

***THE PROVINCE OF
GAUTENG***

***DIE PROVINSIE
GAUTENG***

**Provincial Gazette Extraordinary
Buitengewone Provinsiale Koerant**

Vol. 17

**PRETORIA, 20 JANUARY 2011
JANUARIE**

No. 9

IMPORTANT NOTICE

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

CONTENTS • INHOUD*No.**Page
No. Gazette
 No.***LOCAL AUTHORITY NOTICE**

25 Town-planning and Townships Ordinance (15/1986): City of Tshwane: Pretoria Amendment Scheme 9798P 3 9

LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 25

CITY OF TSHWANE PRETORIA AMENDMENT SCHEME 9798P

It is hereby notified in terms of the provisions of section 125 (1) of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), that the City of Tshwane has approved an amendment scheme with regard to the land in the township of Magalieskruin Extension 71, being an amendment of the Pretoria Town-planning Scheme, 1974.

Map 3 and the scheme clauses of this amendment scheme are filed with the Acting Executive Director: Legal Services, and are open to inspection during normal office hours.

This amendment is known as Pretoria Amendment Scheme 9798P.

(13/2/Magalieskruin x71 (9798P))

Acting Executive Director: Legal Services

___ January 2011

(Notice No 152/2011)

PLAASLIKE BESTUURSKENNISGEWING 25

STAD TSHWANE PRETORIA WYSIGINGSKEMA 9798P

Hierby word ingevolge die bepalings van artikel 125(1) van die Ordonnansie op Dorpsbeplanning en Dorpe, 1986 (Ordonnansie 15 van 1986), bekend gemaak dat die Stad Tshwane 'n wysigingskema met betrekking tot die grond in die dorp Magalieskruin Uitbreiding 71, synde 'n wysiging van die Pretoria-dorpsbeplanningskema, 1974, goedgekeur het.

Kaart 3 en die skemaklousules van hierdie wysigingskema word deur die Waarnemende Uitvoerende Direkteur: Regsdienste, in bewaring gehou en lê gedurende gewone kantoorure ter insae.

Hierdie wysiging staan bekend as Pretoria-wysigingskema 9798P.

(13/2/Magalieskruin x71 (9798P))

Waarnemende Uitvoerende Direkteur: Regsdienste

___ Januarie 2011

(Kennisgewing No 152/2011)

CITY OF TSHWANE

DECLARATION OF MAGALIESKRUIIN EXTENSION 71 AS APPROVED TOWNSHIP

In terms of section 103 of the Town-planning and Townships Ordinance, 1986 (Ordinance No 15 of 1986), the City of Tshwane hereby declares the township of Magalieskruin Extension 71 to be an approved township, subject to the conditions as set out in the Schedule hereto.

(13/2/Magalieskruin x71 (9798P))

SCHEDULE

CONDITIONS UNDER WHICH THE APPLICATION MADE BY CAPENSIS INVESTMENTS 528 (PROPRIETARY) LIMITED IN TERMS OF THE PROVISIONS OF CHAPTER III: PART C OF THE TOWN-PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE NO 15 OF 1986), FOR PERMISSION TO ESTABLISH A TOWNSHIP ON PORTION 553 OF THE FARM HARTEBEEST-FONTEIN NO 324 JR, PROVINCE OF GAUTENG, HAS BEEN GRANTED.

1. CONDITIONS OF ESTABLISHMENT

1.1 NAME

The name of the township shall be Magalieskruin Extension 71.

1.2 DESIGN

The township shall consist of erven and streets as indicated on General Plan SG No 202/2008.

