the Umdoni Municipality Planning Scheme, the Development Controls for Cemetery are described as follows:

ZONE: MUNICIPAL AND GOVERNMENT	
Statement of intent:	
A zone that is intended for buildings erected and used for National, Provincial and Municipal administration and services	
PERMITTED USES/BUILDINGS	PERMITTED VIA SPECIAL CONSENT
Educational Building Garage (ancillary to the municipal and government usage) Outbuilding – Human Habitation (ancillary to the municipal and government usage) Outbuilding – Non-human Habitation (ancillary to the municipal and government usage) Place of Public Assembly Private Conservation Area Private Recreation Area Public Office Public Park Recreational Building Residential Building (ancillary to the municipal and government usage) Service Industrial Building (ancillary to the municipal and government usage) Single Family Dwelling Warehouse (ancillary to the municipal and government usage)	Agricultural Building Agricultural Land Crèche Home Activity ¹ Home Business ¹ Institution Shop
All other uses not specified above are prohibited.	

DEVELOPMENT CONTROLS	
Minimum Erf Area (m ²)	As determined
Minimum Erf Width (m) Frontage	18
Depth to Frontage Ratio	3:1
Building Line (m)	7, 50
Rear Space (m)	2, 00
Side Space (m)	2, 00
Floor Area Ratio (FAR)	1.00
Coverage (%)	30
Height	3 Storeys
Minimum Width of Access Way (m)	6
Additional Controls:	
<ol style="list-style-type: none"> 1. For Uses indicated with a¹ if Neighbours Written consent is obtained, the Special Consent procedure may be waived. 2. Clauses 4.1 to 4.8 of the Umdoni Municipality Planning Scheme shall apply and cover Relaxations and other Additional Controls. 3. Parking shall be provided in accordance with Clause 6.4(1) of the Umdoni Municipality Planning Scheme. 4. .Prior to development occurring, an application for development shall be screened to establish if it is within an area regarded as Environmentally Sensitive. Reference shall be made to Clause 3.3 of the Umdoni Municipality Planning Scheme. 	

8. PROPOSED SUBDIVISION

This application wishes to Subdivide Remainder of Erf 328 Umzinto into Portion 35 and 36 of Remainder of Erf 328 Umzinto, 3, 06ha (30600m²) and 3550m² in extent, respectively; in terms of Section 46(G) of the Umdoni Municipality Spatial Planning and Land Use Management Bylaw.

As indicated above, proposed Portion 35 of the Remainder of Erf 328 Umzinto will be in Ownership to the Sisters Franciscan Missionaries of Mary as per Donation letter dated 11 August 2011 and proposed Portion 36 of the Remainder of Erf 328 Umzinto will be sold off for residential purposes.

9. EXISTING DEVELOPMENT SURROUNDING THE SITE

Proposed Portion 35 and 36 of Remainder of Erf 328 Umzinto are located in a largely residential and mixed use precinct of land uses as illustrated below in a clockwise direction.

	ERF NUMBER	LAND USE
PARCEL "A" OF THE REMAINDER OF ERF 328 UMZINTO	Portion 18 of Erf 378 Umzinto	Place of Public Assembly
	Erf 571 Umzinto	Residential
	Erf 572 Umzinto	Residential
	Erf 573 Umzinto	Residential
	Erf 574 Umzinto	Residential
	Erf 575 Umzinto	Residential
	Erf 327 Umzinto	Residential
	Erf 1644 Umzinto	Residential
	Erf 578 Umzinto	Residential
	Erf 580 Umzinto	Residential
	Erf 581 Umzinto	Residential
	Erf 582 Umzinto	Residential
	Portion 9 of Erf 328 Umzinto	Industry
	Portion 10 of Erf 328 Umzinto	Industry
	Portion 30 of Erf 328 Umzinto	Agriculture
	Portion 8 of Erf 378 Umzinto	Residential
	Portion 17 of Erf 378 Umzinto	Residential
	Remainder Erf 379 Umzinto	Place of Public Assembly
	Portion 1 of Erf 379 Umzinto	Residential

