

MOTIVATION MEMORANDUM

**PROPOSED REZONING AND SIMULTANEOUS REMOVAL OF
RESTRICTIVE CONDITIONS OF TITLE OF
THE REMAINING EXTENT OF PORTION 1 OF ERF 264
PARKTOWN NORTH TOWNSHIP,
CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY**

1. INTRODUCTION

- 1.1. The purpose of this application is for the amendment of the City of Johannesburg Land Use Scheme, 2018 for the proposed rezoning of the **Remaining Extent of Portion 1 of Erf 264 Parktown North Township**, City of Johannesburg Metropolitan Municipality from “Residential 1” with a density of one dwelling per 1250m² to “Residential 1” including medical consulting rooms and increased coverage.
- 1.2. The removal of restrictive condition of title: Condition (a) from Deed of Transfer T39891/2019 and Condition (a) from Deed of Transfer T17383/2012 in respect of the **Remaining Extent of Portion 1 of Erf 264 Parktown North Township**.

This application is lodged in terms of Sections 21 and 41 of the City of Johannesburg Municipal Planning By-Law, 2016 read together with the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) and will be advertised in the Star Newspaper and Gauteng Provincial Gazette on _____.

2. DETAILS CONCERNING THE PROPERTY

- 2.1 **Locality of the property**
The property is located at 23 Fourth Avenue, Parktown North, approximately 1,7km west of Rosebank Mall. (See locality map).
- 2.2 **Access to the property**
Access to the property is obtained from Fourth Avenue.
- 2.3 **Size of the property**
The Remaining Extent of Portion 1 of Erf 264 Parktown North is 780m² in extent.

2.4 **Owner of the property**

The property is registered in the names of **Deepak Ishwarlal Ramauthar (Identity Number 831124 5040 087)** and **Suvashna Ramauthar (Identity Number 840101 0048 082)**.

2.5 **Deeds of transfer**

The property is held under Deeds of Transfer T39891/2019 and T17383/2012.

2.6 **Bond holders**

A bond in favour of First National Bank is registered against the property. The bond holder's consent is attached.

3. EXISTING ZONING AND USE OF THE PROPERTY

3.1 **Existing zoning**

The existing zoning of the Remaining Extent of Portion 1 of Erf 264 Parktown North in terms of the City of Johannesburg Land Use Scheme 2018 is **"Residential 1" with a density of one dwelling per 1250m²**.

3.2 **Surrounding land uses**

The property is located in a mixed-use area, with residential and non-residential land uses.

3.3 **Restrictive title conditions**

Condition (a) in Deed of Transfer T39891/2019 is restrictive and should be removed.

Condition (a) will thus be removed and are stipulated in the title deed as follows:

(a) THAT the said Lot shall be for residential purposes solely, and no business can be carried on, no shops, canteens, hotels, bottle stores, slaughter poles, piggeries or dairies can be kept or will be allowed thereon.

3.4 **Existing use of the property**

The property is currently used for a dwelling house and medical consulting rooms.

4. APPLICATION

4.1 Amendment requested

This application is for the removal of a restrictive condition from title deed T39891/2019 and T17383/2012, and the amendment of the City of Johannesburg Land Use Scheme, 2018 for the proposed rezoning of the Remaining Extent of Portion 1 of Erf 264 Parktown North, from "Residential 1" with a density of one dwelling per 1250m² to "Residential 1" including medical consulting rooms and increased coverage.

NECESSITY AND DESIRABILITY OF THE APPLICATION

This application can be motivated as follows to be necessary and desirable:

1. In terms of the Nodal Review Policy of 2020, the property is located in a “General Urban Zone”, which is characterized as a medium intensity area with a good scattering of land use mix and mixed-use buildings. Mixed uses that will be supported includes residential and health care facilities.
2. The area is predominantly residential in nature, with a number of non-residential uses, especially along 7th Avenue, Parktown.
3. The medical consulting rooms (approximately 120m²) shall be retained within the existing structures as to maintain the residential character and ambience of the area.
4. In terms of its nature medical consulting rooms are quiet and unobstructive and provides a valuable service to the surrounding community.
5. The medical consulting rooms are viewed as a supporting land use within a residential area and such land uses are a necessity and considered to be a social need.
6. Residents from the surrounding area can walk to make use of the service, eliminating the necessity of driving and reducing time on the road.
7. The scale and nature of the proposed use will be compatible with the surrounding residential uses.
8. The medical consulting rooms shall be restricted to a maximum floor area of 150m² and the remainder of the property will be used for residential purposes as the primary dwelling of the owners of the property.
9. The retention of the residential component provides a continued presence after hours in terms of safety, security and property value.
10. There will be no impact on engineering services, as the additional services required for the medical consulting rooms are negligible.
11. This application is in line with the Chapter 2, Section 7 Development Principles of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) through:
 - Promote land development in locations that are sustainable and limits urban sprawl;
 - Result in neighbourhoods that are viable;

- Land development that optimizes the use of existing resources and infrastructure; and
 - The principle of good administration.
12. The title deeds contain a condition that was originally imposed by the then authorities at the time of the establishment of the township, to manage and control the use of land and buildings. Such matters were inserted in title deeds in the absence of proper town planning scheme provisions. The coming into effect of the City of Johannesburg Land Use Scheme of 2018 over this area resulted in the duplication of various conditions of control.
 13. Furthermore, the condition as set out in the title deeds restricts the use of the property for residential purposes only. This condition needs to be removed to allow for the residential and medical consulting rooms land use.
 14. The proposed removal of restrictive conditions of title are applied for in order to remove confusion and difficulties of interpretation with regard to the overlapping statutory restrictions which co-exist in both the title deed and the relevant land use scheme as well as provide clarity with conditions that are contradictory to one another in the Scheme as well as in the title deed.
 15. The removal of the restrictive condition of title are both necessary for the proper development of the property and will be in the public interest as difficulties of interpretation will be removed and the eventual development will be properly regulated by the land use scheme in operation in the area.
 16. The condition of title that are applied to be removed from the title deeds have become archaic and superfluous, given the changed circumstances of development in the area. The proposed development will be controlled sufficiently by the City of Johannesburg Land Use Scheme of 2018.
 17. The property provides a development opportunity that will be to the advantage of the surrounding mixed-use developments and to the general public, but is currently limited with the existing zoning and the restrictive condition of title. This application is therefore desirable and reasonable to allow for the current development of the property.
 18. The removal of the restrictive title conditions is done in order to clear the Deed of Transfer of restrictions, so that only the Land Use Scheme will put restrictions on development control measures for the proposed development.

Seen against the above motivation, the investment in the area and the provision of a mixed-use development, the Municipality is requested to give this application their favourable consideration.