

STATEMENT OF CONDITIONS UNDER WHICH THE APPLICATION MADE BY BLUE MOONLIGHT PROPERTIES 175 (PTY) LTD (REG No 2005/036421/07) (HEREINAFTER REFERRED TO AS THE TOWNSHIP OWNER) IN TERMS OF SECTION 16(4)(f)(i) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BYLAW, 2016, FOR THE ESTABLISHMENT OF A TOWNSHIP ON A CERTAIN PART OF PORTION 86 OF THE FARM 475-JR, GAUTENG PROVINCE HAS BEEN APPROVED.

1. CONDITIONS TO BE COMPLIED WITH BY THE TOWNSHIP OWNER PRIOR TO THE OPENING OF THE TOWNSHIP REGISTER IN TERMS OF SECTIONS 16(7) AND (8), AND DECLARING OF THE TOWNSHIP A PROCLAIMED TOWNSHIP IN TERMS OF SECTION 16(9) OF THE CITY OF TSHWANE LAND USE MANAGEMENT BYLAW 2016 (HEREINAFTER REFERRED TO AS THE 'BYLAW').

- 1.1. CANCELLATION OF EXISTING CONDITIONS OF TITLE

The township owner shall at its own costs, cause the following restrictive condition to be cancelled or the township area freed therefrom:

Condition C in Deed of Transfer T36419/2009

"Except with the written consent of the Administrator as Controlling Authority as defined in the Roads and Ribbon Development Act, 1940 (Act 21 of 1940) may:

- (a) (i) the land be utilized for residential and agricultural purposes only.
- (ii) on the land, or on any duly approved subdivision of same, not be more buildings than one dwelling-house together with the outbuildings that are usually necessary for use in connection therewith and such buildings and building works as may be necessary for agricultural purposes.
- (b) (i) No building or other building works be erected within a distance of 95 metres from the centre-line or roads 25 and 483.
- (ii) A building-line of 500 metres from the intersection of the centre-line of roads 25 and 483 with road 713.
- (iii) A road-reserve of 40 metres must be maintained for the above-mentioned road."

[Translated from Afrikaans text]

1.2 REGISTRATION OF SERVITUDES

The township owner shall, in the event of Cullinan Extension 12 being implemented before Cullinan Extension 2 and 7, at its own expense cause the following servitudes to be registered to the satisfaction of the City of Tshwane Metropolitan Municipality:

- (a) An access / right-of-way servitude over Portion 87 and Portion 90 of the farm 475-JR in favour of the general public. The extent and dimensions of the servitude shall coincide with the future road sections of Cullinan Extensions 2 and 7 as shown on township layout plans CPD Cullinan X 2/01 and CPD Cullinan X 7/01 respectively, required to facilitate access from Cullinan Extension 12 to Provincial Road D25 along the shortest route through Cullinan Extensions 2 and 7.
- (b) An engineering services servitude over Portions 87 and 90 of the farm 475-JR in favour of the Municipality. The extent and configuration of the servitude to coincide with that of the access / right-of-way servitude in (a) above.

1.3 GENERAL

The township owner shall comply with the provisions of Section 16(7) of the Bylaw and satisfy the City of Tshwane Metropolitan Municipality that-

1.3.1 Amendment Scheme

The relevant amendment scheme in terms of Section 16(4)(d) of the Bylaw read with Section 16(4)(g)(v) is in order and shall be published in terms of Section 16(9)(a) and (b) in accordance with COT: F/28.

1.3.2 Name of township, street names and numbering

The name of the township as well as the street names and numbers have been approved by the Municipality and is indicated on the General Plan in accordance with Schedule 5 and Section 42 of the Bylaw.

1.3.3 Geotechnical conditions in terms of Section 28(12) to (14)

A geotechnical report has been submitted in order to determine the soil suitability of the land and indicating the various classes of soil according to the NHBRC classification on which the township is to be established and the said report shall be favourable.

The engineering geologist has certified that he / she has compared the final layout plan of the township with the geological report in conjunction with the consulting town planner and he / she is satisfied that buildings can be erected on every erf. If any special

arrangements have to be made for any erf the township owner shall provide proof that these arrangements have been made to the satisfaction of the Municipality.

If required by the Municipality, the township owners shall have the township layout plan vetted by the Council for Geoscience.

