

MOTIVATIONAL MEMORANDUM:
Simultaneous Rezoning and Removal of
Restrictions Application
for
Erf 307 Emmarentia Ext 1
on behalf of
Bukhara Traders and Investments (Pty)
Ltd

Date	02 November 2021
Prepared by	Raesa Soomar Cassim (Pr Pl. A/1852/2014) raesa@kipd.co.za 084 440 5957 Saskia Cole (Pr Pl..A/1554/2012) saskia@kipd.co.za 082 574 9318
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TABLE OF CONTENTS

INTRODUCTION	4
1. GENERAL INFORMATION	4
1.1. THE APPLICATION	4
1.2. AGENT AND CLIENT	4
1.2.1. Agent	4
1.2.2. Client	5
1.3. LAND DEVELOPMENT AREA	5
1.3.1. Site Locality	5
1.4. LEGAL ASPECTS	5
1.4.1. Ownership	5
1.4.2. Company Resolution	5
1.4.3. Power of Attorney	5
1.4.4. Restrictive Title Conditions	5
1.4.5. Registered Mortgage Bonds	5
1.5. EXISTING LAND USE	6
1.6. SURROUNDING LAND USE	6
1.7. EXISTING ZONING AND DEVELOPMENT CONTROLS	6
1.8. SURROUNDING ZONING	6
2. THE APPLICATION	7
2.1. PROPOSED REMOVAL OF TITLE RESTRICTIONS	7
2.2. PROPOSED ZONING	7
2.3. PROPOSED LAND USE	7
3. SPATIAL PLANNING ENVIRONMENT	8
3.1. SPATIAL DEVELOPMENT FRAMEWORK 2040	8
3.2. NODAL REVIEW POLICY 2019/2020	9
4. MOTIVATION	9
4.1. NEED AND DESIRABILITY	9

4.1.1.	Locality	9
4.1.2.	Preference of Smaller Units	9
4.1.3.	Development trend along Barry Hertzog Avenue.....	10
5.	SPLUMA DEVELOPMENT PRINCIPLES	11
6.	RECOMMENDATION	11

INTRODUCTION

The purpose of this memorandum is to introduce, elaborate upon and motivate the application for the simultaneous rezoning and removal of restriction in respect of Erf 307 Emmarentia Ext 1.

The full extent of the application is set out in this memorandum, which comprises of the following:

- ❖ Chapter 1: General Information
- ❖ Chapter 2: The Application
- ❖ Chapter 3: Policy Environment
- ❖ Chapter 4: Motivation
- ❖ Chapter 5: Conclusion

1. GENERAL INFORMATION

KiPD (Pty) Ltd, the authorised agent, has been appointed by Bukhara Traders and Investments (Pty) Ltd, the registered owner of the property, to lodge an application for the simultaneous rezoning and removal of restrictive title conditions of Erf 307 Emmarentia Ext 1 to allow for medium density residential development. The property will be referred to as "the site", "the subject properties" and/or "the proposed development" in this memorandum.

1.1. THE APPLICATION

Application is hereby made in terms of Sections 21 and 41 of the City of Johannesburg (CoJ) Municipal Planning By-Law, 2016, hereinafter referred to as the "By-Law", read together with the provisions of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA), for simultaneous rezoning and removal of restrictions (a) to (o) of Title Deed T40088/2019.

1.2. AGENT AND CLIENT

1.2.1. Agent

The authorised town planning agent acting on behalf of the client is:

Name	KiPD (Pty) Ltd
Responsible Persons	Saskia Cole
Postal Address	47 Third Street, Linden, 2195
Contact Number	011 888 8685 / 082 574 9318
Email	saskia@kipd.co.za

1.2.2. Client

The client's details are as follows:

Name	Yusuf Gardee
Contact Number	073 032 8847
Address	117 Barry Hertzog Avenue, Emmarentia
Email	fordsburg@gmail.com

1.3. LAND DEVELOPMENT AREA

1.3.1. Site Locality

(Annexure A: Plan 1 and 2)

The property is located at no 117 Barry Hertzog Avenue, Emmarentia. Emmarentia is located east of the Johannesburg Botanical Gardens, north of Melville, west of Greenside and south of Victory Park.

