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REAL ESTATE ALERT

IN THIS ISSUE

CITY OF JOHANNESBURG LAND USE SCHEME, 2018: NEW REQUIREMENTS FOR LAND USE AND DEVELOPMENT

The new City of Johannesburg Land Use Scheme, 2018 was published by The City of Johannesburg Metropolitan Municipality (Council) on 2 January 2019 and comes into operation on 1 February 2019. This Land Use Scheme is published in terms of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) and the City of Johannesburg Municipal Planning By-law, 2016 (Council By-laws) which provide that the Council must adopt and approve a single land use scheme for its entire area that will determine the rules and processes regulating the use and the extent of the development of land therein.

CITY OF JOHANNESBURG LAND USE SCHEME, 2018: NEW REQUIREMENTS FOR LAND USE AND DEVELOPMENT

The City of Johannesburg Land Use Scheme, 2018 replaces the 16 different town planning schemes previously in operation applying to all properties within the City of Johannesburg.

Any consent, approval or land use right permitted in terms of one of the previous town planning schemes in force immediately prior to commencement of the new Land Use Scheme on 1 February 2019 shall be deemed valid under the new Land Use Scheme.

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The City of Johannesburg Land Use Scheme, 2018 therefore replaces the 16 different town planning schemes previously in operation applying to all properties within the City of Johannesburg.

Any consent, approval or land use right permitted in terms of one of the previous town planning schemes in force immediately prior to commencement of the new Land Use Scheme on 1 February 2019 shall be deemed valid under the new Land Use Scheme (provided that it is exercised by 31 January 2021) and all applications submitted to and pending before the Municipality prior to 1 February 2019 shall be dealt with in terms of the town planning scheme applicable at the time of submission.

The definitions of the new Land Use Scheme are, however, of importance here. An "application" is defined as "a complete application" and a "complete application" is only considered "complete" when all information necessary for the Council to

assess the application as set out Schedule 1 to the Council By-laws has been submitted to the Council.

When read together with the relevant provisions of the Council By-laws, this essentially means that if a land use development application has not yet reached a certain stage of the *submission process* by 31 January 2019 (for instance, in the case of a township establishment, if a traffic impact assessment *that was a requirement at submission of an application* has not yet been submitted to the Johannesburg Roads Agency) then it will not be regarded as "complete" and a new application will have to be made in terms of the new Land Use Scheme.

The Land Use Scheme sets out the various Use Zones applicable to land and buildings in the City of Johannesburg and lists the purpose for which such land may and may not be used, and the purpose for which such land and buildings may only be used with consent of the Council.



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Developers would be well advised to carefully consider the new Land Use Scheme's provisions, together with SPLUMA and the Council's By-laws in preparation of all envisaged land development applications ahead of its commencement on 1 February 2019.

The Land Use Scheme sets out, among other things, general conditions applicable to all erven as well as new rules relating to "Spaza" or house shops, home enterprises, subsidiary dwelling units, child care centres on residential erven, land to be used for religious purposes, and conditions relating to agricultural holdings and farm land.

This approach is meant to introduce a departure from the inconsistent approach of the previous 16 town planning schemes, which date back to the apartheid era. Town planning schemes for certain areas prescribed more stringent requirements for land development than others. The new approach introduces an integrated and uniform framework of conditions of use and rules for development that are applicable across all regions falling within the City of Johannesburg.

The new Land Use Scheme introduces several new rules and processes that are intended to promote economic development, attract investment and represent a more inclusive and integrated approach towards the regulation and enforcement of land use and development rules in the City of Johannesburg. Developers would be well advised to carefully consider the new Land Use Scheme's provisions, together with SPLUMA and the Council's By-laws in preparation of all envisaged land development applications ahead of its commencement on 1 February 2019.

Melissa Peneda and John Webber



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