

BREDA LOMBARD TOWN PLANNERS EST. 1993

MOTIVATING MEMORANDUM

REZONING APPLICATION IN TERMS OF SECTION 21 OF THE CITY OF JOHANNESBURG MUNICIPAL PLANNING BY-LAW, 2023

AND SECTION 41 FOR THE REMOVAL OF RESTRICTIVE CONDITIONS.

ERF 214 DUNKELD WEST

FROM SPECIAL TO SPECIAL (WITH AMENDED CONDITIONS).

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1. APPLICATION

- The application is submitted in terms of Section 21 of the City of Johannesburg Municipal Planning By-Law, 2023, for the amendment of the Johannesburg Land-use Scheme, 2018, from Special to Special (with amended conditions) in respect of Erf 214 Dunkeld West (**"the site"**).

- The second component of the application is also to remove restrictive title conditions in terms of Section 41.

2. SITE INFORMATION

2.1 TITLE DEED DESCRIPTION

- Erf 214 Dunkeld West.

2.2 LEGAL ASPECTS

2.2.1 OWNERSHIP

- Ten Bompas (Pty) Ltd.

2.2.2 POWER OF ATTORNEY AND COMPANY RESOLUTION

- Attached.

2.2.3 BONDHOLDER'S CONSENT

- Not bonded.

2.3 LOCALITY

2.3.1 PHYSICAL ADDRESS

- The site is located at 10 Bompas Road, Dunkeld West.

2.4 PHYSICAL FEATURES

2.4.1 TOTAL AREA

- 5 555m².

2.4.2 EXISTING DEVELOPMENTS

- Boutique hotel and associated conference centre.

2.5 EXISTING ZONING

- Special (Johannesburg Land Use Scheme, 2018.
  (Refer Annexure A – Amendment Scheme 01-12387).

2.6 PROPOSED ZONING

- Special (including a restaurant, subject to conditions) (in addition to the existing land-use rights).

2.7 SURROUNDING LAND-USES AND ZONINGS

PROPERTY DESCRIPTION	LAND-USES	ZONINGS
Erf 100 Dunkeld West	Apartments	Residential 3
Erf 94 Dunkeld West	Apartments	Residential 3
Erf 97 Dunkeld West	Dwelling house	Residential 1
Erf 207 Dunkeld West	Offices	Business 4
Erf 99 Dunkeld West	Apartments	Residential 3
Portion 2 of Erf 95 Dunkeld West	Dwelling unit	Residential 1
Portion 1 of Erf 95 Dunkeld West	Dwelling-units	Residential 1

2.8 RESTRICTIVE CONDITIONS

- An application in terms of **Section 41** of the City of Johannesburg Land-use Scheme (2018) is included in this application.

3. MOTIVATION

3.1 APPLICANT'S INTENTIONS

- It is the owner's intention to rezone the site to include a restaurant.
- **The development controls remain unchanged.**

3.2 TRANSPORTATION

3.2.1 ROADS / ACCESS

- Access will be taken from Bompas Road.

3.3 NEED AND DESIRABILITY

3.3.1 SPECIFIC SITE DYNAMICS

- The subject site is surrounded by residential as well as business / retail land-uses and is in close proximity to the Dunkeld West/Hyde Park Regional Node.

- **The site is therefore located in an area of mixed land-uses and economic activities.**

3.4 APPROVED LOCAL AUTHORITY POLICIES

3.4.1 The Spatial Development Framework (2040) (SDF 2040):

3.4.1.1 The SDF (2040) is not site-specific.

3.4.1.2 It is, however, our professional opinion that the application complies with the following principles of the SDF (2040):

➔ **Spatial Vision: A compact polycentric city**

- The spatial vision of the SDF (2040) is a compact polycentric city. Here the inner city would form the strong urban core linked by efficient public transport to dense, mixed use (residential and commercial), sub-centres, situated within a protected and integrated natural environment.

- The City of Johannesburg presently displays the inverse of this polycentric urban model with separated land uses and people living far from work opportunities.

- **The SDF thus proposes a shift to a more efficient and inclusive urban logic of compact polycentrism with a focus on the inner city as the core node of Johannesburg,** surrounded by mixed use nodes of various intensities connected by effective public transport and a more logical and efficient density gradient radiating outward from cores.

- To facilitate the spatial transformation needed in the city, the SDF (2040) endorses the following intertwined concepts of the new image of Johannesburg:

    - Compact city
    - Inclusive city
    - Connected city
    - Resilient city
    - Generative city

	3.5	COMPLIANCE WITH SPLUMA (ACT 16 OF 2013)

- **The proposed application essentially embraces the following principles:**

a) The principle of spatial justice, whereby –

i. Past spatial and other development imbalances must be redressed through improved access to and use of land;

ii. Spatial planning mechanisms, including land use schemes , must incorporate provisions that enable redress access to land by disadvantaged communities and persons;

iii. A Municipal Planning Tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the grounds that the value of land or property is affected by the outcome of the application;

b) The principle of spatial sustainability, whereby spatial planning and land use management systems must-

i. Promote land development that is within the fiscal, institutional and administrative means of the Republic;

ii. Promote land development in locations that are sustainable and limit urban sprawl; and

c) The principle of efficiency, whereby-

i. Land development optimizes the use of existing resources and infrastructure;

ii. Decision-making procedures are designed to minimize negative financial, social, economic or environmental impacts; and

d) **The principle of spatial resilience**, whereby flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks.

