

9. HERMANUS: IN PRINCIPLE APPROVAL FOR THE ALIENATION OF A PORTION OF ERF 4833 HERMANUS (SITUATED AT 17TH AVENUE VOËLKLIP), ±11,59HA IN EXTENT, BY MEANS OF A COMPETITIVE PROCESS FOR THE DEVELOPMENT OF A RETIREMENT VILLAGE

7/2/3/2

A Le Roux

20 July 2022

Manager: Property Administration

(028) 316-5623

1. Executive Summary

To obtain in principle approval for the alienation of a portion of Erf 4833 Hermanus, ±11,59ha (approximately eleven comma five nine hectares) in extent, situated at 17th Avenue, Voëlklip, Hermanus (the "Property"), by means of a competitive process for the development of a retirement village.

The locality of the portion of Erf 4833 Hermanus is indicated with the blue line on the locality map attached per "Annexure A".

2. Service Delivery and Budget Implementation Plan - IGNITE

Investment and Infrastructure
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

4. Delegated Authority

None

5. Legal Requirements

- Local Government: Municipal Finance Management Act, Act 56 of 2003 ("MFMA")
- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality, as amended
- Municipal Supply Chain Management Regulations (Notice 868 of 30 May 2005)
- Overstrand Municipality Supply Chain Management Policy, as amended

6. Background/Discussion/Evaluation/Conclusion**Background/Discussion**

The subject Property was identified for development as part of the Investment Conference that took place on 23 and 24 June 2022. Several attendees of the conference indicated interest in developing the Property.

The Property is ±11,59ha (approximately eleven comma five nine hectares) in extent, situated at 17th Avenue, Voëlklip, Hermanus.

The Property is situated within the Urban Edge as depicted in the Overstrand Municipality Spatial Development Framework, 2020. The Property has a split zoning which includes Resort Zone: Holiday Resort (RZ), coloured in pink and Open Space Zone 2: Public Open Space, coloured in dark green on the attached locality map (Annexure A).

The Property includes unregistered Erf 4834 Hermanus. Unregistered Erf 4834 Hermanus is zoned Utility Zone: Utility Services and leased to Vodacom for telecommunication purposes. The Municipality wishes to retain this lease as it is foreseen that it might be needed in the future to install infrastructure for the Fire Services to link communication between Hermanus and Stanford. The successful bidder will be required to register an access and services servitude in favour of the Municipality in order to accommodate the above. See Annexure B.

As there is a need for another Retirement Village it is recommended that the Property be made available in the open market by means of a competitive process for the development.

Evaluation

A. Evaluation in terms of the Administration of Immovable Property Policy of the Overstrand Municipality

The following conditions of said policy apply to this report:

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. The portion where the mast is situated on will be secured by a servitude.

Paragraph 9.1(b): *“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 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.”*

HCB Property Valuations determined the market related value of the Property on 1 August 2022 at an amount of R7,000,000.00/ha (VAT excluded) which amounts to approximately R81,130,000.00 (eighty one million one hundred and thirty thousand rand) (VAT excluded).

Paragraph 9.1(c): *“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 has as a consequence to 9.1(a) and (b) above approved in principle that the immovable property may be transferred or disposed of, and the method of disposal or transfer.”*

The purpose of this report is to request in principle approval from Council for the alienation of the Property by means a competitive process.

Paragraph 15.1: *“The transfer of immovable property must, except in the case of non-viable immovable property, be affected by means of competitive process, which may include a public or closed tender, auction or proposal call.”*

It is recommended that the Property be alienated by means of a competitive process.

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.”*

The successful bidder will be liable for all costs pertaining to the transaction, excluding the cost for the valuation of the property. Costs for the successful bidder will include, but is not limited to:

- Section 14 advertisement,
- transfer costs,
- installation, upgrading and connection of services,
- registration of a servitude (diagram),
- Town Planning processes (including the preparation of subdivision diagrams and Environmental Impact Assessment, etc), and

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- any other costs pertaining to the transaction and proposed development.

The above will be suspensive conditions in the deed of sale which will have the effect of a delayed transfer. If the conditions are not met, the transaction will not continue. The above will be done at the successful bidder's own risk and cost.

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.”*

A servitude must be registered for the telecommunication mast at the cost of the successful bidder.

Paragraph 31: *“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.”*

A clause to this effect will be included in any deed of sale to be entered into between the Municipality and the successful bidder to ensure that the development is at least commenced with, and that the Property is not used for speculation purposes.

