

*THE PROVINCE OF
GAUTENG*

*DIE PROVINSIE
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LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 2733

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

PRETORIA AMENDMENT SCHEME 9727P

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 Metropolitan Municipality has approved an amendment scheme with regard to the land in the township of Montana Tuine Extension 53, 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 9727P.

(13/2/Montana Tuine x53 (9727P))
 ___ October 2007

Acting Executive Director: Legal Services
 (Notice No 1183/2007)

PLAASLIKE BESTUURSKENNISGEWING 2733

STAD TSHWANE METROPOLITAANSE MUNISIPALITEIT

PRETORIA WYSIGINGSKEMA 9727P

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 Metropolitaanse Munisipaliteit 'n wysigingskema met betrekking tot die grond in die dorp Montana Tuine Uitberiding 53, 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 9727P.

(13/2/Montana Tuine x53 (9727P))
 ___ Oktober 2007

Waarnemende Uitvoerende Direkteur: Regsdienste
 (Kennisgewing No 1183/2007)

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

DECLARATION OF MONTANA TUINE EXTENSION 53 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 Metropolitan Municipality hereby declares the township of Montana Tuine Extension 53 to be an approved township, subject to the conditions as set out in the Schedule hereto.

(13/2/Montana Tuine x53)

SCHEDULE

CONDITIONS UNDER WHICH THE APPLICATION MADE BY ABSA PROPERTY DEVELOPMENT (PTY) LTD IN TERMS OF THE PROVISIONS OF CHAPTER III: PART C OF THE TOWN-PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986), FOR PERMISSION TO ESTABLISH A TOWNSHIP ON PORTION 497 (A PORTION OF PORTION 44) OF THE FARM HARTEBEESTFONTEIN 324JR, PROVINCE OF GAUTENG, HAS BEEN GRANTED.

1. CONDITIONS OF ESTABLISHMENT

1.1 NAME

The name of the township shall be Montana Tuine Extension 53.

1.2 DESIGN

The township shall consist of erven, parks and streets as indicated on General Plan SG No 11858/2006.

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 excluding –

1.3.1 the servitudes in Title Deed T125957/2001 which do not affect the township;

- a. Gedeelte 'B' van die plaas Hartebeestfontein 592, (waarvan die gedeelte getranspoteer, 'n gedeelte uitmaak) is spesiaal onderhewig aan die volgende kondisies:

"Het gedeelte hieronder gehouden is onderworpen aan een servituut ten gunste van de eigenaar van gedeelte 12 ('n gedeelte van Gedeelte 'E') zoals gehouden onder Akte van Transport No. T24560/1942, gergistreerd op de 7de Oktober 1942 om water te leiden door een voor voerende van de fontein naar de tans bestaande dam op het gedeelte hieronder gehouden en voor dit doel om een watervoor te maken van een punt tussen gemelde dam en fontein uit de voor en van daar in een noordwestelike richting naar de naaste redelike bereikbaar plaats op de lyn van gedeelte 12.

De eigenaar van gedeelte 12 zal gerechtigd zyn tot volle, vrye en onge-hinderde vloeï van het water komende uit voorzegde fontein, die op die kaart van dit gedeelte 'B' gemerkt is, door zulk watervoor gedurende twee achtereenvolgende dagen uit elke 8 dagen, en zy zullen gerechtigd zyn tot de nodige toegang langs de oevers van gemelde voor voor het doel om dezelve te alle redelike tyden te maken, onderhouden, repareren en schoon te maken met het recht aan hun om de nodige grond en klippen te nemen voor zulke reparatie en onderhoud en om het water naar hun eigendom te voeren. Zy zullen echter verplicht zyn op hunne eigene kosten en rekening gezegde watervoor te onderhouden in een schoon en gezonde toestand en vry van schadelike onkruiden, en zy zullen niet toelaten dat enige iets gedaan of nagelaten word die de moegenlikheid geeft de gezegde dam te benadelen of te beschadigen en in het gebruik van hun rechten zullen zy behoorlik zorg dragen dat geen schade veroorzaakt word aan hekken, omheinigen gebouwen of landen van het gedeelte hierboven vermeld en zullen zy niet gerechtigd zyn om obstructies of veranderingen te maken op gezegde watervoor.

In geval enige veranderingen gemaakt worden voor versterking, behoud of vergroting van gezegde fontein zal de kosten ervan pro rata gedragen worden doot de eigenaren van het gedeelte 'B' hieronder en gedeelte 12 in verhouding tot hun aandeel in het water doch voordat een der eigenaren zulke verbeteringen of vergroting doet, zal hy de andere eigenaren een maand vooruit kennis geven en zulke laatsgenoemde eigenaren kunnen dan besluiten of zy hun deel willen doen, of slechts de dan bestaande water gebruiken, in welk geval de eigenaar die de verbeteringen aanbrengt gerechtigd zal zyn tot alle verdere water door hem alzo veroorzaakt.

