

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
16 February 2016
(Also the agenda for the Mayoral Committee Meeting : 24 February 2016)**

10.

**IN PRINCIPLE APPROVAL FOR THE ALIENATION OF UNREGISTERED
ERF 12199 (A PORTION OF ERF 2366), HERMANUS**

12199 HIND

R Kuchar

(028) 313 8900

Hermanus Administration

27 January 2016

1. Executive Summary

To obtain approval in principle for the alienation of unregistered Erf 12199 (a portion of Erf 2366), Hermanus approximately 2,489 ha in extent, by means of a competitive process.

A Locality Plan of the property concerned is attached as Annexure A. The proposed Site Diagram is attached as Annexure B.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town- and Spatial Planning
Property Administration

3. Compliance with Strategic Priority

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

- Section 18 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)
- Local Government: Municipal Finance Management Act, Act 56 of 2003
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Overstrand Municipality Supply Chain Management Policy, as amended
- Administration of Immovable Property Policy of the Overstrand Municipality, as amended

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6. Background/Discussion/Evaluation/Conclusion

Background

The property (phase 1) is part of an application for the rezoning, subdivision, road and park closure. The removal of restrictive conditions was recommended to the Department of Environmental Affairs and Development Planning (DEA&DP) in 2012. The item was taken back to Council due to a court case indicating that the Provincial Department does not have the authority to deal with Municipal Planning. The application was approved in 2014. The application was subject to a Basic Assessment in terms of the NEMA Regulations, which was approved by the DEA&DP in 2013 (valid for 5 years).

Subsequently the Municipality did comply with conditions of approval and a Land Surveyor was appointed to survey the property and submit the diagrams to the Surveyor General Offices for approval.

Discussion/Evaluation

The original application was phased into two phases of which Phase 1 will be put out to tender. Phase 2 will be dealt with at a later stage, since the present Workshop, Traffic and Fire Protection Services are located on Phase 2. Only once these services have been relocated, Phase 2 will be dealt with.

The property is located at the entrance of Hermanus town in an area surrounded by residential and industrial uses. The property is presently underutilized and has no benefit for the Municipality. The beneficial value of the property will only be realized should the property be alienated and developed to contribute financially to the Municipality. It also creates an opportunity for additional rates and taxes as well as work opportunity, which is much needed in the Overstrand area. The property is located in close proximity of town and the taxi rank, which will enable workers easy access to their work place.

The development is located on disturbed land with all the engineering services available and/or in close proximity. The present access from Main Road via Mussel Road will be closed and re-aligned on request from the Department of Transport, which will address this dangerous access. The consolidation of Phase 1 properties will ensure a harmonious design of structures and parking.

The proposed development complies with various policy documents applicable in the municipal area such as the Spatial Development Framework, Growth Management Strategy and the Integrated Development Plan.

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The following conditions of the Administration of Immovable Property Policy of the Overstrand Municipality apply:

- (a) **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 officials confirmed that the subject property is not needed for the provision of the minimum level of basic municipal services.

- (b) **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 of the property at an amount of R486.00 (four hundred and eighty six rand only) per square meter (VAT excluded). A new valuation will however be obtained before the competitive process for the alienation of the portion of Erf 2366, Hermanus, is followed. Thus the income to be derived according to the 2013 valuation will be ±R15 million (VAT excluded).

- (c) **Paragraph 27: 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 costs should it be to its advantage to bear the costs.**

The successful bidder/purchaser will be liable for all costs related to the Section 14 advertisement, transfer of the property and the connection of services, etc. The Municipality will be liable for the costs of the valuation, subdivision, rezoning and tender advertisement.

- (d) **Paragraph 28: 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 cost shall be for the account of the successful bidder/purchaser.**

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The successful bidder/purchaser shall be liable for all cost in this regard should it be necessary.

- (e) Paragraph 30: Where immovable property is alienated for development, a condition, taking into consideration the nature of the development, might be included in the Deed of Sale stipulating that such development must be completed within two years from date of registration. Likewise a condition may be included in the agreement to provide for forfeiture in the event that the development has not been completed within the required time period, unless a written extension has been granted by the Municipality.**

This property to be alienated at market related value. Further, it is not a strategic alienation therefore no time limit, other than LUPA time limit and ROD will be applicable.

- (f) Paragraph 31: 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.

- (g) Paragraph 35: Interest on the purchase price 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.

Advertisement

The necessary advertisement in terms of Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003) will be placed after the tender is awarded by the Bid Adjudication Committee. The successful bidder will be liable for the costs of the Section 14 advertisement and compliance with the rezoning conditions and Basic Assessment Record of Decision.

Conclusion

It is recommended that the subject property, to wit unregistered Erf 12199 (a portion of Erf 2366), Hermanus, (approximately 2,4 ha in extent), be alienated by means of a competitive process at market related value.

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7. Financial Implications

The Municipality stands to gain the market related purchase price.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Manager : Expenditure and Assets

As at 30 June 2015 the property was reflected as part of Erf 2366 HWC under Investment Property - Land, with a carrying value of R12,832,000. Once the property is sold and the title is transferred, it will have to be derecognized and removed from the Fixed Asset Register. The proceeds from the eventual sale of the property must be accounted for against the value thereof and the profit/loss recognized in the statement of financial performance.