1.3.4 Engineering services

- (i) Access is available to the township and that access to a public street system is available to all erven in the township, whether by means of a private or public street in terms of Section 28(5) of the Bylaw;
- (ii) The portions of the road reserves adjoining the proposed township which are required for the proper installation and maintenance of municipal services shall be acquired by the township owner, if applicable.
- (iii) The township owner shall at its own cost provide such engineering services, social infrastructure and open spaces as the Municipality may deem necessary for the proper development of the land development area and / or land development application; provided that the Municipality may for that purpose, enter into an engineering services agreement with the township owner in terms of the Bylaw, or other law as may be required in accordance with Section 49 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013).
- (iv) The township owner shall for the purpose of providing such engineering services reach agreement to the satisfaction of, and with the Municipality on the availability and provision of engineering services for the township, which agreement shall indicate the standard of services to be provided and obligations of the township owner and the Municipality with regards to the provision of internal and external engineering services and the payment of engineering service contributions toward the provision of such services in terms of Section 21(3) of the Bylaw and Section 49 of SPLUMA.
- (v) A transport infrastructure study shall be submitted to and meet the satisfaction of the Municipality in terms of Schedule 6 paragraph 3(9)(d).
- (vi) A detailed public transport assessment shall be submitted by the township owner in compliance with Section 38 of the National Land Transport Act, 2009 (Act 5 of 2009), to the satisfaction of the Municipality, if required by the Municipality, read with Schedule 6, paragraph 3(16).

- (vii) The stormwater plan for the township shall be integrated with the greater stormwater master plan for the entire catchment area concerned, including adjoining areas. The low points in roads and the accumulation of stormwater in crescents, *culs-del-sac* and lower-lying erven shall be drained to the satisfaction of the Municipality.

1.3.5 Department Mineral Resources

The comments of the Department of Mineral Resources had been obtained.

1.3.6 Environmental impact assessment, read with Schedule 6(18) of the Bylaw

A record of decision from the Gauteng Department of Agriculture and Rural Development shall be procured in terms of the provisions of the Environmental Management Act, 1998 (Act 107 of 1998) and conditions that may have been imposed in the record of decision shall be complied with by and at the cost of the township owner.

1.3.7 Electricity

Electricity cannot be supplied to the township at present and the township owner shall be responsible to resolve the shortage of existing capacity in conjunction with the Municipality and ESKOM.

1.3.8 General Plan

The township owner shall comply with the provisions of Section 16(6) and where applicable Section 29 of the Bylaw.

2. CONDITIONS OF ESTABLISHMENT RELATING TO THE TOWNSHIP WHICH SHALL REMAIN APPLICABLE TO THE TOWNSHIP AND ERVEN IN THE TOWNSHIP IN TERMS OF SECTION 16(4)(f) AND (g)(ii) OF THE BYLAW

2.1 NAME

The name of the township is Cullinan Extension 12

2.2 DESIGN

The township consists of erven and streets as indicated on township layout reference CPD Cullinan X 12/01.

2.3 PROVISION AND INSTALLATION OF ENGINEERING SERVICES

The township owner shall at its cost provide the township with such engineering services, social infrastructure and open space as the Municipality may deem necessary for the proper development of the township, and comply with the engineering services agreement entered into between the township owner and the Municipality as required in terms of Section 21(3) of the Bylaw

and in accordance with Section 49 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013).

2.4 ACCEPTANCE AND DISPOSAL OF STORMWATER

The township owner shall arrange for the drainage of the township to be consistent with that of adjacent roads, and all stormwater running off or being diverted from the roads and higher-lying areas shall be received and disposed of to the satisfaction of the Municipality.

2.5 CONDITIONS IMPOSED BY THE GAUTENG PROVINCIAL GOVERNMENT: DEPARTMENT OF ROADS AND TRANSPORT

- (i) Should the township not be proclaimed in terms of Section 16(9) of the Bylaw before _____ 20__ the application to establish the township shall be resubmitted to the Department of Roads and Transport for reconsideration.
- (ii) If however, before the expiry date mentioned in (i) above, circumstances change in the opinion of the Municipality in such a manner that roads and / or PWV routes under the control of the said Department are affected by the proposed layout of the township, the township owner shall resubmit the application for the purpose of fulfilment of the requirements of the controlling authority in terms of the provisions of Section 48 of the Gauteng Transport Infrastructure Act, 2001 (Act 8 of 2001).
- (iii) The township owner shall comply with the conditions of the Department as set out in the Department's letter dated _____ 20__.
- (iv) The township owner shall at its own expense comply with all the conditions imposed, by which the Department has granted consent for the development.
- (v) The access to the land development area on Provincial Road D25 known as Colin Road shall be designed by a professional engineer and constructed in accordance with the latest requirements of the Department.
- (vi) Lines of no access will be applicable as shown on the approved township layout plan: CPD Cullinan X 12/01.
- (vii) A physical barrier, in compliance with Executive Committee Resolution Number 1112 of 26 June 1978 and signed by the Deputy Director-General: Community Development, in accordance with the most recent standards of the Department will be erected along the lines of no access on the boundary of the development area shared with the Provincial Road.