1.3 DISPOSAL OF EXISTING CONDITIONS OF TITLE

All erven shall be made subject to existing conditions and servitudes, if any, including the reservation of the rights to minerals, but including –

1.3.1 the following conditions which affect Erven 998, 999, 1000, 1001, 1002, 1003, 1004 and 1017 in the township only, namely;

1. Subject to Notarial Deed of Servitude K about to be registered in terms of Section 5 of the Expropriation Act No. 63 of 1975 in regard to the expropriation of a portion thereof for servitude for municipal purposes and a right of way in favour of the City of Tshwane Metropolitan Municipality as will more fully appear on reference to Expropriation Notice EX50/2004 and the said notarial deed *vide* Diagram SG No 819/2008,

1.3.2 the following condition which affects Erf 1017 in the township only, namely:

2. Subject to Notarial Deed of Servitude K about to be registered in terms of Section 5 of the Expropriation Act No. 63 of 1975, in regard to the Expropriation of a portion thereof for a servitude for municipal purposes and a right of way in favour of the City of Tshwane as will more fully appear on reference to Expropriation Notice No. EX78/2004 and the said notarial deed, *vide* Diagram SG No about to be registered.

- 1.3.3 the following servitudes which affect Braam Pretorius Street in the Township only:
1. Onderhewig verder aan 'n serwituut van pyleiding 6 meter wyd oor binne-gemelde eiendom ten gunste van die STADSRAAD VAN PRETORIA kragtens Akte van Sessie van Serwituut K607/1985S."; and
 2. Kragtens Notariële Akte van Serwituut K7695/1996 is bogemelde eiendom onderhewig aan 'n serwituut vir munisiple doeleindes groot 2525 vierkante meter soos aangedui deur die figuur ABCD op Kaart LG No 5396/96 daarby aangeheg."
- 1.4 **ENDOWMENT**
Payable to the City of Tshwane.
The township owner shall pay endowment a total amount of **R200 000** for an area of 648 m² in terms of Regulation 44(1) of the Townplanning and Townships Regulations, to the City of Tshwane. The amount of this area shall be used by the City of Tshwane for the acquisition of land for park and/or public open space purposes.
The said endowment amount shall be payable in accordance with the provisions of section 81 of the Townplanning and Townships Ordinance, 1986 (Ordinance 15 of 1986).
- 1.5 **ACCESS**
No ingress from Provincial Road K99 (Dr Swanepoel Road) and Braam Pretorius Street to the township and no egress to Provincial Road K99 (Dr Swanepoel Road) and Braam Pretorius Street from the township shall be allowed.
- 1.6 **ERECTION OF FENCE OR OTHER PHYSICAL BARRIER**
The township owner shall at his own expense erect a fence or other physical barrier to the satisfaction of the Head of the Department: Gauteng Provincial Government: Department of Public Transport, Roads and Works, as and when township are transferred to ensuing landowners, after which the responsibility for the maintenance of such fence or physical barrier rests with the latter.
- 1.7 **RECEIVING AND DISPOSAL OF STORM-WATER**
The township owner shall arrange the storm-water drainage of the township in such a way as to fit in with that of Road K99 (Dr Swanepoel Road) and he shall receive and dispose of the storm-water running off or being diverted from the road.
- 1.8 **DEPARTMENT OF PUBLIC TRANSPORT, ROADS AND WORKS: ACOUSTIC SCREENING MEASURES**
The applicant shall be responsible for any costs involved in the erection of acoustic screening along Road K99 (Dr Swanepoel Road).
- 1.9 **COMPLIANCE WITH CONDITIONS IMPOSED BY THE DEPARTMENT OF PUBLIC TRANSPORT, ROADS AND WORKS**
The township owner shall at his own expense comply with all the conditions imposed, by which the Gauteng Department of Public Transport, Roads and Works, has granted consent for the development.
- 1.10 **REMOVAL OR REPLACEMENT OF MUNICIPAL SERVICES**
Should it become necessary to move or replace any existing municipal services as a result of the establishment of the township, the cost thereof shall be borne by the township owner.
- 1.11 **FILLING IN OF EXISTING HOLES**
The township owner shall, when required to do so by the local authority, at his own expense have the existing holes and/or excavation areas, filled in and compacted to the satisfaction of the City of Tshwane.
- 1.12 **DEMOLITION OF BUILDINGS AND STRUCTURES**
When required by the City of Tshwane to do so, the township owner shall at his own expense cause to be demolished to the satisfaction of the City of Tshwane all existing buildings and structures situated within building line reserves and side spaces or over common boundaries, or dilapidated structures.
- 1.13 **REMOVAL OF LITTER**
The township owner shall at his own expense have all litter within the township area removed to the satisfaction of the City of Tshwane, when required to do so by the City of Tshwane.
- 1.14 **REMOVAL AND/OR REPLACEMENT OF ESKOM POWER LINES**
Should it become necessary to remove and/or replace any existing power lines of Eskom as a result of the establishment of the township, the cost thereof shall be borne by the township owner.
- 1.15 **REMOVAL AND/OR REPLACEMENT OF TELKOM SERVICES**
Should it become necessary to remove and/or replace any existing TELKOM services as a result of the establishment of the township, the cost thereof shall be borne by the township owner.