PARCEL "A" OF THE REMAINDER OF ERF 328 UMZINTO	ERF NUMBER	LAND USE
	Portion 34 of Erf 328 Umzinto	Residential
	Portion 4 of Erf 328 Umzinto	Public Administration and Public Space
	Portion 34 of Erf 328 Umzinto	Road Servitude
	Portion 8 of Erf 329 Umzinto	Commercial
	Remainder of Erf 329 Umzinto	Residential
	Erf 358 Umzinto	Residential
	Erf 361 Umzinto	Residential and Public Administration
	Portion 1 of Erf 362 Umzinto	Agriculture
	Portion 25 of Erf 328 Umzinto	Residential
	Portion 20 of Erf 328 Umzinto	Residential
	Portion 29 of Erf 328 Umzinto	Public Space

10. PROVISION OF SERVICE AND INFRASTRUCTURE

- Sewage and Stormwater

Sewage disposal through the Waterborne Sewage System is to be provided by the Ugu District Municipality and the Stormwater Drainage Network is to be provided by Umdoni Municipality's Stormwater System.

- Water and Electricity

Water Reticulation Network will be provided by Ugu District Municipality and electricity supply will be provided by Eskom within normal connection distance of the properties.

- Solid Waste Removal

The Umdoni Municipality shall provide domestic refuse removal service.

11. NEED AND DESIRABILITY

Need for the Proposal

The primary goal of Need and Desirability, is to ensure that land use development proposals are necessary for development purposes and desirable in the public interest, resulting in sustainable land use utilization, which is publicly acceptable and relevant in terms of overall economic growth and development. Need and desirability has always been a fundamental principle of the Planning and Development Acts and are used as a yardstick

to formulate and assess development proposals.

The primary concern is not whether the granting of development rights is in the interest of the applicant, but whether it is in the interest of the broader community or society as a whole. This in turn needs to be examined from two perspectives: the degree to which the proposed development makes a positive impact on the quality of the lives of affected stakeholders, and the degree to which its impact may impose upon, or negatively affect, other stakeholders' rights.

The need for the proposed Subdivision can be demonstrated, in terms of the following:

- Accessibility

The proposed Portion 35 of the Remainder of Erf 328 Umzinto will obtain access from Nelson Mandela Road and also vide a Road Servitude.

- Desirability

The infrastructure / services (Educational and Religious services) on the application site make the properties desirable and ideal for its location, as it provides upliftment to the surrounding community and creates job and or social opportunities. The respective sites are well located with accessibility to a range of consumer related amenities that are within commuting or driving distances.

- The Best Use of Land

The proposed Portion 35 and 36 of the Remainder of Erf 328 Umzinto are well located for existing Educational and Religious developments.

- Impact on Traffic flows

The existing development on proposed Portion 35 and 36 of the Remainder of Erf 328 Umzinto do not have a negative impact on traffic flows.

12. ENVIRONMENTAL IMPACT

The proposed Subdivision has been assessed and it is confirmed that an Environmental Impact Assessment is not required.

13. CULTURAL HERITAGE

The proposed Portion 35 and 36 of the Remainder of Erf 328 Umzinto, with its existing development, does not have significant impact and historical significance on this aspect of development.

14. PROPOSED DEVELOPMENTS OR LAND USES IN THE VICINITY, OR ON EXISTING DEVELOPMENTAL OR MINERAL RIGHTS

The proposed Subdivision will not have any negative impact on the development patterns or land uses in the vicinity nor will it affect existing mineral rights. Any future developments on the application sites will be in accordance with the Umdoni Municipality Planning Scheme. The application proposal will not change the character of the existing buildings or use of land.

15. THE IMPACT OF THE APPLICATION ON THE NATIONAL, PROVINCIAL AND MUNICIPAL ROAD NETWORKS, PUBLIC TRANSPORT, MUNICIPAL SERVICES

The proposal as set out in the application will not have any additional impact on National or Provincial roads.

