

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 November 2016
(Also the agenda for the Mayoral Committee Meeting : 2 December 2016)**

**5.
HERMANUS: IN PRINCIPLE APPROVAL FOR THE ALIENATION OF A PORTION
OF ERF 243, MOUNTAIN DRIVE, NORTHCLIFF, HERMANUS TO GJ & E FOURIE**

7/2/3/2/

Anja Kotze

(028) 316 - 3724

Hermanus Administration

12 October 2016

1. Executive Summary

To obtain approval in principle for the direct alienation of a portion of Erf 243 Hermanus, $\pm 126\text{m}^2$, to the owner of Erf 4453 Hermanus (8 Mountain Drive), Mr GJ & Mrs E Fourie.

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
Promotion of tourism, economic and social development

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
- Municipal Asset Transfer Regulations (R. 878 of 2008)

6. Background/Discussion/Evaluation/Conclusion

Background/Discussion

An application was received from Mr G Fourie, the owner of 8 Mountain Drive, Hermanus, for the purchase of a portion of Erf 243 Hermanus ($\pm 126\text{m}^2$) adjoining his property, as indicated on the locality map attached hereto marked Annexure A.

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The subject property applied for is a portion of road reserve adjacent to the Erf 4453 Hermanus, situated on 8 Mountain Drive as indicated in orange on the attached beacon certificate attached hereto marked Annexure B. According to the application, the one boundary of the property is approximately 8.70 meters from the sidewalk (beacon A on the beacon certificate attached) and the other boundary approximately 2.70 meters from the sidewalk (beacon C on the beacon certificate attached). This means that should the applicant build his wall on the boundary of the property, it will be a very skew wall and not esthetical pleasing. The applicant applied to purchase this subject portion of road reserve in order to build a wall that is in line with the road and road reserve which will be esthetically pleasing. The main purpose however for the erection of a wall in front of his property is for safety and security reasons. The Applicant and his wife are elderly people who have had several sleepless nights due to vagrants knocking at their door day and night.

Due to the locality, use and size of the portion of the property applied for, it can be classified as a non-viable property which can in terms of the amended Administration of Immovable Property Policy be alienated directly to the adjoining property owner.

Subsequent costs

The purchaser will be liable for the costs of the valuation, the subdivision, possible closure of any public place/road, consolidation and rezoning of the property as well as the required Section 14 advertisement in terms of the Municipal Finance Management Act and Administration of Immovable Property Policy. This will have the effect that the registration of the transfer in the Deed Office will be delayed as the transfer will only be possible after the successful subdivision of the property.

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.”

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The subject portion of Erf 243 Hermanus can be classified as a non-viable immovable property due to the location, size and proposed use thereof.

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 comments received from the relevant departments indicate that the subject portion of municipal 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, 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.”*

Boland Valuers determined the market related value in October 2016 at an amount of R698.00 (SIX HUNDRED AND NINETY EIGHT RAND) per square metre (VAT excluded). The valuation was done taking into consideration the size, locality, zoning and proposed use of the property.

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”*

The subject portion of Erf 243 Hermanus can be classified as a non-viable immovable property due to its locality, size and proposed use thereof by the adjoining owner.

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.”*

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The purchaser will be liable for all costs which include, but are not limited to, the costs for the valuation, subdivision and possible consolidation, Section 14 advertisement, transfer costs and the rezoning of the property.

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 purchaser shall 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.

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.”

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

B: Advertisement/Notification

The necessary advertisement in terms of Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003) will be placed after obtaining this in principle decision. The purchaser will be liable for the costs of the Section 14 advertisement.

Conclusion

Taking the comments of our internal departments into consideration, it is recommended that the direct alienation of a portion of Erf 243 Hermanus, ±126m², to the owner of Erf 4453 Hermanus (8 Mountain Drive), Mr GJ & Mrs E Fourie be approved in principle.

Furthermore, it is recommended that the purchaser be liable for all cost involved to affect transfer of the property in the deeds office. Subsequently the costs will entail the subdivision, possible closure, consolidation, rezoning, Section 14 advertisement, transfer costs.