- 1.16 COMPLIANCE WITH CONDITIONS IMPOSED BY GDACE
 The township owner shall at his own expense comply with all the conditions imposed, by which the Gauteng Department of Agriculture, Conservation and Environment including if applicable those by which exemption has been granted from compliance with regulations No 1182 and 1183 promulgated in terms of sections 21, 22 and 26 of the Environmental Conservation Act, (Act 73 of 1989) or the National Environmental Management Act, 1998 (Act 107 of 1998) and Regulations thereto, as the case may be, for the development of this township.
- 1.17 DEVELOPER'S OBLIGATIONS
- 1.17.1 CONSTITUTION AND DUTIES OF THE HOME OWNERS ASSOCIATION
- 1.17.1.1 The township owner shall at it's own cost, properly and legally constitute a Home Owners Association (HOA) (an association incorporated in terms of Section 21 of Act 61 of 1973, as amended).
- 1.17.1.2 Erf 1017 created for access and road purposes shall, within a period of 6 (six) months after proclamation of the township or prior to or simultaneously with the registration of transfer of the first erf in the township, be transferred to the Home Owners Association contemplated in (a) above.
- 1.17.1.3 Each and every owner of an erf in the township (except the access Erf 1017, shall automatically become a member of the Home Owners Association upon registration of transfer of such erf in his/her/it's name.
- 1.17.1.4 The Home Owners Association shall be responsible for the functioning and proper maintenance of the access erf. Such functioning and maintenance shall at all times be undertaken to the satisfaction of the Council.
- 1.17.1.5 The township owner shall be responsible for the construction and maintenance of the access erf, until the access erf has been transferred to the Home Owners Association.
- 1.17.1.6 The Home Owners Association shall be legally entitled to levy and claim, from each and every member of the Home Owners Association, the costs incurred in the execution of it's duties – if necessary by means of legal action.
- 1.17.2 TRANSFER OF LAND TO THE SECTION 21 COMPANY (HOMEOWNERS' ASSOCIATION)
 Erf 1017 shall be transferred to the Homeowners Association (Section 21 Company), the first transfer of the first erf in the township whichever the sooner, by and at the expense of the township owner.
- 1.17.3 PROVISION OF ENGINEERING DRAWINGS
 The developer must submit to the City of Tshwane complete engineering drawings in respect of internal sewers and sewer connection points and complete engineering drawings in respect of the internal road and storm water sewers as well as water and electricity services, prior to the commencement of the construction of the said services.
- 1.17.4 PROVISION OF A CERTIFICATE BY A PROFESSIONAL ENGINEER
 Before any erf is transferred, the City of Tshwane must be provided with a certificate by a Professional Engineer for water, sewerage, electricity, and the internal road and storm water sewers, in which is certified that the internal engineering services have been completed and that the engineers accept liability for the services. The Municipality may at its own discretion allow an exception in respect of the internal road and storm water services. If this is the case, the developer must give the Municipality an undertaking that the developer will complete this service on or before a certain date and must provide the Municipality with a guarantee issued by a recognised financial institution.
 No building plans will be approved before the services are completed and (if applicable) taken over by the divisions of the Service Delivery Department.
- 1.17.5 MAINTENANCE PERIOD AND GUARANTEE
 A maintenance period of 12 (twelve) months commences when the last of the internal engineering services (i.e. water, sewerage, electricity, and the road and storm water sewers) have been completed. The developer must furnish the Section 21 Company with a maintenance guarantee, issued by a recognised financial institution, in respect of poor workmanship and/or materials with regard to the civil engineering services and the electricity service, which guarantee must be for an amount that is equal to 5% of the contract cost of the civil services and 10% of the contract cost of the electrical services, and proof of this must be submitted to the City of Tshwane.
- 1.17.6 APPROVAL OF BUILDING PLANS
 No building plans will be approved before the services are completed and (if applicable) taken over by the divisions of the Service Delivery Department.