De andere eigenaren hetzy van gedeelte 12 of van het gedeelte hieronder gehouden kunnen axhter delen in zulke vermeerderde water zodra zy hun deel van de onkosten betalen.

In geval er geen water in de fontein is en een der eigenaren opent de fontein verder totdat hy water krygt, zal hy gerechtigd zyn ertoe tot de eerste daarop volgende regen".

- b. Die Resterende Gedeelte van Gedeelte 44 van die plaas HARTE-BEESTFONTEIN 324, Registrasie Afdeling JR, Provinsie Gauteng, groot 353,0689 Hektaar ('n gedeelte waarvan hiermee gertanspoteer word) is onderhewig aan 'n rioolpuplynserwituut 4 meter wyd ten gunste van die Stadsraad van Pretoria waarvan die lyn ABCDEF op serwituutkaart LG A2076/1985 die hartlyn voorstel soos meer volledig sal blyk uit Notariële Akte Nr K3483/1986 S.

- c. Die Resterende Gedeelte van Gedeelte 44 van die plaas HARTE-BEESTFONTEIN 324, Registrasie Afdeling JR, Provinsie Gauteng, groot 311,7524 hektaar ('n gedeelte waarvan hiermee getranspoteer word) is:
- (i) Onderhewig aan 'n serwituut van reg-van-weg, 5 meter wyd vir die lê van riool- en stormwaterpype, ten gunste van die Stadsraad van Pretoria, die middellyn waarvan aangedui word deur die lyn ABC op LG kaart nr A11013/94 soos meer volledig sal blyk uit Notariële Akte nr K4937/1995 S.
 - (ii) Onderhewig aan 'n serwituut van reg-van-weg, 5 meter wyd vir die lê van riool- en stormwaterpype, ten gunste van die Stadsraad van Pretoria, die middellyn waarvan aangedui word deur die lyn ABCD op LG kaart nr A4441/94 soos meer volledig sal blyk uit Notariële Akte nr. K4938/1995 S.
 - (iii) Onderhewig aan 'n serwituut van reg van weg vir die lê van riool- en stormwaterpype ten gunste van die Stadsraad van Pretoria.
 - (aa) 4 meter wyd waarvan die lyn AB de middellyn voorstel;
 - (bb) 3 meter wyd waarvan die lyn AC die suidelike grens voorstel;
 - (cc) 16,5 meter wyd waarvan die lyn DEFGHJKLMNPQRSTUVWXYZ die westelike grens voorstel;

op kaart LG A4442/94 soos meer volledig sal blyk uit Notariële Akte Nr K4936/1995S.
- d. En verder onderhewig aan 'n rioolserwituut, 2 meter wyd ten gunste van die Stadsraad van Pretoria, waarvan die lyne ABCDE en DFGH op Kaart LG 6256/1995 die hartlyn voorstel soos meer volledig sal blyk uit Notariële Akte Nr K2478/1996 S.
- e. Servitude No K6296/1999-S: Servitude for sewer purposes in favour of Tshwane Municipality vide diagram SG No 6836/1998. Servitude for electrical purposes in favour of Tshwane Municipality, vide diagrams SG No 8824/1998 and SG No 6837/1998 and servitude for road purposes in favour of Tshwane Municipality vide diagram SG No 6838/1998.
- f. A servitude of right-of-way and for municipal purposes 2 (two) metres wide in favour of the City Council of Pretoria as indicated by the figures ABCDA on diagram LG No 6839/1998 together with ancillary rights as will more fully appear from Notarial Deed K3261/2000 S.
- g. Servitude No K5897/2000S: Servitude of right of way and for general municipal purposes in favour of Tshwane Municipality vide diagram SG No 1632/2000. Servitude of right of way and for general municipal purposes in favour of Tshwane Municipality vide diagram SG No 1638/1998. Servitude of right of way and for general municipal purposes in favour of Tshwane Municipality vide diagram SG No 1633/2000 servitude of right of way and for general municipal purposes in favour of Tshwane Municipality vide diagram SG No 5933/1998 and Servitude for stormwater drainage in favour of Tshwane Municipality vide diagram SG No 5934/1998.
- h. Servitude No. K513/2001S: Servitude for general municipal purposes in favour of Tshwane Metropolitan Municipality vide diagram SG No 6522/2000.
- i. Subject to 3 (three) servitudes for sewerage purposes 3 (three) metres wide over the property in favour of the City of Tshwane Metropolitan Municipality, the centre line of the first servitude is depicted by the figure AB, the centre of the second servitude is depicted by the figure CDE and the southern boundary of the third servitude is depicted by the figure FG on diagram LG No 6885/1999 as will more fully appear from Notarial Deed of Servitude K6297/99S with diagram attached.

1.4 RECEIVING AND DISPOSAL OF STORMWATER

The township owner shall arrange the stormwater drainage of the township in such a way as to fit in with that of the adjacent roads and he shall receive and dispose of the storm-water running off or being diverted from the road.

1.5 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.

