



**APPLICATION IN TERMS OF SECTION 26 OF THE CITY OF
JOHANNESBURG MUNICIPAL PLANNING BY-LAW, 2016, READ IN
CONJUNCTION WITH THE RELEVANT PROVISIONS OF THE SPATIAL
PLANNING AND LAND USE MANAGEMENT ACT "SPLUMA", 2013 (ACT
16 OF 2013), FOR THE ESTABLISHMENT OF A TOWNSHIP ON A PART
OF PORTION 21 (A PORTION OF PORTION 4), PART OF THE
REMAINDER OF PORTION 37 (A PORTION OF PORTION 13) AND PART
OF THE REMAINDER OF PORTION 145 OF THE FARM SYFERFONTEIN
51-IR TO BE KNOWN AS**

PROPOSED BIRDAHVEN EXTENSION 1.

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Our Ref No.: TP049

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1. PROPERTY INFORMATION

1.1 Introduction and Property Description

- 1.1.1 Application is hereby made in terms of Section 26 of the City of Johannesburg Municipal Planning By-Law, 2016, read in conjunction with the relevant provisions of the Spatial Planning and Land Use Management Act "SPLUMA", 2013 (Act 16 of 2013), for the establishment of a township, subject to certain conditions, on Portion 21 (a portion of portion 4), the remaining extent of portion 37 (a portion of portion 13), and the remaining extent of portion 145 of the farm Syferfontein No 51-IR. The township is to be known as proposed BIRD HAVEN EXTENSION 1 and will comprise of two (2) erven.
- 1.1.2 The main intention is to build a "Sky-deck" over the M1-Freeway with the primary use of a filling station and other subservient uses.
- 1.1.3 The primary use of the proposed rights will be reserved for users of the M1-Freeway (south- and north-bound).
- 1.1.4 The effect of the application will be to procure the necessary rights to establish a public garage with a convenience shop, take-away or sit-down facility, laundromat depot, distribution facility for online store and uses subservient and related to.
- 1.1.5 Important background information regarding the application are set out under point 1.8 hereunder.
- 1.1.6 Details of the application are set out under Section Two (2) of this memorandum.

1.2 Locality (See Plan TP049/1)

- 1.2.1 The proposed township will be located to the south of the Melrose Arch mixed use precinct and approximately 8 kilometers north of the City of Johannesburg central business district
- 1.2.2 The proposed development is situated in administrative region E of the City of Johannesburg Metropolitan Municipality.
- 1.2.3 The subject properties are located to the north of the Highlands and Abbotsford Townships and west of the existing Waverley Extension 1 township.
- 1.2.4 The subject properties are located east of the Athol Oaklands road between Scott Street and Willowbrook Close.
- 1.2.5 According to the City of Johannesburg Metropolitan Municipality's records, there are no physical addresses allocated to the subject properties.
- 1.2.6 Access to and egress from the properties are via Willowbrooke Close and Scott Street. However due to the M1-Freeway traversing over the property, access is restricted and the primary use of the property will gain access directly from the M1-Freeway to satisfaction of the City of Johannesburg Roads Agency.

- 1.2.7 The subject properties are currently located in the affluent suburbs of the City of Johannesburg Metropolitan Municipality.

1.3 Property Size

- 1.3.1 The physical size of Portion 21 (a portion of portion 4) of the farm Syferfontein No 51-IR as referred to in Title Deed T2887/1927 is 10.9493 hectares in extent.
- 1.3.2 The physical size of the remaining extent of portion 37 (a portion of portion 13) of the farm Syferfontein No 51-IR as referred to in Title Deed T13679/1929 is 3.9086 hectares in extent.
- 1.3.3 The physical size of the remaining extent of portion 145 of the farm Syferfontein No 51-IR as referred to in Title Deed T13679/1929 is 59.5885 hectares in extent
- 1.3.4 The above-mentioned properties have been subdivided and consolidated in to the following properties (as per consolidation diagram SG No.1419/2011) but will be registered at the deed's office with the opening of the township register:
- Portion 544 of the farm Syferfontein No.51-IR: 16660.778 m² (1.66 ha)
 - Portion 545 of the farm Syferfontein No.51-IR: 23039.717 m² (2.30 ha)
 - Portion 546 of the farm Syferfontein No.51-IR: 8500.325 m² (0.85 ha)
- 1.3.5 The total size of the proposed township will be 48 147.4 m² (4.81 ha).

1.4 Property Ownership

- 1.4.1 Portion 21 (a portion of portion 4) of the farm Syferfontein No 51-IR is registered in the name of the City of Johannesburg Metropolitan Municipality by virtue of Deed of Transfer T2887/1927.
- 1.4.2 The remaining extent of portion 37 (a portion of portion 13) of the farm Syferfontein No 51-IR is registered in the name of City of Johannesburg Metropolitan Municipality by virtue of Deed of Transfer T13679/1929.
- 1.4.3 The remaining extent of portion 145 of the farm Syferfontein No 51-IR is registered in the name of City of Johannesburg Metropolitan Municipality by virtue of Deed of Transfer T2887/1927.
- 1.4.4 Wealth Investments is the lease holder over the above-mentioned properties as agreed upon with the City of Johannesburg Metropolitan Municipality.
- 1.4.5 The applicant has been granted the power of attorney and substitution by the City of Johannesburg Metropolitan Municipality to apply for the necessary rights for the lease holder of the property known as Wealth Investments.

1.5 Existing and Surrounding Zoning (See Plans TP049/2 and TP049/4)

- 1.5.1 In terms of the Johannesburg Land Use Scheme, 2018, the existing zoning of the subject properties are "Public Open Space".

