

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

19.

KLEINMOND: IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 6559 KLEINMOND (SITUATED ON THE CORNER OF HEIDE STREET AND PROTEA AVENUE, PROTEADORP), 575M² IN EXTENT, BY MEANS OF A COMPETITIVE PROCESS

**A Le Roux
28 November 2022**

Manager: Property Administration

(028) 316-5623

1. Executive Summary

To obtain in principle approval for the alienation of Erf 6559 Kleinmond, 575m² (five hundred and seventy-five square metres) in extent (the "Property"), for residential purposes by means of a competitive process.

The locality of Erf 6559 Kleinmond is indicated on locality plans attached per "Annexure A" and "Annexure B".

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
The encouragement of structured community participation in the matters of the municipality

4. Delegated Authority

None

5. Legal Requirements

- Administration of Immovable Property Policy of the Overstrand Municipality, as amended
- Local Government: Municipal Finance Management Act, Act 56 of 2003 ("MFMA")
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Municipal Supply Chain Management Regulations (Notice 868 of 30 May 2005)
- Overstrand Municipality Supply Chain Management Policy, as amended

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6. Background/Discussion/Evaluation/Conclusion

Background

An application was received to purchase the Property for the purposes of either:

- A mixed use of business and residential use; or
- Solely residential use; or
- Solely business use.

The Property is 575m² (five hundred and seventy-five square metres) in extent, vacant and situated on the corner of Heide Street and Protea Avenue, Proteadorp, Kleinmond. Services are available in the vicinity of the Property.

The Property is zoned Residential Zone 1: Single Residential. As there is a need for residential erven and as the Property is suited for residential purposes, it is recommended that it be made available in the open market by means of a competitive process for residential purposes, but that no restriction be given as to any possible rezoning of the Property in the future.

Discussion

The Previous Senior Manager: Kleinmond Administration supports business use, or a mixture of residential and business due to a lack of business areas in Proteadorp. However, the Senior Town Planner indicated that a split usage will not be supported but a complete rezoning for business purposes will not be problematic, provided that the correct processes are followed, as it is in the business corridor. The only way to achieve a split zoning will be a subdivision of the Property which is not possible in this case.

There has also been a previous enquiry whether this property could be used for community purposes. Feedback was received from the Manager: Social Development who commented that the Property is not ideally suited for social development purposes because it is located on a fairly busy road and which is not suitable for a play park and there is also a play park in Kollossie Street, one street East from the Property. The existing play park is indicated on the attached locality map. The Manager: Social Development also commented that the Property is relatively small and therefore not ideal for educational or other social development purposes.

Should the Property be made available for residential purposes, it can readily be made available without any additional time and or costs spent preparing the Property. If the Property had to be made available for business purposes, it would be prudent that the Municipality attends to the rezoning of the Property itself because the valuation will be lower if a potential purchaser is

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required to do the rezoning. A rezoning of the Property by the Municipality could take months to complete and will delay the sale of the Property. In this instance it is recommended that the Property be made available for residential purposes without any restriction against the title deed of the Property. If sold with a restriction for residential purposes, no owner would be able to apply for a change in the rezoning in future because the Municipality would then be going against the specifications and subsequent award of the tender. Therefore, it is recommended that the Property be sold for residential purposes as is, with no restrictive condition in the title deed.

It is also recommended that, regardless of the purpose of any sale, a servitude of 3m be registered along the Eastern boundary of the property to accommodate the sewer line running along the boundary, as well as an additional servitude for the water line, at the cost of the purchaser.

Evaluation

A. Evaluation in terms of the Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply to this report:

Paragraph 9.1(a): “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA decided on reasonable grounds that the immovable property is not needed to provide the minimum level of basic municipal services.”

The Senior Manager: Operational Services (Kleinmond) confirmed that a sewer line is located along the Eastern boundary of the Property and that it can be accommodated by the registration of a servitude. Accordingly, the sewer service provision should not be negatively affected by the proposed alienation.

The comments received from the relevant officials confirmed that the Property is not needed for the provision of the minimum level of basic municipal services.

Paragraph 9.1(b): “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA 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.”

