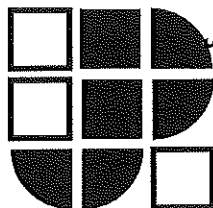


# **MEMORANDUM**

**MOTIVATION OF MERIT OF PROPOSED  
TOWNSHIP ESTABLISHMENT ON CERTAIN  
PART (PROPOSED PORTION 1) OF PORTION  
397 (TO BE KNOWN AS PORTION 739) OF  
FARM DERDEPOORT 326-JR**

**- PROPOSED MONTANA PARK EXTENSION 133 -**



**J PAUL VAN WYK**

*URBAN  
ECONOMISTS  
& PLANNERS CC*

# **MEMORANDUM**

**MOTIVATION OF MERIT OF PROPOSED TOWNSHIP  
ESTABLISHMENT ON CERTAIN PART (PROPOSED  
PORTION 1) OF PORTION 397 (TO BE KNOWN AS  
PORTION 739) OF FARM DERDEPOORT 326-JR**

**- PROPOSED MONTANA PARK EXTENSION 133 -**

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TSHWANE

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**TOWNPLANNING MEMORANDUM**  
**MOTIVATION OF MERIT OF PROPOSED TOWNSHIP ESTABLISHMENT ON**  
**CERTAIN PART (PROPOSED PORTION 1) OF PORTION 397 (TO BE KNOWN**  
**AS PORTION 739) OF FARM DERDEPOORT 326-JR**

**-PROPOSED MONTANA PARK EXTENSION 133-**

---

**1. INTRODUCTION**

**1.1 LAND DEVELOPMENT APPLICATION**

Application is hereby made for the establishment of a township on a certain part (proposed Portion 1) of Portion 397 (to be known as Portion 739 after registration of the subdivision), farm Derdepoort 326-JR. The application is being made in terms of Section 16(4) of the City of Tshwane Land Use Management Bylaw, 2016 ['Bylaw'] read with the provisions of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) ['SPLUMA'].

**1.2 PURPOSE**

**1.2.1 Township establishment**

The purpose of the application is to procure the necessary use-rights on the specific part of the Property concerned to legally conduct the business comprising a combination of a motor workshop, scrap yard and panelbeater where motor (mostly certain brand 4x4) vehicles are repaired, rebuilt, maintained and traded and auto parts and engines purchased, reconditioned, fitted and sold on / from the premises. The zoning applied for is Special for purposes of "scrap-yard, motor workshop, panelbeater, rebuilding and sale of vehicles, reconditioning of engines and parts, trading in new and used vehicle parts and ancillary & subservient uses," in terms of the provisions of the Tshwane Town Planning Scheme, 2208 (Revised 2014) ['TTPS'].

**1.2.2 Memorandum**

The purpose of the memorandum is to collate all the essential information as required in terms of *inter alia* Section 42 of SPLUMA in a single report with maps and annexures, and to motivate the merit of the development proposal in the particular locality on *inter alia* a need, desirability and sustainability perspective.

**1.3 APPLICANT**

**1.3.1 Registered owners**

Portion 397 of the farm Derdepoort 326-JR is registered in name of the private company Blue Dot Properties 403 (Pty) Ltd (Reg 2000/025108/07).

**1.3.2 Authorised agent**

Paul van Wyk (Pr Pln) and / or U (Ola Schumacher-) Malan (Pr Pln) (or nominee) of the firm J Paul van Wyk Urban Economists & Planners cc has been appointed by the registered owners of the parent property to undertake the application for township establishment on a certain part of same (proposed Portion 1 / Portion 739), on its behalf.

[ANNEXURE 'A' : COMPANY RESOLUTION, CIPC PROOF OF DIRECTORS & SPECIAL POWER OF ATTORNEY]

The firm is assisted by various specialist consultants, the role of which is to inform the township application and development from different perspectives as will become evident in particular subsections of the memorandum to follow.

#### **1.4 JURISDICTION**

Portion 397, farm Derdepoort 326-JR is located in the municipal area of the City of Tshwane Metropolitan Municipality [CTMM] with decision-making authority on land development applications in terms of the Bylaw vested in the Metropolitan Council, devolved to the Municipal Planning Tribunal and Authorised Officials Committee [AO-Com] for Category 1 and 2 applications respectively.

## 2. PROPERTY PARTICULARS

### 2.1 DESCRIPTION

#### 2.1.1 Parent property

The parent property is described in deed of transport T 144885/2001 as follows:

*"GEDEELTE 397 (GEDEELTE van GEDEELTE 232) van die Plaas DERDEPOORT 326 Registrasie Afdeling JR, Provinsie GAUTENG"*  
(p2)

[ANNEXURE 'B' : TITLE DEED COPY]

#### 2.1.2 Subject property

The CTMM has on 21 July 2005 approved the subdivision of the parent property (para 2.1.1 supra) in four land-portions, viz:

- Portion 1 of Portion 397 (Portion 739) : ± 1,0000 ha
- Portion 2 of Portion 397 (Portion 740) : ± 1,0000 ha
- Portion 3 of Portion 397 (Portion 741) : ± 0,2817 ha
- Remainder of Portion 397 : ± 1,0758 ha

The part of the parent property on which the township will be established is Portion 1 of Portion 397 (Portion 739) of the farm Derdepoort 326-JR, hereinafter referred to as "Portion 739<sup>1</sup>", "subject property", "the Property", "site" or "development site".

[ANNEXURE 'C' : CTMM SUBDIVISION APPROVAL]

### 2.2 EXTENT

#### 2.2.1 Parent property

Portion 397 of the farm Derdepoort 326-JR extends to 3,4395 hectares, as confirmed in deed of transport T 144885/2001.

#### 2.2.2 Subject property

The approval documentation of the CTMM for the subdivision of the parent property (refer Annexure 'C') depicts the area of the approved Portion 739 as ± 1,0000 hectares.

Of concern is the fact that the areas of the four land-portions to result from the approved subdivision as per the CTMM approval documentation do not add up to the 3,4395 hectares reflected in the title deed of the parent property, but to a total of 3,3575 hectares. This means the registered extent is 820m<sup>2</sup> bigger than the sum of the individual land-portions as approved for subdivision. It is therefore quite likely that the area of Portion 1/397 is an approximate area only, subject to final survey by a registered land-surveyor. It will however not be smaller than 1,0000 hectares.

### 2.3 LOCALITY

#### 2.3.1 Urban context

The subject property is situated in the west / southwestern-most parts of City Planning Region 5 to the west of the N1-National Road, north of Sefako

<sup>1</sup> The reserved portion number at the Surveyor General is Portion 739 for Portion 1/397.



Makgato Drive and east of Breed Street, in the Derdepoortpark / Wolmaranspoort A.H. / Montana Park extensions area. This is the area on the most east- / northeastern parts of the developed urban landscape of Tshwane.

The following suburbs / areas / features define the locality of the Property more concisely:

- Northeast : N1-National Road and opposite, Wolmaranspoort A.H.
- South : Montana Park extensions and Magaliesberg
- West : Montana Tuine

[FIGURE 1a : LOCALITY IN URBAN CONTEXT]

### 2.3.2 Local context

- The parent property is situated at 600 Breed Street, Montana.
- The coordinates in reference to the Global Positioning System (GPS) of the approximate centre-point of Portion 739 is:
  - South : 25° 40' 34,64"
  - East : 28° 16' 21,97"
- The following abutting properties define the parent property's locality more concisely in local context:
  - North : Holding 1, Wolmaranspoort A.H.
  - East : Erf 2767, Montana Park Extension 91
  - South : Erven 2665 and 2626, Montana Park Extension 84
  - West : Portion 210, farm Hartebeestfontein 324-JR; Erven 1268 to 1273 and 1170, Montana Tuine Extension 46 (opposite Breed Street)

[FIGURE 1b : LOCALITY IN LOCAL CONTEXT]

## 2.4 SHAPE AND DIMENSIONS

### 2.4.1 Parent property

Portion 397, farm Derdepoort 326-JR represents an approximate rectangle with its four sides extending to-

- North : ± 163 metres
- East : ± 200 metres
- South : ± 182 metres
- West : ± 199 metres

For more information refer to Annexure 'D' the General Plan for Wolmaranspoort Agricultural Holdings (the parent property was known as

Holding 2, Wolmaranspoort AH prior to its excision and re-incorporation into the farm register at the Deeds Office).

[ANNEXURE 'D' : GENERAL PLAN]

#### **2.4.2 Subject property**

Based on the approved subdivision sketch-plan by the CTMM on 21 July 2005 the shape of Portion 739 is irregular and its measurements approximately (subject to a final survey) are as follows:-

- North : 151,68 metres
- East : 82,84 metres
- South :
  - Eastern section : 78,05 metres
  - Western section : 75,98 metres
  - North / south link : 35,63 metres
- West : 47,0 metres

For more information on the subject property refer to the subdivision sketch-plan in Annexure 'C'.

#### **2.5 OWNERSHIP**

The registered owners of the parent property at the Deeds Office is the private company Blue Dot Properties 403 (Pty) Ltd (Reg No: 2000/025108/07), herein represented by mr Steve Anton Weichelt.

#### **2.6 MORTGAGE BOND**

Portion 397 of the farm Derdepoort 326-JR serves as security for a mortgage bond held by Standard Bank of South Africa Limited. The Bank has granted its written consent for township establishment on the Property – refer Annexure 'E'.

