

**AGENDA of the
Portfolio Committee: Infrastructure & Planning
19 October 2021
(Also the agenda for the Mayoral Committee Meeting: 28 October 2021)**

16.

APPLICATION TO PURCHASE: A PORTION OF ERF 379 (A PORTION OF ERF 370) HERMANUS (DE GOEDE STREET, HERMANUS), ADJACENT TO ERF 6137 HERMANUS (18 WESTCLIFF ROAD, HERMANUS) – MG OTTO

7/2/3/2

R Marinus

Acting Manager: Property Administration

14 September 2021

(028) 316 - 5609

1. Executive Summary

To consider the application received from Ms M G Otto (the owner of Erf 6137 Hermanus) for the direct alienation of a portion of Erf 379 (a portion of Erf 370) Hermanus ($\pm 294,5\text{m}^2$ in extent), a road reserve adjacent to Erf 6137 Hermanus, situated at 18 Westcliff Road, Hermanus. See the locality plan attached hereto marked Annexure "A".

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

An application was received from Ms M G Otto hereafter referred to as “the Applicant”, for the purchase of a portion of Erf 379 (a portion of Erf 370) Hermanus ($\pm 294,5\text{m}^2$ in extent) (hereinafter referred to as “the Property”), adjacent to Erf 6137 Hermanus, for gardening purposes and to erect a boundary fence.

The original application was received in March 2020, circulated and discussed internally. The result of the internal comments and discussions was that the application was not supported due to municipal services located on the Property. The Applicant was notified of the outcome in February 2021.

In March 2021 the Applicant appointed a consultant to apply once again on her behalf to purchase the Property with a smaller portion with the notion that there are no electrical services present on the Property. The Electrical Department was asked to comment once again and confirmed, after a site inspection, that there were in fact no electrical cables on the specific portion of the Property. However, it was mentioned that the Property has been identified to be used for possible road widening in future. It was further confirmed that the Applicant’s property is a corner Erf and sight distance is of paramount importance and a wall or fence will be to the detriment of vehicle movement.

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 and size thereof.

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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 internal departments indicated that the Property is in fact needed for the provision of future road widening.
- (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 in principle on the reasons provided.

Conclusion

Taking the comments of the internal departments, as well as the above discussion into consideration, it is recommended that the direct alienation of a portion of Erf 379 (a portion of Erf 370) Hermanus (±294,5m² in extent), adjacent to Erf 6137 Hermanus, to the owner of Erf 6137 Hermanus, being MG Otto, not be approved.

7. Financial Implications

None

8. Staff Implications

None

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9. Comments from other Departments, Divisions and Administrations

Senior Town Planner: Ms H van der Stoep– (028) 313 8900

“The application is not supported, it is part of a strip of properties for possible road widening. The whole block of erven north of the property has portions that has been acquired for this purpose. Ms Otto property is a corner erf, and sight distance is of paramount importance and a wall or fence will be to the detriment of vehicle movement.”

Senior Superintendent: Electrical Services: Hermanus: Mr J Klem – (028) 316 2630

Comment on first application: “The electrical department does not have a problem with the application for erf 379 to be sold to the applicant, however keep in mind that there are electrical cables running through the property that needs to be relocated. The movement of the cables out of this area will be for the account of the applicant and to the specification of the Municipality”

Amended comment after site inspection: “The Electrical department does not have any objections towards the new application, there are no electrical cables in this area and it will not be needed for services in the future.”

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

“The Department: Operational Services, Hermanus, do not support this application due to the fact that this forms part of the road reserve. It will be problematic if we want to widen the road in the future.”

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

“The application is not supported. The road space need to be preserved for:
a) Non-motorised transport network development as per NMT Master Plan
b) Road widening and congestion relieve if and when required.”

Senior Superintendent: Mr P de Gruchy – (028) 312 8094

“Please refer to my previous response on this application. We need to refer to all of these responses. Will there be enough property left if the roadway is widened as asked by Town Planning. Engineering department also brought the point of the corner erven that no boundary wall or structure be erected, so that visibility can be maintained.”

10. Annexures

Annexure A: Locality Map

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RECOMMENDATION TO THE COUNCIL:

that the direct alienation of a portion of Erf 379 (a portion of Erf 370) Hermanus ($\pm 294,5\text{m}^2$ in extent), adjacent to Erf 6137 Hermanus, to the owner of the adjoining Erf 6137 Hermanus, MG Otto, **not be approved** as the property must be reserved for current line of sight as well as future road widening.

RESPONSIBLE OFFICIAL:	R OCTOBER
TARGET DATE FOR IMPLEMENTATION:	30 NOVEMBER 2021
TARGET DATE TO INFORM APPLICANT:	15 NOVEMBER 2021
TARGET DATE TO INFORM OBJECTOR:	N/A

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R Marinus

Acting Manager: Property Administration

14 September 2021

(028) 316 - 5609

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 19 OCTOBER 2021, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION TO THE COUNCIL:

that the direct alienation of a portion of Erf 379 (a portion of Erf 370) Hermanus ($\pm 294,5\text{m}^2$ in extent), adjacent to Erf 6137 Hermanus, to the owner of the adjoining Erf 6137 Hermanus, MG Otto, **not be approved** as the property must be reserved for current line of sight as well as future road widening.

RESPONSIBLE OFFICIAL:

R OCTOBER

TARGET DATE FOR IMPLEMENTATION:

30 NOVEMBER 2021

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TARGET DATE TO INFORM OBJECTOR:

N/A

