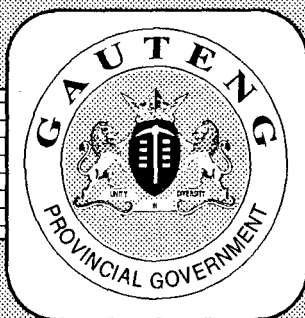


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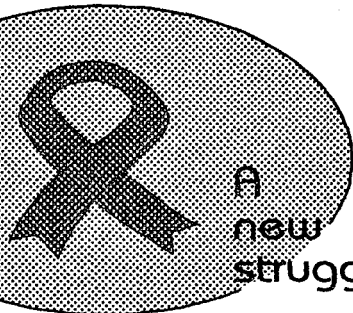
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**PRETORIA, 25 NOVEMBER 2004**

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## GENERAL NOTICE

### NOTICE 4145 OF 2004

#### NOTICE 1211 OF 2004

#### GAUTENG DEVELOPMENT TRIBUNAL: CASE NO. GDT/LDA/CJMM/1410/03/020 NOTICE IN TERMS OF SECTION 33 (4) OF THE DEVELOPMENT FACILITATION ACT, 1995.

It is hereby notified in terms of Section 33 (4) of the Development Facilitation Act (Act No. 67 of 1995) that the Gauteng Development Tribunal has approved the land development application in respect of Erven 315 and 316 Morningside Extension 44, which includes the following, and which is subject to the Conditions of Establishment set out in the schedule below:

1. The suspension of the following conditions of title, in terms of Section 34 of the DFA:
  - (a) Conditions 1(a), 1(b), 1(c), 1(d), 1(e), 1(f), 1(g), 1(h), 1(i), 1(j), 1(k), 1(l), 1(m), Condition 2; Condition 3(a); 3(b) and 3(c) and Condition 4(i) and 4(ii) in Deed of Transfer T 132192/2003 in respect of Erf 315 Morningside Extension 44, and
  - (b) Conditions 2(a), 2(b), 2(c), 2(d), 2(e), 2(f), 2(g), 2(h), 2(i), 2(j), 2(k), 2(l), 2(m), 2(n), 2(o), 2(p), 2(q), Condition 3(i) and 3(ii) in the Deed of Transfer T 35468/2004 in respect of Erf 316 Morningside Ext 44.
2. The amendment of the Sandton Town Planning Scheme, 1980 as shown in Sandton Amendment Scheme 15-2337.
3. The subdivision of the erven as shown on General Plan S.G No. 3140/2004.

#### SCHEDULE:

#### CONDITIONS OF ESTABLISHMENT

STATEMENT OF CONDITIONS OF ESTABLISHMENT IN RESPECT OF THE LAND DEVELOPMENT AREA ON ERVEN 315 AND 316 MORNINGSID EXTENSION 44 IN TERMS OF SECTION 33 OF THE ACT.

#### 1.1 Application of zoning scheme and other measures

- (a) The Sandton Town Planning Scheme, 1980 shall apply to the land development area;
- (b) The National Building Regulations and Building Standards Act, 1997 shall apply to the land development area.
- (c) The general conditions and provisions of the Sandton Town Planning Scheme, 1980 are applicable to the property in so far as they are not inconsistent with the other conditions of grant.

#### 1.2 Design:

The land development area shall consist of the subdivisions shown on General Plan S.G. No. 3140/2004.

#### 1.3 Provision and installation of services:

The land development applicant/owner and the relevant local authority shall provide and install the services in the land development area, as provided for in the services agreements referred to in the final order and the relevant conditions of establishment issued by the Gauteng Development Tribunal.

No subdivided portions may be alienated or transferred into the name of a purchaser prior to the local authority having confirmed that sufficient guarantees/cash contributions have been furnished in respect of the provision of services by the land development applicant/owner to the local authority/service provider: Provided that the local authority shall advise the applicant of its requirements within 14 days of having been requested to do so by the applicant.

#### 1.4 Service Contributions and Park Endowment

The land development applicant shall pay the local authority contributions towards external engineering services and a park/public open space endowment in accordance with the provisions of Section 63 and Regulation 43 of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986).

#### 2 SUBDIVISION

The following conditions shall apply to the subdivisions of Erf 315 and Erf 316 Morningside Extension 44, viz:

- 2.1 That the servitudes indicated on General Plan S.G. No. 3140/2004 be registered prior to or simultaneously with the first registration of any portion into the name of a purchaser, and the costs of registration be borne by the owner.

