**MEMORANDUM IN SUPPORT OF THE**

**APPLICATION FOR THE PROPOSED SIMULTANEOUS REMOVAL OF RESTRCTIVE CONDITIONS AND REZONING**

**OF**

**PORTION 1 OF ERF 945 MELVILLE**

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**PLANS**

Locality

Existing Zoning Plan

Existing land Use Plan

**1.1 Introduction**

* + 1. Application is hereby made in terms of Section 21 of the City of Johannesburg Municipal Planning By-Laws, 2016, for the amendment of the Johannesburg Land Use Scheme 2018 for the rezoning of Portion 1 of Erf 945 Melville from “Special” to “Business 1” including wheel alignment centre with ancillary use, subject to conditions.

**ALSO**

Application is hereby made in terms of Section 41 of the City of Johannesburg Municipal Planning By-laws, 2016, read with SPLUMA (Act 16 of 2013) for the removal of conditions (a) and (b) on the site.

* + 1. Details of the application are set out under Section 2 of this application.

**1.2 Locality**

1.2.1 The site is located on the eastern side of Main Road.

1.2.2 The street address of the site is 32 Main Road, Melville.

**1.3 Size**

1.3.1 The site measures 638m² in extent.

**1.4 Ownership**

1.4.1 The site is registered in the name of the trust for the time being of THE HASHMI FAMILY TRUST is held by virtue of Deed of Transfer T 51368/2021 in respect of the site.

**1.5 Existing Zoning and Land Use**

1.51 The site is zoned “Special” in terms of Amendment Scheme 327N of the Johannesburg Town Planning Scheme, 1979.

1.5.2 The site is developed with a dwelling unit and outbuildings.

**1.6 Surrounding Zoning and Land Use**

1.61 The properties to the north are developed with dwelling units, associated outbuildings, sport grounds and offices.

1.6.2 The erven to the east are developed with dwelling units, associated outbuildings, medical consulting room and offices.

1.6.3 The properties to the west are developed with dwelling units, associated outbuildings, sport grounds and shops.

1.6.4 The properties to the south are developed with mixed use development.

**1.7 Legal Aspects**

1.7.1 The property is not subject to a mortgage bond.

1.7.2 There are conditions on the title relating to the site which hinder the

 intended use of the site. It is proposed that these conditions be

 removed in terms of this application.

1. **THE APPLICATION**

**2.1 The Rezoning and proposed controls**

2.1.1 Application is made in terms Section 21 of the Municipal Planning By-Laws of the City of Johannesburg, 2016, for the rezoning of Portion 1 of Erf 945 Melville, from “Special” to “Business 1” including wheel alignment centre with ancillary use, subject to conditions.

2.1.2 The proposed conditions as contained in the accompanying Map 2 documents are as follows:

 Zoning : Business 1

 Primary Rights : As per Scheme – Including a wheel alignment

centre with ancillary use

 Floor Area : As per Scheme

 Height : As per Scheme – Height zone A –Three (3)

storeys

 Coverage : As per Scheme – 60%

 Density : As per Scheme – 1.2

 Parking : As per Scheme

 Building Line : As per Scheme

General

1. A Site Development Plan shall be submitted for approval to the Local Authority prior to the submission of any building plans.
2. Access and egress shall be to the satisfaction of the Council.

**2.2.1 The Removal of Title Conditions**

2.2.1 Application is hereby made in terms of Section 41 of the City of Johannesburg Municipal Planning By-laws, 2016, for the removal of conditions (a) and (b) remove on Deed of Transfer No.

T 51368/2021 relating to Portion 1 of Erf 945 Melville. The conditions read as follows.

1. That the owner from time to time shall not have the right to make or cause to be made, any bricks or tiles or earthware pipes or other articles on the said Lot or to remove the soil for such purposes, save and except however, for buildings and erections on the said Lot itself.
2. That the owner from time to time shall not have the right to conduct grass huts or houses, or cattle kraals on the said Lot or to use it in any way for slaughtering purposes.

2.2.2 The conditions are restricting the site to different types of building material. Conditions (a) & (b) refers to the building material. This conditions we inserted in the title deeds before the promulgation of the Scheme so because the Scheme was promulgated in 1979 then the Scheme so be the one that guides the development.