[ANNEXURE 'E' : BONDHOLDER'S CONSENT]

#### **2.7 CONDITIONS OF TITLE**

The importance of this subsection relates to the way in which the applicant and CTMM should deal with each of the existing conditions registered against the parent property and especially the part of the property subject to the township application in terms of the conditions of establishment for same. The source document for decisions in this regard is the conveyancing certificate and land audit report.

##### **2.7.1 Water use rights**

The title deed to the parent property contains several provisions relating to historic farms and farming activities in the area. (Conditions I(a) to I(f)). These servitudes / rights / conditions for water extraction and storage are no longer in use and / or in existence. These conditions therefore do not affect the township and can be disposed of.

##### **2.7.2 Mineral rights**

Condition II of title deed T 144885/2001 reserves all rights to minerals in favour of a private person. All mineral rights have however pursuant to the

provisions of the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002) been relegated to the State. The applicant has approached the Department of Minerals as the custodians of these rights for confirmation whether these rights had been timeously protected by the mentioned individual, alternatively if not, to provide the firm with the Department's written confirmation of its support for the township application.

The project conveyancer has indicated that in terms of Chief Registrar Circular 2 of 2011 read with para 4.3.3 of Chief Registrar's Circular 11 of 2004 this condition can be omitted from the title deed of any resultant portion or erf.

### **2.7.3 Servitudes**

The parent property (and also the subject property) is subject to a four metre (4m) wide sewer servitude in favour of the City of Tshwane Metropolitan Municipality as registered against the deed of transport (T 144885/2001), Condition III. The position and other aspects of the servitude is depicted on S G Diagram No 6221/1989 – attached hereto as Annexure 'F'.

[ANNEXURE 'F': S G DIAGRAM No 6221/1989]

The conveyancer has concluded that this servitude, due to its nature and / or location only affects Breed Street and not the Portion 739 and thus the township should not be made subject to same.

[ANNEXURE 'G': CONVEYANCER CERTIFICATE]

## **2.8 OTHER SERVITUDES**

In terms of the subdivision approval from the City of Tshwane, it appears that there is a further servitude that needs to be taken into account. This is a 10-metre wide temporary access servitude along the eastern boundary of the subject property. The applicant has already honoured it by erecting a boundary wall to the subject property to exclude the temporary servitude area from the usable part of the subject property.

### 3. ZONING AND LAND-USE

Section 3 of the Townplanning Memorandum deals with the existing and future zoning and land-use of the parent (and hence also the subject) property.

#### 3.1 EXISTING ZONING

The CTMM in a Zoning Certificate issued for Portion 397 of the farm Derdepoort 326-JR on 11 November 2019 confirms the zoning of same to be Agricultural (Use-zone 17) in terms of the provisions of the Tshwane Town Planning Scheme, 2008 (Revised 2014) ["TTPS"]. In terms of its current zoning the Property may only be lawfully used for the following purposes:

- Agriculture
- Farm stall (subject to Schedule 10)
- A single dwelling-house

[ANNEXURE 'H' : ZONING CERTIFICATE]

#### 3.2 CURRENT LAND-USE

- A business has been established and operating on Portion 739, comprising a combination of a motor workshop, scrap yard and panelbeater where motor (mostly certain brands of 4x4) vehicles are repaired, rebuilt, maintained and traded, and auto parts purchased, reconditioned, fitted and sold on / from the premises.
- There are furthermore other businesses established and operating from the Remainder and Portion 2 of Portion 397 (Portion 740), farm Derdepoort 326-JR. An application for township establishment on the Remainder of Portion 397 is being undertaken in parallel, and is on the verge of being finalized (approved) at the CTMM.

#### 3.3 FUTURE LAND-USE

The current land-use activities described in subsection 3.2 *supra* also represent the envisaged future land-use on the subject property. The current operations will hence merely be continued with in future, albeit then on an erf in a proclaimed and duly serviced township underpinned by the requisite use-rights.

The current business owner on Portion 739 has indicated possible expansion of the existing business on the Property in future for which provision is being made in the future zoning of the Property.

#### 3.4 FUTURE ZONING

Due to the land-use activities on Portion 739 displaying elements of a motor workshop, scrap yard and panelbeater each, and due to too many irrelevant primary uses listed under a Commercial, Industrial 1 or Industrial 2 zoning, it was decided to rather opt for a Special zoning (Use-zone 28 of the TTPS) with customized primary uses. The following definitions in Clause 5 of the TTPS find relevance:

- (1) Panelbeater  
*"Means land and buildings used for the replacement, repair and spray-painting of the bodywork of motor vehicles"*(p21).
- (2) Motor workshop  
*"Means land and buildings used for the following:*
  - (1) *repair and servicing of vehicles, excluding panel-beating or spray-painting; and*
  - (2) *installation of motor spare parts and accessories."*(p19)

(3) Scrap-yard

*"Means land and buildings used as a junk yard or Scrap Yard for the dismantling, stacking, storing or preparation for resale of any used material, scrap metals, scrap vehicles, accident damaged vehicles, scrap machinery or other scrap material, whether or not such dismantling took place with the aim of disposal or re-use of such scrap."*  
(p24)

The proposed zoning and zoning controls for the subject property are summarized in table 1 as follows:

TABLE 1 : PROPOSED ANNEXURE T

<b>PROPERTY DESCRIPTION: PROPOSED ERVEN 2975 and 2976<sup>2</sup>, MONTANA PARK EXTENSION 133</b>		
1	Use-zone	28 : Special
2	Uses permitted	Scrap-yard, motor workshop, panelbeater, rebuilding and sale of vehicles, reconditioning of engines and parts, trading in new and used vehicle parts and ancillary & subservient uses.
3	Uses with consent	Any related land-use to the satisfaction of the Municipality
4	Uses not permitted	All other uses
5	Definitions	Clause 5
6	Density	Not applicable
7	Coverage	80 percent
8	Height	Two storeys (19 metres)
9	Floor area ratio (FAR)	0,3; excluding all areas of buildings used for storage of parts and vehicles
10	Site development plan and landscape development plan	(1) A site development plan and a landscape development plan, unless otherwise determined by the Municipality, compiled by a person suitably qualified to the satisfaction of the Municipality, shall be submitted to the Municipality for approval prior to the submission of building plans.  (2) The landscaping, in terms of the landscape development plan, shall be completed by completion of the development or any phase thereof. The continued maintenance of the landscape development shall be to the satisfaction of the Municipality.
11	Street building-lines	Clause 9
12	Building restriction areas	Clause 12, two metres (2m)
13	Parking requirements	Clause 28, table G
14	Paving of traffic areas	All parts of the erf upon which motor vehicles are allowed to move or park, shall be provided with a permanent dust-free surface, which shall be paved, drained and maintained to the satisfaction of the Municipality.
15	Access to the erf	(1) Entrances to and exits from the erf shall be sited, constructed and maintained to the satisfaction of the Municipality.  (2) When a security gate is used at the access point, this point shall be located in such a way that adequate storage area be provided in order for traffic not to congest the road reserve, to the satisfaction of the Municipality.

<sup>2</sup> The applicant has reserved official erf numbers with the Surveyor General for the two erven in the township on 10 November 2021.

16	Loading and off-loading facilities	All loading and off-loading activities shall take place on the erf, to the satisfaction of the Municipality.
17	Turning facilities	Turning space for light-/medium vehicles shall be provided on the erf to the satisfaction of the municipality.
18	Physical barriers	In accordance with an approved site development plan.
19	Health measures	Any requirements for air pollution, noise abatement or health measures set by the Municipality shall be complied with to the satisfaction of and without any costs to the Municipality.
20	Outdoor advertising	Advertising and/or signboards shall not be erected or displayed on the erf without the written consent of the Municipality in terms of the municipal by-laws for outdoor advertising.
21	Detrimental soil conditions	An engineer shall be appointed before the approval of building plans, who must design, specify and supervise structural measures for the foundations of all structures, according to the soil classification for each zone as described in the geological report. On completion of the structures, the engineer shall certify that all his/ her specifications have been met.
22	Open space	Not applicable
23	<p>General:</p> <p>In addition to the above conditions the erf and buildings thereon are further subject to the general provisions of the Tshwane Town Planning Scheme, 2008 (Revised 2014).</p>	

[ANNEXURE 'I' : DRAFT ANNEXURE T]

### 3.5 DRAFT AMENDMENT SCHEME MAP

The draft amendment scheme map is hereby included as Annexure 'I'.

[ANNEXURE 'J' : DRAFT AMENDMENT SCHEME MAP]

## 4. DEVELOPMENT PROPOSAL

### 4.1 CONCEPT

The development concept pursued by the applicant is a combination of activities as found under the definitions of scrap yard, panelbeater and motor workshop in Clause 5 of the TTPS. These activities are all industrial / commercial in nature, in essence comprising the following:

- Purchase of motor wrecks from insurance companies and rebuilding of same for sale upon completion.
- Reconditioning of used motor vehicle engines and parts stripped from motor wrecks and sale of same as reconditioned second-hand parts / engines.
- Storage and sale of new and used motor vehicle parts.
- Fitment of parts as part of maintenance and repair of motor vehicles as well as accessories as part of the conversion of standard motor vehicles (e.g. bush bar, spot lights).

The business concern focuses primarily on specific trade marks / brands of 4 x 4 vehicles and has over time built up a formidable clientele in a much wider than local sphere of influence.

