

ITEM NUMBER: C 55/04/21***RECOMMENDATION FROM THE EXECUTIVE MAYOR: 20 APRIL 2021*****MC 63/04/21 PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE TRANSFER BY WAY OF A PUBLIC COMPETITIVE PROCESS, OF VACANT REMAINDER ERF 143338, CAPE TOWN SITUATED AT 1 ST PATRICK AVENUE, SEAWINDS, RETREAT, FOR COMMUNITY PURPOSES**

It **RECOMMENDED** that:

- (a) in terms of Sections 14(2)(a) and (b) of the Municipal Finance Management Act (MFMA), Act 56 of 2003:
 - (i) it be resolved that Remainder Erf 143338, Cape Town, situated at 1 St Patrick Avenue, Seawinds, Retreat shown marked ABCDE on Plan LIS 2038 attached as Annexure A to the report on the agenda, in extent approximately 1567.84m²), zoned Community (CO1), is not required for the provision of the minimum level of basic municipal services;
 - (ii) it be confirmed that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset described in (a)(i) have been considered.
- (b) in terms of Regulation 5(1)(b) of the Municipal Asset Transfer Regulations (MATR), R.878 promulgated on 22 August 2008, in-principle approval be granted for the transfer of Remainder Erf 143338, Cape Town situated at 1 St Patrick Avenue, Seawinds as described in (a)(i) above
- (c) Remainder Erf 143338, Cape Town, situated at 1 St Patrick Avenue, Seawinds, be transferred by way of public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority
- (d) it be confirmed that, when considering the transfer of the property at less than market value as provided for in terms of clause 16.3 of Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property, the contents of Regulation 13(2) of the MATR have been duly taken into account.

IPAC 05/12/2020

PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE TRANSFER BY WAY OF A PUBLIC COMPETITIVE PROCESS, OF VACANT REMAINDER ERF 143338 CAPE TOWN, SITUATED AT 1 ST PATRICK AVENUE, SEAWINDS, RETREAT, FOR COMMUNITY PURPOSES

MC 63/04/21

VOORGESTELDE TOESTAAN VAN BEGINSELGOEDKEURING VIR DIE OORDRAG, VAN DIE ONBEOUDE ERF VAN ONBEOUDE RESTANT ERF 143338, KAAPSTAD, GELEË TE 1 ST PATRICKLAAN, SEAWINDS, RETREAT DEUR OPENBARE MEDEDINGING, VIR GEMEENSKAPSDOELEINDES

ISIPHAKAMISO SOKUNIKEZELWA NGOKOMTHETHO-SISEKO
ISIPHUMEZO SOKUTSHINTSHELA INTSALELA YESIZA 143338,
EKAPA, ESIVULELEKILEYO, ESIME KWA-1 ST PATRICK AVENUE,
SEAWINDS RETREAT NGOKOKHUPHISWANO LOLUNTU,
KULUNGISELELWA INDAWO YOLUNTU

Property Management representative was present to answer any question for clarity

The lockdown implemented in terms of National Disaster Regulations has resulted in the IPAC committee not being able to meet in a conventional meeting format. The report was distributed to all member for consideration.

The Legal Adviser to the Committee drew the Committee's attention to Factor B, on electronic Pg.6 of the report, where it is stated that Council will gain on the receipt of a market value. However, the report advocates for a reduced sales price.

The report writer acknowledged the error and the Committee accepted that Factor B should be amended to refer to "a discounted fair market value".

The following member indicated by e-mail that they supported the recommendation:

*Richard Wootton
Thembinkosi Siganda
Willem Van Gass*

The nominated representation from Legal Services, Dawid Joubert indicated that he has no legal reservations in respect of the report.