- 1.5.2 Attached hereto, as Appendix 2, is a copy of the zoning certificate received from the City of Johannesburg Metropolitan Municipality for the subject properties.
- 1.5.3 Erf 97 and 89 just north of the proposed development are zoned “Business 4” in terms of the Johannesburg Land Use Scheme, 2018.
- 1.5.4 Erf 90 just north of the proposed development is zoned “Business 1” in terms of the Johannesburg Land Use Scheme, 2018.
- 1.5.5 On the North Western corner of the proposed development the majority of properties adjacent to Athol Oaklands Road is zoned “Residential 3” in terms of the Johannesburg Land Use Scheme, 2018.
- 1.5.6 Directly to the north of proposed development, Erf 98 is zoned “Residential 1” as defined within the City of Johannesburg Land Use Scheme, 2018.
- 1.5.7 The majority of farm portions surrounding the proposed development are zoned “Public Open Space” in terms of the City of Johannesburg Land Use Scheme, 2018.
- 1.5.8 Further south a large range of “Residential 1” erven are present in the established Highlands North townships.
- 1.5.8 The current density of the subject properties is indicated on plan T049/04 and illustrates that most of the properties in the vicinity have no set density indicators
- 1.6 **Current and Surrounding Land Use** (See Plan TP049/3)
- 1.6.1 The current land use of the subject properties are as follows:
- | | |
|--|--|
| RE/37 of the Farm Syferfontein 51-IR: | A portion thereof is used as a park the rest is vacant land. |
| Portion 21 of the Farm Syferfontein 51-IR: | Vacant Land |
| RE/145 of the Farm Syferfontein 51-IR: | A portion thereof is used as a park the rest is vacant land. |
- 1.6.2 Directly north of the proposed township; offices are located with parking and ancillary uses.
- 1.6.3 Erf 98 situated directly north of the proposed development is currently being used as home offices.
- 1.6.4 North West of the proposed development along Athol Oaklands Road there are a range of sectional- and full title residential units that could be defined as townhouses, apartments and flats.
- 1.6.5 The Melrose Arch development is located further north of the proposed development with the main focus on a mixed-use development node. Uses include, offices, retail, residential and other.
- 1.6.6 Directly south of the subject properties there are single residential units in the established low-density areas of Abbotsford.

- 1.6.7 A substation is present of the remaining extent of Portion 315 of the farm Syferfontein 51-IR located to the south west of the proposed development.

1.7 Legal Aspects

- 1.7.1 As stated above, the site is owned by the City of Johannesburg, and the proposed development will be facilitated in terms of a long-term lease.
- 1.7.2 Portion 21 of the Farm Syferfontein 51-IR is held in terms of Deed of Transfer No T2887/1927. There are no conditions in the title deed that prohibit the use of the land for the proposed purposes.
- 1.7.3 The Remainder of Portion 37 and the Remainder of Portion 145 are held in terms of Deed of Transfer No T13679/1929. In terms of the conditions of title:
- (a) The property may be used by the Council for a sewerage disposal site and purposes incidental thereto, for agriculture purposes and / or for parks or recreation grounds or for residential purposes.
 - (b) The property may not be used for industrial purposes apart from a sewerage disposal site and for the gasses that are generated to be distributed or used for generating electricity.
 - (c) The Council may not do or permit anything to be done on the property which will constitute a nuisance to owners of properties in the neighborhood.
- 1.7.4 The propose development is not prohibited in terms of the title deed of the properties as, although the uses for which the properties may be used are specified, the use of the land for other purposes is not excluded. A filling station is also not an industrial use and it will not constitute a nuisance to owners of properties in the neighborhood.

1.8 Background and History

- 1.8.1 Application was made in terms of Section 28 of the Town Planning and Townships Ordinance (No 15 of 1986) for the rezoning of the said farm portions from "Public Open Space" to Existing Public Roads to "Public Garage" subject to certain conditions as prescribed within the Sandton Town Planning Scheme.
- 1.8.2 The application was submitted on the 17th of December 2008.
- 1.8.3 The initial application was advertised within the prescribed manner and proof thereof was submitted to council on the 20th of February 2009.
- 1.8.4 Forty-one (41) external objections were received by the City of Johannesburg Metropolitan Municipality during this time.
- 1.8.5 The initial portions of the property were subdivided in terms of the Division of Land Act and approval was granted on the 8th of September 2011.
- 1.8.6 The subdivided portions were lodged at the Surveyor Generals Office but was never registered at the deed's office.

- 1.8.7 Some amendments were proposed by the client and the application was re-advertised in 2010.
- 1.8.8 The application was referred for a hearing with the Townships Board in March 2012 but was withdrawn from the agenda due to Council at the time withdrawing its support for the proposal.
- 1.8.9 A further hearing as arranged for October 2017, but the application was withdrawn prior to the commencement of the hearing.
- 1.8.10 Two of the main objectors withdrew in writing but thirty-nine (39) objectors remained.
- 1.8.11 In August 2019, the application was referred to the Municipal Planning Tribunal and the tribunal considered the application and the Development Planning Department decided the following:
- 1.8.11.1 It was found to re-advertise the application as per the provisions of the City of Johannesburg Municipal Planning by-law for the following reasons:
- The proposed amendment scheme was lodged in 2008 and the objections range back as far as 2009.
 - Material amendments in 2010 constituted a re-advertisement.
 - After 10 years lapse the applicant tend to proceed with the application.
 - Since the last advertisement date the whole planning legal framework within the republic of South Africa has undergone substantive change with the promulgation of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) in 2015 and more specific to the City of Johannesburg and the promulgation of the City's Municipal Planning By-law of 2016 giving effect to the provisions of SPLUMA.
- 1.8.11.2 The city was of the opinion that the re-advertisement is in the public interest and will be aligned with the development principles as contained in Section 7 of SPLUMA more specifically Section 7 (e) (iv) that stipulates that transparent processes of public matters that affect them.
- 1.8.12 It was therefore recommended to proceed with the application in terms of the new planning legislative framework provided.
- 1.8.13 Please find attached the decision made at the Municipal Planning Tribunal in August 2019.

