

## MEMORANDUM

### APPLICATION IN TERMS OF SECTION 5(5) OF THE GAUTENG REMOVAL OF RESTRICTIONS ACT, 1996, (ACT 3 OF 1996) FOR THE REMOVAL OF TITLE CONDITIONS AND THE SIMULTANEOUS AMENDMENT OF THE TSHWANE TOWN PLANNING SCHEME, 2008

#### REMAINDER OF ERF 1341 AND REMAINDER OF ERF 1342 (TO BE KNOWN AS CONSOLIDATED ERF 1869) CAPITAL PARK

#### 1 INTRODUCTION

- 1.1 Anvir Laboratories (Pty) Ltd, the owners of Remainder of Erf 1341 and Remainder of Erf 1342 Capital Park wish to apply for the rights to operate a filling station with a canopy covered forecourt and a modern convenience store, together with a place of refreshment on the property.
- 1.2 The Deeds of Transfer contain, amongst others, conditions that specify the building lines applicable to the properties and that the property may only be used for a dwelling house. These conditions are regarded as restrictive to the development and needs to be removed. Concurrently it is proposed to clear the deeds from all the obsolete conditions. Hence application is made for removal of restrictive conditions of title and simultaneous rezoning of the properties as provided for in Section 5(5) of the Gauteng Removal of Restrictions Act, 1996, (Act 3 of 1996).
- 1.3 It is intended to develop the following on the property:

- A filling station with a canopy covered forecourt, pumps selling petrol and diesel fuels and a convenience store of some  $\pm 150\text{m}^2$
- A place of refreshment of some  $\pm 100\text{m}^2$
- Supporting administration offices, ablutions and storage of some  $150\text{m}^2$ .

1.4 This memorandum will deal with the particulars of the land, the land use considerations and the motivation for the approval of the application as submitted to the Municipality.

## 2 LOCAL AUTHORITY

Remainder of Erf 1341 and Remainder of Erf 1342 Capital Park (the subject properties) are located within the Municipal boundaries of the City of Tshwane Metropolitan Municipality, in the Gauteng Province.

## 3 PROPERTY INFORMATION

### 3.1 DESCRIPTION

The subject properties are described as Remainder of Erf 1341 and Remainder of Erf 1342 Capital Park in terms of the relevant Deeds of Transfer on record at the offices of the Registrar of Deeds. An application for consolidation of the two properties has been approved by the City of Tshwane and subsequently a consolidation diagram (SG no 2330/2009) has been registered at the offices of the Surveyor General, describing the consolidated erf as Erf 1869 Capital Park. Registration at the Deeds Office will follow the outcome of this application.

### 3.2 LOCALITY AND AREA PERSPECTIVE

Capital Park is regarded as one of the oldest suburbs in Pretoria with a number of historic houses that contribute to the character of the area. The area is locally referred to as Pretoria's Artists' Hub. The suburb has an almost rectangular narrow shape lying east-west wedged in between Johan Heyns Road and Eskia Mphahlele Drive. A part of the Witwatersberg mountain range lies to the south between the National Zoological Gardens and Capital Park. The area is well served by facilities of the Tshwane University of Technology as well as the University of Pretoria. The Steve Biko Academic Hospital is situated some 1.5km to the south west of the subject properties, whilst the Asiatic Bazaar and Belle Ombre lie some 3km to the south west of the properties.

Paul Kruger Street is regarded as one of the major north-south transport routes in Tshwane and carries a high traffic volume. Business development has taken place all along the street which resulted in Mansfield Avenue being built some years ago to allow for uninterrupted traffic flow as an alternative to Paul Kruger Street. The Paul Kruger Street Mansfield Avenue split lies some 1.4km to the north of the site. The traffic flow on Paul Kruger to the south of the split however remained high over the years. The construction of a BRT line is currently underway in Paul Kruger Street as part of the City of Tshwane's improvement of the Public Transport Infrastructure initiative.

The subject properties lie on the south-western quadrant of the Paul Kruger Street/Malherbe Street intersection and are wedged in between Paul Kruger Street, Venter Street and Malherbe Street.