### 4.2 TOWNSHIP NAME AND LAYOUT PLAN

#### 4.2.1 Name reservation

The Toponymy Section of the CTMM Department Economic Development & Spatial Planning has on 30 January 2020 issued written confirmation of the name and extension number of the future township on the subject property. The township is to be known as:

*"Montana Park Extension 133"*

[ANNEXURE 'K': CTMM NAME RESERVATION CONFIRMATION]

#### 4.2.2 Layout plan

The proposed layout of the township comprises two erven, each extending to the following areas:

TABLE 2 : EXTENT OF ERVEN

ERF NUMBER	AREA	
	(Ha)	(%)
2975	0,3668	36,68
2976	0,6332	63,32
TOTAL	1,0000	100,0

Figure 2 (overleaf) depicts the proposed township layout geographically.

[FIGURE 2 : TOWNSHIP LAYOUT]

It is a statutory requirement that a township must consist of a minimum of two erven and thus the township layout plan reflecting same. The two erven will be consolidated upon proclamation of the township to form a single development site.

#### **4.2.3 Draft site plan (DSP)**

Messrs Bloubul Tekendienste have prepared an "as built" plan reflecting the existing development on the Property including the position of the parking areas and driveways.

[FIGURE 3 : DRAFT SITE PLAN BY PROJECT ARCHITECTURAL PROFESSIONALS]

As mentioned previously, it is the applicant's intention to continue to utilise the development site for its current purposes. The applicant has made provision in the proposed Annexure T for future expansion of the existing development on site. The future expansion will require building plan approval from the CTMM before being implemented.

#### **4.2.4 Floodlines**

The subject property and hence the future township is not affected by the 1:50 and 1:100-year flood recurrence levels as determined and certified on the township layout plan by a qualified and registered civil engineer practicing under CJG Le Roux Consulting (Pty) Ltd.

#### **4.2.5 Contours**

The contours shown on the township layout plan were obtained from the City of Tshwane Metropolitan Municipality [CTMM]'s GIS system on their website.

The contours adhere to the requirements of township establishment as per COT: F/5 to Schedule 6 of the Bylaw:

- Datum plane : Mean sea level
- Contour intervals : 1 metre
- Geodetic grid system : WGS 84

### **4.3 ACCESS AND VEHICULAR CIRCULATION**

#### **4.3.1 Access**

The existing access to the site as well as the future access to the township will be gained off Breed Street, abutting the subject property to its west. Breed Street is a fully developed municipal road under auspices of the CTMM.

Breed Street will be widened to accommodate more traffic and this widening has already been taken into consideration with the subdivision of the parent property and the creation of a subdivided land-portion specifically accommodating the road widening.

#### **4.3.2 Vehicular circulation**

The shape and extent of the township will allow sufficient functional on-site vehicular movement, the details of which will be finalized at the site development plan (SDP) stage to follow after approval of the township.

### **4.4 TRIP GENERATION AND PARKING**

#### **4.4.1 Employees**

Apart from the owners attending the premises daily from Monday to Friday, they also have a certain number of employees, some of which own their own vehicles where others get a lift and / or use public transport (bus and / or mini-bus taxi) to and from work. With business hours from 08:00 to 17:00 and with a limited number of employees (a maximum of approximately 20



persons), their trip generation potential in peak-hour periods is very low / negligible.

**4.4.2 Clientele**

Most of the walk-in clients attend to the premises between around 10:00 and 15:00 daily. This is ascribable to the fact that the applicant’s business mostly does conversions and repairs, as opposed to service and maintenance of vehicles. The bulk of the business comes from 4 x 4 rebuilds and conversions and some sale of new and used (including reconditioned) engines and spare parts, with very little vehicular trip generation during peak-hour periods.

The business does not as a rule do regular servicing of vehicles, similar to the maintenance regime of motor dealerships. There is therefore not a queue of vehicles in front of the premises between 07:00 and 08:00 and a flurry of vehicular movements between 16:00 and 17:00 when owners come collect their vehicles. This add to the very low vehicular movement and trip generation potential of the activities on site during peak-hour periods.

**4.4.3 Parking**

Once again, the panelbeating activities for the most part centre around the rebuilding of motor wrecks purchased from insurance companies. The different stages in the rebuilding of a 4 x 4 vehicle entail the following:

- Disassembly
- Engine dismantling
- Undercarriage
- Body and paint
- Engine composition
- Trim pieces / accessories
- Interior
- Wheels & tyres
- Final assembly

The panelbeating service therefore pertains for the most part to “in-house” rebuilds, i.e. not for walk-in clients or insurance companies. This means that the demand for on-site parking is negligible / non-existent. The same goes for the refurbishment / rebuilding of engines and reconditioning of spare parts. These activities have no effect on parking required.

In terms of table G the following parking requirement pertain to a motor workshop:

<p><i>"(1) Installation of air-conditioning, alarm systems, auto-electrical components, exhaust systems, motor glass, radios, shock absorbers, sunroofs, towbars, upholstery and tyres.</i></p> <p><i>(2) Other</i></p>	<p><i>(1) Three parking spaces per work bay, work bay included</i></p> <p><i>(2) Six parking spaces per work bay, work bay included."</i></p>
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(p69)

As mentioned, the applicant’s workshop for the most part entails the reconditioning of vehicle engines and spare parts of vehicles being rebuilt from previously wrecked and written-off by the insurance vehicles. There is therefore no need for official parking spaces as per table G. Wrecked vehicles

awaiting rebuilding are stored randomly on site amongst other vehicle part / body panels (the "scrap yard" component).

In light of the above it is proposed that a feasible parking requirement be agreed to with the CTMM to the satisfaction of the Municipality which will prevent the applicant from having to provide and construct unnecessary parking areas in the township that would be under-utilized and stymie vast areas of the site for the actual business requirements.

The architectural professionals who prepared the DSP have indicated that they are able to provide a total of 39 parking bays on site where 27 would be sufficient for 9 work bays, 7 parking bays for the washbay and 5 parking bays for 420m<sup>2</sup> gross floor area for the "storage" component of the existing development on site.

**4.5 DEVELOPMENT PARAMETERS**

**4.5.1 Floor area ratio (FAR)**

The application entails an FAR of 0,3 for the two erven in the township. This will allow the following gross floor areas (GFAs) for each of the erven respectively:

TABLE 3 : GROSS FLOOR AREA PER ERF IN THE TOWNSHIP

NUMBER	ERF	FAR	GROSS FLOOR AREA (GFA) (m <sup>2</sup> )
	EXTENT (m <sup>2</sup> )		
2975	3 668	0,3	1 100,4
2976	6 332	0,3	1 899,6
TOTAL	10 000	-	3 000,0

Proposed Erven 2975 and 2976 will together have a permitted gross floor area of 3 000 m<sup>2</sup> which will be sufficient to cater for all existing buildings on site, as well as for a measure of expansion over time, as envisaged by the applicant.

**4.5.2 Coverage**

The storage of parts and engines require protection from natural elements, especially from rainfall, but also from excessive solar heating. The rebuilding of vehicles and reconditioning of engines and parts similarly require in-door work and storage space. The application therefore provides for a 80 percent coverage factor, which should suffice for the envisaged purposes.

**4.5.3 Height**

Application is being made for a height of buildings of two storeys. The second storey is primarily for subservient office space for the administration of the business, but also for ablutions, a kitchen and store-rooms.

The proposed height of 19 metres is necessary to create sizable vertical in-door space for equipment and disproportionately high vehicles to be able to be accommodated inside some of the buildings on site. The additional height in metres over and above the usual ± 9 to 10m for double storey buildings is to also allow for solar panel structures to be positioned on the roofs at an angle to maximize exposure to the sun.

**4.5.4 Building-lines**

The proposed street building-lines are 5 metres on both Breed Street and Escallonia Road / Calliandra Road) which corresponds with the provisions of Clause 9 of the TTPS.

All other boundaries of the Property will be subject to a 2 metre building set-back. This is less than the 4,5 metres building-line for Special-zoned properties as per Clause 12, table A of the TTPS. There are existing buildings along the south and northern boundaries of the subject property situated two metres from these boundaries, which require a more lenient building set-back as here being applied for.

There are no engineering service servitudes or lines being encroached upon by the existing buildings, and neither will any neighbours be prejudiced by such reduced building-lines. The Property does not abut on any residential developments on any side, which may have been prejudiced through overshadowing or privacy infringement due to the lesser building-lines set-back. The proposed two metre building-lines on all other boundaries except street boundaries will therefore represent a feasible set-back without any adverse external effects.

## 5. MERIT OF DEVELOPMENT PROPOSAL

Section 5 of the Townplanning Memorandum has been guided and informed by Schedule 6, para 3(9) read with Section 16(4) of the Bylaw and Section 42 of SPLUMA.

### 5.1 DEVELOPMENT PRINCIPLES

In terms of Section 42(1)(a) of SPLUMA the applicant is obliged to demonstrate the extent to which the development proposal would comply with Chapter 2, Section 7 of SPLUMA. These principles have been adapted from the National Development Plan: Vision 2030, 2012 (NDP).

#### 5.1.1 Spatial justice (Section 7(a))

The present application complies with this principle in the following way:

- The application consists of part of a single property being transformed from "agricultural / rural residential" land to a formal township.
- There are no previously disadvantaged communities / individuals occupying the land which would require secure tenure or access to land or the use of same.
- The RMSDF prepared by the CTMM for the area has been duly informed by the SPLUMA Development Principles and indeed provides for spatial justice on a variety of levels.
- The present application entails a process to legalise a business concern on the subject property which has been established and operated on the Property for several years. It is located in an area earmarked for this type of development and will as such be supportive of the spatial vision for the area by the CTMM.