**2.3 Applicant’s Intention**

2.3.1 The applicant wishes to obtain the rights to permit wheel alignment centre with ancillary uses under “Business 1”. The owner’s intension is to develop wheel alignment centre and ancillary uses. The applicant wishes to remove some conditions that will hamper with the rights applied for obtain the rights to permit business rights.

2.3.2 The properties situated to the south of Main Road are developed with mixed use development.

2.3.3 The applicant intends redevelop the site.

2.3.4 All the required parking will be provided on the site and access shall be to the satisfaction of the Council.

**3. MOTIVATION ON SUPPORT OF THE APPLICATION**

* 1. **The Need for Desirability of business**
		1. The primary purpose of the application is to obtain rights to develop business and ancillary uses including wheel alignment centre on the site.
		2. The availability of infrastructure has to be taken into consideration prior to the approval of proposed developments. The continued City commitment to the upgrading and economic upliftment of these areas places them within the highest priority category of the Growth Management Areas and reinforces the commitment to service upgrading (e.g gravel roads upgrading, eradication of informal settlement). The transformation of these locations from locations from their previous dormitory township status to vibrant, integrated communities are central to the principles of the Growth and Development Strategy such as “facilitated social mobility” and “settlement restructuring”.
		3. Retail uses and businesses should be located as close as possible to large and growing residential areas in order to reduce commuting distances and it is also recommended that the best possible use be made of available land and existing infrastructure within the identified area.
		4. The City via a series of incentives and targeted infrastructure provision will have to support developments that foster increased economic development and labour-intensive industries. A full suite of incentives are still being developed but they could include fast tracking of applications, application fee and bulk contributions exemptions and in relation to industrial and commercial development, rates holidays.
		5. The rising cost of land and transport, together with the need to curtail urban sprawl of metropolitan areas, has resulted in the growing acceptance of the need for the integration of supportive uses that are conveniently located.
		6. Under the circumstances, it is contended that the proposed rights are an improvement to the City of Johannesburg Land Use Scheme, 2018, and should be approved.
		7. The Spatial Development Framework 2040 (City of Johannesburg, 2016) and the SDFs that preceded it use a number of tools to direct urban growth and development. These tools ensure that development occurs in a way that is holistically sustainable: having positive environmental, social and economic effects. According to the SDF, development should be directed in a way that addresses the inequality and inefficiency in the City, transforming it into a more equitable, liveable, resilient, efficient and productive urban form. Additionally, private investment should be directed to match government capital investment, promoting a mutually beneficial multiplier effect.
		8. For this plan to work high intensity development should be concentrated in clearly defined ‘well located’ areas. These areas are a key tool of the SDF and its predecessors where they are described as nodes, or mixed-use nodes. These nodes may differ from one another (for example some need more housing while others may need more business), but essentially, they are areas where high intensity and mixed-use development (supported by government infrastructure investment) should take place.
		9. In 2016, the Spatial Development Framework 2040 for Johannesburg was approved. That document and the council minutes which adopted it, called for this Nodal Review to be drafted. The nodes that are currently being used in the SDF 2040 are the same as those used in the 2010/11 SDF, various Regional Spatial Development Frameworks (RSDFs) from 2010/11, and subsequent Precinct Plans and Urban Development Frameworks. While it was initially intended that nodes be reviewed in the SDF 2040, it was decided that a dedicated process should rather take place following the adoption of the SDF, as outlined in the excerpt below.
		10. This document outlines the process that was followed in reviewing the nodes in the city, and describes a new ‘transect’ or ‘node and development zone’ approach which is an evolution of the nodal strategy. It then indicates the development guidelines that should be applied in each of the nodes/development zones of the city.
		11. This policy, once approved by Council, will form part of the SDF 2040 as an annexure. All nodes defined in the SDF 2040 or any existing RSDF, Precinct Plan or Urban Development Framework, will be replaced by the nodes and urban development zones defined in this document. This section defines how existing approved spatial policies should be applied in relation to the Nodal Review.
		12. The policy was approved by Council on 29 May 2020 which will form part of the SDF 2040 as an annexure. All nodes defined in the SDF 2040 or any existing RSDF, Precinct Plan or Urban Development Framework, will be replaced by the nodes and urban development zones defined in this document. This section defines how existing approved spatial policies should be applied in relation to the Nodal Review.
		13. This Nodal Review will rescind all sub area tables in the RSDFs, and RSDFs should be used for information only (including heritage/environmental information where relevant). Guidelines in the SDF 2040 and this nodal review will override sub-area tables in the RSDFs.
		14. Cities are largely founded on connectivity and access. They are places where people and businesses concentrate to gain access to several services and amenities. These include (to name a few); jobs, economic activity, markets, schools, healthcare facilities, services, cultural/religious experiences, leisure, entertainment and interaction with other people. The SDF argues that the city needs to transform from a sprawled, car-oriented city, to a compact-polycentric, mixed use, walkable city. Compact cities are argued to be more efficient, productive, liveable and sustainable and they also promote the use of public transit, rather than the private car.
		15. As such, along with the public participation component, the Nodal Review has largely been based on a modelling exercise that measures urban potential in the City, based on connectivity and access. This used current street networks and how they promote walkability, access to public transit stations, and various amenities. Importantly, it focussed on walkability and public transit, rather than car use.
		16. The analysis created two indexes (one for commercial nodes, and the other for residential density) that score all parts of the City in terms of Urban Potential and Connectivity. Those areas that score highest inform the location of high intensity nodes, with those that score low indicating areas where development should be limited. Importantly too, it is intended that a gradient of intensity is created across the City. This is as per the SDF 2040, which calls for.
		17. Based on the Nodal Review policy which was approve on 29 May 2020 Table 5 of the Metropolitan specifies under residential density column that additional density can be considered based on contextual assessments, site specific merits and inclusionary housing.
		18. The property falls under General Urban Zones an urban (not surburban) zone of the city with up to 5 storey residential or mixed use buildings. Medium intensity area, with a good scattering of land use mix (local shops and businesses mixed throught the area, but concentrated on high streets and in neighbourhood nodes) A thoroughly walkable environment, with all local amenities, with all local amenities available on foot. A mix of uses allowed throghhout the neighbourhood, but focused on high streets (mixed use, active pedestrian street), neighbourhood nodes and around public transport stations/stops. Up to 50% of floor area per building for non-residential (except in single storey existing building conversions which may be 10% non-residential).
		19. Consider community-oriented local business uses in the interface areas south of Main Road in Melville.
		20. The area is conveniently located in respect of local parks and recreation facilities; these include the Zoo Lake, Marks Park Spoort Club & Melville Koppies West.
		21. There are numerous shopping facilities in close proximity to the site, in particular, Campus Square, Inner City and Cresta Mall.
		22. The overall planning of the site will be in terms of a Site Development Plan which will be included as a condition of the proposed “Business 1” zoning of the site. This provides advantages in terms of detailed design aspects such as site layout, built form, access and relationship to adjoining houses.

