

PORTFOLIO COMMITTEE :
INFRASTRUCTURE & PLANNING

**This item was considered
during the Portfolio Committee
meeting of 22 June 2021**

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**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 June 2021
(Also the agenda for the Mayoral Committee Meeting : 30 June 2021)**

**3.
APPLICATION TO PURCHASE: A PORTION OF ERF 1253 HERMANUS
ADJACENT TO ERF 6249 HERMANUS (343 MAIN ROAD, EASTCLIFF,
HERMANUS) – P LOTZ**

7/2/3/2

A Le Roux

Manager: Property Administration

13 MAY 2021

(028) 316 - 5623

1. Executive Summary

To consider the application received from Mr P Lotz (the owner of Erf 6249 Hermanus) for the direct alienation of a portion of Erf 1253 Hermanus ($\pm 600\text{m}^2$ in extent) adjacent to Erf 6249 Hermanus, situated at 343 Main Road, Eastcliff, 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
Provision and maintenance of municipal services
Creation and maintenance of a safe and healthy environment

4. Delegated Authority

None

5. Legal Requirements

- Local Government: Municipal Financial Management Act (Act 56 of 2003)
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- 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 Mr P Lotz (“the Applicant”) to purchase a portion of Erf 1253 Hermanus ($\pm 600\text{m}^2$ in extent) (hereinafter referred to as “the Property”), adjacent to his property, Erf 6249 Hermanus situated at 343 Main Road, Eastcliff, Hermanus for gardening purposes and the erection of a boundary wall.

The Applicant previously applied on 7 October 2016 to purchase different portions of Erf 1253 Hermanus, but that application was not supported because of municipal services on those portions of Erf 1253 Hermanus, namely a water pipeline and 11 000 volt main electrical cables. Furthermore, the previous application was also not supported because a second access to the Applicant’s adjacent property was not supported by the relevant departments.

On 13 August 2020 the Applicant applied to purchase the specific portion of Erf 1253 Hermanus which has been defined herein as the Property. Comments from internal departments were obtained and the electrical department confirmed that there are two underground 11000-volt feeder electrical cables on the Property and further confirmed that moving the cables would be extremely costly and that even if the Property is only used for a garden and boundary wall, the cables would still need to be moved as they must have access to the cables for repair and maintenance work.

Evaluation

Administration of Immovable Property Policy of the Overstrand Municipality:

The following paragraphs of the said Policy are applicable:

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 applied for can most probably under the circumstances be classified as a non-viable immovable property due to the location, shape, zoning parameters.

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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 basic municipal services, namely the provision of electricity.
- (b) No valuation will be done as the alienation of the Property is not supported.
- (b) The request will be not to approve in principle the alienation of the Property for 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 1253 Hermanus ($\pm 600\text{m}^2$ in extent), adjacent to Erf 6249 Hermanus, to the owner of Erf 6249 Hermanus, being Mr P Lotz, not be approved.

7. Financial Implications

None

8. Staff Implications

None

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9. Comments from other Departments, Divisions and Administrations

Senior Superintendent (Projects): J M Klem - (028) 316 5625

“There are two underground 11000 volt feeder cables on the vacant property. Therefore, the Electrical department cannot give permission to sell the property.”

When asked whether this means that the cables cannot be moved or that moving them would be very unpractical and extremely costly and also whether this means that the Property can thus not be developed, Mr Klem responded as follows:

“The cables will be able to be moved but will be extremely costly. Even if the person want to make a garden or build a boundary wall it have to be moved because if we need to do repair work or maintenance on the cables it have to be possible to expose it.”

Town Planner: P J Roux - (028) 313 8983

“The subject portion of Erf 1253 which the property owner of Erf 6294 seeks to purchase is vacant and no structures are situated on the property. The subject portion of Erf 1253 has limited use due to its position, size (street boundary 10,4m and rear boundary 15.2m) and zoning parameters, therefore Council will not have any benefit in keeping the portion or selling it separately.