2. APPLICATION PROPOSAL

- 2.1 The intention of the client is to construct a deck measuring approximately 8153 m² over the M1 Freeway. The size of the deck to be confirmed with the approval the engineering design drawings.
- 2.2 It will serve both sides of the M1 Freeway with no through through allowed as per figure hereunder:

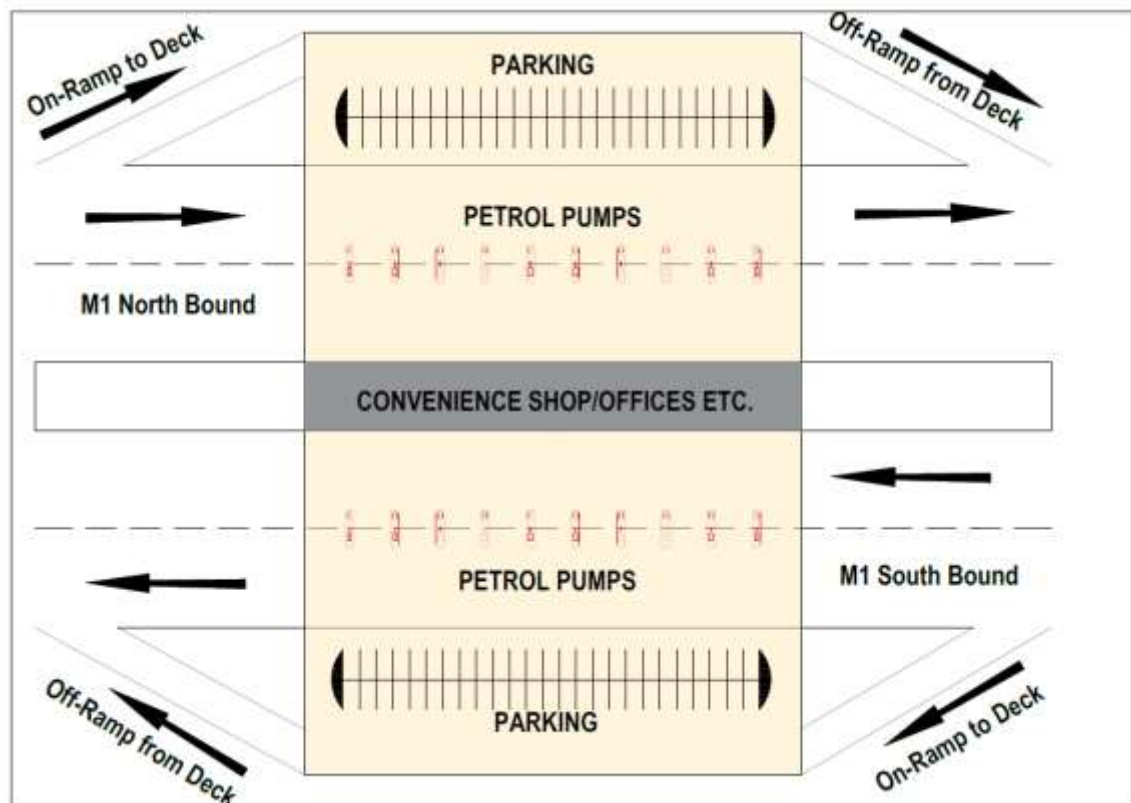


Figure 1 ILLUSTRATIVE ONLY (NOT TO SCALE)

- 2.3 No local traffic from the surrounding community is allowed and will only be restricted to the M1 Freeway.
- 2.4 It is proposed that the deck will accommodate 10 petrol pumps on each side (each direction) with associated parking and drive-ways and maneuvering spaces. Please refer to the above figure.
- 2.5 A convenience store with some other uses will be located down the middle of the deck with parking and associated uses.
- 2.6 A minimum vertical clearance of 5.2 meters will be maintained under the deck slab to the surface of the tarmac.
- 2.7 Access to the deck will be obtained by means of on- and off ramps which will be combined with the existing on-and off ramps of the Atholl Oaklands interchange. However, due to a

substantial difference in levels, the north-bound off ramp will be in the form of a loop which will merge with the existing ramp.

The loop will cross the existing Atholl Oaklands Road interchange northbound ramp and the watercourse with a bridge structure. Once the deck and on-and off ramps have been constructed the remaining portion of land between Atholl Oaklands road and the M1 Freeway to the west and Scott street and the freeway to the east will be landscaped and the watercourse on the western portion of land will be upgraded and use for parking and access to the maintenance of the fuel tanks.

- 2.8 Special attention will be given to the aesthetic design of the deck. It is the intention to, apart from screening the petrol pumps from motorists traveling on the freeway and from properties in the vicinity, create an aesthetically pleasing feature that will act as a gateway to the city.
- 2.9 It is therefore recommended that the Site Development Plan be signed off by the City's UDAC committee.
- 2.10 It is therefore proposed to register an aerial servitude over the M1-Freeway of approximately 8153 m² to assist with the development of the proposed rights. All development rights will be restricted to the registered aerial servitude over the M1-Freeway.

2.11 Development Controls

Application is hereby made in terms of Section 26 of the City of Johannesburg Municipal Planning By-Law, 2016, read in conjunction with the relevant provisions of the Spatial Planning and Land Use Management Act "SPLUMA", 2013 (Act 16 of 2013), for the establishment of a township, subject to certain conditions, on Portion 21 (a portion of portion 4), the remaining extent of portion 37 (a portion of portion 13), and the remaining extent of portion 145 of the farm Syferfontein No 51-IR. The township is to be known as proposed BIRD HAVEN EXTENSION 1 and will comprise of two (2) erven.