- National, Provincial and Public Transport

The proposed Subdivision will not have any additional impact to the National, Provincial Roads nor on Public Transport.

- Municipal Services

Remainder of Erf 328 Umzinto will require additional services to cater for development under the proposed Subdivision from the Umdoni and Ugu District Municipalities.

16. THE HISTORICAL EFFECTS OF PAST RACIALLY DISCRIMINATORY AND LEGISLATION ON LAND OWNERSHIP, LAND DEVELOPMENT AND ACCESS TO ENGINEERING SERVICES AND PUBLIC FACILITIES, AND THE NEED TO ADDRESS THE HISTORICAL IMBALANCES

This aspect has been assessed and has been identified as not relevant to the application and its proposals.

17. THE DEVELOPMENT PRINCIPLES AND LAND USE MANAGEMENT AS STATED IN CHAPTER 2 AND CHAPTER 5, RESPECTIVELY, OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT NO. 16 OF 2013), OTHER NATIONAL NORMS AND STANDARDS, FRAMEWORKS AND POLICIES CONTEMPLATED IN SECTION 146 (2) OF THE CONSTITUTION

The development has been assessed and it is confirmed that it does not conflict with the Development Principles and Land Use Management of the Spatial Planning and Land Use

Management Act, 2013 (Act No. 16 of 2013), or any policies or norms and standards.

18. THE PROTECTION OR PRESERVATION OF CULTURAL AND NATURAL RESOURCES, INCLUDING AGRICULTURAL RESOURCES, UNIQUE AREAS OR FEATURES AND BIODIVERSITY

It has been confirmed that the application sites does not involve high value agricultural land nor do they impact adversely on the protection or preservation of cultural and natural resources.

19. THE UMDONI MUNICIPALITY'S INTEGRATED DEVELOPMENT PLAN

The Umdoni Municipality's IDP recognizes that Umzinto Town contains a mixture of activities including high density housing, social facilities, commercial, mixed use and business activities. Therefore, the proposed Subdivision is aligned to the Umdoni Municipality Spatial Development Framework (SDF), since the proposed Subdivision also exists within the context of the site, and situated within the former Transitional Local Council (TLC). This proposal does not conflict with the SDF, or the IDP.

CONCLUSION

The motivational aspects in support of the Subdivision application are summarised as follows:

- There are no Restrictive Conditions of Title on the Certificate of Amended Title on Consolidation No T289/1943 or any Condition within the Umdoni Municipality Planning Scheme, precluding the proposed Subdivision;
- The Surveyor Generals Office has inspected the annexed Layout Plan and has reserved the resignation as requested for the Subdivision.
- The proposed application sites are located within a mixed use precinct of Umzinto;
- Infrastructure services already exist on the contiguous properties and are not affected by the proposal;
- The proposal will have minimum impact on surrounding environmental and socio-economic conditions, nor on the National, Provincial and Municipal Road Networks, Public Transport, Municipal Services, Sewage, Water and Electricity Supply, Waste Management and Removal, Policing and Security;

- The proposal is not in conflict with the Development Principles and Land Use Management of the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), nor with the Umdoni Municipality's Spatial Development Framework and Integrated Development Plan;
- This application sites do not involve high value agricultural land, nor does it impact adversely on the protection or preservation of cultural and natural resources;
- Both sites of Remainder of Erf 328 Umzinto is relatively flat;
- The existing developments conforms with the Umdoni Municipality Planning Scheme within the permitted Coverage and FAR requirements; and
- In the final analysis the proposal meets sound Planning principles.

In view of the aforementioned, the Umdoni Municipality is respectfully requested to consider the proposed:

- Subdivision of Remainder of Erf 328 Umzinto into Portion 35 and 36 of Remainder of Erf 328 Umzinto; in terms of Section 46(g) of the Umdoni Municipality Spatial Planning and Land Use Management By-Law.



RORY CONWAY

Professional Land Surveyor

01 September 2016