Environmental Officer

This office has no objection to the proposed alienation of Unregistered Erf 12199 (a portion of Erf 2366), Hermanus. Once a competitive bidding process has been followed, the successful bidder has to adhere to the conditions set out in the Environmental Authorization set by DEA&DP.

Operational Manager : Hermanus

The property concerned has a rising sewage main crossing it. This will have to be moved (relocated before the property is alienated).

Electrical Department

The Electricity Department does not have a problem with the alienating of the above mentioned property, however keep in mind that a service servitude must be registered for the 11kV cables running across the property. The available electrical supply to the erf is a 3 phase 60 Ampere.

Traffic Department

“Vanaf 'n verkeers operasionele perspektief verlang ons slegs die volgende:

1. Dat vrye vloei van verkeer vanaf Musselweg na Hoofweg R43 geen verkeersbelemmeringsfaktore moet inhou nie.

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2. Met die toekomstige ontwikkeling inaggenome op die erf, die ingang na/van die erf veilig sal wees sonder enige obstrukties aan beide kante van ingang na erf.

Enige ander verkeersverwante komplikasies wat tydens ontwikkeling sal geskied, sal ooreenkomstig volgens die Nasionale Pad Verkeerswet 93/96 aangespreek word. Finale kommentaar/inspeksie sal slegs gelewer kan word sodra ontwikkeling op erf voltooi word. As basiese dienslewering nie belemmer gaan word nie, glo ek nie dat ons enige beswaar kan hê teen hierdie versoek nie.”

Chief : Fire and Disaster Management

The following requirements of the National Fire Protection Regulations SANS10400T : 2011 must be implemented for all development regardless of occupancy classification:

- ❖ In terms of Section 4.35 of SANS10400T : 2011 fire hydrants must be installed at intervals of a maximum of 180m linear to street lines for any industrial park, amusement park, exhibition ground, shopping centre, group housing, cluster housing or town house complex.
- ❖ Fire hydrants must provide water flow for fighting at minimum of 1200lpm for high risk, 1000lpm for moderate risk and 900lpm for low risk development.
- ❖ All structures erected must be in full compliance with the requirements of SANS10400 - (T1).
- ❖ SANS10400(T2) - Empowers the Municipality to require a rational fire safety design by a competent person for any building other than those determined in Section 4.1.1 of SANS10400T : 2011.
- ❖ All access roads for emergency vehicles must be provided in compliance with the minimum requirements of Article 12 of the Community Fire Safety By-law P.N.6454 of 2007.

10. Annexures

- Annexure A: Locality plan
- Annexure B: Site Diagram

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of Unregistered Erf 12199 (a portion of Erf 2366), Hermanus, approximately 2,489 ha, by means of a competitive process, **be approved in principle**;
2. that the costs pertaining to the transaction, e.g. transfer costs, water- and sewer connections, bulk services contribution, advertisements, etc.,

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excluding the valuation, surveying and rezoning costs, be paid by the purchaser;

3. 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);
4. that the alienation of the property be subject to obtaining the LUPO approval and the Record of Decision, and
5. that a service servitude must be registered for the 11kV cables running across the property according to the Electrical Department.

RESPONSIBLE OFFICIAL : HANNEEN VD STOEP

TARGET DATE FOR IMPLEMENTATION : 9 MARCH 2016

TARGET DATE TO INFORM APPLICANT : N/A

TARGET DATE TO INFORM OBJECTOR : N/A

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12199 HIND

R Kuchar

(028) 313 8900

Hermanus Administration

27 January 2016

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

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of Unregistered Erf 12199 (a portion of Erf 2366), Hermanus, approximately 2,489 ha, by means of a competitive process, **be approved in principle**;
2. that the costs pertaining to the transaction, e.g. transfer costs, water- and sewer connections, bulk services contribution, advertisements, etc., excluding the valuation, surveying and rezoning costs, be paid by the purchaser;
3. 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);
4. that the alienation of the property be subject to obtaining the LUPO approval and the Record of Decision; and
5. that a service servitude must be registered for the 11kV cables running across the property according to the Electrical Department.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

TARGET DATE FOR IMPLEMENTATION :

9 MARCH 2016

TARGET DATE TO INFORM APPLICANT :

N/A

TARGET DATE TO INFORM OBJECTOR :

N/A

CERTIFIED COPY FOR REGISTRATION
 FOR SURVEYOR-GENERAL
 DATE: 23 DEC 2015

VAN DYK & Associates Inc. (V14889)