**MAPS 1 and 2** attached hereto, illustrates the locality of the property on a local and regional scale.

### **3.3 PROPERTY DETAILS**

The property details as per the records of the Registrar of Deeds can be summarized as follows:

PROPERTY DESCRIPTION	DEED OF TRANSFER	SIZE	OWNERSHIP
Remainder of Erf 1341 Capital Park	T91716/2008	2016m <sup>2</sup>	Anvir Laboratories Pty Ltd
Remainder of Erf 1342 Capital Park	T118405/2001	1171m <sup>2</sup>	Anvir Laboratories Pty Ltd

Please note that the sizes of the properties as indicated in the Deeds of Transfer have been affected by the expropriation of portions of the land for road purposes. The consolidation diagram of the properties as approved by the surveyor General has taken the expropriated portions into account.

A copy of the letter of approval of the consolidation of the properties issued by the City of Tshwane as well as the approved diagram, SG No 2330/2009 is attached hereto as **ANNEXURE A.**

### **3.4 SERVITUDES AND RESTRICTIVE CONDITIONS**

From the records of the offices of the Surveyor General and the Registrar of Deeds the properties are not subject to any servitude.

The Deeds of Transfer contain a number of obsolete conditions as well as conditions that may be restrictive to the proposed development.

Application is therefore made for the removal of conditions from each of the relevant Deeds of Transfer as listed below:

#### **3.4.1 REMAINDER OF ERF 1341 CAPITAL PARK**

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**Condition (1)** prohibits the use of the property for brickmaking, quarrying, shops canteens, factories, breweries, slaughterpoles etc and restrict the use of the property to residential purposes. This condition is restrictive to the proposed use of the property and should be removed from the Deed of Transfer.

**Condition (2)** deals with the architectural quality and value of the building and can be removed since the City of Tshwane attends to this effectively and the condition is regarded as obsolete.

**Condition (3)** refers to the historic situation before the establishment of a Municipality when water was still provided to the properties via a reticulation system and the responsible persons were given authority in the title conditions to enter onto the site at any time and to install pipes etc. This function has been taken over by the Municipality and formal municipal services are available to the area and the condition has therefore become obsolete. The condition can be removed from the Deed of Transfer.

### 3.4.2 REMAINDER OF ERF 1342 CAPITAL PARK

**Condition 1** prohibits the use of the property for brickmaking, quarrying, shops, canteens, factories, breweries, slaughterpoles etc and restrict the use of the property to residential purposes. This condition is restrictive to the proposed use of the property and should be removed from the Deed of Transfer.

**Condition 2** deals with the architectural quality and value of the building as well as building line restrictions and can be removed since the City of Tshwane attends to this effectively and the condition is regarded as obsolete.

**Condition 3** refers to the historic situation before the establishment of a Municipality when water was still provided to the properties via a reticulation system and the responsible persons were given authority in the title conditions to enter onto the site at any time and to install pipes etc. This function has been taken over by the Municipality and formal municipal services are

available to the area and the condition has therefore become obsolete. The consolidation diagram takes the expropriation into account. The condition can be removed from the Deed of Transfer.

**Condition 4** refers to the expropriation of portions of the property for purposes of road widening. The expropriated portions have already been taken into consideration as is evident on the consolidation diagram approved by the offices of the Surveyor General. Refer to ANNEXURE B. The condition should remain in the Deed of Transfer.

Application is therefore made for removal of restrictive conditions (1), (2) and (3) from Deed of Transfer T91716/2008 and conditions 1, 2 and 3 from Deed of Transfer T118405/2001 and simultaneous rezoning of the properties as provided for in Section 5(5) of the Gauteng Removal of Restrictions Act, 1996, (Act 3 of 1996).

The Deeds of Transfer are attached as **ANNEXURE A**. The consolidation diagram is attached as **ANNEXURE B** and the mandates to act on behalf of the respective property owners are attached as **ANNEXURE C**.

### **3.5 BONDHOLDER**

There are no bond registered over the Remainder of Erf 1341, but a bond has been registered in favour of ABSA Bank over the Remainder of Erf 1342 Capital Park.

