**GENERAL MOTIVATION**

In terms of Schedule 1, Part 1(2)(b) of the KwaZulu-Natal Planning and Development Act No. 6 of 2008

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**1. DESCRIPTION OF APPLICATION**

This is a combined application in terms of Chapters 3 and 4 of the KwaZulu-Natal Planning and Development Act, 2008 (PDA). The development proposal in this instance is a mixed-use commercial retail shopping center and future petrol-filling station, which is to be situated on a subdivided portion of Portion 46 of the Farm Uitval No. 1244 - GT. The proposed development site is adjacent to the P32 and just East of the corner where the P32 and P359 meet, neighbouring with the Regional Bus and Taxi Rank.

The development is proposed on a the town of Uitval’s dis-uses soccer pitch, which land falls within the Indaka Local Municipality’s jurisdiction which is in turn situated within the uThukela District Municipality’s administrative jurisdiction. The commercial and retail nature of the proposal would require the property to be rezoned to a land-use which is more suitable for the proposed use of the site.

The site development shall consist of the following components:

1. Anchor Supermarket (Spar, Shoprite etc);

2. Builder’s Merchant;

3. Approximately 25 individual retail shops;

4. Builder’s yard;

5. Delivery yard for the supermarket;

6. ‘Shisa Nyama’ take away;

7. Approximately 315 parking bays;

8. Future planned petrol-filling station;

9. Future planned government offices.

The Indaka Municipality, in terms of the PDA, is required to take into consideration the impacts of the proposed development as provided for in Sections 25 and 42.

**2. PURPOSE OF APPLICATION**

The aim of this application is to seek the Municipality’s approval for the:

 *1. Subdivision of Portion 1 of Portion 46 of the Farm Uitval No. 1244 (Section 21(1)(a);*

 *2. Registration of a long-term lease over the subdivided portion (Section 21(1)(h);*

 *3. Development of land situated outside of a town planning scheme (Section 38(1).*

The town of Uitval does not currently have a retail shopping center, hence there is a strong need and an obvious demand for a relatively sophisticated shopping facility such as the proposed one. The demand for the proposal exists by virtue of the fact that the town needs the commercial opportunities offered by the shopping center and it is undoubtedly desirable for the development goals of the Municipality to have a retail center of this nature as it will provide much needed employment opportunities to what is a desperately impoverished area while also making crucial goods available to consumers who currently commute a relatively long distance to Ladysmith at periodic intervals.

**3. *LOCUS STANDI* OF APPLICANT**

The Applicant is Archipax 118 CC (Registration Number: 2010/136862/23) represented by Laban Salem Thomas (ID No. 750721 5074 086) (hereinafter referred to as “the Applicant”). The owner of the site to be developed is the Ingonyama Trust Board (ITB).

The ITB has, however, entered into a two-year lease with the Applicant in order to allow for the planning and environmental approvals to be secured, whereafter, a forty-year long-term lease will be concluded between the Applicant and the ITB. This lease will be registered notarially in the Pietermaritzburg Deeds Office.

The details of the leased property are as follows:

1. Property description: Portion 1 of Portion 46 of the Farm Uitval No. 1244 - GT (note that the designation diagram has been prepared by MHP Geomatics Professional Land Surveyors and will be approved by the Surveyor-General and in due course it will also be registered in the Deeds Registry).

2. The leased area: 2.73 hectares (approximately).

3. Registered Owner: Ingonyama Trust Board.

4. Lessee: Archipax 118 CC (Registration Number: 2010/136862/23)

The PDA requires a letter of consent from the land owner to be provided in this application, therefore, we have attached the signed and binding short-term lease agreement between the ITB and the Applicant as **ANNEXURE “1”** hereto. This application is brought with the knowledge and consent of the land owner, as evidenced by the lease agreement.

**4. TITLE DEED INFORMATION and SURVEYOR-GENERAL DIAGRAM**

The abovementioned property has the following details:

Registered Owner: The Ingonyama as a Trustee of the Ingonyama Trust Board

Holding Title : 19791/2012 (**ANNEXURE “2”**)

Extent : 110.5029 Hectares

SG Diagram : 653/1999 (**ANNEXURE “3”**).