1.17.7 OBLIGATIONS WITH REGARD TO SERVICES AND RESTRICTION REGARDING ALIENATION OF ERVEN

The township owner shall fulfil its obligations in respect of the provision of water, electricity and sanitary services as well as the construction of roads and stormwater drainage and the installation of systems thereof, as previously agreed upon between the township owner and the local authority. Erven may not be alienated or be transferred into the name of a purchaser prior to the Local Authority certifying that sufficient guarantees / cash contributions in respect of the supply of services by the township owner have been submitted or paid to the said Local Authority.

2. CONDITIONS OF TITLE

2.1 THE ERVEN MENTIONED BELOW SHALL BE SUBJECT TO THE CONDITIONS AS INDICATED, LAID DOWN BY THE CITY OF TSHWANE IN TERMS OF THE PROVISIONS OF THE TOWN-PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986).

2.1.1 ERVEN 988 UP TO AND INCLUDING 1016

2.1.1.1 The erf shall be subject to a servitude, 2 metres wide, for municipal services (water, sewer, electricity and storm-water) (hereinafter referred to as "the services"), in favour of the City of Tshwane, along any two boundaries, excepting a street boundary and, in the case of a panhandle erf, an additional servitude for municipal purposes, 2 metres wide, over the entrance portion of the erf, if and when required by the local authority: Provided that the local authority may waive any such servitude.

2.1.1.2 No buildings or other structures may be erected within the aforesaid servitude area and no trees with large roots may be planted within the area of such servitude or within a distance of 2 metres from it.

2.1.1.3 The City of Tshwane shall be entitled to temporarily deposit on the land adjoining the aforesaid servitude, any material it excavates during the laying, maintenance or removal of such services and other works which in its discretion it regards necessary, and furthermore the Municipality shall be entitled to reasonable access to the said property for the aforesaid purpose, subject to the provision that the Municipality shall make good any damage caused during the laying, maintenance or removal of such services and other works.

2.1.2 ALL ERVEN

2.1.2.1 No buildings or other structures may be erected within the aforesaid servitude area and no trees with large roots may be planted within the area of such servitude or within a distance of 2 m therefrom.

2.1.2.2 The City of Tshwane shall be entitled to temporarily deposit on the land adjoining the aforesaid servitude, any material it excavates during the laying, maintenance or removal of such services and other works which in its discretion it regards essential, and furthermore the Municipality shall be entitled to reasonable access to the said property for the aforesaid purpose, subject to the provision that the Municipality shall make good any damage caused during the laying, maintenance or removal of such main sewer pipelines and other works.

2.1.3 ERF 1017

The erf shall be subject to a servitude for access and municipal engineering services (water, sewerage and electricity) in favour of the City of Tshwane.