ERF 1 – BIRD HAVEN EXTENSION 1

COLUMN 1. *	USE ZONE 23 PARKING
COLUMN 2. *	DESCRIPTION OF LAND ERF 1; BIRD HAVEN EXTENSION 1
COLUMN 3. *	PRIMARY LAND USE RIGHTS (LAND USE TABLE 2) AS PER SCHEME
COLUMN 4. *	SECONDARY LAND USE RIGHTS (LAND USE TABLE 2) AS PER SCHEME
COLUMN 5. *	PROHIBITED LAND USES (LAND USE TABLE 2) AS PER SCHEME
COLUMN 6. *	WIDTH OF SERVITUDE AREA - STREET NONE
COLUMN 7.	HEIGHT ZONE

*	AS PER SCHEME; ZERO (0) STOREYS PROVIDED THAT THE HEIGHT MAY BE INCREASED WITH THE APPROVAL OF A SITE DEVELOPMENT PLAN.
COLUMN 8.	COVERAGE
*	AS PER SCHEME; 0%; PROVIDED THAT THE COVERAGE MAY BE INCREASED WITH THE APPROVAL OF A SITE DEVELOPMENT PLAN.
COLUMN 9.	FLOOR AREA
*	AS PER SCHEME; 0%; PROVIDED THAT THE FLOOR AREA MAY BE INCREASED WITH THE APPROVAL OF A SITE DEVELOPMENT PLAN.
COLUMN 10.	PARKING PROVISION
*	AS PER SCHEME
COLUMN 11.	DENSITY
*	N/A
COLUMN 12.	BUILDING LINES
*	AS PER SCHEME; 3M ALONG ALL BOUNDARIES PROVIDED THAT ALL BUILDING LINES MAY BE RELAXED WITH THE APPROVAL OF A SITE DEVELOPMENT PLAN.
COLUMN 13.	GENERAL
	<ol style="list-style-type: none"> 1. ACCESS TO AND EGRESS AS PER THE APPROVED TRAFFIC IMPACT ASSESMENT. 2. THE ERVEN SHALL BE LANDSCAPED AND MAINTAINED TO THE SATISFACTION OF THE LOCAL AUTHORITY. 3. EFFECTIVE, PAVED PARKING SPACES TOGETHER WITH THE NECESSARY MANOEUVRING AREA, SHALL BE PROVIDED ON THE ERVEN TO THE SATISFACTION OF THE LOCAL AUTHORITY, WITH THE PROVISION THAT PARKING MAY BE RELAXED BY THE LOCAL AUTHORITY. 4. A SITE DEVELOPMENT PLAN, DRAWN TO A SCALE OF 1:500 OR SUCH OTHER SCALE AS APPROVED BY THE LOCAL AUTHORITY, SHALL BE SUBMITTED TO THE LOCAL AUTHORITY FOR APPROVAL BEFORE THE SUBMISSION OF ANY BUILDING PLANS. NO CONSTRUCTION MAY COMMENCE PRIOR TO THE APPROVAL OF SUCH DEVELOPMENT PLAN BY THE LOCAL AUTHORITY
COLUMN 14.	AMENDMENT SCHEME

ERF 2 – BIRD HAVEN EXTENSION 1

COLUMN 1. *	USE ZONE 22 PUBLIC GARAGE
COLUMN 2. *	DESCRIPTION OF LAND ERF 2; BIRD HAVEN EXTENSION 1
COLUMN 3. *	PRIMARY LAND USE RIGHTS (LAND USE TABLE 2) AS PER SCHEME, PUBLIC GARAGE, INCLUDING CONVENIENCE SHOP, TAKE-AWAY OR SIT-DOWN FACILITY, LAUNDROMAT DEPOT, DISTRIBUTION FACILITY FOR ONLINE STORE AND USES SUBSERVIENT AND RELATED TO AND PUBLIC ROAD.
COLUMN 4. *	SECONDARY LAND USE RIGHTS (LAND USE TABLE 2) AS PER SCHEME
COLUMN 5. *	PROHIBITED LAND USES (LAND USE TABLE 2) AS PER SCHEME
COLUMN 6. *	WIDTH OF SERVITUDE AREA - STREET AS PER DIAGRAM SG.....
COLUMN 7. *	HEIGHT ZONE NOT EXCEEDING 14 METERS FROM THE TAR FACE OF THE M1 ROAD LEVEL.
COLUMN 8. *	COVERAGE 20.78% OVER ERF; THE PROPOSED DECK (EXCLUDING THE ONE-AND-OFF RAMPS) OVER THE M1 HIGHWAY SHALL NOT EXCEED 8 153 M ² .
COLUMN 9. *	FLOOR AREA PUBLIC GARAGE: NOT RESTRICTED, PROVIDING THE CONVENIENCE SHOP NOT EXCEED 500 M ² AND TAKE AWAY/SIT DOWN AREA NOT EXCEED 600 M ² . LAUNDROMAT DEPOT: MAXIMUM 100 M ² ; DISTRIBUTION FACILITY FOR ONLINE STORE: MAXIMUM 300 M ² .
COLUMN 10. *	PARKING PROVISION FILLING STATION: TWO (2) STACKING BAYS PER PUMP; CONVENIENCE STORE: THREE (3) BAYS PER 100 M ² ; TAKE AWAY/SIT DOWN RESTAURANT: THREE (3) BAYS PER 100 M ² ; LAUNDROMAT DEPOT: ONE (1) PARKING BAY PER 100 M ² ; DISTRIBUTION FACILITY FOR ONLINE STORE: THREE (3) BAYS PER 100 M ² ; PROVIDING THAT STAFF AND OVERFLOW PARKING BE PROVIDED ON ERF 1, BIRD HAVEN EXTENSION 1 AS PER THE LOCAL AUTHORITIES SATISFACTION.
COLUMN 11. *	DENSITY N/A
COLUMN 12. *	BUILDING LINES ERF 2 – NIL (0) METERS
COLUMN 13.	GENERAL