#### 5.1.2 Spatial sustainability (Section 7(b))

The present application complies with this principle in the following way:

- The proposed new township is located within the official urban edge, is already fully transformed for urban use, is too small for commercial agricultural pursuits, does not represent any prime or unique agricultural land and has no environmental value or significance which would warrant preservation or conservation.
- The subject property is privately owned and has been purchased in the free market for properties in the area. The application at hand will not lead to any further transactions and the effective and equitable functioning of the market will not be affected in any way.
- The applicant will invest in the upgrade of infrastructural services as required, without undue costs imposed on the Municipality.
- The proposed land-use activities do not require additional social services to be provided, e.g. schools, parks, post office, etc.
- The development proposal will contribute to an existing mixed-use development context within the urban edge where economic social, environmental and institutional sustainability prevail.

#### 5.1.3 Efficiency (Section 7(c))

The present application complies with this principle in the following way:

- The establishment of a township on the subject property will see to the better utilization of land (especially development land in urban context) as well as engineering services in the vicinity of the subject property.
- The Property is located in a designated mixed-use zone in which minimum financial, social, economic and environmental impacts can be expected.
- The applicant subscribes to the time-frames in SPLUMA regulating development application procedures and will use its best endeavours to comply with these. The applicant similarly expects of the CTMM to do the same.

#### **5.1.4 Spatial resilience (Section 7(d))**

Development principle 7(d) of SPLUMA encourages flexibility in spatial plans, policies and land use management systems in pursuance of sustainable livelihoods for communities prone to economic and environmental 'shocks'.

The present application cannot be measured against this principle, i.e. it is not applicable.

#### **5.1.5 Good administration (Section 7(e))**

The final development principle to consider (Section 7(e)) requires an integrated approach to land use and land development by all spheres of government. It also deals with other functions and responsibilities which are all in the domain of the public sector. The applicant has no way of and or requirement to comply with this particular development principle.

### **5.2 NORMS AND STANDARDS**

- SPLUMA Section 42(1)(b) requires of a Municipality when considering and deciding on an application to:-

*"make a decision which is consistent with norms and standards, measures designed to protect and promote the sustainable use of agricultural land, national and provincial government policies and the municipal spatial development framework;"*(p50)

- Section 8 of SPLUMA deals with norms and standards for land use management and land development which are consistent with the provisions of *inter alia* SPLUMA, and have yet to be prescribed by the Minister of Rural Development and Land Reform.
- With no such norms and standards formulated and adopted yet the application at hand cannot be measured against same in detail. However, considering the criteria for such norms and standards set out in Section 8(2)(a) to (g) of SPLUMA the following find application:
  - Ad Section 2(a): The norms and standards must reflect the national policy and national policy priorities and programmes relating to land use management and land development. These entail essentially the Constitution of South Africa, National Development Plan and SPLUMA.
  - Ad Section 2(b): The norms and standards must:-
    - Promote social inclusion: The business operations on the premises at the base of the township represent a small operation owned by entrepreneurs, creating employment for individuals of any race or gender who mix and socialize freely on a daily basis at work. The business is open and trading with all social groupings for the benefit of all.

- Spatial equity: The positioning of the Montana Park commercial / industrial area (where the subject property is located) in the Regionalised Municipal Spatial Development Framework, 2018 has been chosen to be accessible to a variety of neighbourhoods being home to predominantly blue collar worker families. Examples include Walmansthal, East Lynne, Jan Niemand Park, Silverton, Doornpoort and Soshanguve. Its central location to these residential areas contributes to the principle of spatial equity.
  - Desirable settlement patterns: The requirement is interwoven with spatial equity as described above. The central locality of the development site serves to facilitate short-distance travelling for *inter alia* inhabitants of previously disadvantaged communities in the vicinity.
  - Rural revitalization: The development proposal is within the urban edge with little (if any) contribution to rural revitalization *per se*.
  - Urban regeneration: The proposal at hand represents normal organic growth and development in urban context, in an area where rural occupation on agricultural holdings has been steadily replaced by urban township development, in line with the forward planning policies adopted for the area.
  - Sustainable development: The entire motivation for approval of the development proposal is based on sustainability principles, i.e. economic, social, institutional and environmental.
- o Ad Section 2(c) to 2(g): The principles of efficiency and effectiveness have been discussed under Development Principle 7(c) above in detail. The balance represent norms and standards for the authorities to comply with which have no bearing on the present application.

## 5.3 MUNICIPAL PLANNING

### 5.3.1 City of Tshwane Land Use Management Bylaw, 2016

- The objective of the Bylaw is as set out in its preamble (p5) explaining the need for a uniform national approach to municipal planning and it being an instrument, *inter alia*:-

*"...to maintain economic unity, equal opportunity, equal access to government services and to promote social and economic inclusion"*

- Also relevant is the Land Use Scheme as a practical tool to give effect to the Vision of the City as contained in the Municipal Spatial Development Framework and its constituent Regionalized Municipal Spatial Development Frameworks through appropriate land development applications as guided / directed by the Bylaw. In this regard Section 9(1)(b) of the Bylaw describes the purpose of the Land Use Scheme (in this instance the Tshwane Town Planning Scheme, 2008 (Revised 2014)) and the outcomes of a land development application in terms thereof and / or to amend the Scheme, as follows:

*"(1)... provided that:*

- (a) ...*
- (b) The Municipality utilizes the process to ensure municipal planning finds applicability in development that is co-ordinated and harmonious in such a way as to most effectively tend to promote the health, safety,*

*good order, amenity, convenience and general welfare of the area in which the scheme is proposed as well as efficiency and economy in the process of such development”(pp 26,27).*

- The applicant has gone to great lengths to prove compliance of the application with the objective and principles of the Bylaw, for example:
  - Co-ordinated and harmonious development: Suitability of the proposed development in this particular locality in relation to surrounding land-use activities – current and future.
  - Principle of a healthy environment through spaces / pockets for social interaction and “relaxation” during work time for teatime / lunches. Furthermore, compliance with legislation in terms of official norms and standards for this type of land-use with regards to noise or air pollution.
  - Safety of employees, visitors / customers with regards to securing the site and restricting access to visitors / customers to safe areas away from work areas.
  - The balance of the prevailing good order will not be disturbed, where the land-use is already existing.
  - Likewise will the prevailing amenity of the area not be adversely affected. The site has already been developed for its intended purposes. This process will furthermore *inter alia* contribute to an enhanced urban environment through infrastructure improvement (e.g. road upgrade, street lighting).
  - Convenience relates amongst others to proximity to their markets and accessibility through high-order road as well as to residential areas in terms of creation of employment opportunities for the residents in the area.
  - The proven desirability and sustainability of the development proposal in virtually every section / sub-section of the memorandum prove unequivocally the nett contribution of same to the general welfare of the area.
  - Efficiency and economy are two requirements which private sector developments automatically strive for, in pursuance of the profit motive at the base of our capitalistic system. Whereas the developer will in this regard strive to minimize inefficiency to maximize economy, it is the municipality’s role to optimize the end-result of the development in favour of the general wellbeing and proper functioning of the surrounding community. This process plays itself out in *inter alia* the negotiations and conclusions of engineering services agreements between the CTMM and the developer.

### 5.3.2 City of Tshwane 2017/21 Integrated Development Plan, March 2017 (adopted May 2017) [IDP]

The Tshwane IDP is one of a suite of financial and spatial planning instruments underpinning the identification and implementation of strategic projects and key programmes towards achieving the outcomes of the Tshwane Vision 2055 policy document (p43).

The contents of the IDP has been informed by *inter alia* the NDP Vision 2030, the Gauteng City Region (GCR) realities and vision, the G 2055 Vision and GSDF as well as the Tshwane Vision 2055. Also by the City of Tshwane Metropolitan Spatial Development Framework, 2012 (MSDF) which in essence forms an integral part of the IDP. The IDP aims to complement the National Development Plan and its vision for 2030 being *"living in a remade country"*.

The document sets out the development trajectory for the CTMM based on the following principles:

- A city of opportunity: *"...a City that facilitates economic growth and job creation", "... making it easier to do business with and in the City", "focused infrastructure investment in order to ensure continued growth in existing economic nodes", and "promoting shared economic growth and job creation, ... transformation and innovation". Furthermore "(i)nfrastructure investment should primarily support localities that will become major growth nodes to create regional gateways"*
- A sustainable city: *"(s)ervice delivery needs to be improved and expanded in a sustainable manner", "(p)roviding excellent services in a way that allows for sustainable expansion and development, which provides infrastructure services in a manner that supports both economic and livelihood activities"*
- A caring and inclusive city: By reversing the spatial order of apartheid and the spatial legacy of same.
- A safe and clean city: This is the combination of a City that protects the environment and one that keeps its residents safe. *"It requires all that live, work and play in the city to coordinate efforts"*
- An open and honest city: A city that is responsive with zero tolerance for corruption. Work together on the issues that impact communities"

Spatial challenges that are currently being experienced by the Municipality relate largely to the *"mono-functional land-uses taking up large, concentrated and defined space"* (p119).

The vision of the adopted IDP relates to having a prosperous capital city through the creation of opportunities, freedom and fairness. The present application and opportunities relate to giving people dignity and the ability to work, to the freedom to earn a living, and fairness means making it easier to do business in the City, the security of infrastructure in already established urban areas and attracting and retaining jobs.

