

MOTIVATIONAL MEMORANDUM:
Simultaneous Rezoning and Removal of
Restrictions Application
for
Erf 970 Greenside Ext

on behalf of
CAPUCCINO TRADING CC

Date	02 June 2022
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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 970 Greenside Ext.

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 Capuccino Trading CC, the registered owner of the property, to lodge an application for the simultaneous rezoning and removal of restrictive title conditions of Erf 970 Greenside Ext to allow for the property to be used for professional offices. 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 restriction (f) of Title Deed T6161/2017.

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	Raeesa Soomar
Postal Address	47 Third Street, Linden, 2195
Contact Number	011 888 8685 / 084 440 5957
Email	raesa@kipd.co.za

1.2.2. Client

The client's details are as follows:

Name	Mr Ayoob Kaka
Contact Number	083 675 1411
Address	182 Barry Hertzog Avenue, Greenside
Email	ayoob@kakalaw.co.za

1.3. LAND DEVELOPMENT AREA

1.3.1. Site Locality

The property is located at no 182 Barry Hertzog Avenue, Greenside. Greenside is located east of Emmarentia, west of Parkview, north of Westcliff and south of Parkhurst.

1.4. LEGAL ASPECTS

1.4.1. Ownership

In terms of Deed of Transfer T6161/2017, the property is registered in the name of Capuccino Trading CC and measures 1086 m².

1.4.2. Company Resolution

The members of Capuccino Trading CC 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

Condition (f) of Title Deed T6161/2017 restricts the use of the land for business purposes and application is hereby made to remove this condition.

1.4.5. Registered Mortgage Bonds

There is a mortgage bond registered against the property with Albaraka Bank. The bondholders consent letter is attached to this application.

1.5. EXISTING LAND USE

The property is currently being used as professional offices.

1.6. SURROUNDING LAND USE

The properties along Barry Hertzog vary in uses from retail, restaurants, professional offices, medical consulting rooms, varying residential densities and institutions. The properties further east and west of Barry Hertzog deeper into the suburbs of Emmarentia and Greenside are predominantly low density residential uses.

1.7. EXISTING ZONING AND DEVELOPMENT CONTROLS

In terms of the City of Johannesburg Land Use Scheme, 2018, the property is currently zoned as follows:

Zoning	Residential 1
Primary rights	Dwelling units
Secondary rights	Place of Amusement, 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	As per scheme: 1.2
Density	One dwelling unit per erf
Coverage	As per scheme : 50% - 1 and 2 storeys 40% - 3 storeys
Height zone	As per Scheme : 3 storeys
Parking	As per scheme
Building Lines	3m street boundaries

1.8. SURROUNDING ZONING

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". A number of properties along Barry Hertzog are zoned for business and higher density residential development.

2. THE APPLICATION

2.1. PROPOSED REMOVAL OF TITLE RESTRICTIONS

Application is hereby made to remove title condition (f) from Deeds of Transfer T6161/2017. The proposed zoning is for business uses (professional office suites) and the title condition reads as follows:

"No canteen, restaurant, shop, factory or any place of business whatsoever shall be opened or conducted on the erf"

This condition therefore restricts the use of the property for offices uses and thus necessitates its removal from the Title Deed.

2.2. PROPOSED ZONING

Application is hereby made for the following land use rights :

Zoning	Business 4
Primary rights	Offices
Floor Area	As per scheme: 1.0
Coverage	As per scheme : 50%
Height zone	As per Scheme – 2 storeys
Parking	As per Scheme
Building Lines	As per scheme

2.3. PROPOSED LAND USE

It is intended for the property to be used as professional offices within the existing structures.

No further development is intended on the site.

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 infrastructure. Mixed uses are encouraged along high streets.

The transformation of this property into professional office suites along a major through-route, high street as well as a major public transport route is wholly in line with the principles of the SDF. It is ideally located in a strategic area that is easily accessible.

3.2. NODAL REVIEW POLICY 2019/2020

In terms of the Nodal Review Policy, 2019/2020, the subject property falls within the “Sub-Urban Zone” and thus is earmarked for slightly higher intensity residential development as well as mixed uses along high streets.

The proposed development of Erf 970 Greenside Ext is wholly in line with the Nodal review, as application is made for office rights in conjunction with the existing “Residential 1” rights along a high street.

4. MOTIVATION

4.1. NEED AND DESIRABILITY

It is proposed that the property be rezoned to “Residential 1 including Offices” to allow for the property to be used for offices.

the intention of the application is to obtain rights to operate professional offices within the existing structures which was previously a residential dwelling unit. It is not intended for the structures to be demolished and new offices to be built.

The property is located along the high street, Barry Hertzog Avenue where a number of properties have been transformed into business uses. The table below illustrates the change in zoning along the extent of the street:

Property	Amendment Scheme	Zoning
1131 Greenside	01-17180	Residential 2
298 Emmarentia	13-7582	Residential 2
299 Emmarentia	01-8568	Residential 2
303 Emmarentia	46N	Residential 1+ Offices

315 Emmarentia	154N	Residential 1+ Offices
1117 Greenside	01-17864	Residential 3
318-321 Emmarentia	13-6294	Residential 4 + Offices
1114 Greenside	13-7899	Residential 3
346,347,349 Emmarentia	257 and 368	Parking
351,352 Emmarentia	47N	Residential 1+ Offices
355 Emmarentia	13-11909	Residential 1+ Offices
356 Emmarentia	01-17879	Residential 3
842 Greenside	629N	Residential 1+ Offices
965 Greenside	13-4609	Residential 3
839 Greenside	858N	Residential 1+ Offices
685 Emmarentia	13-12726	Residential 3
691 Emmarentia	13-15910	Residential 2
694 Emmarentia	13-15907	Residential 2
797 Greenside	585N	Residential 1+ Offices
1312 Greenside	4718	Residential 3
710 Emmarentia	13-15600	Residential 3
711 Emmarentia	01-17150	Residential 3
715 Emmarentia	20-01-0081	Residential 3
638 Greenside	13-13151	Residential 2
634 Greenside	01-17095	Residential 3
632 Greenside	13-15016	Residential 2
631 Greenside	01-19385	Residential 3

As can be seen from the above table, a number of erven have been transformed from Residential 1 zonings along Barry Hertzog and has thus resulted in the revolution of the street as a whole. The street has become a major public transport route, a major mobility street which links various areas of the city to each other and a mixed use high street.

The high level of accessibility and changing nature of the street, specifically with higher density residential development as well as public transport infrastructure makes the location of professional office suites – an employment opportunity- perfectly suited along Barry Hertzog Avenue.

The property has sufficient space for parking on site.

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 employment opportunities in close proximity to residential stock and transport infrastructure.
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 (along a high street) 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 business services along a high street, 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 business and 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 need of more well located business and employment 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.