Restrictive Conditions in Title : See the attached Windeed Report.

**5. REGISTERED PLANNER’S EVALUATION AND RECOMMENDATION**

The uThukela Local Municipality’s Senior Town Planner, Wynand Viljoen, will be required to consider the merits of the application by virtue of Section 18 and 41 of the PDA before issuing a certificate of compliance for inclusion with this proposal before being considered by Municipal Council.

**6. LOCALITY PLAN**

A Provincial Location Plan and a Locality Plan has been provided, showing the development site in relation to the province, district and local area, see **ANNEXURE** **“4”**.

**7. SITE DEVELOPMNT PLAN**

See **ANNEXURE “5”** hereto for the site plan and basic floor plan.

**8. INTEGRATED DEVELOPMENT PLAN (IDP)**

The Indaka Municipality is largely undeveloped and there is a clear demand for commercial and retail shopping opportunities. Residents of Uitval presently commute a considerable distance to Ladysmith and other major commercial centers to purchase their groceries, clothing, building material and other essential items. Considering that most residents are dependent on social welfare for financial support, it is beneficial to have a shopping mall within the town of Uitval itself to help residents save money on travelling costs.

The unemployment rate in Uitval is also high. There will be opportunities for local artisans to apply their trade during the construction phase and then of course the daily operation of the mall will require semi-permanent and permanent staff to be employed on an on-going basis. The proposed development, therefore, will promote job creation, skills development and poverty alleviation by creating employment opportunities for the local residents of Uitval and its surrounds.

**9. GEOTECHNICAL DESKTOP STUDY**

A complete geotechnical investigation was commissioned, the results of which prove that the site is suitable for construction. See **ANNEXURE “6”**.

**10. ENGINEERING REPORT**

A bulk infrastructural services report was commissioned, detailing the service requirements required in order to successfully operate the development on a day-to-day basis. See **ANNEXURE “7”**.

**11. LOCAL AND DISTRICT COMMITMENT TO BULK SERVICES**

Stemele Bosch Consulting Engineers are currently engaging the relevant Technical Services divisions at the Local and District Municipality for their comment on the bulk solutions as proposed in this application. The Service-Level Agreement is attached in support of bulk service provision. See **ANNEXURE “8”.**

**12. ENVIRONMENTAL CONSIDERATIONS**

The Department of Economic Development, Tourism and Environmental Affairs (DEDTEA) have issued an Environmental Authorisation in the form of an exemption letter. See **ANNEXURE “9”**.

**13. SOCIO-ECONOMIC CONSIDERATIONS**

Two reports are attached in support of the socio-economic feasibility of the proposed development. See **ANNEXURE “10”**.

**14. THE SCHEME**

The Municipality currently does not have a formal town planning scheme and land-use management framework in place. It is recommended that appropriate scheme controls be utilised for this proposed development, perhaps from COGTA: Land-Use Management division in Pietermaritzburg or a neighbouring municipality which does have a formal scheme already in operation.

Proposed uses include:

1. Commercial;

2. Petrol-filling station;

3. Government Offices.

**15. 1:50 AND 1:100 YEAR FLOODLINES**

Not applicable as the site is not located near the sea, a river or wetland system.

**16. PHASING IN ACCORDANCE WITH BULK CONSTRAINTS**

1. The shopping mall will be developed first and foremost;

2. Application for licenses to operate a petrol-filling station will then be made in due course to house the PFS on the site shown;

3. As government departments show interest in leasing office space, government offices will be developed on the site(s) shown.

**17. AFFECTED DEPARTMENTS**

When considering an application such as the present one which seeks approval for the development of land outside the area of a scheme and where a land-use zoning is proposed as a form of an “amendment of a scheme” in anticipation of one being formally adopted, the relevant affected departments/parties/organisations must be identified and their comment/input sought in light of the likely impacts of the proposal:

17.1 Eskom have provided a quotation, dated 10 June 2014 attached hereto as **ANNEXURE “11”**.

17.2 Comment from KZN Department of Transport

* Application for comment from this department was submitted and has been received by the department. See **ANNEXURE “12”** hereto.
* 17.4 Department of Environmental Affairs and Tourism in terms of NEMA: Integrated Coastal Management, No. 24 of 2008.
* Not applicable in the scope of this application because the coastline is not affected in any way.