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Boland Valuers determined the market related value of the Property on 1 October 2022 at an amount of **R230,000.00 (TWO HUNDRED AND THIRTY THOUSAND RAND) (VAT excluded)**.

Paragraph 9.1(c): “The Municipality may transfer ownership or otherwise dispose of a non-exempted immovable property only after the Municipal Council has, in terms of sections 14(2)(a) and (b) of the MFMA has as a consequence to 9.1(a) and (b) above approved in principle that the immovable property may be transferred or disposed of, and the method of disposal or transfer.”

The purpose of this report is to request in principle approval from Council for the alienation of the Property by means a competitive process.

Paragraph 15.1: “The transfer of immovable property must, except in the case of non-viable immovable property, be affected by means of competitive process, which may include a public or closed tender, auction or proposal call.”

It is recommended that the Property be alienated by means of a competitive process.

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

The successful bidder will be liable for all costs pertaining to the transaction, excluding the cost for the valuation of the property. Costs for the successful bidder will include, but is not limited to, a Section 14 advertisement, transfer costs, connection of services, servitude registration costs and any other costs pertaining to the transaction.

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.”

No services need to be relocated.

A 3metre servitude along the Eastern boundary of the Property must be registered, at the cost of the successful bidder, against the title deed of the Property to accommodate the sewer line running along the boundary.

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Provision will also have to be made at the cost of the successful bidder for the waterline located on a portion of the western side of the Property.

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 clause to this effect will be included in any deed of sale to be entered into between the Municipality and the successful bidder, but will not be made a restriction in the title deed.

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 clause to this effect will be included in any deed of sale to be entered into between the Municipality and the successful bidder.

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 clause to this effect will be included in the deed of sale to be entered into between the Municipality and the successful bidder.

B. Advertisement/Notification

The necessary advertisement in terms of Section 14 of the MFMA will be published after the tender is duly awarded. The successful bidder will be liable for the costs of the Section 14 advertisement.

Conclusion

It is recommended that Erf 6559 Kleinmond, 575m² be alienated for residential purposes by means of a competitive process, at not less than the market related value.

Furthermore, it is recommended that the successful bidder/ be liable for all costs, excluding the costs for the valuation of the Property. Subsequent costs will entail, but not be limited to, the aforementioned Section 14 advertisement, servitude registration costs, transfer costs and connection of services.

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7. Financial Implications

The Municipality stands to gain a market related purchase price to the minimum of **R230,000.00 (TWO HUNDRED AND THIRTY THOUSAND RAND) (VAT excluded)** for the Property.

8. Staff Implications

None.

9. Comments from other Departments, Divisions and Administrations

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

“Erf 6559 (±575m² in extent) Kleinmond, is reflected in the fixed asset register for PPE: Land at a value of R25’000-00 as at 30 June 2022. As soon as the proposed alienation has been concluded the erf will have to be written out of the fixed asset register at the applicable selling price in order to account for the actual gain / (loss) on the disposal of the portion of an asset.

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

(Previous) Senior Manager: Kleinmond Administration: Mr D Lakey – (028) 271 8413

“I support the application in so far as it will be utilised for business purposes, or a combination of residential and business use. The Proteadorp area desperately lacks land for business purposes.”

Comments from the Property Administration Department: The Property can only be made available at this time for residential purposes as discussed in the report.

Senior Manager: Operational Services: Mr D van Rhodie – (028) 271 8431

“Operational Services Kleinmond have no objection to the alienation of the property. Property would be able to connect to all services.

It is also recommended that [a] servitude of 3m be registered along the Eastern boundary of the property to accommodate the sewer line running along the boundary.”

Comments from the Property Administration Department: Provision will also have to be made for the water pipeline situated on the Property. This can also

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be in the form of a servitude or otherwise by means of relocating the pipe.

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

“The erf is zoned Residential Zone 1, however it is located in the Business Corridor as approved by Council. Therefore, it can remain Residential and or rezoned for Business Zone 3: Local Business. Please note that a split zoning will not be supported, the prospective buyer will have to use for the abovementioned and or subdivide the erf if the intention is to have both a residential and business erf.”