**3.2 The Need for Desirability of Removing Title Conditions**

3.2.1 It is necessary to remove certain restrictive conditions of title in order that the site may be developed for business purposes development.

3.2.2 It is common practice to remove and amend restrictive conditions when they hamper proposed developments and the Removal of Restrictions Act was promulgated for this purpose.

3.2.3 The conditions of title relating to the site are typical of conditions laid down in the title deeds of erven in townships, such as Melville, which were established before the introduction of Town Planning Schemes and municipal by-laws. As such, it is contended that these conditions can be removed without prejudicing surrounding property owners.

3.2.4 The basic premise within which the removal and amendment of restrictions must be considered is whether such alteration, suspension or removal of a restrictive condition is in the interests of the area or in the public interest.

3.2.5 It is common practice to remove restrictive conditions of title, which discourage the use of the site at a higher potential. It also results in the streamlining or rationalization of controls in accordance with national and local deregulation policies.

3.2.6 We submit that the Town Planning Scheme was created for the purpose of ensuring that the public interest is protected via the controlled development of areas included in the Scheme. It is in the public interest to ensure that the Scheme, where applicable benefits the development of the area as intended by the Scheme. To eradicate inconsistencies in the title deed conditions and thereby to promote the uniform application of the Scheme must surely be viewed as a factor in the interests of the public as a viable.

**3.3 The Spluma and Spatial Development Famework**

3.3.1 The City has moved away from using the RSDF but still apply the write up

 inside them.