2.2 CONDITIONS OF TITLE IN FAVOUR OF THIRD PARTIES TO BE REGISTERED/ CREATED ON FIRST REGISTRATION OF THE ERVEN CONCERNED:

No relevant Erf in the township may be transferred unless the following requirements have been complied with and the following conditions and servitudes are registered:

2.2.1 ERVEN 988 UP TO AND INCLUDING 1016 in Magalieskruin Extension 71 Township, shall be SUBJECT to the following conditions imposed by CAPENSIS INVESTMENTS 528 (PROPRIETARY) LIMITED (No. 2003/016528/07) and enforceable by MAROKYN VILLAS HOME OWNERS ASSOCIATION (No. 2010/003827/08):

2.2.1.1 Every owner of this erf or of any subdivision thereof or of any interest therein or of any unit thereon as defined in the Sectional Titles Act, shall automatically upon registration of the property into his name become a member of the Homeowners Association and be subject to its constitution until he ceases to be an owner, provided that the rules of the Homeowners Association shall become binding upon the owner on the earlier of the date on which he occupies the property or the date on which it is registered in his name.

- 2.2.1.2 Every owner of the erf or any subdivision thereof or of any interest therein or of any unit thereof as defined in the Sectional Titles Act, shall not be entitled to sell, donate, exchange or transfer the property or any subdivision thereof without the prior written consent of the Homeowners Association which consent the Homeowners Association will be entitled to withhold unless:-
- (i) in the deed of sale, donation or exchange, the party to whom the property is transferred is informed of the existence of the Homeowners Association and the transferee undertakes in the said deed of sale to become a member of the Association and to be bound by the rules and regulations of the Homeowners Association.
 - (ii) all amounts due by the owner to the Homeowners Association have been paid to the Association; and
 - (iii) the owner is materially in compliance with the provisions of the articles of association of the Homeowners Association.
- 2.2.1.3 The transferee (or his successors in title) is obligated to commence building a dwelling house and outbuildings on the property to the satisfaction of the Architectural Committee of the Home Owners Association within 2 (TWO) years of registration of the property into his name or within such extended period as the Architectural Committee in their sole discretion may allow in writing, failing which the Seller (Capensis Investments 528 Pty Ltd) shall be entitled (but not obliged) to claim that the property be re-transferred to the Seller at the cost of the Purchaser against payment of the original purchase price to the Purchaser, interest free, failing which the Home Owners Association shall be entitled to increase all levies payable in respect of the property by 500% (Five Hundred Percent).
- 2.2.1.4 For the purposes of sub-clauses 2.2.1.1, 2.2.1.2 and 2.2.1.3 above, the term Homeowners Association is a reference to MAROKYN VILLAS HOMEOWNERS ASSOCIATION (No. 2010/003827/08), an Association incorporated under Section 21 of the Companies Act, 1973 (Act 61 of 1973).
- 2.2.2 ERF 1017
- 2.2.2.1 Erf 1017 shall be subject to a right-of-way servitude in favour of all erven in the township.
 - 2.2.2.2 Every erf in the township, excluding Erf 1017, shall be entitled to a right-of-way servitude over Erf 1017 Magalieskruin Extension 71 Township.
- 2.2.3 ERVEN 995, 996 AND 997
 Shall be subject to a servitude 2 metres wide for storm water purposes in favour of the City of Tshwane all along the western boundary of each of the said erven as shown on the General Plan, which servitudes shall be registered notarially when the erven are transferred from the Developer to an individual purchaser thereof.
- 2.2.4 ERF 998
 Shall be subject to a servitude 2 metres wide for stormwater purposes in favour of MAROKYN VILLAS HOMEOWNERS ASSOCIATION (Registration Number. 2010/003827/08), an Association incorporated under Section 21 of the Companies Act, 1973 (Act 61 of 1973) all along the western boundary of the said erf as shown on the General Plan, which servitude shall be registered notarially when the erf is transferred from the Developer to a purchaser thereof.