1. A DEFINITION OF THE "SKY-DECK" BE KNOWN AS:
A CONSTRUCTED PLATFORM BUILT IN THE AIR ON PILLARS OR STILTS (OVER THE M1 HIGHWAY) FOR THE USE OF THE PRIMARY USES AS SET OUT IN COLUMN 3 ABOVE.
2. ACCESS TO THE PUBLIC GARAGE AND RELATED USES SHALL BE RESTRICTED TO THE M1 HIGHWAY AND/OR THE ON- AND OFF RAMPS OF THE ATHOL OAKLANDS INTERCHANGE.
3. THE ERVEN SHALL BE LANDSCAPED AND MAINTAINED TO THE SATISFACTION OF THE LOCAL AUTHORITY.
4. EFFECTIVE, PAVED PARKING SPACES TOGETHER WITH THE NECESSARY MANOEUVRING AREA, SHALL BE PROVIDED ON THE "SKY-DECK" TO THE SATISFACTION OF THE LOCAL AUTHORITY, WITH THE PROVISION THAT PARKING MAY BE RELAXED BY THE LOCAL AUTHORITY.
5. NO THOROUGH-THROUGH TRAFFIC SHALL BE PERMITTED ON THE SKY-DECK" I.R.O THE M1-HIGHWAY.
6. A SITE DEVELOPMENT PLAN, DRAWN TO A SCALE OF 1:500 OR SUCH OTHER SCALE AS APPROVED BY THE LOCAL AUTHORITY, SHALL BE SUBMITTED TO THE LOCAL AUTHORITY FOR APPROVAL BEFORE THE SUBMISSION OF ANY BUILDING PLANS. NO CONSTRUCTION OF THE DECK MAY COMMENCE PRIOR TO THE APPROVAL OF SUCH DEVELOPMENT PLAN BY THE LOCAL AUTHORITY AND THE ENTIRE DEVELOPMENT OF THE SKYDECK – FILLING STATION SHALL BE IN ACCORDANCE WITH THIS PLAN: PROVIDED THAT, WITH THE WRITTEN CONSENT OF THE LOCAL AUTHORITY, THE PLAN MAY BE AMENDED FROM TIME TO TIME.
7. A DETAILED DESIGN OF THE ON- AND OFF RAMPS SHALL BE SUBMITTED TO THE JOHANNESBURG ROADS AGENCY (JRA) FOR APPROVAL PRIOR TO CONSTRUCTION AND APPROVAL OF ANY BUILDING PLANS.
8. SUBJECT TO THE NECESSARY ENVIRONMENTAL AUTHORISATION, UNDERGROUND PETROL TANKS MAY BE CONSTRUCTED ON ERF 1 AND ERF 2 OF BIRD HAVEN EXTENSION 1 TO THE SATISFACTION OF THE LOCAL AUTHORITY.
9. PETROL PUMPS ARE LIMITED TO TWENTY (20) SINGLE PUMPS, TEN (10) IN EACH DIRECTION TO THE SATISFACTION OF THE LOCAL AUTHORITY.
10. ACCESS TO THE PETROL TANKS SHALL BE OBTAINED FROM AUTHOL OAKLANDS AND/OR WILLOWBROOK ROAD TO THE SATISFACTION OF THE LOCAL AUTHORITY.

COLUMN 14. AMENDMENT SCHEME

2.12 Proposed Land Uses

- 2.12.1 The applicant's intention is to build a Sky-deck fillingstation over the M1 Freeway by applying for a township establishment on the said properties in terms of Section 26 of the City of Johannesburg Municipal Planning By-law, 2016, read in conjunction with the relevant provisions of the Spatial Planning and Land Use Management Act (SPLUMA, 2013) (Act 16 of 2013).
- 2.12.2 The township is to be known as Bird Haven Extension 1 and will comprise of 2 erven for the primary uses of a filling station and ancillary uses and as defined within the Johannesburg Land Use Scheme, 2018.
- 2.12.3 The proposed development will consist of the Skydeck over the freeway which will accommodate a maximum of 20 petrol pumps, an associated convenience shop, take-away or sit-down facility, laundromat depot, distribution facility for online store and uses subservient and related to including parking for staff and customers.
- 2.12.4 The convenience shop to be restricted to 500m² and the take away/sit down area not to exceed 600m². The main idea is to create a convenience shop of maximum 250m² in each direction and a sit-down takeaway facility of 300m² in each direction.
- 2.12.5 Further to this a laundromat depot is also proposed that will include a drop-off and pick up facility for dry-cleaning and laundry. No washing to be permitted on site, but will only allow for drive-by customers to drop off and pick up laundry on their daily commute. This facility to be restricted to 100m². Both sides will be serviced by on facility.
- 2.12.6 An online shopping pick-up facility is proposed that will store a minimum amount of goods and will only be used as a pick up destination for online shoppers. The area allocated for this reason will be restricted to 300m². Both sides will be serviced by on facility.
- 2.12.7 All uses except for the filling station may not be more than 1500m².
- 2.12.8 The proposed uses will ensure a first of its kind convenience retail facility. The aim is to create a facility with land uses optimized for convenience of the passing traffic on the M1.
- 2.12.9 Parking will be allocated on the deck for all these uses in terms of the prescriptions of the Johannesburg Land Use Scheme, 2018.
- 2.12.10 The deck will be at least 5.1m from the surface of the tar mac.
- 2.12.11 Erf 1 will be zoned "Parking" with the main use of parking and access to the filling station tanks.