If the application to purchase the subject portion of Erf 1253 is approved then the following needs to be done by the applicant: A portion of Remainder 1235 will have to be subdivided, closed as a portion of road, rezoned and consolidated with Erf 6249 HEC. The cost estimation for the aforementioned land use application at the Town Planning department is as follow:

Rezoning – R7387.00

Subdivision – R6263.00

Consolidation of land – R3212.00

Closure of a public place or part thereof – R7387.00

Local Newspaper – R4496.00

Total for land use application: R28 745

Due to the complexity of the land use application it is advised that a consultant submit the land use application on behalf of the property owner.

It should be noted that comment must first be obtained from the Department of Transport as well as the Engineering and Traffic Departments before the application to purchase a portion of Erf 1253 is approved and before any additional access is made on the property.”

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Senior Superintendent: P De Gruchy - (028) 313 0999

“From the traffic department there are no objections towards this application. An existing entrance from the road is already in place and has no obstruction towards traffic flow.”

Senior Manager: Hermanus Administration: Anver Wyngaard - (028) 313 8112

“I have no objection. My Operational Department will comment on basic services.”

Senior Manager: Operational Services: T Marx - (028) 313 8948

- “1. That the applicant must comply with all statutory requirements that may be applicable to the undertaking of the proposed development on Erf 1253 Hermanus.*
- 2. That the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 1040-P:2010: Drainage.*
- 3. That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Directorate: Infrastructure and Planning.*
- 4. That any additional and / or extended vehicle entrances will be for the owner’s account.*
- 5. That, upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Senior Manager: Operational Services (Hermanus) for written approval.*
- 6. Water and road infrastructure is available in the vicinity of Erf 1253, Hermanus.*
- 7. It is incumbent on the applicant/developer to ensure that all operational requirements in terms of water, sewerage and stormwater provision to the property are met.”*

Manager: Engineering Services: R Andrew - (028) 313 5073

“The Engineering Services Department has no comment.”

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Manager: Environmental Management: Penelope Aplon - (028) 316 5619

"This office has no objection to this application for the sale of a portion of Erf 1253, Hermanus."

Assistant Chief: Fire Safety & Health and Safety: E Solomons - (028) 313 8979

"The fire department have no objection."

Senior Manager: (Building Services): L Coetzee (028) 313 8091

"BUILDING CONTROL has no objection."

10. Annexures

Annexure A: Locality Map

RECOMMENDATION TO THE COUNCIL:

that the direct alienation of a portion of Erf 1253 Hermanus ($\pm 600\text{m}^2$ in extent), adjacent to Erf 6249 Hermanus, to the owner of Erf 6249 Hermanus, being P Lotz, **not be approved** as the property is needed for the provision of basic municipal services.

RESPONSIBLE OFFICIAL :	R MARINUS
TARGET DATE FOR IMPLEMENTATION :	16 JULY 2021
TARGET DATE TO INFORM APPLICANT :	30 JULY 2021
TARGET DATE TO INFORM OBJECTOR :	N/A

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3.

**APPLICATION TO PURCHASE: A PORTION OF ERF 1253 HERMANUS
ADJACENT TO ERF 6249 HERMANUS (343 MAIN ROAD, EASTCLIFF,
HERMANUS) – P LOTZ**

7/2/3/2

A Le Roux

13 MAY 2021

Manager: Property Administration

(028) 316 - 5623

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
22 JUNE 2021, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

that the direct alienation of a portion of Erf 1253 Hermanus ($\pm 600\text{m}^2$ in extent), adjacent to Erf 6249 Hermanus, to the owner of Erf 6249 Hermanus, being P Lotz, **not be approved** as the property is needed for the provision of basic municipal services.

RESPONSIBLE OFFICIAL :

R MARINUS

TARGET DATE FOR IMPLEMENTATION :

27 SEPTEMBER 2021

TARGET DATE TO INFORM APPLICANT :

11 SEPTEMBER 2021

TARGET DATE TO INFORM OBJECTOR :

N/A

