



PARKVIEW RESIDENTS' ASSOCIATION

INCORPORATING GREENSIDE EAST

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Parkview Residents' Association (PRA) comments/objections on the City of Johannesburg Draft Land Use Scheme, June 2017

1. The PRA wishes to raise various concerns about the proposed Land Use Scheme (LUS), as it has with the Spatial Development Framework Nodal Review currently being undertaken by City Transformation. These do not claim to be comprehensive, but are indicative of matters that warrant further consideration in the LUS.
2. The LUS is based on the consolidation of existing land use/zoning schemes operating in the City of Johannesburg at present. These all contain zoning regulations indicating the types of land use activities permitted on units of land, as well as the development controls to determine the quantum of development permitted on each (eg height, coverage, floor area, density and the like). ***There are significant differences between the schemes, and consolidation into a single scheme must require adjustments to previous zoning rights. The implications of these adjustments are not explained.***
3. Zoning, the primary component of the LUS, essentially segregates land uses within the City into residential, business, industrial and other use zones. The schemes are complemented by processes set out in the Municipal Planning By-law, 2016, that allows changes to these zoning categories to be made by rezoning and the like. ***These processes offer a degree of protection against incompatible changes in established townships.***
4. Most of the zoning schemes are about 40 years old or older in origin, and contain many dated ideas and concepts about land use regulation. **The mere consolidation of these multiple schemes into a single LUS seems to circumvent the question of whether they adequately address the developmental and land use management changes facing the City** (including rapid urbanization and informality), and whether they provide the most appropriate regulatory tool for future land use management.

5. In addition, the LUS is intended as the primary implementation tool for the Spatial Development Framework (SDF). ***It is not apparent whether the SDF policy and the LUS are adequately aligned, as many of the new concepts and strategies in the SDF do not appear to have been addressed.*** There is no indication that alternative mechanisms for land use regulation have been considered, but it is noted that the LUS does provide scope for alternative uses and increased density, particularly in the residential zoning categories.
6. The SDF is a City-wide policy approach aimed at exploiting the latent capacities in established urban townships such as Parkview for more intensified urban development to meet projected population targets and address pressure on the natural environment, urban sprawl, spatial inequalities, exclusion and disconnection, inefficient densities and land use diversity. It is noted that the LUS makes reference to “city policy” from time to time, particularly in respect of city- wide densification strategies. ***It is understood that many of the city policies are not yet finalized, and the implications for the LUS are therefore not apparent.***
7. The PRA is concerned that the LUS, in its present limited format, will add another layer of uncertainty to the implementation of the policy and zoning that seems to pervade the Development Planning and Tribunal decision-making structures, particularly since the issuing of the internal departmental memorandum on how to implement the SDF. The PRA expects an escalation of residential opposition to change in established areas.
8. The PRA notes that there is no explanatory report memorandum that would explain the changes and the possible effects property in terms of rights, neighbourhood impacts, values and the like. ***The expansion of the development options for the Residential 1 use zone is relevant to the PRA area and other townships where it is the predominant land use category.*** There is no obvious methodology applied or explanation of the proposed outcome, or its alignment with the SDF.
9. It is apparent that the LUS does not meet the mandatory provisions of S7(2) of the Johannesburg Municipal Planning By-law, 2016, that stipulate that the LUS “must include” scheme regulations, a map, and a register of all amendments to such land use scheme. ***The updated mapping is essential to provide meaning to the LUS clauses and to meaningfully incorporate the issues and strategies raised in the SDF, including environmental control areas and heritage areas..***
10. On the issue of updated information, it would seem ***that a survey of actual land uses within the wider municipal area is needed to inform the new zoning.*** This understanding of the dynamics of change would seem feasible to do given the City’s GIS and mapping capacity.
11. The following comments are aimed at specific PRA concerns. They mainly arise from the proposals to alter the range of uses in the Residential zonings, the density proposals, and

generally the aspects that may have a significant impact on the character and harmony of the Parkview neighbourhood:

PART I – PREAMBLE

Clause 3(4) refers to the retention of the “old” Scheme Maps. The omission of this component is problematic as advised earlier, and it particularly important for the designation of areas affected by new SDF concepts.

Clause 5 should align with the purpose stated in the By-law. It is also not clear what this adds to the LUS.

PART II - DEFINITIONS

The introduction would seem more relevant to the explanatory memorandum suggested earlier in these comments.

The definitions include numerous poorly-worded definitions, spelling errors, abbreviations, and explanatory references to later clauses. The definitions do not include many terms and concepts used in the text.

Where definitions have been changed it is not clear what the implications for existing zoning categories and development may be.