### **3.6 ZONING**

According to the Tshwane Town Planning Scheme, 2008 both properties are zoned "Special" for the purposes of flats and such other uses ordinarily incidental or related thereto, such as but not limited to, a caretakers flat, outbuildings, security purposes including access control, recreational facilities and amenities and/or for similar flat-related purposes. The property

directly north of the subject properties is zoned “Business 1” whilst the property to the north west is zoned “Educational” and the property immediately west of the subject properties is zoned “Special” for a dwelling house, and/or nursery, tea garden, pet shop and curio shop”. The property on the north-western corner of the Flowers and Paul Kruger street junction enjoys rights for a “Public Garage”. Most of the properties along Paul Kruger Street are zoned “Business 1” or “Special” for business related uses. The properties further to the east and west away from Paul Kruger Street are predominantly zoned “Residential 1”. The zoning regime of the area is confirmed by the zoning map attached as **MAP 3**. The zoning certificates are attached as (**ANNEXURE D**).

### **3.7 LAND USE**

A land use survey was conducted on 10 February 2014.

Various business uses has established along Paul Kruger Street including motor dealerships, shops, the Capital Park Primary School, coffee shops, nursery and a wine tasting facility. The Macedonia Café is located directly north of the subject property and a Garden Centre is located to the west. The subject property is currently used for the sale of pots and garden furniture. The larger area further to the west and east however remains fairly residential in character, with most of the properties retaining their single residential status. A number of small coffee shops and arts and crafts shops have established in Capital Park. The filling station that was operated from the property on the north western corner of Flowers and Paul Kruger Streets have been decommissioned.

The land use map (**MAP 4**) and the aerial photo (**MAP 5**) illustrates the land uses on site and in the larger area.

## 4 DEVELOPMENT PROPOSAL

4.1 It is intended to acquire the required zoning rights to develop the property with a filling station with a convenience shop, and a place of refreshment.

4.2 The development will consist of:

- A filling station with a canopy covered forecourt, pumps selling petrol and diesel fuels and a convenience store of some  $\pm 150\text{m}^2$  gross leasable floor area
- A place of refreshment of some  $\pm 100\text{m}^2$  gross leasable floor area
- Supporting administration offices, ablutions and storage of some  $150\text{m}^2$ .

The building area that accommodates the above-mentioned facilities will measure some  $400\text{m}^2$  and the canopy area some  $395\text{m}^2$ .

4.3 In order to obtain the required rights application is made in terms of Section 5(5) of the Gauteng Removal of Restrictions Act, 1996, (Act 3 of 1996) for the removal of conditions (1), (2) and (3) from Deed of Transfer T91716/2008 and conditions 1, 2 and 3 from Deed of Transfer T118405/2001 and simultaneous amendment of the Tshwane Town Planning Scheme, 2008 by the rezoning of the Remainder of Erf 1341 and the Remainder of Erf 1342 Capital Park from "Special for the purposes of flats and such other uses ordinarily incidental or related thereto such as, but not limited to a caretakers flat, outbuildings, security purposes including access control, recreational facilities and amenities and/or for similar flat-related purposes to "Public Garage" including a Place of Refreshment.

4.4 The development controls proposed are summarised as follows:



DEVELOPMENT CONTROL	PROPOSED
FAR	0.3
Maximum coverage	30%
Height	2 storeys
Building lines	5 metres on all street boundaries 2m on side and back boundaries
Parking:	(i)Public Garage: <ul style="list-style-type: none"> <li>• Shop – 6 parking spaces per 100m<sup>2</sup> gross floor area</li> <li>• ATM – 3 parking spaces per ATM</li> </ul> (ii)Place of Refreshment 10 parking spaces per 100m <sup>2</sup> gross floor area

Please note that the following uses will be excluded from the Public Garage zoning for purposes of this Amendment Scheme:

- The repair and servicing of vehicles;
- Panel beating;
- Spray painting; and
- The sale of new and used vehicles.

The site layout plan is attached as **PLAN 1**.

## 5 SUPPORTING STUDIES

### 5.1 TRAFFIC STUDY AND VIABILITY STUDY

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Techworld Engineers investigated the viability of the proposed public garage with the place of refreshment and combined it with the traffic impact study. A copy of the study is attached as **ANNEXURE E** and the contents are summarised as follows:

- The accesses to the filling station will be provided as far as possible from the intersection of the neighbouring streets; i.e. about 25m from the downstream “stop line” along Paul Kruger Street and about 45m from the stop line along Malherbe Street.
- Access from Malherbe Street is unrestricted in both directions while the curb median and BRT Line along Paul Kruger Street will only allow access in the southbound direction.
- The fuel filler points will be provided in the vicinity of the Malherbe Street access to allow fuel tankers to enter the site from Paul Kruger Street and to exit into Malherbe Street in a westbound direction; i.e. on the approach to the signalised intersection which allows movement in both northbound and southbound directions along Paul Kruger Street.
- A filling station is not a primary trip generator since about 85% of the total trips generated are passer-by trips that are intercepted from the adjacent road network. About 75% of the 85% intercepted trips are fuel related while the remainder is generated by the ancillary uses on the site such as the C-Store.
- Very successful filling stations generally generate (primary plus intercepted trips) less than 1000 vehicle trips per day of which less than 10% occur during the respective peak hours.
- The traffic impact of a small fast food component even at a high trip rate of 50 trips per 100 m<sup>2</sup> GLA is not significant given that only 50 trips will be generated by a typical 100 m<sup>2</sup> outlet of which only a proportion will be primary trips.
- It is generally accepted that the peak hour traffic impact of a filling station on the road network is not significant from a capacity and operational point of view and does not warrant any capacity and operational analyses.

- The proposed fuel station is viable based on an expected fuel sales of 350,000 litres/month after the opening year.
- The BRT planning along Paul Kruger Street for Line 1 has previously shown a road widening - from two to three lanes - on both approaches of Malherbe Street. The latest planning however only shows a road widening on the western approach of Malherbe Street.
- It is recommended that the applicant provides the required road reserve to also widen the eastern approach to three lanes since the BRT will result in a large reduction in private vehicle capacity along Paul Kruger Street.
- The application site has to provide about 3 to 4m along Malherbe Street to make provision for three approach lanes at the stop line.
- The proposed filling station will generate a small number of public transportation trips, by employees, which will be well served by the planned BRT Station immediately north of the site along Paul Kruger Street.
- The construction of a 1.5m wide paved sidewalk is recommended on all the street boundaries of the application site.
- The following parking requirements are recommended:
  - ❖ 6 bays/100 m<sup>2</sup> for the C-store;
  - ❖ 10 bays /100 m<sup>2</sup> for the Fast Food;
  - ❖ 3 bays for the ATM

- The parking requirement for the planned 150m<sup>2</sup> C-store and 100m<sup>2</sup> Fast Food Outlet plus an ATM is 22 bays. The SDP shows that 23 parking bays are provided.
- The filling station will be financially viable based on forecasted fuel sales of 350,000 litres / month after opening and the traffic impact of the filling station is acceptable given the proposed access arrangements.

## 6 DEVELOPMENT POLICIES

The South African government is divided into three spheres namely; national, provincial and local government. Each sphere of government has their own set of legislation, policies and strategies to govern 'planning' and 'development' of our cities. These policies and strategies are all integrated and are set to, *inter alia*:

- improve the way in which our cities function,
- improve the livability of the city for its residents, and
- to guide investment and growth in the city as a whole.

Cognisance needs to be taken of these policies and legislation in the evaluation of land use applications due to the fact that they are enforceable by law and therefore they depict the principles for land development, spatial planning and land use management. In view of this, the support for the use of the property as proposed will be discussed in terms of the following policy and legislative frameworks:

- National Legislation
- Provincial Policies and Guidelines
- Local adopted policies and guidelines

### 6.1 NATIONAL LEVEL

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**(i) LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (2000)**

On national level, the City of Tshwane Metropolitan Municipality, in terms of the **Local Government: Municipal Systems Act (2000)** is obliged to execute a developmental duty which entails, amongst others, the drafting and adoption of integrated development plans to optimise the resources and capacity of the Municipality and which plans are to be compatible with National and Provincial Planning requirements. The City of Tshwane approved the RSDF for Region 3 in 2012 and the 2013 has been recently approved.

**(ii) THE SPATIAL PLANNING LAND USE MANAGEMENT ACT, 2013 (SPLUMA)**

The Spatial Planning Land Use Management Act, 2013 (SPLUMA) has been accepted and published in the Government Gazette of 5 August 2013. Regulations to the Act are believed to follow soon. The Act aims to *inter alia*:

- Provide a Framework for Spatial Planning and Land Use Management countrywide;
- Specify the relationship between the Spatial Planning and Land use systems and other kinds of planning;
- Provide an integrated framework for policies, principles, norms and standards for spatial development planning and uniform planning procedures;
- Address spatial and regulatory imbalances
- Promote greater consistency and uniformity in application procedures and decision making;
- Provide for the establishment and operation of Planning Tribunals at Municipal level; and
- Provide for facilitation and enforcement of land use development measures.