The CTMM outlines the transformation goals (and each of these having specific objectives) of the City under the new local government rule as being:

- Economic by being competitive and having a growing economy as well as the promotion of *"self-actualisation"*.



- Ecological sustainability.
- Institutional by encouraging partnerships.
- Human potential where "a safe, healthy environment" is created, "conducive to ... development". Furthermore an "(i)ntegrated cosmopolitan Tshwane".
- Spatial where sustainable human settlements are accessible and liveable. Tshwane becomes the "preferred home", a place where you can work, live and play (pp 46 and 48)

An IDP review was approved in May 2019 of the 2017/2021 IDP. It indicates the core vision for the remaining terms of office of local government at Tshwane as "stabilisation, revitalisation and delivery" with "stabilisation" referring to the administration of the organisation itself for year 1, "revitalisation" referring to the economy in the short term and "delivery" referring to services to all and especially the poor. Of particular importance here is revitalisation as the plan is to ensure urban regeneration, prioritise infrastructure backlogs, creating efficiencies in planning application and urban management to support economic growth.

It furthermore outlines the changing development trends and commitments that have been made in the meantime that influence the 5 year IDP.

### 5.3.3 **Municipal Spatial Development Framework, 2012 (MSDF)**

The MSDF is a core component of the IDP, serving as a management tool that provides a spatial strategy to achieve the City's vision (pp 6 & 36). The MSDF document explains the context and relevance of several policies, plans and related institutional documents on all government levels, including *inter alia* the City Vision and Strategic Objectives, the Gauteng Planning and Development Act, 2003 and the National Spatial Development Perspective (NSDP), 2006. It is influenced by various other strategic policies, like the Compaction and Densification Strategy, Tshwane Retail Strategy, Tshwane Integrated Transport Plan as well as the Tshwane Integrated Environmental Plan. The applicant will not here regurgitate the contents of these but reserves the right to elaborate on same, if required.

The document identifies Tshwane as being an African Capital City which is the gateway to Africa and provides the opportunity for investment and trade. It is seen as a major conurbation when viewed as a whole, with the metropolitan municipalities of Ekurhuleni and Johannesburg. In order for Tshwane to retain and improve its competitive edge as the administrative capital of South Africa, it is important to sustain its "civic collaboration" atmosphere.

The envisioned industrial 'spine' is seen as one of the decentralised economic catalysts of the city. It has importance where a range of specialised services are needed to be introduced. Spines such as these tell a story about the development of the City as a whole and therefore are important to have a positive image. Creativity and diversity are important when placing land-use within these spines to render these viable economic generators.

Demarcated zones / spines like these are areas where focused economic growth and development should happen, and resources should be

rationalised. It is important that there is diversity and intensity in order to create opportunities.

The document describes the necessity to move towards a green economy where travel-time and costs are reduced by allowing mixed-use developments, and especially focusing on important nodes and spines. The incorporating and restructuring of our City by "greening" it, create more liveable cities and open the door for more economic opportunities and accessibility to these.

Compact cities are promoted in both SPLUMA and the Municipal Systems Act, 2000 (Act 32 of 2000).

Although the development property is not located within one of the eight restructuring zones or industrial estates identified, the development site is located close to a metropolitan node (Node no. 6: Kolonade) and furthermore near Sefako Makgatho Drive (a high-order road). Sefako Makgatho Drive is seen as a freight road that has a mobility function for the movement of goods between areas. Land-uses along the latter should be supportive of the function of the road, as is the case here.

The current application will be relevant in addressing certain of the MSDF's focus areas in the following way:

- (1) Infrastructure: Service and (possible) road upgrades to result from the intensified land-use rights
- (2) Knowledge economies: Skills development, job opportunity, income generation, inclusivity (offered to all members of community, neighbourhood and society)

Furthermore, it is foreseen that the application will comply with the following spatial directives of the MSDF:

- (1) Compaction and densification:
  - Responsible optimisation of the Property in its locality considering the *status quo* of the site.
  - Intensification of land-use as a brownfields development.
  - Compatible land-use activity to its surrounding milieu with no negative impact.
- (2) Urban design and quality of environment:  
Buildings constructed of quality materials and finishes with an aesthetically pleasing effect.
- (3) Movement and connectivity:
  - Strong public transportation network available close to development.
  - Enhancement of viability of public transportation corridors as increased use by employees of the business.
  - Reduction in uptake of greenfields sites, through public transport and transit-orientated development

- Reduction in impact of travel on communities who commute to places of employment
- High accessibility of site creates desired location for access to service as well as potential for employment

(4) Urban edge:

- Development site located within the Urban Edge.
- Development within area earmarked for industrial use
- No resultant urban sprawl

#### **5.3.4 Compaction and Densification Strategy, 2005 (CDS)**

The CDS is a "smart growth" initiative aimed at the sensible restructuring of Tshwane's spatial dimension towards a more efficient space economy, increased liveability and less pressure on horizontal expansion around the urban periphery. The curtailment of urban sprawl holds numerous advantages, including preservation of valuable agricultural and conservation land as well as optimising the cost of providing infrastructure for intra-urban expansion.

The CDS in Section 5 (p11) identifies eleven aspects which work against compaction initiatives in Tshwane, one that is applicable here is the uncoordinated focus on areas for development (dispersed intensification attempts). Another is low emphasis on redevelopment and regeneration, with a strong emphasis on greenfields developments.

Areas of specific opportunity are identified and further detailed in the Regionalised Municipal Spatial Development Frameworks.

It also emphasizes that private investment is required in order for the City of Tshwane to be able to develop the City to be sustainable and efficient.

The document highlights the need to create more compact cities which are well designed. Intensification should take cognisance of surveillance, diversity, social integration and mixed-use supporting densification.

The proposal here for consideration provide for:

- Promotion of integrated environments
- Substantiate interventions for compact cities
- Infill of existing urban structure

The proposed development entails a compaction endeavour. The Property is already being used for *inter alia* a scrap yard and will, after approval and proclamation of the township, continue to be used for same. The site is located in an area where industrial uses already occur, this type of land-use has been envisioned here in the forward planning documentation and is therefore compatible with same. Furthermore the site is located within the urban edge, contributing to the prevention of urban sprawl.

#### **5.3.5 Tshwane Vision 2055 (T 2055) adopted by Council in 2013**

The vision sets out to address what is referred to as the 'triple challenge of poverty, unemployment and inequality'. It places the needs of the most

vulnerable at the centre of the development agenda (p21). T 2055 is an update / improvement of the former City Development Strategy, 2004 (CDS) informed by, and aligned with the NDP 2030 adopted by national government in 2012, as well as the G 2055 vision for the Gauteng City Region. A new growth path, resilient to future shocks is required and..."*(c)oupled with this new paradigm is the implementation of spatial development approaches geared towards the realisation of spatial justice, spatial sustainability, spatial resilience, spatial quality and spatial efficiency*"(p27).

The City of Tshwane's vision reads as follows:

*"In 2055, the City of Tshwane is liveable, resilient and inclusive whose citizens enjoy a high quality of life, have access to social, economic and enhanced political freedoms and where citizens are partners in the development of the Africa Capital City of Excellence."*(p34).

The City's Integrated Development Plan (IDP) will be the instrument of resource allocation and prioritisation of implementation of the actions needed to realise the *"Tshwane Vision 2055 Four Decades of Game Changing Implementation Plan"*(p34).

The CTMM has created seven administrative Regions to channel service delivery to the people more effectively:

*"Going forward, the seven Regions will be the main implementation anchor for Tshwane Vision 2055's programme of action. The Regional Spatial Development Frameworks (RSDFs) for the City's 7 Regions will need to translate the Tshwane Vision 2055 at Region level and link it to Regional development strategies. This would entail Regions identifying game changing interventions that would support the attainment of Tshwane Vision 2055 and leading the investment drive to ensure that Tshwane 2055 is achieved"*(p47).

The Vision Statement for Tshwane 2055 has been translated to six Outcomes, each with a particular goal to be achieved through implementation of strategic actions during the next four decades. These outcomes are the following:

- *"Outcome 1: A resilient and resource efficient City;*
- *Outcome 2: A growing economy that is inclusive, diversified and competitive;*
- *Outcome 3: Quality infrastructure development that supports liveable communities;*
- *Outcome 4: An equitable City that supports happiness, social cohesion, safety and healthy citizens;*
- *Outcome 5: An African Capital City that promotes excellence and innovative governance solutions; and*
- *Outcome 6: South Africa's Capital with an activist citizenry that is engaging, aware of their rights and present themselves as partners in tackling societal challenges."*(p105).

The existing development is already making a valuable contribution to most of these Outcomes. For example, in terms of Outcome 2, the scrap yard is located in an area where it is competitive and diversified, close to other motor related land-uses and yet providing for a different niche in the market; and Outcome 3, the implementation of the township will see to infrastructure upgrades to the area to provide sufficient capacity for the development.

The CTMM has in its T 2055 Vision set some goals for achievement of these Outcomes, as follows:

- By 2020: Consolidating the gains of democracy and tackling the triple challenges of unemployment, poverty and inequality;
- By 2030: Managing sustainable urban growth and development;
- By 2040: Transitioning towards sustainable urban form and economy; and
- By 2050 and beyond: Consolidating the gains towards a better and prosperous life for all. (p 120)

The CTMM has already shown its support for industrial type land-uses in this location by approving developments to the east of the site along the N4 National Road, for a variety of purposes. It has transformed the local economy in support of the development pressures being encountered.