- (viii) Except for the physical barrier referred to in the foregoing paragraph, a swimming pool and any essential stormwater drainage structure, no building or structure of any kind which is attached to the land, even though it does not form part of that land, shall be erected nor shall anything be constructed or laid under or below the surface of the erf within a distance less than 16m from the boundary of the erven abutting on Provincial Road D25, nor shall any alteration or addition to any existing structure or building situated within such distance of the said boundary be made, except with consent in writing by the Department.
- (ix) In terms of Executive Committee Resolution No 1112 of 26 June 1978 as signed by the Deputy Director-General: Community Development, the following building-lines are applicable: A 16m building-line along Provincial Road D25 affecting Erven 1 and 2 in the township.
- (x) The applicant shall arrange for the drainage of the development area to fit in with that of Provincial Road D25 and for all stormwater running off or being diverted from this Road to be received and disposed of.
- (xi) No advertisements that may be visible from Provincial Road D25 shall be displayed without the written approval of the Department and the Municipality.

2.6 CONDITIONS IMPOSED BY THE GAUTENG PROVINCIAL GOVERNMENT: DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT (GDARD)

- (i) Should the township not be proclaimed in terms of Section 16(9) of the Bylaw before _____ 20__ the application to establish the township shall be resubmitted to GDARD for authorisation in terms of the National Environmental Management Act, 1998 (Act 107 of 1998), as amended.
- (ii) The township owner shall at its own cost comply with and strictly adhere to all conditions and / or requirements imposed by GDARD, including those (if applicable) by which exemption has been granted from compliance with the Environmental Impact Assessment Regulations, 2014 promulgated on 4 December 2014 in terms of the provisions of the National Environmental Management Act, 1998 (Act 107 of 1998), as amended.

2.7 ACCESS CONDITIONS

Erven 1 and 2 are subject to lines-of-no-access as shown on township layout plan CPD Cullinan X 12/01.

3. CONDITIONS TO BE COMPLIED WITH BEFORE ERVEN IN THE TOWNSHIP BECOME REGISTERABLE WHICH SHALL BE READ WITH THE CONDITIONS OF ESTABLISHMENT CONTAINED IN 2 ABOVE, IN TERMS OF SECTION 16(10) OF THE BYLAW AND SECTION 53 OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT 16 OF 2013).

3.1 REFUSE REMOVAL

- (a) The township owner shall at its own expense have all litter within the township area removed to the satisfaction of the Municipality, when required to do so by the Municipality.
- (b) The township owner shall provide sufficient refuse collection points in the township and shall make arrangements to the satisfaction of the Municipality for the removal of all refuse.

3.2 REMOVAL OR REPLACEMENT OF EXISTING SERVICES

If by reason of the establishment of the township it should be necessary to remove or replace any existing municipal, TELKOM and / or ESKOM services, the costs of such removal or replacement shall be borne by the township owner. For purposes of removal or replacement the township owner shall, at its own cost, protect the services by means of the registration of servitudes in favour of the Municipality, TELKOM and / or ESKOM should it be deemed necessary.

3.3 DEMOLITION OF BUILDINGS AND STRUCTURES

The township owner shall at its own expense cause all existing buildings and other structures situated within building restriction areas and / or common boundaries to be demolished to the satisfaction of the Municipality, when requested to do so by the Municipality. Also where buildings and / or other structures are dilapidated.

3.4 RESTRICTION ON REGISTRATION AND TRANSFER OF ERVEN IN TOWNSHIP

In terms of Section 16(10) of the Bylaw read with Section 53 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) no registration transactions whatsoever resulting from this land development application may be submitted by the township owner to the Registrar of Deeds for registration, including transfer and the registration of a Certificate of Consolidated Title and / or a Certificate of Registration in name of the owner, prior to the Municipality certifying to the Registrar of Deeds that:-

- (i) all engineering services have been designed and constructed to the satisfaction of the Municipality, including the furnishing of guarantees and maintenance guarantees for services having been provided to the satisfaction of the Municipality, as may be required;

- (ii) all engineering service contributions and open space and parks contributions and / or development charges and / or monies have been paid;
- (iii) all engineering services have been or will be protected to the satisfaction of the Municipality by means of servitudes;
- (iv) all conditions of approval of the land development application have been complied with or that arrangements for compliance to the satisfaction of the Municipality have been made, which arrangements shall form part of an agreement read with Chapter 7 of the Bylaw, to the satisfaction of the Municipality;
- (v) it is in position to consider a final building plan; and
- (vi) all the properties have either been transferred in terms of subsection 16(11) of the Bylaw or shall be transferred simultaneously with the first transfer or registration of a newly created property or sectional-title scheme.