Focusing on the LUS changes to the definitions of dwelling house, subsidiary dwelling unit, dwelling unit, family, boarding house, bed and breakfast, guesthouse, habitable room, home enterprise, house shop, outbuilding, shebeen, and the related clauses about minimum erf sizes and the like, the following are raised as points of concern:

A dwelling house, as now defined, may only be occupied by one family (clause 20), defined as a group of people biologically or legally related to one-another. Does this preclude occupation by a family and unrelated persons as a primary right?

The intentions and consequences of the new provisions for a free standing subsidiary dwelling unit, its occupation limitations, its definition as a dwelling unit (ie a part of a building containing 2 or more dwelling units), etc is not clear. Neither is the removal of the right to division of an existing dwelling house into two units.

The right of an occupant of a dwelling house or dwelling unit to conduct a home enterprise is stated in terms of clause 21: however, it is not clear whether the occupants of a subsidiary

dwelling unit may conduct a similar activity and whether outbuildings may be used (given the allowances for containers).

Outbuildings, ie “structures required and used in connection with the main building”, may also include accommodation for staff. Whether these can be used for the practice of a profession or occupation and how the residential use relates to clause 47 (inclusionary housing) is not clear.

In addition to the above it is noted that conversions of dwelling houses or dwelling units are permitted by consent for bed-and-breakfasts, guesthouses, shebeens and house shops. While the first two categories are not new, the proposed inclusion of shebeens and house shops is. These latter categories were permitted in areas where formal shopping and drinking venues were not generally found. As the process of urban formalization has proceeded in these areas provision is being made for these and other facilities. The logic of permitting these uses city-wide is questioned. On the face of it, there may be significant consequences in terms of litter and health regulation and impacts on property values, however, there does not appear to have been any specific research on this proposal. It would appear to be based on a desire to accommodate informal changes that have occurred contrary to current zoning regulation.

It is anticipated that the diversified role of residential uses as proposed in the LUS is likely to become more complicated as densities rise and people are brought closer together. This longer term scenario would seem a relevant consideration.

It is our view that some of the definitions only make sense if they are spatially mapped eg heritage sites, environmental control areas, SDZ, transitional residential settlement areas, etc. This is clearly at odds with the “clauses only” approach being followed.

In general, the definitions reflect different styles of writing, spelling, and consistency.

PART III - USE OF LAND AND BUILDINGS

Clause 14(13) provides for house/spaza shops. This seems to be a land use matter rather than a “general condition applicable to all erven.” It is not clear why it is dealt with separately from home enterprises (clause 21), other than the need for consent and the absence of restriction on who may run the business. As indicated earlier the benefit of introducing of this possible use into residential areas on a city wide scale is not clear.

Land Use Zoning:

The use zone categories appear standard, but there is no indication of the methodology used to determine the transfer/conversion of uses from the existing schemes. The differences should be explained to the public.

There is no clarity on the consent procedure for informal trading. The idea of formalizing informal trade seems an oxymoron.

The restriction in clause 20 on leasing or letting of rooms seems at odds with the idea of home enterprise and with existing home owner rights.

Clause 21 refers to the use of a dwelling house/dwelling unit (ie not outbuildings) for the purposes of a home enterprise. It is suggested that this could be better integrated with the spaza shop and tavern ideas, as they are additional uses on residential properties. The provisos require rewording, and the container use would appear to be at odds with the basic precept, as even outbuildings are precluded from home enterprise use.

Clause 22 provides guidance for the provision of a subsidiary dwelling unit (not defined) only on Residential 1 erven with an existing dwelling house. It is not clear how this affects the density/minimum erf size provisions in clause 27, but no exemption for the subsidiary dwelling unit seems to be made.

A subdivision of the affected site (Clause 14(l)) seems to change the status of the subsidiary dwelling unit to a dwelling house. It is also unclear whether the occupants of a subsidiary dwelling unit can conduct a home enterprise/spaza shop/tavern therefrom. ***It is noted that clause 22 seems at variance with the SDF, which proposes two subsidiary dwelling units not exceeding 75m² each.***

Clause 26 (Consolidation and Subdivision, appears to be in conflict with Clause 27 (Density Development Requirements). The following require clarification: Clause 26(3) that precludes consolidation of dissimilarly-zoned sites, and but could include notarial tie as an option; Clause 26(5) which seems in conflict with Clause 27 and should be prefaced by “notwithstanding Clause 27” and a reference to the maximum density of 20 dwelling units, and in our view should allow for development in terms of a SDP without subdivision; and Clause 26(9) referring to the “attaching” of subdivision conditions to the zoning of all newly created erven that can be removed by the Council at some stage, which seems administratively challenging.