Infrastructural services play a prominent role towards achievement of the Tshwane Vision 2055:

*"The provision of water, sanitation, roads, waste management, electricity, housing, recreation, health and safety are primarily the focus areas of service delivery infrastructure for the City of Tshwane. Furthermore, the provision of some of these services makes up a considerable component of built environment which without, the built environment becomes dysfunctional. These same services are also enablers for economic activity within the City. Investment in service delivery infrastructure is therefore a valuable resource that needs to be maintained and improved over time. It is therefore very important to optimise the City's existing infrastructure and equally plan for new infrastructure that will propel the City to achieve the vision of Tshwane Vision 2055."*(p 192)

The proposed development project will contribute to the principles of spatial transformation set out in the T 2055 and within the timeframes mentioned above, in the following way:

- (1) Drive spatial transformation through densification and compact development: This proposal represents appropriate intensification and compaction of the Property.
- (2) Address urban sprawl: The proposal represents a development within the urban edge in an area of transformation.
- (3) Sustainable growth to optimise potential and infrastructure capacity: The use of the site will be optimised. Engineering services are already

available in the area and may need to be upgraded to allow for this development which may then act as a catalyst for further development in the area.

- (4) Develop new economic nodes that support transport systems: Development to be established in a locality that already enjoys excellent accessibility due to the higher-order roads in close proximity (N1-National Road and Sefako Makgatho Drive to name two) and also in support of already approved land-uses in the area.
- (5) Strategic infrastructure investment targeting emerging development nodes and corridors in support of higher intensity mixed-use developments: The development represents the formalization of existing land-uses along a development corridor (as identified in the Built Environment Performance Plan [BEPP]) and which is anticipated to develop further once the future BRT route has been implemented.
- (6) Balanced sustainable urban growth based on characteristics of locality: As mentioned the site is located within the development corridor identified in the BEPP along the N1-National Road and in close proximity to Sefako Makgatho Drive. Furthermore the site is located in an area of industrial land-uses and motor vehicle related land-uses.

The site locality is further enhanced by the accessibility to a large variety of public transport modes, municipal buses and mini-bus taxis with a likelihood of a BRT route in future.

- (7) Conservation and protection of natural resources through urban development within boundaries of specific delineations: Once again, the proposed development will take place within the urban edge, in an area which is already used for industrial land-uses. The site is already developed and used amongst other related uses as a scrap yard and will remain to be used for same after approval and proclamation of the township. The site has been completely transformed for these purposes.
- (8) Equal access to City's social and economic infrastructure: All employees, employers and their visitors will have the opportunity to gain equal access to amenities in and around the development, including use of the public transportation systems and accessibility to high-order roads.

### **5.3.6 Tshwane Regionalised Municipal Spatial Development Framework – Region 5, 2018 (RMSDF)**

- (1) The area between Breed Street (west) and the N1-National Road (east) has in the RMSDF been earmarked for mixed-use purposes. Also a fairly expansive area to the southwest of the Property – west of Breed Street. The RMSDF (pp iv, 52 and 53) describes / defines Mixed Use as follows:

*"Refer to land uses such as offices / commercial / residential / industrial / retail / entertainment / institutional, etc. It also refers to a mix of uses within a specific area (node or corridor). The advantage of mixed uses is that access and convenience are increased as transportation distances are decreased. The combination depends on the specific area. A mixed-use could refer to retail at street level, institutional on the floor above and*

*residential on the upper floors, or only (one) use per erf. Principles regarding retail, commercial and industrial uses / rights are still applicable as indicated in this document. Mixed land use in an industrial area could include industry, commercial and retail uses."*

The prevailing land use characteristics in the triangular area bounded by Sefako Makgatho Drive, the N1-National Road and Breed Street are predominantly industrial / commercial in nature, with retail uses found closer to and adjoining Sefako Makgatho Drive. The proposed scrap yard / panelbeater / motor workshop activities on Portion 739 will hence be fully commensurate with the surrounding character of the localized area.

- (2) Sefako Makgatho Drive (R513-route) is an east / west reaching existing Mobility Spine, defined in the RMSDF as follows:

*"A Mobility Spine is an arterial along which through traffic flows with minimum interruption (optimal mobility). Much smaller than highways, Mobility Spines are usually made of two lanes of opposite vehicle flow." (pp 49, 50)*

- (3) With regards to Mobility Spines the RMSDF encourages –

*"\* Nodal development at intersections  
\* Mixed land uses at intersections" (p49)*

- (4) The BEPP / RMSDF furthermore encourages a Development Corridor along the N1-National Road.

- (5) Breed Street abutting the subject property to its west is defined in the RMSDF of Region 2 (the divide between Regions 2 and 5 is Breed Street) as an Activity Street, as follows:

*"These are local collector roads in suburbs, characterized by small-scale local economic activities and social amenities (in keeping with the existing character of surrounding residential development)." (p55)*

Mixed-use developments are similarly being encouraged alongside Activity Streets.

- (6) Synthesis: The subject property is therefore located in an area where the following forces require a mixed-use development pattern, *viz*:

- Mixed-use designation in RMSDF
- Mixed-use development corridor alongside the N1-National Road
- Mixed-use along Sefako Makgatho Drive as Mobility Spine
- Mixed-use along Breed Street as Activity Street

- (7) It should finally be mentioned that Sefako Makgatho Drive is destined in the RMSDF as a future BRT-route which will serve as backbone for high-density / high-intensity transport orientated development of a

mixed-use nature. The subject property is a mere 665m north of Sefako Makgatho Drive, i.e. within easy walking distance.

#### 5.4 DEVELOPMENT CONTEXT

Schedule 6, Paras 9(c), (e)(ii)(bb)(aaa) and (e)(iii) of the Bylaw require of the applicant to discuss the development context of the area, the impact of the proposed development on surrounding properties / land-uses and *vice versa* and how the township will accord with the future development pattern of the area. This is one of the aspects that proves the desirability and sustainability of the proposed township.

The development context in which the subject property finds itself is in essence defined by the following aspects:

- Current zoning of properties in the area
- Current land-use of properties in the area
- Policy / -ies for future development of the area.

##### 5.4.1 Prevailing zoning

The Zoning Map for the area reveals the following:

- The areas to the southwest, south and southeast of the Property display a predominantly Special zoning. This is a customized zoning for a wide array of non-residential land-use activities.
- The areas to the north and northeast display a predominantly Agricultural zoning, where rural occupation and illegal non-residential and commercial activities (especially to the east of the N1-Freeway) prevail.
- The area to the west and northwest displays a predominantly Residential 1 zoning where a long-established residential neighbourhood has been established for several decades.
- Two other areas deserve mention, i.e. an Industrial 2 zoned streetblock to the south of the Property and an Educational zoned site to its southeast on Sefako Makgato Drive immediately west of the N1-Freeway.

[FIGURE 4 : ZONING MAP]

##### 5.4.2 Land-use pattern

The land-use pattern in the surrounding area is to a large degree consistent with the area-wide zoning – except that it is impossible to match any existing land-use to a Special zoning. The fact that the bulk of the properties southwest, south and southeastwards are zoned Special and not Agriculture anymore, indicates that the land-use activities conducted from same are being done under a customized zoning in a township or on an appropriately zoned land-portion. An *in loco* drive-past corroborated by a Google Maps search confirm the following land-use pattern observed:

- Southwest, south and southeast: Strong commercial / industrial character interspersed with retail and related land-use activities.
- Predominant retail, filling station and educational function along Sefako Makgato Drive, e.g. restaurants, big box furniture store, shopping centres with national outlets, and many more.



- West / northwestwards is a low-density single residential neighbourhood of sizeable proportions, reaching up to the Wonderboom Airport.
- To the east of the N1-Freeway is found more extensive commercial / industrial uses which for the most part include the storage, display and sale of trucks, buses, earth-moving equipment and specialized vehicles.

The area therefore comprises a mixed bag of uses but in a structured and seemingly harmonious way.

[FIGURE 5 : LAND-USE MAP]

#### 5.4.3 Policy / -ies for future development of area

The contextual milieu in which the subject property finds itself is to a large degree consistent with the vision of the Municipality as expressed in the Regionalized Municipal Spatial Development Framework, 2018 for Regions 2 (west of Breed Street) and 5 (east of Breed Street).

The Regionalized Municipal Spatial Development Framework, 2018 earmarks the future use of the properties surrounding Portion 739 for the following broad purposes:

- Southwest, south and southeast : Mixed-use developments
- South : Retail (certain properties)
- West / northwestwards : Low-density residential use
- Eastwards opposite N1-Freeway : Industrial

[FIGURE 6 : EXTRACT FROM RMSDF, 2018]

#### 5.4.4 Synthesis

It is evident from the above that the contextual milieu of the subject property is structured broadly in line with the future vision for the area. Of particular importance is the fact that the development proposal on Portion 739 is fully consistent with other existing commercial / industrial land-use activities to its immediate east, south and north which confirms its suitability in urban context.

### 5.5 PUBLIC INTEREST

The applicant is required in terms of Section 42(c)(i) of SPLUMA to demonstrate how the development proposal would serve the public interest. Public interest is also an aspect of the desirability and sustainability of the project. The following is a brief synopsis:

- The matter of public interest includes the contribution of the proposed project to the so-called constitutional transformation imperatives as discussed in more detail in Para 5.6 *infra*.
- The proposed development will contribute to economic growth and development of Tshwane with concomitant employment and income creation for previously disadvantaged households.
- The development of Portion 739 will not cause displacement of occupants or social facilities of any kind.