2.12.13 Artist Impressions of the proposed Land Use:



2.13 The Proposed Township Layout (See Plan TP049/L01)

- 2.13.1 The figure lettered “ABCDEFGHJKLMNPQRSTUVWXYZA” on the layout plan attached hereto represents the proposed developable township boundary. The total development area is measuring approximately 4.81 hectares in extent.
- 2.13.2 The township is to be known as BIRD HAVEN EXTENSION 1 and will comprise of 2 erven for a public garage and parking.
- 2.13.3 Proposed Erf 1 will measure approximately 9 660.84 m².
- 2.13.4 Proposed Erf 2 will measure approximately 38 486.52 m².
- 2.13.5 The proposed Skydeck will be approximately 8 153 m² in size. The Skydeck will only cover a mere 21% of Erf 1.
- 2.13.6 Access shall be granted from the M1-freeway as per the approved engineering drawings.
- 2.13.7 There are formal Eskom powerlines over the property but no record can be found that the said lines were registered with the Surveyor General or the Deeds Office. Therefore, we will formalize the powerlines as a servitude as part of the township process.

- 2.13.8 A Riparian zone is present on the site as per the Riparian and wetland study attached hereto.
- 2.13.9 The property is subject to a 1:10 year, 1:50 year and a 1:100 year flood line. The layout plan was signed off by Chris Brooker from the firm CBA Specialist Engineers.
- 2.13.10 The layout plan also shows the contours with 2m intervals and was obtained from the City of Johannesburg.
- 2.13.11 Contours are in accordance with the standards laid down in Schedule 1.4(11)(a) of the City of Johannesburg Municipal Planning By-law.
- 2.13.12 Lines of no access are present along proposed erven 1 and 2 and access will only be granted for Erf 1 in the Cul-de Sac in Willowbrooke Close.
- 2.13.13 Note that all areas referred to above are approximate and subject to final survey.

3. MOTIVATION IN SUPPORT OF THE APPLICATION

3.1 Characteristics of the Surrounding Area

- 3.1.1 The surrounding area is known for its large properties with sprawling lawns, residential houses with exquisite gardens and large trees.
- 3.1.2 Along major routes in the area, you can observe the densification of properties in the form of townhouses and semi-detached residential units.
- 3.1.3 Some properties along major routes have also been rezoned for offices and home enterprises.
- 3.1.4 The area is also known for its high property values and the majority of the community are can be classified as above middle-class.
- 3.1.5 Due to the position of the M1 Freeway and its on- and off ramps the surrounding areas enjoy great accessibility towards both the Johannesburg CBD and Sandton CBD.
- 3.1.6 Parks are also well developed in the area and form part of an open space system. Unfortunately, the subject property is currently vacant and derelict and creates a haven for criminal activities in the area.
- 3.1.7 Wanderers Cricket Stadium and various other sports facilities are in close proximity of the proposed development.
- 3.1.8 Due to the amount of shrubbery and trees surrounding the site, the development will have a minimum effect on the surrounding properties.
- 3.1.9 The proposal intends to create a one-of its kind development in the country enhancing the look and feel of the entrance to the City of Johannesburg CBD.

3.2 Relevant Policies and Frameworks

- 3.2.1 In terms of the Regional Spatial Development Framework (RSDF, 2010/2011) the properties in question fall within Administrative Region E and further in sub-area 25.
- 3.2.2 The subject properties fall within the Urban Development Boundary (UDB) as indicated in the Spatial Development Framework (SDF, 2040).
- 3.2.3 According to the RSDF (2010/2011) strategic development is encouraged along Mobility Spines.
- 3.2.4 Atholl-Oaklands have been identified as a Mobility road.
- 3.2.5 In terms of the RSDF (2010/2011) the proposed development is in line with objective 1.3, stating that non-residential uses should be supported in the area to further the notion of denser more compact urban environment.
- 3.2.6 In terms of the Spatial Development Framework (SDF) of 2040 the relevant properties fall within the "Consolidation Zone".

- 3.2.7 In terms of the SDF (2040) the “Consolidation Zone” is defined as: “...the city will allow new developments that promote the goals and meet the requirements of the SDF, but do not require extensive bulk infrastructure upgrades other than in meeting current infrastructure backlogs. The land uses and intensities of uses within this zone must be scaled down where this zone interfaces with the ecological resource zone or low intensity/ecologically sensitive areas.”
- 3.2.8 In terms of the definition above, the proposal meets all the requirements and enhances the urban fabric in terms of the “Compact City” principle due to infill development. The property is available for development within the Urban Development Boundary along a Mobility Spine.
- 3.2.9 Further to this, the proposed development also addresses the new development strategies of the City of Johannesburg (SDF 2040) in terms of:
- *Improving Access*: Due to the position of the proposed development, the development is highly accessible.
 - *Diversification of Economic Activities*: The said development will contribute in creating a variety of economic possibilities in a compact manor.
- 3.2.10 In this regard, the application complies with the objectives of the City of Johannesburg Metropolitan Municipality’s Regional Spatial Development Framework, 2010/2011, and the City of Johannesburg Metropolitan Municipality’s Spatial Development Framework, 2040, and should, therefore, be supported.
- 3.2.11 The new South African planning ethos as described in planning policy documents from national and provincial levels provides the following guiding principles for sustainable development which relate to the subject properties:
- **Accommodation of different needs and diversity** – all people are to have access to public amenities.
 - **Economic development** – economic development is important as it contributes to sustaining the urban system and enables individual self-sufficiency.
 - **Freedom of choice** – past policies and planning methods have tended to be restrictive with regard to public and private arenas, however policies now have a more permissive approach.
- 3.3.12 The Spatial Planning and Land Use Management Act “SPLUMA”, 2013 (Act 16 of 2013), intends to provide a uniform framework for spatial planning and land use management in the republic. It seeks to promote consistency and uniformity in procedures and decision-making in spatial planning. The objectives of the Act are as follows:
- Provide for a uniform, effective and comprehensive system of spatial planning and land use management for the Republic;
 - Ensure that the system of spatial planning and land use management promotes social and economic inclusion;
 - Provide for development principles and norms and standards;
 - Provide for sustainable and efficient use of land;