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 clause to this effect will be included in any deed of sale to be entered into between the Municipality and the successful bidder.

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.”*

The following land use planning processes, as a minimum, must be followed in order to develop the Property:

- Subdivision of the Property together with a general plan.
- Closure of a portion of public place.

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- Rezoning the Property.
- Deviation of the Spatial Development Framework of 2020
- Traffic Impact Assessment.
- Heritage Impact Assessment.
- Environmental Impact Assessment.
- The application must also address the relevant overlay zones applicable to the Property.

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 clause to this effect will be included in any deed of sale to be entered into between the Municipality and the successful bidder. The bidder will be required to pay the deposit even before the suspensive conditions are met.

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.”*

A clause to this effect will be included in the deed of sale to be entered into between the Municipality and the successful bidder. The interest rate used in another transfer was a rate equal to the prime lending interest rate of Nedbank Bank applicable on date of signature, to be calculated date of signature of the deed of sale by the last signature to date of registration of the transfer (both days included).

B. Advertisement/Notification

The necessary advertisement in terms of Section 14 of the MFMA will be published after the tender is duly awarded. The successful bidder will be liable for the costs of the Section 14 advertisement.

Conclusion

It is recommended that a portion of Erf 4833 Hermanus, ±11,59ha (approximately eleven comma five nine hectares) in extent, situated at 17th Avenue, Voëlklip, Hermanus be alienated for the development of a retirement village by means of a competitive process, at not less than the market related value.

Furthermore, it is recommended that the successful bidder/ be liable for all costs related to the transaction, excluding the costs for the valuation of the Property.

7. Financial Implications

The Municipality stands to gain a market related purchase price to the minimum amount of R7,000,000.00/ha (VAT excluded) which amounts to approximately R81,130,000.00 (Eighty-one Million One Hundred and Thirty Thousand Rand) (VAT excluded) for the Property.

8. Staff Implications

None.

9. Comments from other Departments, Divisions and Administrations**Senior Manager: Expenditure and Assets: Mr J Vorster - (028) 313 8046**

Erf 4833 Hermanus, ±62,8571ha (approximately sixty two comma eight five seven one hectares) in extent, is currently reflected in the fixed asset register for Investment Property: Land at a carrying value of R10'600'000-00 as at 30 June 2022. Once the proposed alienation has been concluded the subdivided portion of the erf will have to be written out of the fixed asset register at the applicable selling price in order to account for actual gain / (loss) on the disposal of an asset.

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

Town Planner: Mr P Roux – (028) 313 8983

The Property is situated within the Urban Edge as depicted in the Overstrand Municipality Spatial Development Framework, 2020. The Property has a split zoning which includes Resort Zone : Holiday Resort (RZ), coloured in pink and Open Space Zone 2 : Public Open Space, coloured in dark green (see Annexure A).

The successful bidder will have to apply, at its cost, for the land use rights to develop a Retirement Village and associated uses. This application may include the following:

- *Land surveying and attaining diagrams;*
- *Subdivision of the portion from Erf 4833, Hermanus;*
- *Closure of the portion of Erf 4833, Hermanus;*
- *Rezoning of the portion of Erf 4833, Hermanus from Open Space Zone 2: Public Open Space and Holiday Resort to General Residential Zone 1: Town Housing;*
- *Consent use for Retirement Village and associated facilities;*
- *Deviation of the SDF, 2020 to allow higher densities up to 35 units per hectare;*
- *Traffic Impact Assessment;*
- *Environmental Impact Assessment, and*

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- *The application must also address the relevant overlay zones applicable to the Property.*

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

I support the sale of the said property for the development of a Retirement Village.

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

Services are available in the vicinity of the property. Upgrading of the services for the purpose of the proposed development will be required and to be done at the developer's cost.

Senior Environmental Manager: Ms L de Villiers - (028) 316 5615

The Environmental Department supports the sale of the said property. The successful bidder needs to take the following into account:

- 1) *The said property is adjacent to the Fernkloof Nature Reserve and therefore falls within the Protected Area Buffer Zone. The successful bidder will need to take the conditions of the EMOZ into account.*
- 2) *The Fernkloof Nature Reserve has a Protected Area Management Plan which needs to be consulted when any development takes place on its borders, for example the NEMBA regulations with landscaping.*
- 3) *The Fernkloof Nature Reserve has an Advisory Board which needs to be consulted when a development takes place on the borders on the Fernkloof Nature Reserve.*
- 4) *The successful bidder will have to comply with the NEMA legislation in accordance with the EIA regulations.*
- 5) *In accordance with the Heritage Protection Overlay Zone, the area falls within an Important Scenic Corridor and the development of the infrastructure will have to include the sensitive nature of the surrounding environment.*
- 6) *The area falls in the middle of the home ranges of two local baboon troops, Voelklip troop and Vogelgat troop and the development will need to ensure that they develop their infrastructure with this in mind and contact the local Municipality to discuss innovative baboon proof design.*

Comments from the Property Administration Department: The relevant conditions imposed will be included in a deed of sale.