- Rates and taxes and revenue from the continuous sale of engineering services and levies (e.g. refuse removal) will serve to strengthen the Municipality fiscally and thereby contributing towards a budget skewed in favour of pro-poor spending.
- The development will not be harmful to the health, convenience or welfare of the community. No detrimental environmental impacts will result from the application. In this regard the development proposal is in line with Section 9(1)(b) of the Bylaw which reads as follows:

*"...the municipality utilizes the process to ensure municipal planning finds applicability in development that is co-ordinated and harmonious in such a way as to most effectively tend to promote the health, safety, good order, amenity, convenience and general welfare of the area in which the scheme is proposed as well as efficiency and economy in the process of such development."*(pp 26, 27).

- The excellent accessibility of the development site as discussed elsewhere in the memorandum and its close proximity to a vast labour pool in surrounding context both contribute to the public interest. The ease of access to the premises for clientele / consumers is a further major advantage serving the public interest.
- The nature of the business on the premises represents a major recycling / reclamation of previously used and discarded items. Examples include car wrecks written off by insurance companies as not being cost-effective to repair, reconditioning of motor vehicle engines and parts, etcetera. This is in line with a major movement globally towards less reliance by people / communities / cities on new production, due to the vast volumes of discarded products to be accommodated somewhere as well as the negative effect on the carbon footprint caused in many instances by factories, electricity generation plants, water use and more.

The particular business has found an important niche market where the sluggish economic growth worldwide and also locally has seen to households refraining from buying expensive new cars anymore. There has over the last decade been a strong movement to buying previously used motor vehicle models in the price range of R180 000 to R250 000.

## **5.6 CONSTITUTIONAL TRANSFORMATION IMPERATIVES**

- In essence the future planning policies and plans as discussed for applicability on national, provincial and metropolitan municipality level earlier have a recurring theme in common, being the plight of the poor and vulnerable and the pressing need for socio-economic upliftment of previously disadvantaged families and communities. The dire need for improved living conditions and a better quality of life forms a golden thread throughout these.
- The heart of the problem lies in the three enormous challenges today facing society namely poverty, inequality and unemployment. This in turn gives rise to the eroding of other human rights enshrined in the Bill of Rights of the Constitution like human dignity, freedom, safety / security, education, health and more.
- Although the term 'transformation' is nowhere to be found in the Constitution, the Constitutional Court has coined the phrase 'constitutional transformation imperatives' to deal with the Bill of Rights issues, to *inter alia* heal divisions of the past, enhance social justice, weed out unfair discrimination, and redress imbalances of the past.
- Constitutional transformation imperatives find application mostly in the public sector and bigger private business concerns where e.g. affirmative action policies have

been devised to increase owner / employee representivity in line with the race and gender composition of the population. It thus essentially relates to more black ownership and more efforts towards employment equity.

- In the People's Guide to the 2017 Budget the National Treasury on radical economic transformation for inclusive growth however states the following:

*"The alternative to raising taxes is faster economic growth. This will require economic transformation. Government's objective is to transform the economy, not simply transfer ownership or hand out tenders. Transformation must aim to **build a new economic momentum, mobilize new investments, create new jobs and create new resources to support social change**"(p1) (own emphasis)*

- Unfortunately redress through representivity focused on demographics and gender only has in many public bodies and parastatals led to a reduction in efficiency and effective service delivery, as evident by a multitude of dysfunctional municipalities today countrywide. This state of affairs is in stark contradiction to the Constitutional rôle of municipalities which should be that of developmental agencies in pursuance of growth and development.
- Economic growth and development is seen as the ultimate prerequisite for socio-economic transformation, i.e. the catalyst to propel transformation into an achievable goal to culminate in job and income creation, enhanced dignity / pride, increased welfare and a better quality of life for all.
- The current development proposal has seen to the injection of a sizeable investment in the local economy, which has led to the creation of a number of quality, permanent employment opportunities, the majority coming from a previously disadvantaged background. It can be expected that the current process of formalizing the township would see to a more structured business with increased employment opportunities and associated income to households previously struggling to make ends meet. Furthermore the business has led to equipping the staff with sought-after practical skills such as motor mechanics, welding, spray-painting, etc.

## **5.7 RIGHTS AND OBLIGATIONS OF AFFECTED PARTIES**

In accordance with Section 42(1)(c)(iv) of SPLUMA the following should be noted, viz:

- The proposed new township will be public participated in accordance with statutory requirements, creating the opportunity for interested and potentially affected parties to participate in the decision-making process towards a desired outcome for all involved.
- The applicant is hereby in process of discharging the onus of proof of the merit of the development proposal underpinning the township application comprehensively, diligently and expertly in a professional way.
- The municipality has the responsibility and fiduciary duty to apply its collective mind to the application in a positive / constructive way, with due regard to its responsibilities as developmental agency as mandated by the Constitution.

This is also an aspect proving in part the desirability and sustainability of the project.

## **5.8 IMPACT ON NEIGHBOURING PROPERTIES**

As mentioned, the subject property is already fully developed for the intended purposes and the present application is to formalise the rights.

The neighbouring properties have for years been subject to the motor related operations on site without any issues. The nearest residential development is situated to the northwest of the site. This residential neighbourhood has been established several decades ago and are far enough from the development site to not be negatively impacted upon with regards to overshadowing or privacy infringement.

The immediately adjacent properties are all non-residential with similar times of occupation and complementary to each other.

This goes a long way to prove the desirability and sustainability of the development here.

## **5.9 STATE AND IMPACT OF ENGINEERING SERVICES**

This subsection of the memorandum speaks to Section 42(1)(c)(v) of SPLUMA, as follows:

### **5.9.1 Water**

The subject property is surrounded by township developments on three sides, *viz* east, south and west. These townships are all fully serviced, including supply by municipal water.

The CTMM Water & Sanitation Department has provided the applicant with its bulk water reticulation diagram for the area from which the following is evident:

- There is a 600mm diameter bulk pipeline installed adjacent to the Property in Breed Street traversing the area in a north / south direction. The pipeline has been installed on the eastern side of Breed Street. It shows similarly in the same position a uPVC 12 pipeline of 200mm and 110mm diameter alongside the first-mentioned line.

The applicant has indicated that the subject property is not formally connected to this line. It is foreseen that proposed township would ultimately connect to the mentioned pipeline in Breed Street.

- There is furthermore a uPVC 12 bulk water line situated in Escallonia Street abutting the township to its east.

The current operations on the premises make use of borehole water from subterranean sources. Once the township has been formalized the borehole will be solely used for gardening / landscaping.

The project civil engineers have determined that the estimated increased demand for the township will be 12kl per day. The engineer has already submitted his water and sanitation services report to the Municipality for consideration and on 12 October 2021 received confirmation that the township establishment application is in order from a water and sanitation perspective based on the contents of the report by the engineers.

### **5.9.2 Sanitation**

The subject property sponsors bulk sewer lines on its west (400mm diameter), south (160mm diameter) and east (160 mm diameter). The subject property is not connected to the municipal system.

The invert levels and gradient of the site will determine where the proposed erven in the township will connect to the system. With the Property literally surrounded on its boundaries by bulk connection possibilities it is evident that this would not be problematic.

The civil engineers have proposed two possible connection points, one from Breed Street on the west and another on the western side of Escallonia Street. The latter however might be unsuitable as it is on the higher side of the site, depending on the invert – levels of same.

The project civil engineers have determined that the estimated increased sewerage flow for the township will be 9 kl per day. As mentioned in para 5.9.1 *supra*, the engineer has already submitted his water and sanitation services report to the Municipality for consideration and on 12 October 2021 received confirmation that the township establishment application is in order from a water and sanitation perspective based on the contents of the report.

The present application has been informed by a specialist water & sanitation services report, as mentioned, which should be read for a more detailed understanding of water and sewer services to the township.

[ANNEXURE 'L' : WATER & SANITATION SERVICES REPORT, BULK WATER AND SEWER RETICULATION DIAGRAMS, AND APPROVAL LETTER FROM WATER AND SANITATION DEPARTMENT]

### 5.9.3 Solid waste disposal

The solid waste that will be generated per week by the development will be collected and transported to the solid waste disposal site of the CTMM either by CTMM or a private contractor.

### 5.9.4 Roads

The Tshwane Roads Master Plan classifies the two public roads from which the township will gain access, as follows:

- Breed Street: U4 Class 4(a) major collector
- Escallonia / Calliandra Street: U4 Class 4(b) commercial collector

The existing development obtains access from Breed Street and the future township will also obtain access from same.

[ANNEXURE 'M' : TSHWANE ROADS MASTER PLAN EXTRACT]

The project engineers have consulted with the officials at the City of Tshwane who have indicated that 81.5m of the access portion of the 166,7m access road that the developer will be liable for, has already been constructed. Therefore the developer of the present township will be reimbursed for the upgrades already made.

### 5.9.5 Stormwater

The subject property could connect to the municipal stormwater system in either Escallonia Street (east), or Breed Street (west). The actual connection point for proposed Montana Park Extension 133 will be better suited due to the fall of the property, to Breed Street.

A civil engineering services report for roads and stormwater has been prepared to inform the present application. This report contains much more detail on the subject and should be read in its entirety to understand roads and stormwater services to the township better.