1.6 DEMOLITION OF BUILDINGS AND STRUCTURES

When required by the City of Tshwane Metropolitan Municipality to do so, the township owner shall at his own expense cause to be demolished to the satisfaction of the City of Tshwane Metropolitan Municipality all existing buildings and structures situated within building line reserves and side spaces or over common boundaries, or dilapidated structures.

1.7 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 Metropolitan Municipality, when required to do so by the City of Tshwane Metropolitan Municipality.

1.8 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.

1.9 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.

1.10 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, 1989 (Act 73 of 1989), for the development of this township.

1.11 NATIONAL HERITAGE RESOURCE ACT

The township owner shall at his own expense comply with the provisions of the National Heritage Resource Act, 25 of 1999.

1.12 TRANSFER OF LAND TO THE SECTION 21 COMPANY (HOME OWNERS ASSOCIATION)

Erven 1701 up to and including 1706 shall be transferred to the Section 21 Company (Homeowners' association) by and at the expense of the township owner.

1.13 LAND FOR MUNICIPAL PURPOSES

The following erf shall be transferred to the local authority by and at the expense of the township owner:

Parks (public open space): Erf 1700.

1.14 THE DEVELOPER'S OBLIGATIONS

1.14.1 ASSOCIATION AND STATUTES

The developer must register a section 21 company (homeowners' association) in terms of the provisions of the Companies Act, 1973 (Act 61 of 1973). All the owners of the erven in the township must become members of the section 21 company. A copy of the registered Deed of Association (CM4) and the Company's Statutes must be submitted to the City of Tshwane Metropolitan Municipality.

The developer is deemed to be a member of the section 21 company, with all the rights and obligations of an ordinary member, until the last erf has been transferred.

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 METROPOLITAN MUNICIPALITY IN TERMS OF THE PROVISIONS OF THE TOWN-PLANNING AND TOWNSHIPS ORDINANCE, 1986 (ORDINANCE 15 OF 1986)

2.1.1 ALL ERVEN (EXCLUDING ERVEN 1700 UP TO ANDE INCLUDING ERF 1706)

2.1.1.1 The erf shall be subject to a servitude, 2m wide, for municipal services (water, sewer, electricity and stormwater) (hereinafter referred to as "the services"), in favour of the City of Tshwane Metropolitan Municipality, along any two boundaries, except a street boundary and, in the case of a panhandle erf, an additional servitude for municipal purposes, 2m wide, over the entrance portion of the erf, if and when required by the municipality: 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 2m from it.

2.1.1.3 The Municipality 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 City of Tshwane Metropolitan Municipality shall be entitled to reasonable access to the said property for the aforesaid purpose, subject to the provision that the City of Tshwane Metropolitan Municipality shall make good any damage caused during the laying, maintenance or removal of such services and other works.

2.1.2 ERF 1685

The erf shall be subject to a servitude, 4 metres wide, for municipal services (storm water and sewerage) in favour of the City of Tshwane Metropolitan Municipality, as indicated on the general plan.

2.1.3 ERF 1693

The erf shall be subject to a servitude, 4 metres wide, for municipal services (electricity) in favour of the City of Tshwane Metropolitan Municipality, as indicated on the general plan.

2.1.4 ERF 1690

2.1.4.1 The erf shall be subject to a servitude, 3 metres wide, for municipal services (electricity) in favour of the City of Tshwane Metropolitan Municipality, as indicated on the general plan.

2.1.4.2 The erf shall be subject to a servitude, 2 metres wide, for municipal services (storm water) in favour of the Municipality, as indicated on the general plan.

2.1.5 ERF 1691

The erf shall be subject to a servitude, 4 metres wide, for municipal services (storm water and sewerage) in favour of the City of Tshwane Metropolitan Municipality, as indicated on the general plan.

2.1.6 ERVEN 1685 UP TO AND INCLUDING 1699

2.1.6.1 Every owner of the erf, or owner of any subdivision thereof, or owner of any unit thereon shall automatically become and shall remain a member of the The Estate on Bougainvillea Home Owners Association (Registration No 2007/027345/08) (Association incorporated in terms of Section 21 of the Companies Act No 61 of 1973 as amended) ("the Company") and be subject to the Memorandum and Articles of Association of the Company until he ceases to be an owner as aforesaid.

2.1.6.2 Neither the erf, nor subdivision thereof nor any unit thereon, shall be transferred to any person who has not bound himself to the satisfaction of the Company to become a member of the Company.

2.1.6.3 The owner of the erf, or owner of any subdivision thereof, or any unit thereon, shall not be entitled to transfer the erf or any subdivision thereof, or any interest therein, or any unit thereon, without a clearance certificate from the Company that the provisions of the Articles of Association of the Company have been complied with.

2.1.6.4 For the purposes of the afore going any reference to "owner" shall also include a homeowners' association or a body corporate which may come into being in the case of a subdivision of the erf or the opening of a sectional title register in respect of the erf, as the case may be.
