

**AGENDA of the
Portfolio Committee : Investment, Infrastructure and Tourism
7 February 2024
(Also the agenda for the Mayoral Committee Meeting : 13 February 2024)**

7.

PARTIAL RESCISSION OF COUNCIL'S IN PRINCIPLE DECISION FOR THE DIRECT ALIENATION OF A PORTION OF THE REMAINDER ERF 1178 DE KELDERS (ROAD RESERVE), ADJACENT TO ERF 43 DE KELDERS SITUATED AT 1 DE VILLIERS STREET, DE KELDERS TO CFP JORDAAN

**A Le Roux
9 November 2023**

Manager: Property Administration

(028) 316 5623

1. Executive Summary

To obtain approval for the partial rescission of the in-principle approval by Council dated 28 October 2021 in respect of the direct alienation of a portion of Remainder Erf 1178 De Kelders, adjacent to Erf 43 De Kelders, situated at 1 De Villiers Street, De Kelders ($\pm 165\text{m}^2$ in extent), hereinafter referred to as "the Property", to CFP Jordaan, hereinafter referred to as "the Applicant". 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 Priority

Provision of democratic, accountable and ethical governance

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 (2015)

6. Background/Discussion/Evaluation/Conclusion

Background

Council, on 28 October 2021, resolved as follows:

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- “1. *that the direct alienation of a portion of Remainder Erf 1178 (adjacent to Erf 43) De Kelders situated in De Villiers Street, ±165m² in extent, to the owner of the adjoining Erf 43 De Kelders, CFP Jordaan, at an amount of R240.00/m² (TWO HUNDRED AND FORTY RAND PER SQUARE METRE) (VAT excluded) be approved in principle.*
2. *that it be noted that the direct alienation is possible as the subject portion of Remainder Erf 1178 can be classified as a non-viable property;*
3. *that, subject to the approval in 1 above, a public participation process be followed at the cost of the Applicant;*
4. *that it be noted that a condition for the alienation will be that the subject portion of Remainder Erf 1178 De Kelders must be consolidated with the adjoining property of CFP Jordaan, being Erf 43 De Kelders;*
5. *that no structures of any kind (excluding a boundary wall or fence) may be erected on the portion of Remainder Erf 1178 De Kelders, which condition must be registered against the title deed of the consolidated property;*
6. *that the alienation of the portion of Remainder Erf 1178 De Kelders be subject to a suspensive condition that the Applicant obtains approval for the subdivision, rezoning, consolidation and any other related town planning applications;*
7. *that all the costs pertaining to the transaction, e.g. application cost, valuation cost, subdivision, rezoning, consolidation, transfer and related costs, advertisements, etc. be paid by the Applicant, CFP Jordaan; and*
8. *that it be noted that the municipal property herewith envisaged to be 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).”*

Discussion

The formal non-refundable application fee in the amount of R3,212.00 (THREE THOUSAND TWO HUNDRED AND TWELVE RAND) (VAT included) was paid by the Applicant on 24 March 2021.

Before the in principle approval was obtained for the direct alienation of the Property, Boland Valuers determined the market related value for the Property on 12 July 2021 at an amount of R240.00/m² (TWO HUNDRED AND FORTY RAND PER SQUARE METRE) (VAT excluded). The Applicant paid the

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valuation costs in the amount of R1,725.00 (ONE THOUSAND SEVEN HUNDRED AND TWENTY-FIVE RAND) (VAT included) on 16 July 2021.

The Applicant indicated on 25 April 2022 that he is no longer interested in proceeding with this application and apologised for the inconvenience caused.

None of the above costs will be refunded to the Applicant as the application fee is non-refundable and the other cost was a direct expense paid to a third party for a service rendered (valuation).

No deed of sale was signed by the Applicant.

Evaluation

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following conditions of the said Policy will apply:

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 Applicant was liable for the costs of the application and valuation in terms of the Municipal Finance Management Act and Administration of Immovable Property Policy and payment was received for the above mentioned in full. As explained above these costs will not be refunded and the Applicant is aware of same.

Conclusion

It is recommended that conditions 1 to 6 and 8 as contained in the Council resolution of 28 October 2021 in respect of the in-principle approval for the direct sale of a portion of Remainder Erf 1178 De Kelders, (±165m² in extent), to CFP Jordaan, be rescinded.

7. Financial Implications

None

8. Staff Implications

None

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9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A: Locality Plan

RECOMMENDATION TO THE COUNCIL:

that conditions 1 to 6 and 8 as contained in the Council resolution of 28 October 2021 in respect of the in-principle approval for the direct sale of a portion of Remainder Erf 1178 De Kelders, ($\pm 165\text{m}^2$ in extent), to CFP Jordaan, **be rescinded.**

RESPONSIBLE OFFICIAL :	W MURTZ
TARGET DATE FOR IMPLEMENTATION :	15 MARCH 2024
TARGET DATE TO INFORM APPLICANT :	29 MARCH 2024
TARGET DATE TO INFORM OBJECTOR :	N/A

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Manager: Property Administration

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**THIS MATTER SERVED BEFORE THE INVESTMENT & INFRASTRUCTURE
PORTFOLIO COMMITTEE ON 7 FEBRUARY 2024, WHICH COMMITTEE
RECOMMENDED AS FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

that conditions 1 to 6 and 8 as contained in the Council resolution of 28 October 2021 in respect of the in-principle approval for the direct sale of a portion of Remainder Erf 1178 De Kelders, ($\pm 165\text{m}^2$ in extent), to CFP Jordaan, **be rescinded**.

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