PART IV-LAND DEVELOPMENT REQUIREMENTS

Clause 27 provides minimum erf sizes reflected in Table 3 refers to the B series zoning map. The reason for retaining these has been rendered fairly meaningless by Clause 26, other than to give some meaning to the notations used on the old scheme maps.

In our view minimum erf sizes contribute to the character of many of the older townships in the City, and help achieve an aesthetically pleasing environment, neighbourhood stability, protection of land values, and the like. It is also important for the protection of ridges and heritage resources, and relate to the infrastructure and social facilities provided when the townships were established. Our preference would be to retain this tool, particularly in view of the importance the SDF places on the natural environment and its role in planning, development and land use decisions, and the Municipal By-law requirements for the subdivision of properties that present an approach influenced by the need to achieve compatibility and harmony with the existing built environment. ***The new LUS subdivision and density provisions seem to be incentivising densification with less sensitivity to these factors.***

It is understood from the LUS that the size of subdivisions is now to be determined by the general Council policy density “of 20 units per hectare and/or other specific density policy and or guideline in place” and the height, coverage and floor area ratio constraints. The haphazard densification of individual erven will, it is submitted, result in overloading existing infrastructure.

Clause 28: Table 4 refers to new height zones: A, B, and C. These height zones are not reflected on the zoning map and the “conversion” table is not explained in any way. The creation of new height zones is another instance where new mapping is required to facilitate the administration and understanding of the LUS.

Clause 31: Table 5, relating to coverage, remains hard to evaluate without clarity on the height zones, and what they replace.

Clause 32: Table 6, on floor area ratios, is similarly difficult to evaluate. They may have implications for our neighbourhood business node.

PART V - BUILDING RESTRICTION AREAS

The role of building lines in affecting the character of an area appears to have been abandoned, as clause 33(3) allows for numerous encroachments, and Table 7 reflects a one-size-fits-all approach. It is not clear why the building lines should summarily be removed/reduced, particularly where they are integral to the title deeds of many areas and have helped create space for mature trees.

Once again there is no obvious research to evaluate this proposal.

PART VI - PARKING AND LOADING

Parkview falls into the Remainder. It is unclear how the revised ratios will affect the existing neighbourhood node and whether they will be an obstacle to the turnover of businesses within the node and whether it would be construed to be a shopping centre. Many of the terms used in the Table 8 are not defined in the LUS.

PART VII - LAND DEVELOPMENT ADMINISTRATION

Currently the compliance of consent use terms or zoning rights by applicants, is not monitored by Council and when terms of consent use or zoning rights are flouted, it is already difficult to get a response from Council.

Now with the introduction of the written consent process – which does not require advertising nor be subject to public scrutiny or input, adds more uncertainty – and the consequence will be more and more informal development.

It is not clear what criteria and thresholds will be applied to the granting of written consent use and therefore whether they are likely to be applied fairly and consistently.

PART VIII - SPECIAL MECHANISMS FOR LAND DEVELOPMENT

Clause 46 introduces the concept of a Special Development Zone. Its unclear where these zones are located.

Clause 47 refers to a inclusionary housing policy to be determined. It should surely be more finite for inclusion in the LUS.

PART IX - GENERAL LAND DEVELOPMENT MECHANISMS

This part of the scheme is new and not in the existing schemes.

Clause 48 on heritage seems to be an extract from the National Heritage Resources Act and not an integration of the resources into the LUS. Mapping of resources would seem essential.

Clause 49 on environment does not provide any clear regulations. The various categories are apparently still to be defined. As this is a key consideration in the SDF but has not been integrated into the LUS or its mapping.

12. Concluding Remarks

The PRA has been proactive in preparing a Precinct Plan for its area. The Precinct Plan was approved by the Council and has been used to guide development responses in Parkview. The introduction of the SDF and its strategies for densification and implementation have complicated the role of community inputs and called into question the validity of community efforts for a planning strategy that is sensitive to the local context and respects the neighbourhood and its spatial qualities. This uncertainty prevails while the SDF is under review and clarity is sought about the future of Precinct Plans.

This uncertainty pervades our response to the LUS, as it is the primary implementation tool for the SDF. The LUS seems, in our mind, to be adding another layer of uncertainty to the land use management system, given its partial compliance with the By-law requirements and “mixed” writing style. From our perspective it is not clear whether the old scheme clauses and maps are an adequate basis for a new LUS. It is also not clear whether the new proposals, such as described earlier, have been adequately researched and what their impacts are likely to be.

We support a resilient and effective land use management system; however, the current draft does not seem beneficial for property rights and values, nor provide clear direction on how it will contribute to maintaining the health and welfare of the increasing numbers of its citizens.

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Chairman
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