**2.2 Formation and Duties of the Home Owners Association vis-à-vis the Council:**

- (i) The land development applicant shall properly and legally constitute a Home Owners Association ("HOA") to the satisfaction of the local authority prior to or simultaneous with the transfer of any subdivided portion.
- (ii) The land development applicant shall be responsible for the construction of the private road portion and the HOA shall be responsible for the maintenance of the private road as well as the maintenance and upkeep of the sidewalks and private essential services.
- (iii) The access portion (Portion 10/Erf 315 Morningside Extension 44) shall be registered in the name of the HOA.
- (iv) Each and every owner of portions of Erf 315 & Erf 316 Morningside Extension 44 shall become a member of the HOA upon transfer of the portion. Such association shall have full responsibility for the access portion and other private services (excluding the sewerage system and other essential municipal services) serving the subdivided portions.
- (v) The HOA shall have the legal power to levy from each and every member the costs incurred in fulfilling its function and shall have legal recourse to recover such fees in the event of default in payment by any member.
- (vi) A servitude for municipal purposes shall be registered free of cost and compensation over the entire Portion 10/Erf 315 Morningside Extension 44 in favour of and to the satisfaction of the Council.
- (vii) The Council shall have unrestricted access to Portion 10/Erf 315 Morningside Extension 44 at all times.
- (viii) The HOA shall not be deregistered without the prior written approval of the local authority.
- (ix) A right-of-way servitude is required to be registered over Portion 1/Erf 316 Morningside Extension 44 in favour of the HOA and the local authority for access and municipal services.
- (x) The local authority will not be liable for the malfunction of the surfacing of the access servitude of right of way and/or the stormwater drainage system and/or any essential services, of which it is not the owner, and the HOA shall be obliged to maintain same in a satisfactory manner.

**2.3 Demolition of Buildings and Structures**

The land development applicant/owner shall at its own expense cause the existing buildings and structures situated within the building line reserves, side spaces or over common boundaries to be demolished to the satisfaction of the local authority, when required by the local authority to do so.

**2.4 Removal or Replacement of Municipal Services**

If, by reason of the establishment of the land development area, it should become necessary to remove or replace any existing municipal services, the cost thereof shall be borne by the land development applicant/owner.

**3 CONDITIONS OF TITLE**

The portions mentioned hereunder shall be subject to the conditions as indicated, imposed by the GDT in terms of the Development Facilitation Act, 1995.

**3.1 All Portions:**

- a) The Portion is subject to a servitude, 2m wide, in favour of the local authority, for sewerage and other municipal purposes, along any two boundaries other than a street boundary and in the case of a panhandle erf, an additional servitude for municipal purposes 2m wide across the access portion of the erf, if and when required by the local authority. Provided that if not required, this condition shall lapse.
- b) No building or other structure shall be erected within the aforesaid servitude area and no large-rooted trees shall be planted within the area of such servitude or within 2m thereof.
- c) The local authority shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by it during the course of the construction, maintenance or removal of such sewerage mains and other works as it, in its discretion may deem necessary and shall further be entitled to reasonable access to the said land for the aforesaid purpose subject to any damage done during the process of the construction, maintenance or removal of such sewerage mains and other works being made good by the local authority.

**3.2 Portions 1 to 9 of Erf 315 Morningside Extension 44 and Portions 1 to 3 of Erf 316.**

The owner of the portion of the erf shall become a member of the HOA and such association shall be entitled to raise levies for the maintenance of the private roads, landscaping, and security controls and for such other purpose as it may deem necessary, and the owner shall be bound by the decisions of the HOA.

**3.3 Portion 2 of Erf 315.**

The portion is subject to an electricity sub-station servitude in favour of Eskom (6m X 3m) as shown on General Plan S.G. No. 3140/2004.

**3.4 Portion 1 of Erf 316.**

The portion is subject to a servitude of right of way in favour of Portion 2 of Erf 316 Morningside Extension 44, the local authority and HOA for access and services, as shown on General Plan S.G. No. 3140/2004.

**3.5 Access Portion 10 of Erf 315.**

The portion is subject to a right-of-way servitude for access and services as shown on General Plan S.G. No. 3140/2004. It shall be used for the purposes of a private road, a security gatehouse and essential services, and for purposes incidental thereto. The property shall be maintained and landscaped by the HOA to the satisfaction of the local authority.

**3.6 Portion 1 of Erf 316 & Portion 2 of Erf 316.**

The portions are subject to reciprocal servitudes of varying widths, in favour of each other, the HOA and the local authority for access and services, as shown on General Plan S.G. No. 3140/2004.

**3.7 Portion 9 of Erf 315.**

The portion is subject to a splay servitude as shown on General Plan S.G. No. 3140/2004, in favour of Portion 3 of Erf 316 Morningside Extension 44, and the local authority, for access and services.

Designated Officer, City of Johannesburg  
**Ref. GDT/LDA/CJMM/1410/03/020**

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