The application as submitted will find benefit in the principles of the Act.

**(iii) NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (107 OF 1998) (NEMA)**

The overarching principle of the **National Environmental Management Act, 1998 (107 of 1998) (NEMA)** is the sustainability of development. The Act defines the meaning of sustainability as the integration of social, economic and environmental factors into planning, implementation and decision making so as to ensure that the development serves current and future generations. The development as proposed will not impact on the environmental amenities in the area, but will contribute to social upliftment and economic growth.

## **6.2 PROVINCIAL POLICIES AND GUIDELINES**

### **(i) GAUTENG SPATIAL DEVELOPMENT FRAMEWORK (GSDF)**

The **Gauteng Spatial Development Framework (GSDF)** is another provincial policy that, amongst others, serves to inform and guide Metropolitan Spatial Development Frameworks with specific reference to the location and nature of physical development in the province. The framework establishes the context in which development decisions should be taken and the following factors were identified in the GSDF as critical success factors in containing and enhancing the spatial compilation of the province:

- Contained urban growth;
- Resource based economic development
- Re-direction of urban growth (intensification and densification);
- Protection of rural areas and enhancement of tourism and agricultural related activities;
- Increased access and mobility.

The proposed use renders improved living and services within the existing built environment and contributes to infill development in the area.

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## (ii) GAUTENG GROWTH AND DEVELOPMENT STRATEGY

The **Gauteng Growth and Development Strategy** recognises and is based on the premise that economic growth is a pre-requisite for achievement of job creation and poverty alleviation.

The Strategy also reflects the political and socio-economic growth and development vision for Gauteng. It further aims at building a better life for all by:

- Provision of social and economic infrastructure and services that will build sustainable communities and contribute to solve poverty;
- Accelerated labour absorbing economic growth that increases and will create long term sustainable jobs and solve unemployment.

In view of the above it suffices to say that *the application substantially complies with the principles of the mentioned legislation, policies and frameworks and enjoys sufficient policy-support on National and Provincial level.*

### **6.3 LOCAL ADOPTED POLICIES**

#### (i) TSHWANE METROPOLITAN SPATIAL DEVELOPMENT FRAMEWORK, 2012

The **Tshwane Metropolitan Spatial Development Framework, 2012** states that the Vision of the City of Tshwane is to become *The African Capital City of Excellence*. Seven strategic objectives have been identified in order to respond to the vision:

- Provide basic services, roads and stormwater;
- Stimulate economic Growth and Development and Job Creation;

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- Promotes sustainable communities with clean, healthy and safe environment and integrated social services;
  - Foster Participatory Democracy and Batho Pele;
  - Promote Sound Governance;
  - Ensure financial sustainability;
  - Organisational Development and Transformation.

The MSDF does not address the area in which the subject property is located specifically, but emphasise the importance of job creation, social upliftment and skills development as the means to achieve a sustainable society.

The Framework suggests that an integrated approach in the overall development of the municipal area should be employed. The framework states that public investment is essential to spur development and create an economic base.

## **(ii) REGIONAL SPATIAL DEVELOPMENT FRAMEWORK FOR REGION 3, 2012 (REVISION 2013)**

The Regional Spatial Development Framework (RSDF) for Region 3, in which the property falls, confirms that the property is located on an existing mobility spine area and the property is indicated as a core area. Paul Kruger Street serves an important north-south/south-north mobility function and nodal development with mixed use development on intersections and at BRT stations is encouraged.

The RSDF document confirms that it is important to support the economically active sector in the area to maintain sustainability.



The proposed development of the subject properties will contribute to the services rendered in the area and will, apart from the job creation that it will bring along also contribute to the upliftment of the area and improvement of economic growth. The development will contribute to the refurbishment and revitalisation of one of the oldest suburbs in Pretoria.

The proposed development of the subject properties complies with the principles of the RSDF.

**Conclusion:** the proposed use with all the positive contributions to its surrounds substantially complies with the growth and development policies on all 3 spheres of government.

## 7 TOWN PLANNING MOTIVATION

### 7.1 FEASIBLE DEVELOPMENT

The development proposal was designed to include uses that will not only complement the existing node, but also incorporates supporting services to the larger area without negatively impacting on the surrounding area.