- Provide for cooperative government and intergovernmental relations amongst the national, provincial and local spheres of government; and
 - Redress the imbalances of the past and to ensure that there is equity in the application of spatial development planning and land use management systems.
- 3.3.14 The application of the Spatial Planning and Land Use Management Act's principles apply to all organs of state and other authorities responsible for the implementation of legislation regulating the use and development of land.
- 3.3.15 The following principles apply to spatial planning, land development and land use management:
- (a) The principle of spatial justice, whereby:-
 - (i) Past spatial and other development imbalances must be redressed through improved access to and use of land.
 - (b) The principle of spatial sustainability, whereby spatial planning and land use management systems must:-
 - (a) Promote land development that is within the fiscal, institutional and administrative means of the Republic;
 - (ii) Ensure that special consideration is given to the protection of prime and unique agricultural land;
 - (iii) Uphold consistency of land use measures in accordance with environmental management instruments;
 - (iv) Promote and stimulate the effective and equitable functioning of land markets;
 - (v) Consider all current and future costs to all parties for the provision of infrastructure and social services in land developments;
 - (vi) Promote development in locations that are sustainable and limit urban sprawl; and
 - (vii) Promote development that results in communities that are viable.
 - (c) The principle of efficiency, whereby:-
 - (i) Land development optimises the use of existing resources and infrastructure;
 - (ii) Decision making procedures are designed to minimise negative financial, social, economic or environmental impacts; and
 - (ii) Development application procedures are efficient and streamlined and timeframes are adhered to by all parties.
 - (d) The principle of spatial resilience, whereby flexibility in spatial plans, policies and land use management systems are accommodated to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks.
 - (e) The principle of good administration, whereby:-
 - (i) All spheres of government ensure an integrated approach to land use and land development that is guided by the spatial planning and land use management systems as embodied in the Act;

- (iii) The requirements of any law relating to land development and land use are met timeously;
- (iv) The preparation and amendment of spatial plans, policies, land use schemes as well as procedures for development applications, include transparent processes of public participation that afford all parties the opportunity to provide inputs on matters affecting them; and
- (v) Policies, legislation and procedures must be clearly set in order to inform and empower members of the public.

3.3.16 The application for the establishment of a township on the subject properties are desirable as it complies with the development principles as presented in the Spatial Planning and Land Use Management Act "SPLUMA", 2013 (Act 16 of 2013), and various legislative provincial spatial frameworks.

3.3.17 Furthermore, the development of the proposed Sky-deck development complies with the objectives of the City of Johannesburg Metropolitan Municipality's Regional Spatial Development Framework, 2010/2011, and the City of Johannesburg Metropolitan Municipality's Spatial Development Framework, 2040.

3.3 Need and Desirability for the proposed Sky-deck Development

3.3.1 Techworld Consulting Engineers prepared a Fuel Viability Study indicating the need and desirability of the proposed development. The study was completed in March 2020.

3.3.2 Two existing filling stations along the N1 (SHELL Northbound and ENGEN Southbound) were selected as benchmark sites for the proposed filling stations. Traffic and fuel related surveys were subsequently done at the benchmark sites to estimate study area specific fuel parameters and monthly fuel sales.

3.3.3 The average fuel sales of the proposed filling stations are estimated as $\pm 2,281,600$ litres/month ($\pm 1,140,800$ litres/month per direction) in 2019. A 15% margin of error applies based on the extent and quality of available data.

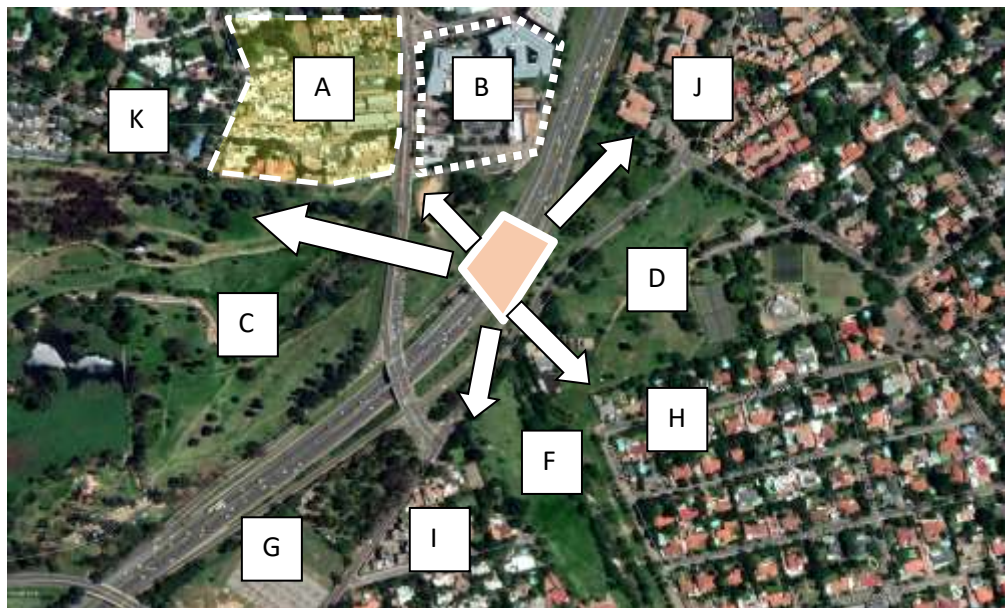
3.3.4 Fuel sales between $\pm 1,939,400$ litres/month (pessimistic scenario) and $\pm 2,623,900$ litres/month (optimistic scenario) can thus be expected at the proposed filling stations.