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

If the sale is approved:

1. *The developer should identify and locate all municipal services located on the property under consideration.*

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2. *Any existing municipal services have to stay intact and can't be compromised. If any of the existing services need to be relocated, it will be done by the applicants at his cost, and to the satisfaction of the Director: Infrastructure and Planning. Servitudes should be registered for all municipal services on private property.*
3. *The developer will only utilize the existing roads/accesses and no new additional roads/accesses will be created without the written approval of the Senior Manager: Engineering Services.*
4. *Bulk Infrastructure Contribution Levies are payable by the developer where there is an intensification of land use and a resultant increase in loading on the municipal engineering services. Bulk Contribution Levies will be charged according to the Overstrand Bulk Contribution Levy Policy and the prescribed tariffs as contained in Council's budget. These tariffs are subject to annual adjustment. Levies will be payable prior to the submission of building plans (for sectional title units / commercial buildings) or rates clearance being issued (for free-standing properties).*
5. *The developer will be responsible for the construction and provision of all municipal services to the proposed development, including all connection fees and investigation levies for municipal services.*
6. *The developer must enter into a service level agreement with the Municipality.*

Comments from the Property Administration Department: The relevant conditions imposed will be included in a deed of sale.

Senior Manager Electrical Services: Mr JH du Plessis - (028) 316 5627

The Electrical department does not have any objections towards the development, however, keep in mind this is an open space and there is no electrical capacity available on this property. A formal application must be made for the needed capacity for the development. The existing mast on the erf is already electrically serviced and this service is solely for the demand of the mast.

Senior Manager: (Building Control Department): Mr L Coetzee – (028) 313 8091

The Building Control Department has no objection. Any building plan application must comply with all the applicable laws.

Senior Superintendent: Operations: Mr P De Gruchy – (028) 313 0999

This office has no objection to the sale and development of a portion of Erf 4833 Hermanus for the development of a Retirement Village.

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The approval of the application is subject to the Engineering Comments which addresses traffic flow and accesses."

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

The fire department has no objection.

Assistant Chief: Operations & Training: Mr A Aplon – (028) 313 8978

There is currently no Protective Services equipment on the mast, but we are busy expanding. Provision must be made for the future when the need arises. We are currently struggling with the connection in Kleinrivier and Stanford Area, so maybe in the future we will have challenges.

10. Annexures

Annexure A: Locality Map

Annexure B: Locality Map – Telecommunication Mast

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of a portion of Erf 4833 Hermanus ($\pm 11,59$ ha in extent) for the development of a Retirement Village by means of a competitive process at a market related price **be approved in principle**;
2. that the alienation of the portion of Erf 4833 Hermanus be subject to a suspensive condition that the successful bidder obtains at own cost all the approvals, e.g., Town Planning/Land Use Planning, etc. necessary for the transfer and subsequent development of the said portion of Erf 4833 Hermanus;
3. that a condition be included in the deed of sale for forfeiture stating that such development must be completed within 2 (two) years from date of registration unless prior written approval is obtained from Overstrand Municipality, under the hand of the delegated authority, for an extension of time;
4. that a condition be included in the deed of sale that interest on the purchase price will be charged by the Municipality should payment or transfer be delayed due to an action or failure on the part of the successful bidder;
5. that a condition be registered against the title deed of the Property that it may only be used for the development of a Retirement Village and in line with the development parameters as depicted in the Overstrand Municipality Land Use Scheme, 2020;

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6. that all the costs pertaining to the transaction and subsequent development, for example, but not limited to, the transfer costs, water, sewer and electricity connections and the section 14 advertisement, but excluding the valuation costs, be paid by the successful bidder;
7. that the successful bidder registers a servitude in favour of the Municipality for the telecommunications mast on the property against the title deed of the Property, at its own cost, simultaneous with the registration of the transfer;
8. that the successful bidder, at its own cost, constructs the internal municipal and electrical services for the development as well as any link or bulk municipal services that needs to be approved;
9. that the successful bidder enters into a Services Agreement with the Municipality for the provision of internal-, link- and bulk services in terms of the tender, applicable legislation and Council policies; and
10. that it is hereby confirmed by Council that the municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of paragraph 5 of the Administration of Immovable Property Policy approved by Council on 25 November 2015 and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

