

**AGENDA of the  
Portfolio Committee: Investment & Infrastructure  
6 February 2023  
(Also the agenda for the Mayoral Committee Meeting: 14 February 2023)**

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7.

**IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF  
REMAINDER ERF 243 HERMANUS, ADJACENT TO ERF 6667 HERMANUS,  
SITUATED ON THE CORNER OF BALFOUR STREET AND HOSPITAL ROAD,  
WESTCLIFF, HERMANUS, TO VON ZEUNER PROPERTIES (PROPRIETARY)  
LIMITED**

**A Le Roux  
12 January 2023**

**Manager: Property Administration**

**(028) 316 - 5623**

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**1. Executive Summary**

To obtain approval in principle for the direct alienation of a portion of Remainder Erf 243 Hermanus ( $\pm 380\text{m}^2$  in extent) adjacent to Erf 6667 Hermanus, situated on the Corner of Balfour Street and Hospital Road, Westcliff, Hermanus, to the owner of the adjoining property, Von Zeuner Properties (Proprietary) Limited for parking purposes. See the locality plans attached hereto marked Annexure "A1" and "A2".

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Infrastructure and Planning  
Property Administration

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Creation and maintenance of a safe and healthy environment

**4. Delegated Authority**

None

**5. Legal Requirements**

- Local Government: Municipal Financial Management Act (Act 56 of 2003) ("MFMA")
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality, as amended

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## 6. Background/Discussion/Evaluation/Conclusion

### Background/Discussion

An application was received on behalf of Von Zeuner Properties (Proprietary) Limited, hereafter referred to as “the Applicant”, for the purchase of a portion of Remainder Erf 243 Hermanus ( $\pm 380\text{m}^2$  in extent) adjacent to Erf 6667 Hermanus, situated on the Corner of Balfour Street and Hospital Road, Westcliff, Hermanus, hereafter referred to as “the Property”.

The Applicant wishes to rezone his adjacent property, being Erf 6667 Hermanus and use the building on its property as a medical practice. In order to accommodate this, the Applicant must meet parking requirements and has now applied to purchase the Property for parking purposes.

There are sewer lines located in close proximity to the Property. The Engineering Services Department confirmed that a condition to the alienation must be that no structures of any kind (excluding a boundary wall or fence) may be erected thereon will suffice to protect the municipal services. The aforementioned condition will be included.

### Subsequent costs

The Applicant will be liable for the costs of the transaction which include, but not limited to, the application costs, valuation costs, closure of public open space, rezoning, subdivision and consolidation of the Property, transfer costs as well as the required Section 14 advertisement in terms of the MFMA and Administration of Immovable Property Policy.

### Evaluation

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following conditions of the said Policy will apply:

***Paragraph 7: “The transfer of ownership of immovable property must be fair, equitable, transparent, competitive (unless it is not applicable or unpractical e.g. non-viable immovable property) and consistent with the supply chain management policy of the Municipality in accordance with Section 14(5) of the MFMA.”***

Non-viable immovable property is defined in the relevant Policy as “a property that, owing to urban planning, physical constraints or extent, cannot be developed on its own or function as a separate entity and can

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*therefore only become functional if alienated or leased to an adjoining owner for usage in conjunction with the said owner's property."*

Whilst the remainder of the road reserve is planned for development as residential accommodation, due to the locality, shape, intended use and size of the Property, it cannot be developed independently, and thus it can be classified as a non-viable property. Non-viable property can in terms of the current Administration of Immovable Property Policy be alienated directly to adjoining property owner, subject to certain conditions.