1.4. LEGAL ASPECTS

1.4.1. Ownership

In terms of Deed of Transfer T40088/2019, the property is registered in the name of Bukhara Traders and Investments (Pty) Ltd and measures 1 537 m².

1.4.2. Company Resolution

The Directors of Bukhara Traders and Investments (Pty) Ltd have provided a resolution authorising the nominated individual to provide a power of attorney to enable KiPD to submit a formal application as per the requirements of the CoJ Municipal Planning By-Law, 2016.

1.4.3. Power of Attorney

The authorised individual has in turn provided a signed power of attorneys to enable KiPD to submit a formal application as per the requirements of the CoJ Municipal Planning By-Law, 2016.

1.4.4. Restrictive Title Conditions

Application is hereby made for the removal of conditions (a) to (o) from Deed of Transfer T40088/2019.

1.4.5. Registered Mortgage Bonds

There is no mortgage bond registered against the property.

1.5. EXISTING LAND USE

The property is currently being used as a single dwelling house.

1.6. SURROUNDING LAND USE

(Annexure C: Land use plan)

Emmarentia is predominantly a residential suburb, with a number of higher density developments as well as businesses uses along the entire stretch of Barry Hertzog Avenue.

1.7. EXISTING ZONING AND DEVELOPMENT CONTROLS

(Annexure D: Zoning Certificate)

In terms of the City of Johannesburg Land Use Scheme, 2018 (Johannesburg Amendment Scheme 13-12907, as approved in 2014), the property is currently zoned as follows:

Zoning	Residential 1
Primary rights	Dwelling units
Secondary rights	Residential buildings, religious purposes, places of instruction, child care centre, social halls, institutions, special buildings, sport and recreation clubs, public or private parking areas, medical consulting rooms, guest house, tavern / shebeen.
Floor Area	1.2
Density	1 dwelling per erf
Coverage	50%- 1 storey 40% 2 and 3 storeys
Height zone	3 storeys
Building Lines	As per scheme: 5m street boundary

1.8. SURROUNDING ZONING

(Annexure E : Surrounding zoning plan)

In terms of the City of Johannesburg Land Use Scheme, 2018, most of the erven east and west of Barry Hertzog Avenue are zoned "Residential 1", and a number of erven along Barry Hertzog Avenue are zoned for Residential 1,2 and 3, as well as Business.

It is important to note that numerous properties are zoned "Residential 1" but are used for business purposes along Barry Hertzog Avenue.

2. THE APPLICATION

2.1. PROPOSED REMOVAL OF TITLE RESTRICTIONS

Application is hereby made to remove title conditions (a) to (o) of Deeds of Transfer T40088/2019.

These title conditions were imposed prior to any town planning scheme coming into operation for the Municipality. Since then all of these conditions are included and/or administrated in terms of a town planning or land use scheme, currently the City of Johannesburg Land Use Scheme, 2018.

There is therefore no longer a need to have these conditions included in the title deeds of the properties.

2.2. PROPOSED ZONING

Application is hereby made for the following land use rights :

Zoning	Residential 3
Primary rights	As per Scheme - dwelling house and residential buildings
Floor Area	As per scheme: 1.2
Density	40 Units per hectare (6 units on site)
Coverage	As per scheme : 60%
Height zone	As per Scheme : 3 storeys
Building Lines	3m street boundaries

2.3. PROPOSED LAND USE

It is intended for the property to be developed into a medium density residential complex. The proposed development will satisfy the growing demand for smaller and safer residential units in the sought after suburb of Emmarentia.

There has been a surge of developments in the vicinity in recent years, clearly indicating the demand.

3. SPATIAL PLANNING ENVIRONMENT

In terms of Section 5(2) of the City of Johannesburg Municipal Planning By-Law, 2016 – “any land development application in terms of said By-Law shall be guided and informed by the City’s Integrated Development Plan and Municipal Spatial Development Framework as adopted and approved in terms of Section 20 of SPLUMA and Section 10 of said By-Law.”