RESPONSIBLE OFFICIAL :

A LE ROUX

TARGET DATE FOR IMPLEMENTATION :

12 SEPTEMBER 2022

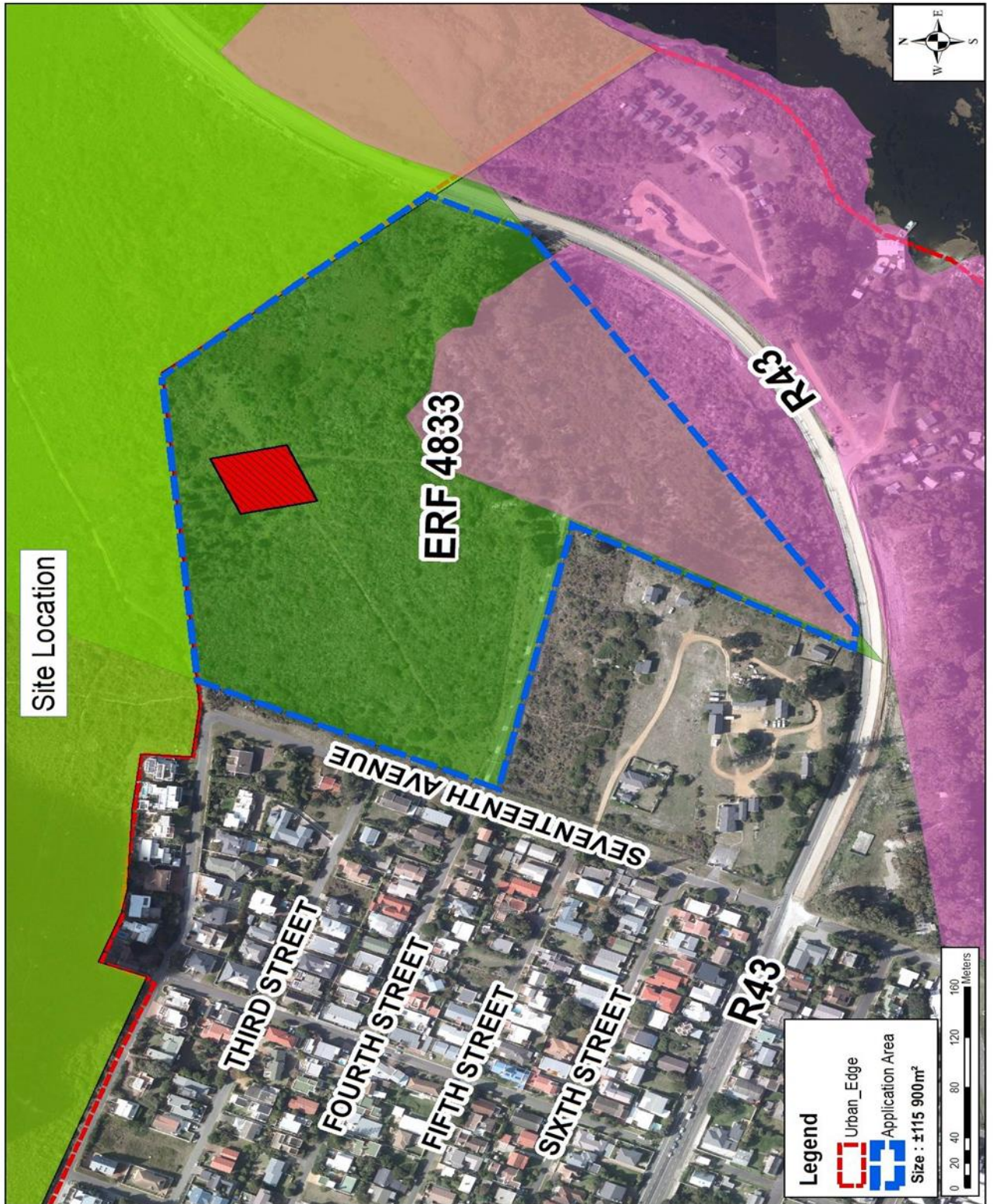
TARGET DATE TO INFORM APPLICANT :

N/A

TARGET DATE TO INFORM OBJECTOR :

N/A

ANNEXURE A



ANNEXURE B