4. DISPOSAL OF EXISTING CONDITIONS OF TITLE IN TERMS OF SECTION 16(4)(g)

All erven in the township shall be made subject to existing conditions of title and servitudes, if any, but excluding the following:

- (i) Conditions A1, A1(a) and A1(b)
“Former Remainder of the farm Kafferskraal 475, Registration Division J R Province of Gauteng (which forms a part of this consolidation) is subject to the following Conditions: (the foregoing translated from Afrikaans text).

A1 Entitled to the following conditions in respect of Portion BB of the said farm originally transferred under deed of Transfer T1173/1931:

- (a) *A servitude of right of way 15,74 metres wide, as indicated on the diagram annexed to the said Deed of Transfer, along the said A D, which has been open as a public road.*
- (b) *The right to the transferees, their tenants, heirs, executors, administrators or assigns to convey water by means of pipes over the said portion BB along the line indicated on the diagram annexed to the said Deed of Transfer by the letter a d and to enter upon the said premises and do all things necessary for the cleaning, repairing or replacing of any pipe.”*

- (ii) Condition 2
“Entitled furthermore to the following conditions in respect of portions Y, C, O, Q, Z, U, T, W, R and 43 of the said farm originally transferred under Deeds of Transfer No’s T3633/1932, T4370/1933, T8903/1935, T6743/1936, T22376/1936, T2032/1938, T8130/40, T3439/1943, T7246/1943 and T3869/1947, respectively, viz.

The reservation in favour of the transferees, heirs, executors, administrators or assigns of the right at any time to lay a pipeline or pipelines and / or to make a furrow through the properties transferred by the said Deeds of

Transfer for the purpose of conveying water in connection with any water scheme which may be undertaken for the supply or conveyance of water to those or any other portions of the former Remaining Extent of the farm Kafferskraal 475 Registration Division J R, Transvaal, in extent 342,6128 hectares, transferred to the late Lewis Joel Hack, by the said Deeds of Transfer No's T10102/1928, T392/1929, T899/1929, T1674/1929, T1675/1929 and T1415/1929 and also the right of access from time to time to relay and maintain such pipes and cleanse and repair such furrow: also the right to erect telegraph, telephone and electric poles and wires, and to lay cables for the purpose of conducting electric current on and over the said property, provided that compensation shall be paid for any damage to building and crops on the said portions and any disturbance of land shall be repaired.

The rights reserved shall impose no obligation whatsoever to carry out any Scheme or do any of the things aforementioned."

(iii) Conditions 3(a) and (b)

"3(a) AND ENTITLED furthermore to the reservation of the following rights in respect of portion T originally transferred by Deed of Transfer T8130/1940, enforceable by the transferees or their successors in title as successors of title of the prior owner of the farm present and future Remaining Extent of the said farm.

(b) All and every right of trading or carrying on business upon that portion is reserved to the transferees and / or their nominee or nominees, executors, administrators or assigns, and the owner of that portion or his successors shall not carry on any canteen, hotel or place for the sale of wines, malt or spirituous liquors or any other trade or business of any kind whatsoever upon that portion or conduct any slaughterhouse thereon or do or suffer anything upon the said property hereby transferred which may be or may become a nuisance to the neighbourhood or the owner of any property in the immediate vicinity of that portion, or do or suffer anything to be done which may interfere with the aforementioned trading rights, That condition shall however, not debar the occupier of the portion from disposing of any farm produce actually produced by him on that portion.

(iv) Conditions B1(a), B1(b) and B2

"B1 SUBJECT FURTHER to the following servitudes:

(a) A servitude of Right of Way in favour of the Republic of South Africa as will more fully appear from Notarial Deed registered under No 1347/1940S.

(b) SUBJECT to a servitude of Right of way in favour of Oostelike Transvaalse Kooperasie Beperk by virtue of Notarial Deed of Servitude No 457/1965S dated the 27th day of November 1962."