7. Financial Implications

The Municipality stands to gain the market related purchase price of R698.00 (SIX HUNDRED AND NINETY EIGHT RAND) per square metre (VAT excluded). With a size of ±126m² the expected purchase price will be approximately R87,948.00 (EIGHTY SEVEN NINE HUNDRED AND FOURTY EIGHT RAND) (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

The full extent of Erf 243, Hermanus, is currently reflected in the Fixed Asset Register for Property, Plant and Equipment: Land with a carrying value of R11'289'203. The disposal of the portion adjacent to Erf 4453 will have to be accounted for at the selling price in order to adjust the carrying value of the remaining portion of Erf 243 in the Fixed Asset Register.

There is no objection as the application complies with the Administration of Immoveable Property Policy.

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Senior Manager Operational Services (Hermanus): Mr P Burger – (028) 313 8092

No objection.

Senior Townplanner: Mrs H van der Stoep – (028) 313 8906

In principle no problem. Please note: It entails an application for road closure, subdivision, consolidation and rezoning.

Senior Manager Engineering Services: Mr D Hendriks: - (028) 313 8245

No comments.

Senior Superintendent Projects (Hermanus): Mr J Klem – (028) 313 8000

The electrical department has no objections towards the abovementioned sale/lease. However keep in mind that the supply cable to erf 4453 and a streetlight cable feeding the streetlight on the corner may cross this piece of land, therefore before any trenching commences for the foundation of the wall contact the Electrical Department to point out the cables.

Environmental Officer (Hermanus): Mrs P Aplon – (028) 316 3724

This office has no objection to the proposed land sale/lease of a portion of Erf 243 adjacent to Erf 4453 HNC.

Chief Fire and Disaster Management: Mr L Smith – (028) 313 5041

Fire & Rescue have no objection.

Chief Traffic and Licences: Mr R Fraser – (028) 313 8165

I refer to our on-site inspection. I have no objection to the proposed sale and erection of the boundary wall subject thereto that the stop street line adjacent to the property be moved forward to improve the visibility of traffic.

10. Annexures

Annexure A: Locality plan

Annexure B: Beacon certificate

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RECOMMENDATION TO THE COUNCIL:

1. that the direct alienation of a portion of Erf 243 Hermanus (adjacent to Erf 4453 Hermanus), ±126m² in extent, for the erection of a boundary wall to the owners of the adjoining erf, Mr GJ & Mrs E Fourie, at an amount of R698.00 (SIX HUNDRED AND NINETY EIGHT RAND PER SQUARE METRE) (VAT excluded) be **approved in principle**;
2. that Council take cognisance of the fact that the direct alienation is only approved as the subject portion of Erf 243 Hermanus is classified as a non-viable property;
3. that the abovementioned approval in principle be subject to a public participation process being followed due to the non-viability of the property;
4. that the subject portion of Erf 243 Hermanus must be consolidated with the adjoining property of Mr GJ & Mrs E Fourie, being Erf 4453 Hermanus;
5. that the alienation of the subject portion of Erf 243 Hermanus, be subject to obtaining the necessary closure, subdivision, rezoning and consolidation approvals;
6. that all the costs pertaining to the transaction, e.g. valuation costs, subdivision, consolidation, closure of public road, rezoning, transfer and related costs, advertisements, etc., be paid by the purchaser;
7. that the purchaser must contact the Electrical Department to point out the position of electrical cables before any trenching commences for the foundation of the wall to be built by the purchaser;
8. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith 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); and
9. that the Municipal Manager be authorised to sign all documents relating to the alienation and transfer of the subject portion of Erf 243 Hermanus.

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RESPONSIBLE OFFICIAL :	A KOTZE
TARGET DATE FOR IMPLEMENTATION :	PROCESS
TARGET DATE TO INFORM APPLICANT :	9 DECEMBER 2016
TARGET DATE TO INFORM OBJECTOR :	N/A

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7/2/3/2

Anja Kotze

(028) 316 3724

Hermanus Administration

12 October 2016

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
22 NOVEMBER 2016, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