The potential income and financial feasibility of the filling station and convenience store were investigated by Techworld Engineers. The site was found feasible from a fuel sales viewpoint, based on the expected fuel and convenience store sales.

The site and the proposed development comply with the following criteria for selection of filling station facilities, which include inter alia:

- Location on a busy main road;
- Visibility from the road
- Customer friendly and easy access;

- Parking for customers;
- Affordable rentals/sales for the specific area,
- Sufficient property size;
- Defined and safe access points;
- Sufficient traffic flow for the required fuel sales, etc.

The RSDF of the City of Tshwane for Region 3 confirms the importance of Paul Kruger Street as an existing mobility spine where nodal development with a mixed use character at intersections is supported. The site is indicated as a core area.

The Traffic Study showed that the current 12 hour traffic demand at the Paul Kruger- /Malherbe Street intersection is  $\pm 18.180$  vehicles on all approaches. The site therefore leans itself for development of a filling station and place of refreshment with the accompanying benefits of social and economic growth. There are no other filling stations serving the southbound traffic on this section of Paul Kruger Street, which will contribute to the success of the proposed facility. The 3019m<sup>2</sup> available for the development contributes to flexibility in design to allow for sufficient parking area, maneuvering space, functional layout etc. Access is available from two street frontages, resulting in optimal flow of traffic on site and access to and from the road system.

## **7.2 PREVAILING BUILT REGIME**

The property is currently zoned Special” for the purposes of flats and such other uses ordinarily incidental or related thereto, such as but not limited to, a caretakers flat, outbuildings, security purposes including access control, recreational facilities and amenities and/or for similar flat-related purposes. It is used for the sale of garden furniture and pots, which in itself presents an underutilization of the site and the property owner investigated opportunities to make optimal use of this prime property. A filling station that can intercept traffic travelling south along Paul Kruger Street and west and east along Malherbe Street was investigated by Techworld

Engineers and the outcome of the investigations showed the site to be ideal for the use of a filling station.

The proposed development is located amidst retail opportunity and in close proximity to residential development and forms part of a well-established corridor development along Paul Kruger Street. Due to the size and location of the subject properties, the filling station can easily be supplemented with a place of refreshment and given the nature of the surrounding developments which include motor related uses, business opportunities, retail outlets and residential development, the land use mix was determined and considered to be complementary to the growth and functioning of the area.

### 7.3 SITE SUITABILITY, LAYOUT AND DESIGN

The size of the property and its ideal shape and location made it possible to accommodate the proposed development on the property, whilst providing sufficient parking space and maneuvering area, landscaping, pedestrian walkways and safe and effective access.

- **Parking**

The development layout has been designed as such to provide the optimal space for provision of efficient and adequate parking with ample area for circulation and maneuvering of vehicles.

The Traffic Impact Study confirms that parking should be given at the following ratios:

Public Garage:

- Shop – 6 parking spaces per 100m<sup>2</sup> gross floor area
- ATM – 3 parking spaces per ATM

Place of Refreshment – 10 parking spaces per 100m<sup>2</sup> gross floor area.

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Based on the above-mentioned some 22 parking bays are required. As is evident from the preliminary site layout plan at least 23 parking bays (measuring 2.5X5m) can be provided on the property, which is in compliance with the parking requirements. The site also provides sufficient space for landscaping, easy maneuvering and efficient access to the property from both Paul Kruger as well as Malherbe Streets.

- **Access and road configuration**

Access to the proposed use will be possible from Paul Kruger Street (only south bound / left in - left out) as well as a full access from Malherbe Street by means of defined access points. Access points (approximately 13m wide) have been placed as far as possible from the intersection i.e. 25m from the downstream stop line in Paul Kruger Street and 45m from the stop line in Malherbe Street. A  $\pm 25$ m street frontage from Paul Kruger Street and the diagonal positioning of the structures on site will contribute to the visibility of the striking frontage of the proposed land use.

Access and maneuvering of fuel delivery vehicles has been investigated and designed by Techworld Engineers to ensure optimal turning space. The access from two street frontages contributes to the anticipated successful maneuvering of large vehicles and eliminates any traffic obstructions and conflict on site as well as onto the street system.