This section therefore reviews all relevant spatial planning documents and plans, to determine the suitability and compliance to the spatial plans of the City.

The following spatial planning documents have been reviewed :

- City of Johannesburg Spatial Development Plan, 2040 (2016);
- Nodal Review Policy 2019/2020.

3.1. SPATIAL DEVELOPMENT FRAMEWORK 2040

The Spatial Development Framework 2040 (SDF) is a city wide spatial policy document that identifies the main challenges and opportunities for the City, sets a spatial vision for the future city and outlines a set of strategies to achieve that vision.

Along with providing a spatial vision, the SDF defines the strategic spatial areas to be used in the City’s capital investment prioritisation model. This will ensure that infrastructure investment is directed to areas with the highest potential to positively impact on the development trajectory of the City as defined in the SDF.

In terms of the SDF, the subject property falls within the “Consolidation Zone”, this area (neither within the Transformation Zone, nor outside the urban development boundary) is viewed as a focus of urban consolidation, infrastructure maintenance, controlled growth, urban management, addressing backlogs (in social and hard infrastructure) and structural positioning for medium to longer term growth.

The focus of the strategy is to create liveable lower to medium density suburban areas that are well-connected to areas of higher intensity through transit infrastructure, without the need for additional investment in service infra-structure.

The development of a medium density development along a major through-route as well as a major public transport route is wholly in line with the principles of the SDF.

3.2. NODAL REVIEW POLICY 2019/2020

In terms of the Nodal Review Policy, 2019/2020, the subject property falls partly within the "Sub Urban Zone" and earmarked for 30-40 units per hectare.

In the "Sub Urban Zone", a medium intensity of uses is desired with a scattering of land use mixed though out the area but concentrated along high streets. The proposed densification of Erf 307 Emmarentia Ext 1 is wholly in line with the Nodal review, as application is made for 40 units per hectare, and the property is located along the high street of Barry Hertzog Avenue.

4. MOTIVATION

4.1. NEED AND DESIRABILITY

It is proposed that the subject property be rezoned to allow for 40 units per hectare in order to allow the development of six (6) units on site.

The proposed rezoning is to allow for the construction of a medium density residential development composed of high quality, highly accessible and more affordable units. The rationale of this development is to provide access to housing opportunities that would be affordable to a wide variety of occupants. The need for this type of development in this area can be attributed to the following :

4.1.1. Locality

The property is located along a mobility road, which is a prominent connector and public transport route (busses and taxis), thereby making it an ideal area to develop higher density residential developments.

Recent years has seen the increase of higher density residential development along this road due to its ease of access to the major business nodes of Johannesburg CBD, Rosebank CBD and Sandton CBD and its general central location.

With regard to the availability of social amenities, a large variation of schools, clinics/hospitals, library, police station, private health practitioners and a myriad more are available in close proximity to the site. Access to such facilities are made easier through the availability of public transport.

4.1.2. Preference of Smaller Units

The residential character of many of the suburbs in Johannesburg has been undergoing a change in terms of density and housing typology. The unsustainable nature of stand-alone dwelling units on large properties has led to high maintenance costs and has therefore not been favoured by many new homeowners. The convenient and safer apartment / townhouse development has become much more favoured due to the minimal maintenance and usually more secure development.

In addition to the user favouring the smaller unit, in terms of sustainability, increasing residential densities optimises existing infrastructure, prevents urban sprawl, supports public transport and reduces travel distances. The notion of the compact city will be materialised in this development as it will accommodate a substantial amount more residents on the property, and will be close to a number of amenities and places of employment. Emmarentia is located in close proximity to businesses and employment opportunities, thus the increasing of residential accommodation will reduce the proximity between work and home for the potential residents. Moreover, this will reduce the need for private cars as efficient public transport will be within walking distance from the development. The use of public transport will reduce the carbon footprint and aid in reducing carbon emissions.