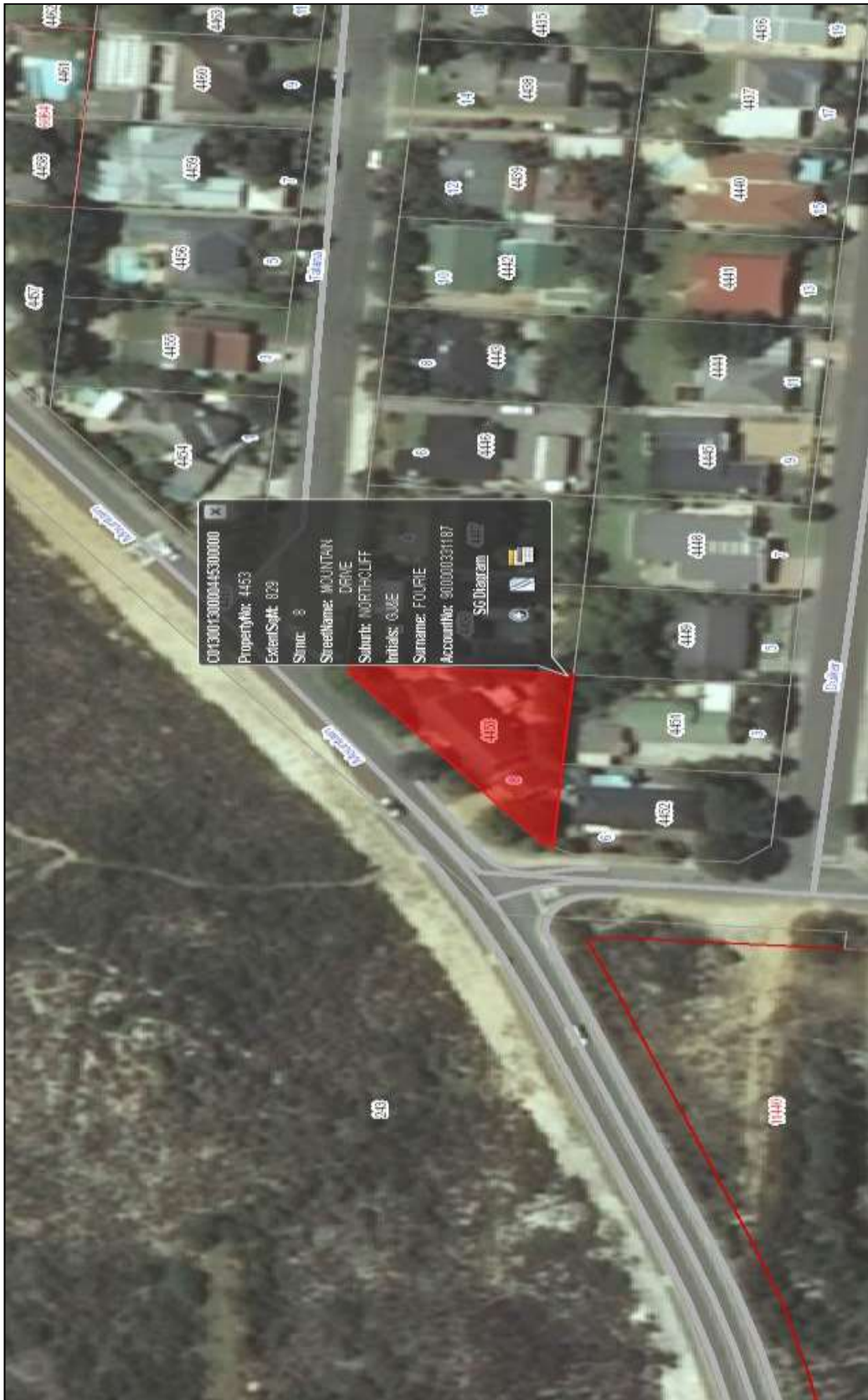
RECOMMENDATION TO THE COUNCIL:

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2. that Council take cognisance of the fact that the direct alienation is only approved as the subject portion of Erf 243 Hermanus is classified as a non-viable property;
3. that the abovementioned approval in principle be subject to a public participation process being followed due to the non-viability of the property;
4. that the subject portion of Erf 243 Hermanus must be consolidated with the adjoining property of Mr GJ & Mrs E Fourie, being Erf 4453 Hermanus;
5. that the alienation of the subject portion of Erf 243 Hermanus, be subject to obtaining the necessary closure, subdivision, rezoning and consolidation approvals;
6. that all the costs pertaining to the transaction, e.g. valuation costs, subdivision, consolidation, closure of public road, rezoning, transfer and related costs, advertisements, etc., be paid by the purchaser;
7. that the purchaser must contact the Electrical Department to point out the position of electrical cables before any trenching commences for the foundation of the wall to be built by the purchaser;
8. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith 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); and