17.5 Amafa aKwaZulu-Natali Heritage Council in terms of the KZN Heritage Act, No.4 of 2008.

* Notice to AMAFA for the proposed development is attached hereto as **ANNEXURE “13”**.

 17.6 Existing and proposed developments in close proximity, including long term leases by the Ingonyama Trust.

* Depicted on Layout Plan.

17.7 Department of Mineral and Energy Affairs in terms of the Mineral and Petroleum Resources Development Act, No. 28 of 2002.

* This Department will be approached for licensing of the future proposed petrol-filling station.

17.8 Principles of Section 3, Development Facilitation Act, 67 of 1995.

* The Development will promote the integration of the social, economic, institutional and physical aspects of the land development;
* Promote the availability of employment opportunities in close proximity to residential areas.
* Promote a diverse combination of land uses.
* Contributes to the development of a more ‘compact’ town.
* Community engagement in the form of socio-economic surveys and census.
* Promote the establishment of viable communities.
* Ensure the safe utilisation of land.

17.9 Provincial Planning and Development Norms and Standards.

* Application brought in terms of KZN Planning and Development Act and in harmony with the Development Norms and Standards

17.11 KZN Department of Community Safety and Liaison.

* Not applicable as no satellite police station is proposed.

17.12 KZN Department of Health

* Not applicable as no clinic is proposed.

17.13 KZN Department of Education

* Not applicable as no educational facilities are proposed.

17.14 KZN Department of Arts and Culture.

* Not applicable as no library or interpretative center is proposed.

17.15 KZN Department of Public Works

* Not applicable as no government infrastructure is proposed.

17.16 Regional Land Claims Commissioner.

* Comments were provided from the RLCC in response to our notice letter, see **ANNEXURE “14”**.

17.17 National Department of Agriculture, Forestry and Fisheries

* Not applicable as the land is not being subdivided and furthermore land owned by the Ingonyama Trust Board does not require consent from the National Department of Agriculture in terms of Act 70 of 1970.

17.18 Department of Agriculture, Environmental Affairs and Rural Development in terms of NEMA: Biodiversity Act, No. 10 of 2004.

* Not applicable because the proposal does not threaten a listed ecosystem as envisaged by section 52 of the Act above.

17.19 Possible compensation if amendment to scheme is approved

* Not applicable.

17.20 Transnet in terms of section 13 of the Legal Succession to the South African Transport Services Act, No. 9 of 1989.

* Not applicable. Section 13 of this act refers to land zoned generally for transport; railway; harbor or pipeline purposes. The land subject to this proposal is currently residential and has not been reserved for the purposes sought in terms of section 14 of the above act.

**18. LAYOUT PLAN**

The LAYOUT PLAN is attached hereto as **ANNEXURE “15”**.

**19. CONCLUSION**

The application above satisfies the requirements of Chapter 3 and 4 of the PDA insofar as providing the required information to the Municipality to make an informed decision about the proposed Uitval Shopping Mall. In coming to its decision, the Municipality must consider the plans, maps, specialist investigations and departmental comments which have been provided. The town of Uitval and the local economy will undoubtedly benefit from this development proposal as it will not only provide affordable retail opportunities to the area, but it will also provide much needed employment opportunities to the area and given its proximity to Ladysmith, Ekuvukeni and linkages of the P32, the center will be well frequented by locals and people from further afield, thus ensuring the center’s viability and sustainability. The fact that the development site is a dis-used soccer pitch in the middle of an urbanised setting, the impact on the natural environment is very minimal. The Local and District Municipality, however, must commit to bulk service provision beforehand as these services will be critical for the successful operation of the center.

**RECOMMENDATION:**

**1. The subdivision of Portion 1 (of 46) of the Farm Uitval No. 1244 is approved;**

**2. The development of this portion of land, situated outside the area of scheme, is authorised;**

**3. An appropriate land-use zoning is imported and applied over the development.**