4.1.3. Development trend along Barry Hertzog Avenue

Furthermore, Along Barry Hertzog Avenue, there has been immense changeover the years and the trend that can clearly be seen is the densification of properties abutting Barry Hertzog, at a density of 40 units per hectare. The table below illustrates the approved zoning along Barry Hertzog from Judith road to Linden Road.

Property	Amendment Scheme	Zoning	Density
Erf 1131 Greenside Ext 2	01-17180	Res 2	40u/Ha
Erf 298 Emmarentia Ext 1	13-7582	Res 2	7 Units On Site
Erf 299 Emmarentia Ext 1	01-8568	Res 2	40u/Ha
Erf 303 Emmarentia Ext 1	46N	Res 1+ Offices	
Erf 315 Emmarentia Ext 1	154N	Res 1+ Offices	
Erf 1117 Greenside Ext 2	01-17864	Res 3	40u/Ha
Erf 318-321 Emmarentia Ext 1	13-6294	Res4 + Offices	
Erf 1114 Greenside Ext 2	13-7899	Res 3	40u/Ha
Erf 346,347,349 Emmarentia Ext 1	257	Parking	
Erf 351,352 Emmarentia Ext 1	47N	Res1+ Offices	
Erf 355 Emmarentia Ext 1	13-11909	Res1+ Offices	
Erf 356 Emmarentia Ext 1	01-17879	Res 3	40u/Ha
Erf 842 Greenside Ext	629N	Res1+ Offices	
Erf 965 Greenside Ext	13-4609	Res 3	40u/Ha
Erf 839 Greenside Ext	858N	Res1+ Offices	
Erf 685 Emmarentia Ext 1	13-12726	Res 3	30u/Ha
Erf 691 Emmarentia Ext 1	13-15910	Res 2	40u/Ha
Erf 694 Emmarentia Ext 1	13-15907	Res 2	40 U/Ha
Erf 797 Greenside Ext	585N	Res 1+ Offices	
Erf 1312 Greenside Ext	4718	Res 3	21 Units
Erf 710 Emmarentia Ext 1	13-15600	Res 3	40u/Ha
Erf 711 Emmarentia Ext 1	01-17150	Res 3	40u/Ha

Erf 715 Emmarentia Ext 1	20-01-0081	Res 3	40u/Ha
Erf 638 Greenside Ext	13-13151	Res 2	40u/Ha
Erf 634 Greenside Ext	01-17095	Res 3	40u/Ha
Erf 632 Greenside Ext	13-15016	Res 2	40u/Ha
Erf 631 Greenside Ext	01-19385	Res 3	40u/Ha

5. SPLUMA DEVELOPMENT PRINCIPLES

In terms of the Spatial Planning and Land Use Management Act (Act 16 of 2013) (SPLUMA), the following principles apply to spatial planning, land development and land use management and are hereby applied to this application:

SPLUMA Referral		Proposed Development Compliance
7(a)	Spatial Justice	The development addresses the principle of spatial justice as it answers to the rectification of previous injustices by improving access to residential stock.
7(b)	Spatial Sustainability	The principle of spatial sustainability is addressed in the fact that the development is being implemented in an area that is considered viable for the development to occur within and addresses the immediate need to the amenity.
7(c)	Efficiency	The land development optimises the use of existing engineering infrastructure.
7(d)	Spatial Resilience	By providing more residential units, the principle of spatial resilience applies in that the Spatial Development framework supports the type of development that's been instituted in the area, therefore adhering to the vision of the City.
7(e)	Good Administration	The development answers to the broader scope and the microscope of all spheres of government, in that it answers the need of the intention to increase accessibility to necessary social needs within South Africa.

6. RECOMMENDATION

The application is in line with the City of Johannesburg's vision for this area and supports the policy; the proposed development would align with the surrounding area. The City is in dire need of more affordable, safe and well located residential opportunities. This application aims at addressing this need and more efficiently utilising well located space in the City.

We therefore recommend that the application be approved.