**Paragraph 9.2: "The Municipality may transfer ownership or otherwise dispose of a non-viable immovable property, as non-exempted immovable property which can be of no practical use to any other person, directly to adjoining property owner(s), only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA:**

- (a) decided on reasonable grounds that the non-viable immovable property is not needed to provide the minimum level of basic municipal services;**
- (b) considered the fair market value of the immovable property and the economic and community value to be received in exchange for the immovable property in accordance with Section 14(2) of the MFMA, and**
- (c) has as a consequence to 9.2(a) and (b) above approved in principle that the immovable property may be transferred or disposed, provided that, when giving the in principle approval, it is recorded in the minutes the full reasons for the Municipality preferring such direct transfer."**

- (a) The comments received from the relevant departments indicate that the subject portion of municipal property is not needed for the provision of municipal services.
- (b) Boland Valuers determined the market related value on 15 June 2022 at an amount of R145.53/m<sup>2</sup> (one hundred forty-five rand and fifty-three cents) per square metre (VAT excluded). The valuation was done taking into consideration the size, shape, locality, zoning and proposed use (restriction) of the Property.
- (d) The reasons for preferred direct sale are discussed above and will subsequently be recorded in the minutes.

**Paragraph 28: "All costs pertaining to a transaction shall be borne by the successful bidder/purchaser, e.g. survey, advertisements, valuation, rezoning, relocation or provision of services where**

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***necessary, etc. The Municipality may, however, waive its right to claim the costs should it be to its advantage to bear the costs.***

The Applicant will be liable for the costs of the transaction which will include, but not be limited to, the application fee, valuation costs, removal of restrictive conditions (if any), rezoning and consolidation, closure of public open space, Section 14 advertisement and transfer costs.

***Paragraph 29: “Should existing services need to be relocated or secured by means of the registration of a servitude in favour of the Municipality as a result of the alienation of the immovable property, all related costs shall be for the account of the successful bidder/purchaser.”***

The Applicant will be liable for all cost in this regard should it be necessary.

***Paragraph 30: “Small areas of land such as closed roads or portions of public place sold to an adjacent owner must be consolidated with the existing property of the adjacent owner, unless circumstances exist which, in the opinion of the Municipality, make such consolidation undesirable.”***

A condition to this effect will be included in the Deed of Sale.

***Paragraph 32: “Save with prior approval, the immovable property alienated may only be used for the purpose for which it was originally sold and purposes permitted by town planning scheme regulations pertaining to such purposes.”***

A condition to this effect will be included in the Deed of Sale.

***Paragraph 33: “The agreement might contain a suspensive condition in respect of immovable property which is sold subject to approval in terms of land use planning legislation.”***

A condition to this effect will be included in the Deed of Sale.

***Paragraph 34: “A 10% deposit of the agreed/tendered purchase price will be due and payable by the purchaser/successful bidder within 10 days of date of request in writing thereof by the Municipality.”***

A condition to this effect will be included in the Deed of Sale.

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***Paragraph 35: "Interest on the purchase price, as from date of signature of the deed of sale, must be charged by the Municipality should payment or transfer be delayed due to an action or failure on the part of the successful bidder/ purchaser."***

A condition to this effect will be included in the Deed of Sale.

**B: Advertisement/Notification**

A pre-alienation advertisement in respect of the application for the alienation of the Property was published in the Village News on 18 November 2022 for a 30 (THIRTY) day objection/comment period. No objections/comments were received.

The necessary advertisement in terms of Section 14 of the MFMA will also be published after obtaining this in principle decision. The applicant will be liable for the costs of the Section 14 advertisement.

**Conclusion**

Considering the comments of the internal departments, as well as the above discussion, it is recommended that the direct alienation of the Property to the Applicant be approved in principle.

Furthermore, the Applicant will be liable for all cost involved to affect transfer of the Property in the deeds office. Subsequently the costs will entail, amongst others, the application costs, valuation costs, closure of public open space, rezoning, subdivision and consolidation, Section 14 advertisement and the transfer costs.

**7. Financial Implications**

The Municipality stands to gain a market related purchase price of R145.53/m<sup>2</sup> (one hundred forty-five rand and fifty-three cents) per square metre (VAT excluded).