4. IMPACT ON SURROUNDING PROPERTIES

4.1 The proposed restaurant will not have any negative impact on the surrounding properties for the following reasons:

4.1.1 The site is located in an area of mixed land-uses and is located directly opposite the Dunkeld West Shopping Centre and an office park.

4.1.2 The site is not located in the "inner core" of the Dunkeld West Township but approximately 100 m from the Bompas Road/Jan Smuts Avenue intersection (to the West).

5. THE NODAL REVIEW (2020)

5.1. The site is located in the **General Urban Zone** of the Nodal Review (2020). The site is furthermore situated close to the **Rosebank Metropolitan Node** and approximately 150 m from the **Dunkeld West / Hyde Park Regional Node.**

5.2 **The development controls in respect of General Urban Zone can be summarised as follows:**

(page 29 of the Nodal Review (2020) approved 27 February 2020)

➔ **Height** : Up to five (5) storeys.

➔ **Density** : Minimum of 60 dwelling units per hectare

➔ **Land-uses**: Mixed-use e.g. light commercial, residential, offices, **retail**, public open space, recreation, community services, childcare, health care and small scale non-polluting (including noise) urban manufacturing.

➔ **Coverage**: Up to 60 % for 3 storeys

Up to 50% for 4 storeys

Up to 40% for 5 storeys

6. COMPARISON BETWEEN EXISTING AND PROPOSED RIGHTS

ITEM	AMENDMENT SCHEME 01-12387	PROPOSED RIGHTS
USE-ZONE	Special	Special
PRIMARY RIGHTS	Boutique hotel and ancillary offices	Boutique hotel, restaurant and conference facilities and ancillary offices.
CONSENT-USE RIGHTS	Conference facilities restricted to 100 m²	No rights
F.A.R.	0.35 The conference facility shall be restricted to 100 m²	0.35 The conference facility shall be restricted to 100 m²
COVERAGE	30%	30%
HEIGHT	Two storeys	As per scheme – Height Zone A (two storeys)

7. REMOVAL OF RESTRICTIVE CONDITIONS

7.1 RESTRICTIVE CONDITIONS TO BE REMOVED

7.1.1 The conditions to be removed from the title deed **T16394/2018** are redundant and restrictive and can be listed as follows:

7.1.1.1 *(a)* *no place of business of any description may be erected, opened or established on the said erf.*

7.1.1.2 *(b)* *no buildings shall be erected at a distance of less than 6.10 metres from the street boundary and there shall not be erected more than one dwelling-house with the necessary outbuildings and accessories on the said erf.*

7.2 REASONS FOR REMOVING RESTRICTIVE CONDITIONS

7.2.1 Condition (a): this condition is in conflict with the existing non-residential zoning of the site.

7.2.2 Condition (b): the former dwelling-house has already been converted to a hotel.

	7.3	NEED AND DESIRABILITY OF THE REMOVAL OF RESTRICTIVE CONDITIONS

7.3.1 It is necessary to remove restrictive and redundant conditions in order that the site may be developed in line with the removal of restrictive conditions proposal submitted to the Local Authority.

7.3.2 The City of Johannesburg Land-use Scheme (2018) was implemented to protect the rights of property owners and to ensure effective town planning controls by means of use-zone categories.

7.3.3 It is respectfully submitted that the application more than adequately addresses and satisfies the principles enshrined in the Spatial Planning and Land-Use Management Act in terms of infrastructure optimisation, curtailing urban sprawl and the balance of the said principles.

7.3.4 We respectfully submit that there is clearly a need for the type of development proposed and that the rights requested are compatible with the area and similar rights do already exist in Dunkeld West.

7.3.5 Consequently the applicant has discharged the onus of satisfying the Local Authority and that the upliftment of the restrictive and redundant conditions of title are reasonable, desirable and in the interest of the development of the area and that it is in the public interest.

7.3.6 The two conditions to be removed are in conflict with the existing zoning and existing structures on the site.

8. PROPOSED RESTAURANT

8.1 The floor area of the restaurant that will be open to the public is restricted to the floor area of the existing "dining room" area.

8.2 The area has been measured and the total area is 100 m².

8.3 It is therefore only a small component of the 0.35 F.A.R that will permit the restaurant.

8.4 The existing kitchen will be utilised for the restaurant and the normal hotel operations, e.g. providing meals to "in-house" guests (e.g. breakfast).

8.5 The site is located in the General Urban Zone where retail facilities can be provided.

8.6 The land-use rights in terms of **Amendment Scheme 01-12387** were allocated **prior** to the approval of the Nodal Review (2020).

8.7 Adequate merit therefore existed in 2017/2018 to support and approve this application.

9. CONCLUSION

9.1 The site is located in an area of mixed land-uses.

9.2 The floor area of the restaurant is restricted to 100 m².