Annexure B 1/2

| SIDES metres | ANGLES OF DIRECTION | CO-ORDINATES Y System: WG 19° X | | SG No. 2280/2015 | | |
|-----------------|------------------------|------------------------------------|------|---------------------|---------------|--|
| | | Constants | 0,00 | | +3 800 000,00 | |
| AB | 234,75 | 274.28.10 | A | -20 875,30 | +10 145,53 | Approved <i>Abledyke</i> for SURVEYOR- GENERAL 22-12-2015 |
| BC | 54,39 | 334.12.00 | B | -21 109,34 | +10 163,83 | |
| CD | 152,17 | 64.38.50 | C | -21 133,01 | +10 212,80 | |
| DE | 52,16 | 154.38.50 | D | -20 995,49 | +10 277,96 | |
| EF | 130,97 | 96.56.30 | E | -20 973,16 | +10 230,82 | |
| FG | 18,89 | 132.28.10 | F | -20 843,15 | +10 215,00 | |
| GH | 70,84 | 222.28.10 | G | -20 829,22 | +10 202,23 | |
| HA | 4,77 | 158.29.20 | H | -20 877,05 | +10 149,97 | |
| | | 59G2 | ⊕ | -21 134,76 | +10 153,29 | |
| | | 60G2 | ⊕ | -20 915,27 | +10 135,73 | |

BEACON DESCRIPTIONS

- A,B,C,D,G,H ... 12mm Iron peg
- E 12mm Drill hole in concrete
- F 12mm Iron peg in tar

APPROVED SUBJECT TO SIMUL-
 TANEOUS REGISTRATION OF
 DIAGRAM 228/2015
 Erf 12199

EXEMPT FROM PROVISIONS OF ACT
 70 OF 1970
 SECTION 1(a)

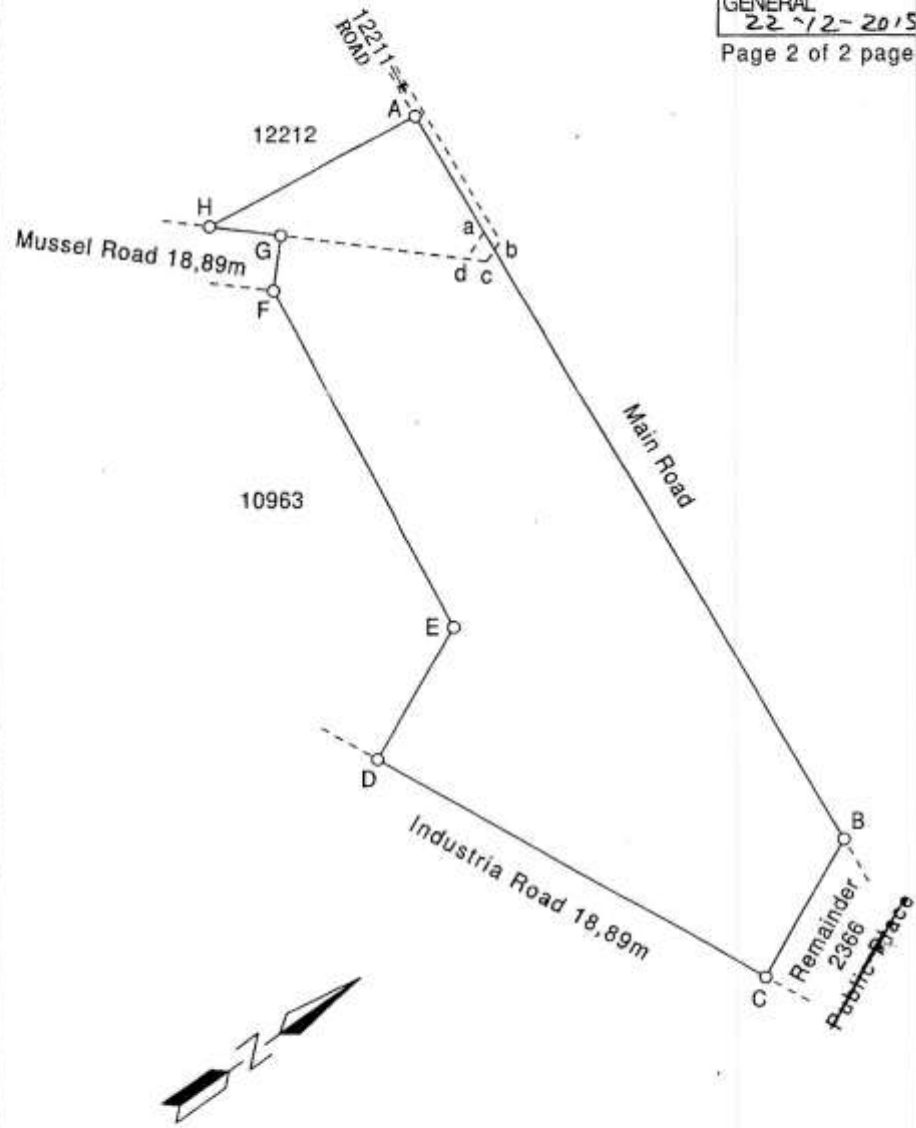
APPROVED IN TERMS OF SECT. 25
 OF ORD. 16/1985
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VAN DYK & Associates Inc. (V14889)

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Administrative District of Caledon

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Surveyed in December 2014 and
June 2015 by me

LA van Dyk
LA van Dyk
Professional Land Surveyor
Registration Number: PLS 1069