- **Internal circulation**

The proposed aisle widths will vary between 5m and 8.5 and will allow safe traffic movement for all modes of transport that will visit the site with 90° parking bays measuring 2.5m by 5m located in close proximity to the convenience store and the place of refreshment. This will contribute to safe interaction between motorists and pedestrians who make use of the facilities offered.

- **Pedestrian movement**

Sufficiently paved pedestrian walkways are provided for along shop fronts and building accesses, whilst parking areas have been clustered around the buildings to reduce walking distances and safe pedestrian movement.

- **Bulk services provision**

All the bulk services will be provided by the Tshwane Metropolitan Municipality since the subject property forms part of the Municipal structure. Bulk services contributions will be payable for the increased land use rights. The traffic impact study recommends that the application site has to provide about 3 to 4m along Malherbe Street to allow for three approach lanes at the stop line.

#### **7.4 COMPLEMENTARY LAND USE**

The envisaged development, proposing the only filling station on Paul Kruger Drive when traveling in a north-south direction, will fulfill a need but will also contribute to a diverse land use mix in the area. The mix of the land uses in the area will contribute to the success of the development in providing complementary uses in convenient proximity and along a prominent mobility spine and therefore contributing to job creation and economic growth. The place of refreshment is not a repetition of what is already found in the area. The food market is of such a nature that people tend to visit franchises of their specific preference and choice at a specific time. Should an area provide in all the possible choices it will contribute to the popularity of the destination and economic success of the precinct as a whole.

By addition of the proposed place of refreshment on the site, the feasibility of the site as a business location is optimized, whilst a variety of uses is contributing to the development mix in the area and the service to the area is expanded.

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In view of the above it is the applicant's opinion that the proposed development is compatible with the surrounding area and will not have a detrimental impact on the surrounding properties or the environment.

## **7.5 DESIRABLE DEVELOPMENT**

The proposed development is regarded as desirable in terms of the following:

- The visible location of the site on a busy arterial as well as customer friendly and easy access contributes to the convenience of the use as proposed;
- The City of Tshwane Metropolitan Municipality provides bulk services to the Capital Park area. Bulk contributions will be payable to the Municipality for purposes of the improvement and maintenance of the infrastructural network, and the upgrade of bulk services if necessary;
- Ample provision has been made for parking on site, therefore eliminating the burden on surrounding properties;
- The filling station and the place of refreshment will merely improve the current use of the property and therefore will not have a negative impact on surrounding properties;
- The property enjoys excellent accessibility both locally and regionally, as the property is located on one of the most important north south arterials in the City of Tshwane.
- The proposed development on the subject property is in line with the compaction and densification principles enshrined in the mentioned local, provincial and national development policies and frameworks;

- The proximity of existing social amenities within walking distance, such as shops, schools, motor dealerships and residential development contribute to a vibrant mix of land uses;
- The surrounding areas of economic development and increased population growth ensure a client base for the place of refreshment;
- The location of the subject property within walking distance from major mobility routes and public transport facilities, contributes to the sustainability of the public transport system;
- The proposed land use on the property is orientated towards Paul Kruger Street to eliminate any negative impact on surrounding properties;

## 8 CONCLUSION

- 8.1 Application is made in terms of Section 5(5) of the Gauteng Removal of Restrictions Act, 1996, (Act 3 of 1996) for the removal of conditions (1), (2) and (3) from Deed of Transfer T91716/2008 and conditions 1, 2 and 3 from Deed of Transfer T118405/2001 and simultaneous amendment of the Tshwane Town Planning Scheme, 2008 by the rezoning of the Remainder of Erf 1341 and the Remainder of Erf 1342 Capital Park from “Special for the purposes of flats and such other uses ordinarily incidental or related thereto such as but not limited to a caretakers flat, outbuildings, security purposes including access control, recreational facilities and amenities and/or for similar flat-related purposes to “Public Garage” including a Place of Refreshment.
- 8.2 It is proposed to establish a filling station with a convenience store and place of refreshment on the property.
- 8.3 The land use as proposed is compatible with the nature of the area and is supported in terms of the approved policy guidelines.

- 8.4 The land use applied for is desirable in terms of locality, property size, scale of the development, and accessibility.
- 8.5 The development as proposed will contribute to the provision of improved living environment and sustainable development.

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**PREPARED BY METROPLAN TOWN PLANNERS**