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

**Senior Manager: Expenditure and Assets, Mr J Vorster - (028) 313 8046**

*"Remainder of Erf 243 Hermanus, is currently reflected in the fixed asset register for PPE: Land as part of the greater commonage at an overall value*

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*of R9'433'673-05 as at 30 June 2022. Once the proposed alienation has been concluded the ±380m<sup>2</sup> portion of the erf will have to be written out of the fixed asset register at the applicable selling price in order to account for actual gain/ (loss) on the disposal of an asset.*

*There is no objection against the proposed alienation as the application complies with the Administration of Immovable Property Policy."*

**Manager: Housing Planning & Project Management: Ms A Jacobs – (028) 313 5075**

*"We have no objection as the relevant portion does not form part of the planned housing development."*

**Senior Town Planner: Ms H van der Stoep– (028) 313 8906**

*"The portion of land towards the east of Balfour Street is too small for residential erven and therefore not included. The portion applied for is to accommodate parking for the proposed business. The Westdene area are earmarked for economic opportunities in terms of the Growth Management Strategy, 2010. The applicant will have to comply with a closure, rezoning and consolidation.*

*It is recommended."*

Comments from Property Administration: The initial part of the comment is a response to the question on why the portion of land was not included in the planning for housing development.

**Manager: Engineering Services: Mr R Andrew – (028) 312 5073**

*"If the application is approved:*

- 1. The developer should identify and locate all municipal services located on the property under consideration. According to the GIS system a several sewer lines are located on and in close vicinity to the property.*
- 2. The existing municipal services have to stay intact and can't be compromised. If any of the existing services need to be relocated, it will be done by the applicant' at his cost, and to the satisfaction of the Director: Infrastructure and Planning.*
- 3. The developer will only utilize the existing roads/accesses and no new additional roads/accesses will be created without the written approval of the Senior Operational Manager: Hermanus.*
- 4. The developer will be the responsible for the payment of bulk contributions levies in line with the relevant policy and approved tariffs:*
- 5. The developer will be responsible for the construction and provision of all municipal services to the proposed development including all connection*

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*fees and investigation levies for municipal services.”*

Mr Andrew was asked whether if approved would the sewer lines need to be moved or would a condition that no structures be erected on the property and that we may enter it for repairs etc. at any time suffice to keep the sewer service line intact? The Manager: Engineering Services confirmed that:

*“There [is] no need to move the lines. The second option - a condition that no structures (apart from boundary wall/fence be erected on the property and that we may enter it for repairs etc at any time would suffice.”*

**Senior Manager: Building Services: Mr L Coetzee – (028) 313 8091**

*“Building Control has no objection. It is advisable that access to the applicable parking area is from erf 6667 because the portion of land is on the corner of 2 streets. If access to applicable portion is not possible, then Traffic Department must also comment.”*

**Senior Superintendent: Operations: Mr P de Gruchy – (028) 313 8094**

*“Kindly assist if the previous entrance to erf 6667 will still be utilised towards the applications new parking allocations. If not, where will the entrance be towards the parking area, will it be from Belfour or Hospital Street.”*

The Senior Town Planner confirmed that, if approved, a Site Development Plan which includes parking will have to be approved in due course and the applicant confirmed that they would be happy to abide by the Municipality’s wishes in terms of parking and access. The Senior Superintendent: Operations agreed to wait and analyse the plans once received.

**Senior Manager: Operational Services: Mr T Marx – (028) 313 8092**

*“The Department: Operational Services do not have any objection with regards to this application.”*

**Senior Superintendent Projects Electrical Services Hermanus: Mr J Klem – (028) 316 5625**

*“There are no comments on the proposal.”*

## **10. Annexures**

Annexure A1 Locality Map 1  
Annexure A2: Locality Map 2

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**RECOMMENDATION TO THE COUNCIL:**