5. **CONDITION OF TITLE
CONDITIONS OF TITLE IMPOSED IN FAVOUR OF THE MUNICIPALITY IN
TERMS OF SECTION 16(4)(g) OF THE BYLAW**

All erven

- (a) Each erf is subject to a servitude, 2m wide, in favour of the Municipality, for sewerage and other municipal purposes, along any boundary 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 Municipality: Provided that the Municipality may dispense with any such servitude.
- (b) No building or other structure or any part of its foundation 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 Municipality shall be entitled to deposit temporarily on the land adjoining the aforesaid servitude such material as may be excavated by it during the process 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 Municipality.

6. **CONDITIONS CONTAINED IN THE AMENDMENT SCHEME IN TERMS OF
SECTION 16(4)(g)(v) OF THE BYLAW TO BE INCORPORATED IN THE TSHWANE
TOWN PLANNING SCHEME, 2008 (REVISED 2014)**

6.1 ERVEN 1 AND 2

1	Use Zone	6: Business 1, including informal market, place of amusement, supermarket, car wash, garden centre, taxi transport terminus, and ancillary and subservient uses
2	Uses permitted	Table B, Column 3, including informal market, place of amusement, supermarket, car wash, garden centre, taxi transport terminus, and ancillary and subservient uses
3	Uses with consent	Table B, Column 4, filling station
4	Uses not permitted	Table B, Column 5
5	Definitions	(1) Informal market: means land and buildings or structures or open air areas used for the display and sale of a variety of products, food and beverages (including daily convenience goods) by the informal sector that is neither taxed nor monitored by the government. (2) Supermarket: means land and buildings used for the

		<p>business of offering for sale all merchandise normally sold in a supermarket, including but not limited to a butchery, a bakery, a fishmonger, delicatessen and with fresh fruit and vegetables, a dispensary in pharmaceutical and health products and a financial and / or post office counter.</p> <p>(3) Taxi transport terminus: means land and buildings designed and used as a terminus or gathering place for mini-bus taxis arriving from and departing in a variety of directions / routes and may include ablution facilities, a meeting room and other ancillary and subservient uses.</p> <p>(4) All other uses: Clause 5</p>
6	Density	Not applicable
7	Coverage	As per site development plan
8	Height	2 storeys
9	Floor area ratio	0,4
10	Site development plan and landscape development plan	<p>(1) A site development plan and a landscape development plan, unless otherwise determined by the Municipality, compiled by a person suitably qualified to the satisfaction of the Municipality, shall be submitted to the Municipality for approval prior to the submission of building plans.</p> <p>(2) The landscaping, in terms of the landscape development plan, shall be completed by completion of the development or any phase thereof. The continued maintenance of the landscape development shall be to the satisfaction of the Municipality.</p>
11	Street building lines	<p>(1) Provincial Road D25: As determined by Gauteng Department of Roads and Transport</p> <p>(2) The erf is subject to a line-of-no-access</p> <p>(3) Other streets: 5m</p>
12	Building restriction areas	As per approved site development plan
13	Parking requirements	Clause 28, Table G
14	Paving of traffic areas	All parts of the erf upon which motor vehicles may move or park, shall be provided with a permanent dust-free surface, which surface shall be paved, drained and maintained to the satisfaction of the Municipality.
15	Access to the erf	<p>(1) Entrances to and exits from the erf shall be sited, constructed and maintained to the satisfaction of the Municipality.</p> <p>(2) The erf is subject to a line-of-no-access.</p>

16	Loading and off-loading facilities	The loading and off-loading of goods shall take place within the boundaries of the erf.
17	Turning facilities	To be provided on the erf to the satisfaction of the Municipality.
18	Physical barriers	(1) Street boundaries: In accordance with a site development plan. (2) All other boundaries: A physical barrier shall be erected and maintained to the satisfaction of the Municipality.
19	Health measures	(1) Any requirements for air pollution-, noise abatement- or health measures set by Municipality shall be complied with to the satisfaction of the Municipality without any costs to the Municipality. (2) No air-conditioning units or compressors may be mounted to the exterior walls of buildings without the prior consent of the Municipality.
20	Outdoor advertising	Advertisements and/or sign boards shall not be erected or displayed on the erf without the approval of the Municipality in terms of municipal by-laws for outdoor advertising.
21	Detrimental soil conditions	An engineer shall be appointed before the approval of building plans, who shall design, specify and supervise structural measures for the foundations of structures, according to the soil conditions prevalent on the erf. On completion of the structures, he /she shall certify that all specifications have been met.
22	Open space	Not required
23	General:	In addition to the above conditions the erf and buildings thereon are further subject to the general provisions of the Tshwane Townplanning Scheme, 2008 (Revised 2014).