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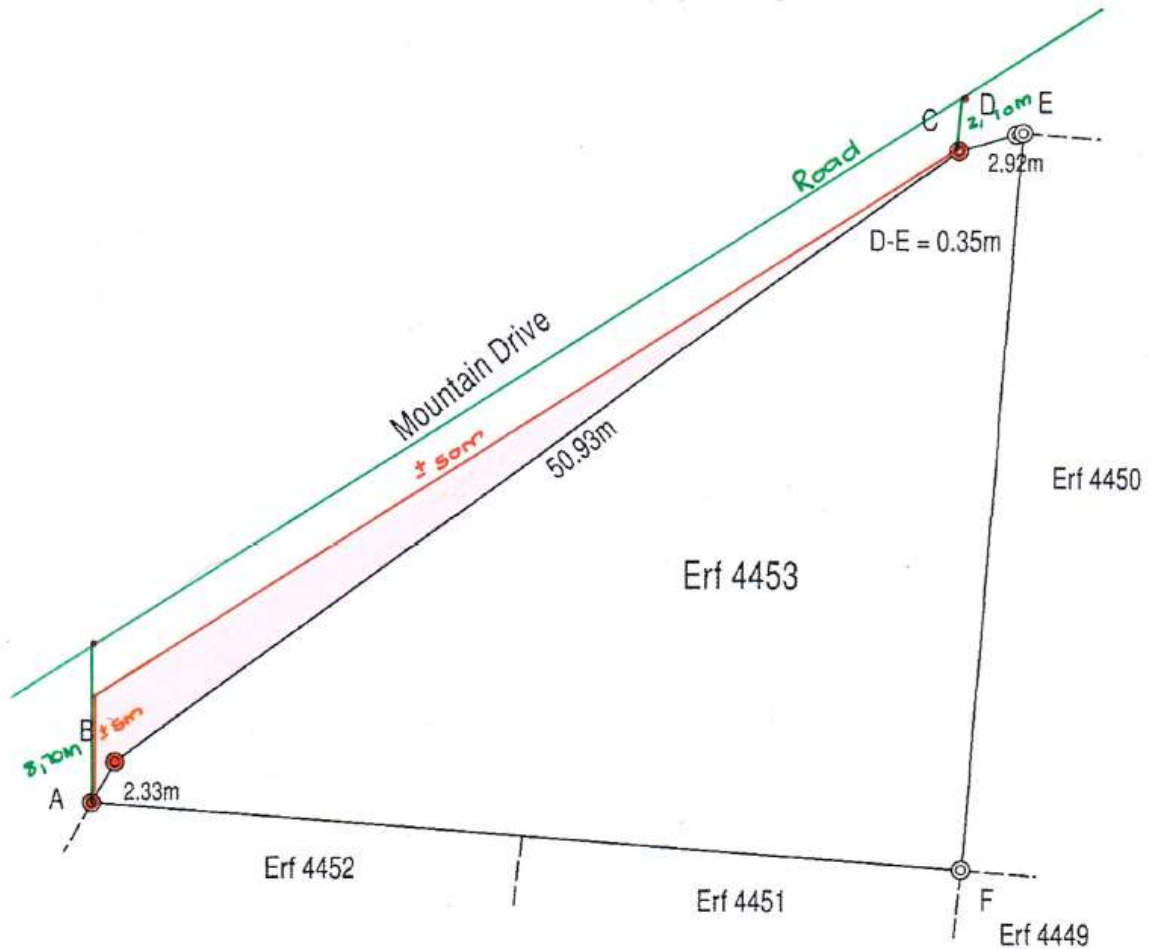
9. that the Municipal Manager be authorised to sign all documents relating to the alienation and transfer of the subject portion of Erf 243 Hermanus.

RESPONSIBLE OFFICIAL :	A KOTZE
TARGET DATE FOR IMPLEMENTATION :	PROCESS
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BEACON CERTIFICATE
ERF 4453 HERMANUS
SCALE 1/300

Beacons A, B, C, D, E are 12mm iron pegs in the ground



HUGH WATERS Professional Land Surveyor
Cel : 0843661048 Ref : H/649 Date : January 2015