

***THE PROVINCE OF
GAUTENG***

***DIE PROVINSIE VAN
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PROCLAMATION • PROKLAMASIE

PROCLAMATION 63 OF 2019

CITY OF TSHWANE METROPOLITAN MUNICIPALITY TSHWANE AMENDMENT SCHEME 3817T

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 67, being an amendment of the Tshwane Town-planning Scheme, 2008.

Map 3 and the scheme clauses of this amendment scheme are filed with the Department: Economic Development and Spatial Planning, and are open to inspection during normal office hours.

This amendment is known as Tshwane Amendment Scheme 3817T.

(CPD 9/1/1/1-MTTx67 0442 (3817T))
(CPD 9/2/4/2-3817T)

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

__ JUNE 2019
(Notice 129/2019)

CITY OF TSHWANE METROPOLITAN MUNICIPALITY

DECLARATION OF MONTANA TUINE EXTENSION 67 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 67 to be an approved township, subject to the conditions as set out in the Schedule hereto.

(CPD 9/1/1/1-MTTx67 0442 (3817T))
(CPD 9/2/4/2-3817T)

SCHEDULE

CONDITIONS UNDER WHICH THE APPLICATION MADE BY COMMERCIAL PROPERTY PROJECTS WILLOWS CC (REGISTRATION NUMBER 1995/023565/23), 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 211 (A PORTION OF PORTION 44) OF THE FARM HARTEBEEST-FONTEIN 324JR, PROVINCE OF GAUTENG, HAS BEEN GRANTED

1. CONDITIONS OF ESTABLISHMENT

1.1 NAME

The name of the township shall be Montana Tuine Extension 67.

1.2 DESIGN

The township shall consist of erven and streets as indicated on General Plan SG No 5193/2015.

1.3 DISPOSAL OF EXISTING CONDITIONS

ALL ERVEN SHALL BE MADE SUBJECT TO THE EXISTING TITLE CONDITIONS IF ANY:

1.3.1 Including the following servitudes which do affect the township and shall be made applicable to the individual erven in the township:

Condition 1 in registered Deed of Transfer T 56887/14:

“Gedeelte “B” van die plaas HARTEBEESTFONTEIN 592, (waarvan die Gedeelte hierby getranspoteer ‘n gedeelte uitmaak) is spesiaal onderhewig aan die volgende kondisie:-

Het gedeelte hieronder gehouden is onderworpen aan een servituut ten gunste van de eienaar van gedeelte 12 ('n gedeelte van Gedeelte "E") zoals gehouden onder Akte van Transport No. T24560/1942, geregistreer 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 bereikbare plaats op de lyn van gedeelte 12.

De eienaar van gedeelte 12 zal gerechtigd zyn tot volle, vrye en ongehinderde vloei van het water komende uit voorzegde fontein, die op de 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 ophunne 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 moeglikheid geeft de gezegde dam te benadelen of te beskadigen en in het gebruik van hun rechten zullen zy behoerlik zorg dragen dat geen schade veroorzaakt word aan hekken, omheiningen gebouwdwen of lande van het gedeelte hierboven vermeld en zullen zy niet gerechtigd zyn om obstructies of veranderinge te maken op gezegde watervoor.

In geval enig veranderinge of verbeteringe gemaak word voor versterking, behoud of vergroting van gezegde fontein zal de koste erve pro rata gedragen word door de eienare van het gedeelte "B" hieronder en gedeelte 12 in verhouding tot hun aandeel in het water doch voordat een der eienare zulke verbeteringe of vergroting doet, zal hy de andere eienare een maand vooruit kennis geeve en zulke laatstgenoemde eienare kunne dan besluite of zy hum deel wille doen, of slechts de dan bestaande water gebruike, in welk geval de eienaar die de verbeteringe aanbrengt gerechtigd zal zyn tot alle verdere water door hom also veroorzaakt.

De andere eienare hetzy van gedeelte 12 of van het gedeelte hieronder gehouden kunne exhter dele in zulke vermeerderde water zodra zy hum deel van de onkoste betale.

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

1.3.2 Excluding the following servitudes which do not affect the township due to its locality/location/situation:

Condition 2 in registered Deed of Transfer T 56887/14:

"Die Resterende Gedeelte van Gedeelte 44 van die plaas HARTEBEEST-FONTEIN 324, Registrasie Afdeling J.R., Provinsie Gauteng, Groot 353,0689 hektaar ('n gedeelte waarvan hiermee getranspoteer word) is onderhewig aan 'n rioolhoofpyplynserwituut 4 meter wyd ten gunste van die Stadsraad van Pretoria waarvan die lyn ABCDEF op serwituutkaart L.G. A2076/1985 die hartlyn voorstel soos meer volledig sal blyk uit Notariele Akte No. K2483/1986 S."