3.3.5 The fuel sales are expected to increase in line with the traffic in the area. A traffic growth rate of 1.6% p.a. in background traffic was assumed based on the linear regression of historical traffic data along the N1.

3.3.6 The study shows that the proposed filling stations are viable from a financial viewpoint, i.e. based on the expected fuel sales and are thus supported by the traffic investigation.

3.3.7 The convenience factor of this kind of development is not to be underestimated. The demand for convenient access to a filling station with some retail functions on your daily commute are extremely enticing.

- 3.3.8 The proposed application fulfils the said planning objectives and compiles with planning directives and legislation in this regard. The market trends for the area have been carefully and thoroughly investigate to ensure long-term sustainability.
- 3.3.9 The proposed development will not impact the surrounding established communities due to the topography and the position of the proposed Sky-deck.
- 3.3.10 The decision to apply for the proposed development controls has been made by the applicant due to the fact that:
- (a) The M1-freeway does not have a filling station other than pulling existing traffic into the surrounding suburbs;
 - (b) A definite market need exists for the proposed development;
 - (c) The subject properties can easily accommodate the proposed development;
 - (d) Access to and egress from the subject property shall be provided via the M1-Freeway, to the satisfaction of the Local Authority. This will ensure no extra traffic will be generated in the quite established suburbs.
- 3.3.11 The subject application will encourage private investment, broaden the tax base of the City of Johannesburg Metropolitan Municipality, increase income generated from the provision of municipal services.
- 3.3.12 Please take note of the figure below and the subsequent discussion:



- A- The area marked A forms part of a cluster of higher densities residential units that is located approximately 150 meters from the proposed sky-deck development. There are enough shrubs and trees between the proposed development to the "Sky-deck" to shield these properties from the proposed development.
- B- The area marked B is known for commercial uses. Therefore, the impact on these types of uses are minimal. With the increase in landscaping in the area (as part of this development) the area will become more pleasant for the business community.

- C- This park is known for its bird-life, fortunately the proposed development is situated approximately 300 meters from the park and various trees shields the proposed development from the park. The following image shows the view towards the park, from the proposed development.



It is clear to note that the park is situated far enough to ensure no disturbance is created for the bird and animal life in the park.

- D, F, G- This area will act as a buffer between the suburbs and the proposed development. The closes suburbs are 200m from the proposed development.
- H, I- These suburban areas are located far-enough to ensure that no disturbance either through noise or lightning, will be applicable. The image below was taken from the proposed site. No residential buildings can be observed. The topography also shields the proposed development from the surrounding environment.



- 3.3.13 The site is located in a strategic location where a large percentage of the northbound traffic could be served prior to diverting onto feeder roads such as Corlett Drive, Grayston Drive and Marlboro Drive and onto the N1 and N3 highways towards the

west and east respectively. The same applies for southbound traffic that converges from these feeder roads onto the M1-freeway.

- 3.3.14 The proposed development along this section of the M1-freeway between the Johannesburg CBD and the Marlboro Drive interchange consists almost exclusively of business uses and large open spaces. The proposed development that will consist of a Skydeck over the freeway and large landscaped areas on either side of it will therefore be compatible with existing developments along the section of the freeway.
- 3.3.15 The site is located adjacent to the south east of the Melrose Arch and Surrounds District Node. A filling station is one of a number of low intensity uses that would normally establish on the fringes of such a high intensity node.
- 3.3.16 A part from the New Road filling station in Midrand and the filling station at the Beyers Naude/N1 freeway interchange, there are no other filling stations that serve the large volumes of traffic that travel daily on the freeway system of the city.
- 3.3.17 It is therefore respectfully submitted that the present application is necessary, desirable and worthy of approval.

4. CONCLUSION

- 4.1 Application is hereby made in terms of Section 26 of the City of Johannesburg Municipal Planning By-Law, 2016, read in conjunction with the relevant provisions of the Spatial Planning and Land Use Management Act "SPLUMA", 2013 (Act 16 of 2013), for the establishment of a township, subject to certain conditions, on Portion 21 (a portion of portion 4), the remaining extent of portion 37 (a portion of portion 13), and the remaining extent of portion 145 of the farm Syferfontein No 51-IR. The township is to be known as proposed BIRD HAVEN EXTENSION 1 and will comprise of two (2) erven.
- 4.2 The main intention is to build a "Sky-deck" over the M1-Freeway with the primary use of a filling station and other subservient uses.
- 4.3 The primary use of the proposed rights will be reserved for users of the M1-Freeway (south-and north-bound).
- 4.4 The effect of the application will be to procure the necessary rights to establish a public garage with a convenience shop, take-away or sit-down facility, laundromat depot, distribution facility for online store and uses subservient and related to.
- 4.5 The application complies with the objectives of the City of Johannesburg Metropolitan Municipality's Regional Spatial Development Framework, 2010/2011, and the City of Johannesburg Metropolitan Municipality's Spatial Development Framework, 2040, and should, therefore, be supported.
- 4.6 In view of the above, it is our conclusion that this application is desirable from a town planning point of view and will contribute to the local area.
- 4.7 Further to this, the application is in accordance with surrounding land uses and in line with Council policies especially the RSDF (2010/2011) and the SDF (2040)
- 4.8 It is our submission that this application should be considered favourably.