The Senior Town Planner was asked whether she would like to make a recommendation on either residential or business use and confirmed that residential use has no additional costs and that business use would require Town Planning applications, but neither option is favoured above the other.

“He or she will have to do a rezoning if to be used for business, please note it is not known if there are any restrictive conditions limiting the use of the erf to residential only. The buyer will have to address this if the intention is to use the erf for business purposes.”

Environmental Officer Kleinmond: Ms T Zweig – (028) 271 8420

“The EMS has no objection to this application. The property is within the urban edge and zoned as Residential 1, there are no Environmental Management Overlay Zones associated with the property. The EMS has no objection to any of the zoning proposed in the application i.e. Mixed use business/residential, residential only, business only.”

Manager: Engineering Services: Mr R Andrew – (028) 313 5073

“If the application is approved:

- 1. The developer should identify and locate all municipal services located on the property under consideration. The assistance of Kleinmond Operational and Electrical Departments may be required. According to the GIS system a water line and sewer line 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. Servitudes must be registered for all municipal bulk and link services on this property.*
- 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: Kleinmond.*

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4. *The developer will be responsible for the construction and provision of all municipal services to the proposed development including all connection fees and investigation levies for municipal services.*

Senior Superintendent Metering & Distribution: Mr R Buckle – (028) 271 8484

“The available kVA is (9.2) for the plot. No further comment.”

Manager: Building Control: Mr L Coetzee – (028) 313 8091

“Building Control has no objection. The building plan application for the proposed structure/building on site must comply with all applicable law.”

Manager: Social Development: Mr G Smit – (028) 313 8035

“The property is Zoned as Residential Zone 1: Single Residential. From a social development perspective, the concern will always be to preserve spaces for educational purposes, play parks, or other social development related purposes. Erf 6551 is on a fairly busy road and the property would therefore not be ideally suitable for a play park, there is also a play park in Kollossie Street, one street East from Protea Avenue. The Erf is also relatively small and would therefore not be ideal for educational or other social development purposes.

Based on these considerations, the social development department does not have any objections.”

10. Annexures

Annexure A: Locality Map 1

Annexure B: Locality Map 2

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of Erf 6559 Kleinmond, 575m² (five hundred and seventy-five square metres) in extent for residential purposes by means of a competitive process at a market related price **be approved in principle**;
2. that the successful bidder registers a 3m servitude along the Eastern boundary of the property as well as a servitude on the Western side of the property in favour of the Municipality for the sewer and water lines against the title deed of the Property, at its own cost, simultaneous with the registration of the transfer;

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3. that all the costs pertaining to the transaction, for example the transfer costs, water, sewer and electricity connections and the section 14 advertisement, but excluding the valuation costs, be paid by the successful bidder/purchaser; and
4. that it is hereby confirmed by Council that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of paragraph 5 of the Administration of Immovable Property Policy approved by Council on 25 November 2015 and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

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

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**A Le Roux
28 November 2022**

Manager: Property Administration

(028) 316-5623

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 alienation of Erf 6559 Kleinmond, 575m² (five hundred and seventy-five square metres) in extent for residential purposes by means of a competitive process at a market related price **be approved in principle**;
2. that the successful bidder registers a 3m servitude along the Eastern boundary of the property as well as a servitude on the Western side of the property in favour of the Municipality for the sewer and water lines against the title deed of the Property, at its own cost, simultaneous with the registration of the transfer;
3. that all the costs pertaining to the transaction, for example the transfer costs, water, sewer and electricity connections and the section 14 advertisement, but excluding the valuation costs, be paid by the successful bidder/purchaser; and
4. that it is hereby confirmed by Council that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of paragraph 5 of the Administration of Immovable Property Policy approved by Council on 25 November 2015 and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

RESPONSIBLE OFFICIAL :

R MARINUS

TARGET DATE FOR IMPLEMENTATION :

14 MARCH 2023

TARGET DATE TO INFORM APPLICANT :

7 MARCH 2023

TARGET DATE TO INFORM OBJECTOR :

N/A

ANNEXURE A – LOCALITY MAP 1



ANNEXURE B - LOCALITY MAP 2

