

**AGENDA of the
Portfolio Committee: Investment & Infrastructure
2 June 2022
(Also the agenda for the Mayoral Committee Meeting: 27 June 2022)**

**5.
APPLICATION TO PURCHASE: A PORTION OF ERF 1431 SANDBAAI (ROAD
RESERVE), ADJACENT TO ERF 1425 SANDBAAI (1 NICO VAN DER MERWE
STREET, SANDBAAI) – RS & H DONALD**

7/2/3/2

A Le Roux

Manager: Property Administration

10 May 2022

(028) 316 - 5623

1. Executive Summary

To consider the application received from RS & H Donald (the owners of Erf 1425 Sandbaai) to purchase a portion of Erf 1431 Sandbaai ($\pm 60\text{m}^2$ in extent) (Road reserve) adjacent to Erf 1425 Sandbaai, situated at 1 Nico van der Merwe Street, Sandbaai for gardening and parking purposes and to erect a boundary wall. See the locality plans attached hereto marked "Annexures A1 & 2".

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
Promotion of tourism, economic and social development

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) ("MATR")
- Administration of Immovable Property Policy of the Overstrand Municipality, as amended

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6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

RS & H Donald, hereafter referred to as “the Applicants”, applied to purchase a portion of Erf 1431 Sandbaai ($\pm 60\text{m}^2$ in extent), hereafter referred to as “the Property”, for gardening and parking purposes and to erect a boundary wall.

In the future the Applicants also plan to build a garage on the to be consolidated erf after the necessary building plan approvals therefore is obtained.

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 therefore only become functional if alienated or leased to an adjoining owner for usage in conjunction with the said owner’s Property.”

The Property can be classified as a non-viable immovable property due to the location, shape, size, proposed use thereof and due to the Applicants being the only direct neighbour that can use the Property for the purpose of parking, gardening and a boundary wall.

Paragraph 9.2: “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:

- (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***

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- 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 internal departments indicated that the Property must be kept for future municipal services and/or storm water management. The Municipality is not permitted to alienate property which is or can be used for municipal services.
- (b) No valuation will be done as the alienation of the Property is not supported.
- (c) The request will be not to approve the alienation.

Conclusion

Taking the comments of the internal departments, as well as the above discussion, into consideration, it is recommended that the alienation of the Property to the Applicants not be approved.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Senior Manager: Hermanus Administration:: Mr A Wyngaard – (028) 313 8112

“I have no objection.”

Senior Manager: Operational Service Hermanus: Mr T Marx – (028) 313 8092

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

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**Senior Superintendent Projects: Electrotechnical Services: Hermanus:
Mr J Klem - (028) 316 5625**

"There are no comments on the proposal."

Town Planner: Mr H Boshoff – (028) 313 8900

"1. Erf 1431 is zoned Transport Zone 2: Road and Parking.

2. The proposal is not supported for the following reasons:

- The bulk of the dwelling is situated at the rear of the property that leaves more than ample space at the front of the property for parking and gardening purposes.*
- The consolidation of the section of road with Erf 1425 will result in the erf having an unwanted and unpractical cadastral layout.*
- The new cadastral layout will be out of character with the cadastral layouts of the surrounding erven.*
- It does not make sense that the Applicants only applies for that section of the road reserve."*

**Assistant Chief Fire Safety & Health and Safety: Mr E Solomons – (028)
312 8978**

"The Fire Department has no objection."

Building Control Officer: Building Services: Mr G Coetzee (028) 313 8085

"A building plan application is required for the proposed wall and such application must comply with all applicable law."

**Senior Superintendent: Operations: Traffic Services: P de Gruchy (028)
313 8094**

"There are no objections towards this application from my office. As long as no vehicles will be obstructed on any service road."

Manager: Engineering Services: Mr R Andrew – (028) 312 8972

"The application is not supported. The De Zandt development is in the implementation/construction stage. Unregistered Erf 2909 (part of the De Zandt development) has been earmarked as open space and it's anticipated that Erf 2909 and the adjacent road space (forming part of this application) may be required for municipal services and/or storm water management."

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Environmental Audit Officer: Hermanus: Ms H Fortune (028) 316 5610

“The Environmental Management Section has no objection to this application.”

10. Annexures

Annexures A1 & 2: Locality Maps

RECOMMENDATION TO THE COUNCIL:

that the alienation of a portion of Erf 1431 Sandbaai ($\pm 60\text{m}^2$ in extent) to the owners of the adjoining Erf 1425 Sandbaai, RS & H Donald, **not be approved** for the following reasons:

- The consolidation of the section of road with Erf 1425 Sandbaai will result in the property having an unwanted and unpractical cadastral layout and the proposed new cadastral layout will be out of character with the cadastral layouts of surrounding erven.
- The De Zandt Development is in the implementation/construction stage, and it is anticipated that Erf 2909 and the adjacent road reserve (the portion of Erf 1431 Sandbaai applied for) may be required for municipal services and/or storm water management.

RESPONSIBLE OFFICIAL:	W MURTZ
TARGET DATE FOR IMPLEMENTATION:	14 AUGUST 2022
TARGET DATE TO INFORM APPLICANT:	27 AUGUST 2022
TARGET DATE TO INFORM OBJECTOR:	N/A

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7/2/3/2

A Le Roux

Manager: Property Administration

10 May 2022

(028) 316 - 5623

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 2 JUNE 2022, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION TO THE COUNCIL:

that the alienation of a portion of Erf 1431 Sandbaai ($\pm 60\text{m}^2$ in extent) to the owners of the adjoining Erf 1425 Sandbaai, RS & H Donald, **not be approved** for the following reasons:

- The consolidation of the section of road with Erf 1425 Sandbaai will result in the property having an unwanted and unpractical cadastral layout and the proposed new cadastral layout will be out of character with the cadastral layouts of surrounding erven.
- The De Zandt Development is in the implementation/construction stage, and it is anticipated that Erf 2909 and the adjacent road reserve (the portion of Erf 1431 Sandbaai applied for) may be required for municipal services and/or storm water management.

RESPONSIBLE OFFICIAL:

W MURTZ

TARGET DATE FOR IMPLEMENTATION:

14 AUGUST 2022

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N/A