Condition 3 in registered Deed of Transfer T 56887/14:

"Die Resterende Gedeelte van Gedeelte 44 van die plaas HARTEBEEST-FONTEIN 324, Registrasie Afdeling J.R., Provinsie Gauteng, groot 311,7524 hektaar ('n gedeelte waarvan hiermee getranspoteer word) is:

1.3.2.1 Onder hewig 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 No. A11013/94 soos meer volledig sal blyk uit Notariële Akte No. K4935/1995 S;

1.3.2.2 Onderhewig aan 'n servituut van reg-van-weg 5 meter wyd vir die lê van riool-en stromwater ten gunste van die Stadsraad van Pretoria, die suidelike grens waarvan aangedui word deur die lyn ABCD op Kaart No A4441/1994 soos meer volledig blyk uit Notariële Akte K4936/1995 S.

1.3.2.3 Onderhewig aan 'n servituut van reg-van-weg vir die lê van riool-en stromwaterpype ten gunste van die Stadsraad van Pretoria:-

1.3.2.3.1 4 meter wyd waarvan die lyn AB die middellyn voorstel;

1.3.2.3.2 3 meter wyd waarvan die lyn AC die suidelike grens voorstel;

1.3.2.3.3 16.5 meter wyd waarvan die lyn DEFGHJKLMNPQRST UVW die westelike grens voorstel;

Op kaart LG A4442/94 soos meer volledig sal blyk uit Notariële Akte K4937/1995 S.”

1.3.3 Excluding the following condition that does not affect the Township due to establishment of the Township and Proclamation:

Condition 7 in registered Deed of Transfer T 56887/14:

“By virtue of Notarial Deed No. K4748/2014S dated 10 April 2014 the within mentioned property is subject to the following condition:

Should the registered owner or its successors in title at any time apply for the amendment of the land use rights currently pertaining to the property/ies in terms of the Tshwane Town Planning Scheme 2008, such registered owner, or its successors in title shall immediately establish a township on the property and shall not be entitled to transfer the said property/ies without the consent of the Tshwane Metropolitan Municipality until such township has been established.”

1.3.4 Excluding condition 2 in registered Deed of Transfer T56887/14 which refers to Portion 211 specifically and which affects only Erven 1778 and 1777 in the township:

“En verder onderhewig aan 'n rioolserwituut, 2 meter wyd ten gunste van Stadsraad van Pretoria waarvan die lyn abc op die kaart LG 4821/95 die hartlyn voorstel.”

1.3.5 Excluding condition 3 in registered Deed of Transfer T56887/14 which refers to Portion 211 specifically and which only affects Erf 1777:

“SUBJECT to a Servitude of right of way 16 metres wide along the entire Western Boundary as indicated by the line AB on Servitude Diagram SG No. 6794/2008 in favour of Portion 213 (a Portion of Portion 44) of the Farm Hartebeestfontein 324”

1.3.6 Excluding condition 4 in registered Deed of Transfer T56887/14 which refers to Portion 211 specifically and which only affects Erf 1777, 1776, 1775, 1774 and 1773 in the township:

“SUBJECT to a Servitude of right of way 16 meters wide along the entire Western Boundary as indicated by the line GHJ and the southern Boundary as indicated by the line DEFG on Servitude Diagram SG No. 4821/1995 in favour of Portion 213 (a Portion of Portion 44) of the Farm Hartebeestfontein 324.”

1.3.7 Excluding the following sewer servitude which only affects Erven 1777 and 1778 in the township:

Condition 6 in registered Deed of Transfer T56887/14:

“By virtue of Notarial Deed No K4747/2014 S dated 10/04/2014 the within mentioned property is subject to a servitude for sewer purposes, 5 (FIVE) meters wide along and parallel to the entire north western boundary in favour of the Tshwane Metropolitan Municipality with ancillary rights as will more fully appear from reference to the said Notarial Deed.”

1.4 COMPLIANCE WITH CONDITIONS IMPOSED BY THE DEPARTMENT OF ROADS AND TRANSPORT

The township owner shall at his own expense comply with all the conditions imposed by the Gauteng Department of Roads and Transport when consent was granted for the development.