1. that the direct alienation of a portion of Remainder Erf 243 Hermanus ( $\pm 380\text{m}^2$  in extent) adjacent to Erf 6667 Hermanus, situated on the corner of Balfour Street and Hospital Road, Westcliff, Hermanus, to the owner of the adjoining 6667 Hermanus, Von Zeuner Properties (Proprietary) Limited, for parking purposes, at an amount of R145.53/m<sup>2</sup> (one hundred forty-five rand and fifty-three cents per square metre) (VAT excluded) be **approved in principle**;
2. that it be noted that the direct alienation is possible as the said portion of Remainder Erf 243 Hermanus can be classified as a non-viable property;
3. that, subject to the approval in 1 above, a public participation process be followed at the cost of the applicant/purchaser;
4. that it be noted that a condition for the alienation will be that the said portion of Remainder Erf 243 Hermanus must be consolidated with the adjoining property of Von Zeuner Properties (Proprietary) Limited, being Erf 6667 Hermanus, simultaneous with the registration of the transfer;
5. that the purchaser registers a servitude in favour of the Municipality for the sewer lines on the Property against the title deed of the Property, at its own cost, simultaneous with the registration of the transfer;
6. that a condition be registered against the title deed of the to be consolidated property that the portion of property envisaged to be transferred may only be used for parking purposes and no structures, excluding a boundary fence or wall, may be erected thereon;
7. that the alienation of said portion of Remainder Erf 6667 Hermanus be subject to a suspensive condition that the applicant/purchaser obtains approval for all the required land use rights, which may include, the closure of public open space, rezoning, subdivision and consolidation;
8. that all the costs pertaining to the transaction, e.g. application costs, valuation costs, closure of public open space, rezoning, subdivision and consolidation, advertisement and the related costs, etc. be paid by the Applicant/purchaser, Von Zeuner Properties (Proprietary) Limited; and
9. that it be noted that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

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<b>RESPONSIBLE OFFICIAL:</b>	<b>R MARINUS</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>14 MARCH 2023</b>
<b>TARGET DATE TO INFORM APPLICANT:</b>	<b>7 MARCH 2023</b>
<b>TARGET DATE TO INFORM OBJECTOR:</b>	<b>N/A</b>

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7.

**IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF  
REMAINDER ERF 243 HERMANUS, ADJACENT TO ERF 6667 HERMANUS,  
SITUATED ON THE CORNER OF BALFOUR STREET AND HOSPITAL ROAD,  
WESTCLIFF, HERMANUS, TO VON ZEUNER PROPERTIES (PROPRIETARY)  
LIMITED**

**A Le Roux  
12 January 2023**

**Manager: Property Administration**

**(028) 316 - 5623**

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**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE  
PORTFOLIO COMMITTEE ON 6 FEBRUARY 2023, WHICH COMMITTEE  
RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

1. that the direct alienation of a portion of Remainder Erf 243 Hermanus ( $\pm 380\text{m}^2$  in extent) adjacent to Erf 6667 Hermanus, situated on the corner of Balfour Street and Hospital Road, Westcliff, Hermanus, to the owner of the adjoining 6667 Hermanus, Von Zeuner Properties (Proprietary) Limited, for parking purposes, at an amount of R145.53/m<sup>2</sup> (one hundred forty-five rand and fifty-three cents per square metre) (VAT excluded) be **approved in principle**;
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3. that, subject to the approval in 1 above, a public participation process be followed at the cost of the applicant/purchaser;
4. that it be noted that a condition for the alienation will be that the said portion of Remainder Erf 243 Hermanus must be consolidated with the adjoining property of Von Zeuner Properties (Proprietary) Limited, being Erf 6667 Hermanus, simultaneous with the registration of the transfer;
5. that the purchaser registers a servitude in favour of the Municipality for the sewer lines on the Property against the title deed of the Property, at its own cost, simultaneous with the registration of the transfer;
6. that a condition be registered against the title deed of the to be consolidated property that the portion of property envisaged to be transferred may only be used for parking purposes and no structures, excluding a boundary fence or wall, may be erected thereon;
7. that the alienation of said portion of Remainder Erf 6667 Hermanus be subject to a suspensive condition that the applicant/purchaser obtains approval for all the required land use rights, which may include, the closure of public open space, rezoning, subdivision and consolidation;

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8. that all the costs pertaining to the transaction, e.g. application costs, valuation costs, closure of public open space, rezoning, subdivision and consolidation, advertisement and the related costs, etc. be paid by the Applicant/purchaser, Von Zeuner Properties (Proprietary) Limited; and
9. that it be noted that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

<b>RESPONSIBLE OFFICIAL:</b>	<b>R MARINUS</b>
<b>TARGET DATE FOR IMPLEMENTATION:</b>	<b>14 MARCH 2023</b>
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ANNEXURE A1 – LOCALITY MAP 1