[ANNEXURE 'N' : ROADS & STORMWATER SERVICES REPORT AND BULK STORMWATER RETICULATION DIAGRAM]

### 5.9.6 Electricity

The subject property is already connected to the CTMM bulk electricity system, with sufficient capacity to render the existing operations on same sustainable. According to the applicant, the site has a 3-phase power connection north of the site.

The application has been informed by a specialist electrical engineering service report attached hereto as Annexure 'O', and which should be read in its entirety in support of the merit of the application.

Also attached is the bulk electricity reticulation diagram for the area.

[ANNEXURE 'O' : ELECTRICAL SERVICE REPORT & BULK RETICULATION DIAGRAM]

## 5.10 SOCIAL INFRASTRUCTURE & OPEN SPACE

### 5.10.1 Social infrastructure

Being a non-residential business activity means that it does not require supporting social services. Approval of the township will furthermore not increase the need for any social services in its vicinity.

### 5.10.2 Open space

Once again will the non-residential nature of the township not require any provision of open space – whether on- or off-site. The applicant will however provide private recreation space on site for employees to spend tea breaks and lunch in a relaxing, psychologically enhancing milieu away from their workstations in the business operations.

## 5.11 ENVIRONMENTAL CONSIDERATIONS

Messrs Delron Environmental Consultants have been appointed to investigate the site sensitivity and the relevance of the requirements of the National Environmental Management Act, 1998 (Act 167 of 1998) [NEMA] and Tshwane Open Space Framework (TOSF) policy to the application. The findings of the report can be summarized as follows:

The proposed township does not constitute a listed activity in terms of the latest Regulations to NEMA and neither does it militate against the TOSF policy of Tshwane.

The proposal is thus desirable and sustainable in this location.

[ANNEXURE 'P': ENVIRONMENTAL STATEMENT BY DELRON ENVIRONMENTAL]

## 5.12 OTHER DESIRABILITY AND SUSTAINABILITY CONSIDERATIONS

In addition to the various elements already mentioned proving the desirability and sustainability of the proposed township in previous sections, the following subsection highlights other aspects that have been considered.

### 5.12.1 Accessibility

- The accessibility of the township as measured in terms of vehicular access is very high. This is due to a high-density hierarchy of public roads traversing the surrounding area. These include the following:

- The N1-Freeway immediately east of the subject property traversing the area in an essentially north/south direction, linking Johannesburg and Pretoria (south) to Bela Bela, Modimolle and Polokwane (north). The interchange is located 1,5km southeastwards of the site on Sefako Makgato Drive.
- Sefato Makgato Drive, an east / west stretching high-order Class 2 Metropolitan Distributor traversing the area just 600 metres south of the development site along Breed Street.
- Breed Street, a north/south Non-residential Collector road which abuts the subject property to its west.
- Escallonia Street, Calliandra Street and Taaifontein Street are Class 4(b) Residential Collectors criss-crossing the localized area around the development site to provide access to a variety of industrial / commercial uses west-, south- and eastwards up to the N1-Freeway.

These form the road network which serves to ensure the high accessibility of the development site at present.

- Accessibility should however also be measured against the ease of access for employees and patrons to the premises who make use of public transport. In this regard the following should be noted:
  - Sefako Makgato is host to a variety of bus routes, including metro bus service and private service providers. It also hosts a high density of minibus taxis serving a large contingent of the commuting public.
  - Breed Street similarly accommodates a high volume of minibus taxis facilitating ease of access to the public transit dependant.
  - Of importance in this regard is that Sefako Makgato Drive has been earmarked as future Bus Rapid Transit (BRT) route in the RMSDF, which means that the public bus system will be improved markedly in future along this route, a mere 665 metres south of the development site (i.e. within easy walking distance).

### 5.12.2 Geology

A geotechnical investigation was undertaken on the subject property to determine the suitability of the subterranean soils for development purposes. The findings were documented in a report which serves to inform the present application in terms of desirability. The report is titled:

*"Portion 1/397 of the farm Derdepoort 326-JR – Geotechnical Investigation"* (dated February 2021)

The following findings / conclusions / recommendations deserve mentioning:

- The site is underlain by residual pyroxenite of the main zone of the Rustenburg Layered Suite of the Bushveld Igneous Complex.
- The maximum amount of movement due to collapse is ...20mm.
- According to the NHBRC the site is classified as C2/H1.

- Water egress needs to be controlled to prevent ground movement from a change in moisture content
- Excavations (for foundations and underground services) must be inspected on site during construction
- Construction materials need to be imported or additional testing needs to be done on in situ materials once blended and / or stabilized with cement.
- No excavation problems are foreseen although excavations of deeper than 1,5m need to be shored.

[ANNEXURE 'Q': GEOTECHNICAL REPORT]

### 5.12.3 Topography

The Property has a northwesterly gradient with a 4 metre fall over a distance of 179 metres. This translates to a gradient of  $\pm 1:45$  or 2,2%. The highest point of the site is located at its southeastern corner.

The gradient is within acceptable tolerance for the gravitation-led services (notably sewer and stormwater) to be installed / maintained without the requirement of extra-ordinary engineering solutions.

### 5.12.4 Traffic considerations

As alluded to tentatively under Para 4.4 *supra* the business operations on Portion 739 exert a negligible influence on vehicular trip generation on the surrounding public road network during peak-hour periods, with no need or policy requirement for a traffic impact study (TIS) to inform the present application. The business has been established successfully and operating for several years without any traffic congestion issues caused or observed at critical intersections of the public road network in the vicinity.

### 5.12.5 Land as scarce resource

One of the underlying realities of contemporary town planning is the scarcity of land as a non-renewable resource for development purposes, and the necessity (and responsibility) to utilize such land to its highest-and-best potential in compliance with Section 7(b) and (c) of SPLUMA in terms of spatial sustainability and efficiency.

The development site is currently zoned for a land-use that was prevalent when the area was earmarked for rural residential activities, but subsequently there have been changes with regards to people's lifestyles. The agricultural holdings in the area have been transformed and developed in the meantime. The specific site has been developed for motor related purposes that provides a necessary service to the other motor related land-uses in the wider area. the existing development here is in line with the policies of the CTMM, as directed by market forces.

### 5.12.6 Economic growth and development

- It is widely acknowledged by economists and political analysts that it is government's role to create a conducive climate (political stability, clear / unambiguous policy directives) for private business to multiply and grow, and that the latter would automatically lead to addressing / alleviating the three socio-economic woes of unemployment, poverty and inequality which are currently thwarting prosperity and threatening socio-political stability.



- Prior to Covid-19, the growth outlook for South Africa was adapted down from 1,5 percent for 2020 to just 0,5 percent. The National Lockdown and the impact of Covid-19 on global economies have added to the country's already severe economic challenges meaning Gross Domestic Product (GDP) growth is expected at 0,6%. The Organization for Economic Cooperation and Development (OECD) in June 2020 has projected that economic growth will fall by 7,5 percent in 2020 before picking up progressively with GDP growth of 2,5 percent in 2021. This while the country needs a prolonged and sustained growth rate of between 5 and 6 percent to even start reducing the exorbitantly high unemployment rate of 34,9 percent as recently confirmed STATSSA.
- Political leaders and economic experts agree that the mainstay of economic growth and development (with concomitant employment increase) lies in entrepreneurs – small- and medium-sized enterprises. The applicant represents one such business concern making a valuable contribution to the creation of employment and economic growth.

### **5.13 NEED / NECESSITY**

- The need / necessity for the development proposal on the subject property is best illustrated by the fact that the business for which application for township is hereby being made has been established and operating most successfully on the premises since 2005. Now 15 years later and despite the lacklustre performance of the economy over the past decade as well as the economic downturn as a result of the national lockdown due to Covid-19, the business is maintaining a healthy positive growth in this particular locality.

If the need / necessity did not exist there would not have been an active, growing demand for the goods and services on offer by the existing business concern on Portion 739.

- The need for reconditioning and recycling of used goods in the economy has in recent years become an environmentally driven imperative. Increasingly more governments, non-profit lobby groups and responsible citizens are promoting a move away from conventional consumerism towards a more desirable consumption pattern where waste and other previously used products are reconditioned (if necessary), repurposed and recycled. The present application complies with this widely-recognized need by reintroducing written-off vehicle wrecks, engines and spare parts into the economy – most often at much lower prices than new such products.

## 6. CONCLUSION AND RELIEF SOUGHT

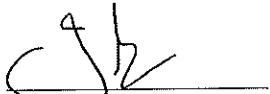
### 6.1 CONCLUSION

It is evident from the above that the applicant has discharged its responsibility to prove the merit of the application unequivocally. It has addressed all the matters of importance set out in Section 42 of SPLUMA and proven that the development proposal for proposed Montana Park Extension 133 would lead to compliance with Section 9(1)(b) of the Bylaw, which reads as follows:

*"... that the Municipality utilizes the process to ensure municipal planning finds applicability in development that is co-ordinated and harmonious in such a way as to most effectively tend to promote the health, safety, good order, amenity, convenience and general welfare of the area in which the scheme is proposed as well as efficiency and economy in the process of such development" (pp 26, 27)*

### 6.2 RELIEF SOUGHT

Based on the proven merit of the application and the underlying development proposal the CTMM is hereby urged to award the application its positive consideration and to approve it as applied for.



**J Paul van Wyk** Pr Pln  
December 2021