3.3.2 The City of Johannesburg has adopted the Spatial Development

Framework 2040. The SDF seeks to address five major issues in Johannesburg’s spatial and social landscape:

* Increasing pressure on the natural environment and green infrastructure.
* Urban Sprawl and fragmentation.
* Spatial inequalities and the job-housing mismatch
* Exclusion and disconnection emanating from:
* high potential underused areas (the mining belt and the Modderfontein area);
* securitisation and gated developments, and disconnected street networks (high cul-de-sac ratios and low intersection densities).
* Inefficient residential densities and land use diversity.

3.3.3 The SDF for Johannesburg 2040 is a city-wide spatial policy document

that identifies the main challenges and opportunities in the city, sets a

spatial vision for the future city, and outlines a set of strategies to achieve that vision. Importantly, along with providing a spatial vision, **the SDF defines the strategic spatial areas to be used in the City’s capital investment prioritization model (Johannesburg Strategic Infrastructure Platform – JSIP)**. 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 this SDF.

The core objective of the SDF 2040 is to create **a spatially just world**

**class African city**. The SDF 2040 is premised on spatial transformation, defined through the principles of equity, justice, resilience, sustainability and urban efficiency which it seeks to translate into a development policy.

The SDF is not a static master plan; it is rather a dynamic model of

strategic planning that will be cyclically reviewed, adjusting its focus and

direction based on city transformation that takes place on the ground.

The spatial transformation vision of the SDF 2040 seeks to create a spatially just world class African city based on a compact polycentric growth model. The model is based on an exercise testing three development scenarios, each hypothesising the growth of Johannesburg from 4.3 million to 7 million people by 2040. The first model tested describes a sprawled scenario with dispersed growth. The second describes a ‘linear development’ scenario where future development occurs along an expansive public transport network (corridor development) linking peripheral marginalised areas of the city, through vast development corridors to the Inner City. The third scenario is a compact polycentric model which concentrates growth in a compact urban core, around transformation areas and key urban and transit oriented development nodes. The compact polycentric city model performed significantly better than the other two in terms of economic, environmental and social indicators.

**Therefore, 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 development model below (Figure 1) is a diagram of a traditional polycentric city with a strong core, connected to economic sub centres by efficient public transit, with high housing densities surrounding cores and gradually lower densities further from cores.

The City of Johannesburg presently displays the inverse of this polycentric urban model with separated land uses and people living far from work opportunities (Figure 2). The metropolitan core does not perform as the strong, structuring centre it should be. High density residential areas (the ‘townships’) are separated from urban economic centres and movement structures of the city. This pattern of development results in high social, economic and environmental costs.

*The Compact City strategy aims to intensify urban land use through a combination of higher residential densities and centralisation, mixed land uses, and development limits outside of a designated area.47*

**Outcomes**

Compactness reduces physical distances and travel times, bringing people closer to their jobs, public facilities and social amenities, thus generating the urban space for interactions between citizens with different incomes and social origin. The Compact City is environmentally and economically sustainable: increasing density and proximity helps to reduce energy consumption for transportation as well as improves land use management and preservation of rural land and biodiversity. The city generated through medium to high-density settlements, also reduces cost of services, public facilities and infrastructure provision, increasing economic sustainability and feasibility.

**Indicators**

By creating high-density, mixed use areas, cities can accommodate population growth and ensure land is used in accordance with demand without compromising the City’s natural assets. UN- Habitat’s residential density principle proposes at least **15,000 people/km²**, to make optimal use of scarce land both on the city and neighbourhood scale. **It must be noted that densification on its own cannot make cities more liveable and sustainable, but that this densification should happen in conjunction with a mixing and intensification of land uses linked with high accessibility.** In this light, diversification is needed in high density residential areas, and residential densification is needed in core areas with access to economic activity and city infrastructure (including social services, public transit and bulk infrastructure).

To ensure job accessibility, a target of at least 1 job for two inhabitants (job-housing ratio equal to 0.5) should be aimed at, that is **at least 7,500 jobs/ km²,** but with much higher densities in economic centres.

**Strategies**

Compact development prioritises development close to and radiating from a strong urban core, where the definition of high-density development is based primarily on the concentration of jobs, businesses and dwelling units. The development approach focusses on infill and redevelopment (brown field) in favour of green-field development on the outskirts of the city. The new polycentric compact city model will combine density (in terms of housing, jobs and urban amenities), proximity, accessibility to public transit, and diversity of land uses in order to establish an urban hierarchy and logic.