1.5 ACCESS

1.5.1 Ingress and egress from the township shall be provided to the satisfaction of the local authority and/or Tshwane Roads and Stormwater Department.

1.6 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 the adjacent road and he shall receive and dispose of the storm water running off or being diverted from the road.

The Service Report containing the stormwater design proposal must be submitted to the Municipality for approval at the time of the application, i.e. before Township Proclamation.

1.7 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.

1.8 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 Municipality.

1.9 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.

1.10 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.

1.11 RESTRICTION ON THE TRANSFER AND REGISTRATION OF ERVEN/LAND

In terms of Section 82(1) of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), no erf or erven in the township may be transferred until the City of Tshwane has certified that the township owner has complied with his obligations as contained in Section 82 and the conditions of establishment have been complied with.

In terms of Section 98(2) of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), as a condition of approval of township establishment, the registration of a Certificate of Registered Title, the opening of a Sectional Title Scheme, or registration or transfer of a sectional title unit, resulting from the approval of this township, may not be performed unless the Local Authority, certifies that all the requirements and conditions for the registration thereof, have been complied with, read with Section 53 of the Spatial Planning and Land Use Management Act, 16 of 2013, where applicable.

2. CONDITIONS TO BE COMPLIED WITH BEFORE THE ERVEN IN THE TOWNSHIP BECOME REGISTERABLE

2.1 INSTALLATION OF INTERNAL AND EXTERNAL SERVICES

A certificate issued in terms of section 82 of the town-planning and Townships Ordinance (Ordinance 15 of 1986) must be lodged with the first transfer.

The township applicant shall install and provide internal engineering services in the township as provided for in the services agreement.

The Local Authority shall install and provide external engineering services for the township as provided for in the services agreement.

2.2 THE DEVELOPER'S OBLIGATIONS

2.2.1 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.

2.2.2 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 it is certified that the internal engineering services have been completed and that the engineers accept liability for the services. The City of Tshwane may at its own discretion allow an exception in respect of the internal road and storm water sewers. If this is the case, the developer must give the City of Tshwane an undertaking that the developer will complete this service on or before a certain date and must provide the City of Tshwane with a guarantee issued by a recognized financial institution.

No building plans will be approved before the services are completed and (if applicable) taken over by the divisions of the Public Works and Infrastructure Development Department.

2.2.3 MAINTENANCE PERIOD AND GUARANTEE

A maintenance period of 12 (twelve) months commences on the date on which the council has certified that the provisions of Section 82 (1)(b)(ii)(cc) of the Town-Planning and Townships Ordinance 15 of 1986 has been complied with and when the last of the internal engineering services (i.e. water, sewerage, electricity, and the road and storm water sewers) have been completed.

A maintenance guarantee must be issued for the said period by a recognized financial institution, in respect of poor workmanship and/or materials with regard to the civil engineering services and the electricity services, which guarantee must be issued in favour of the Section 21 Company for an amount that is equal to 10% 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.

2.2.4 COMPLETION OF THE SCHEME

The developer remains liable for the development of the entire housing scheme in accordance with the approved site development plan, provided that the scheme may also be developed in phases with the consent of the City of Tshwane, and provided further that the entire development takes place under the supervision of one architectural firm. If another architect or architectural firm is appointed at any stage during the execution of the scheme, the City of Tshwane must be notified of this without delay.

3. CONDITIONS OF TITLE

3.1 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)

3.1.1 ALL ERVEN

3.1.1.1 The erf shall be subject to a servitude, 3 m wide, for municipal services (water, sewer, electricity and stormwater) (hereinafter referred to as "the services"), in favour of the local authority, along any two boundaries, excepting a street boundary and, in the case of a panhandle erf, an additional servitude for municipal purposes, 3 m 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.

3.1.1.2 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 m thereof.

3.1.1.3 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 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.

3.1.2 ERVEN 1773, 1774, 1775, 1776, 1777 AND 1779

The erven are subject to a reciprocal servitude of right of way and services in respect of all the other erven as indicated on the General Plan SG No 5193/2015.

3.1.3 ERF 1778

The erf shall be entitled to a servitude of right of way and services over Erven 1773, 1774, 1775, 1776, 1777 and 1779 as indicated on the General Plan SG No 5193/2015.

3.1.4 ERVEN 1775 AND 1778

The erven are subject to 3 meter wide stormwater servitudes in favour of the City of Tshwane as indicated on the General Plan.

3.1.5 ERVEN 1777 AND 1778

The erven are subject to a 3m wide stormwater servitude in favour of the City of Tshwane as indicated on the General Plan.