EXECUTIVE SUMMARY

PURPOSE OF REPORT	To obtain in-principle approval from Council for the transfer by way of a public competitive process of vacant City-owned land, Remainder Erf 143338, Cape Town situated at 1 St Patrick Avenue, Seawinds, Retreat for community purposes.			
PROPERTY DESCRIPTION	Remainder Erf 143338, Cape Town situated at 1 St Patrick Avenue, Seawinds is vacant and surrounded by improved residential properties.			
PROPERTY LOCATION	Situated at 1 St Patrick Avenue, Seawinds shown lettered ABCDE on the attached plan LIS2038 (Annexure A).			
AREA	4	SUBCOUNCIL	18	WARD 67
SITE EXTENT	Approximately 1567.84m ²			
VIABLE	YES	<input checked="" type="checkbox"/>	NO	<input type="checkbox"/>
CURRENT ZONING	Community Zone 1: Local (CO1)			
CURRENT USAGE	Vacant undeveloped site			
PROPOSED USAGE	The property will be used in accordance with the uses permitted in its zoning.			
INTERNAL AND EXTERNAL STAKEHOLDERS BRANCH COMMENTS	The proposed transfer of the property was circulated for internal and external stakeholder's comments, and it emerged that the property will not be required for provision of basic municipal services, therefore it can be transferred for residential purposes. (Annexure B).			
PUBLIC PARTICIPATION				
AUTHORITY FOR PUBLIC PARTICIPATION	Authority granted by	Director: Property Management	Date	06/11/2018
PUBLIC PARTICIPATION PROCESS	Date of advertising	10/11/2018 14/11/2018	Public comments	No objections were received
WARD COUNCIL COMMENTS	Date of notification	15/11/2018	Comment	No comments received
SUBCOUNCIL COMMENTS	Date of Submission	29/03/2015	Comment	Supported (Annexure C)
FACTORS MOTIVATING DECISION	<ul style="list-style-type: none"> • The sale of the land will relieve Council of the maintenance burden; • A market-related income will be generated; • The sale will enable better utilization of City land; • Vacant land will be developed to its highest and best use. 			
INTEGRATED DEVELOPMENT PLAN (IDP)				
STRATEGIC INTENT	SFA 1: An Opportunity City		Objective 1.1 (g) Leverage the City's assets, to rationalise and optimally utilise City assets to stimulate economic benefit for Cape Town.	

	ORGANISATIONAL DEVELOPMENT AND TRANSFORMATION PLAN (ODTP)	
	Optimisation & Rationalisation	The optimal utilisation of Council assets
	SPATIAL DEVELOPMENT FRAMEWORK (SDF)	
	Area Plan	The development of the property for residential purposes is not in contrary to the SDF.
	TRANSIT ORIENTATED DEVELOPMENT (TOD)	
TDA Urban Integration Management	Subject property does not meet the requirement for Urban Planning and Mechanisms to do a TOD Comprehensive Land Use assessment. There is no objection from TDA; Urban Integration to the proposed sale of the property, but it is recommended that the property be utilised for the purpose of a community facility	

RECOMMENDATIONS

For decision by Council:

It is recommended that:

- a) In terms of Sections 14(2)(a) and (b) of the Municipal Finance Management Act (MFMA), Act 56 of 2003:
 - i) Council resolves that Remainder Erf 143338, Cape Town, situated at 1 St Patrick Avenue, Seawinds, Retreat shown marked ABCDE on the attached plan LIS 2038 (Annexure A), in extent approximately 1567.84m²), zoned Community (CO1), not be required for the provision of the minimum level of basic municipal services;
 - ii) Council confirms that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset described in (a)(i) has been considered;
- b) In terms of Regulation 5(1)(b) of the Municipal Asset Transfer Regulations (MATR), R.878 promulgated on 22 August 2008, Council approves in principle the transfer of Remainder Erf 143338, Cape Town situated at 1 St Patrick Avenue, Seawinds as described in (a)(i);
- c) Remainder Erf 143338, Cape Town, situated at 1 St Patrick Avenue, Seawinds, be transferred by way of public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority.

- d) Council confirm that when considering the transfer of the property at less than market value as provided for in terms of clause 15.3 of Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property, the contents of Regulation 13(2) of the MATR have been duly taken into account.

AANBEVELINGS

Vir besluitneming deur die Raad:

Daar word aanbeveel dat:

- a) Ingevolge artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur (MFMA), Wet 56 van 2003:
- i) Die Raad besluit dat restant erf 143338, Kaapstad, geleë te 1 St Patricklaan, Seawinds, Retreat, ongeveer 1 567.48 m2 groot, gesoneer as gemeenskapsone 1: plaaslik (CO1), aangetoon met die letters ABCDE op die aangehegte plan LIS 2038, (**bylae A**), nie vereis word om die minimum vlak van basiese munisipale dienste te lewer nie;
 - ii) Die Raad bevestig dat die billike markwaarde van die bate beskryf in (a)(i) en die ekonomiese en gemeenskapswaarde wat in ruil vir die bate beskryf in (a)(i) ontvang sal word, in ag geneem is;
- b) Ingevolge regulasie 5(1)(b) van die regulasies oor die oordrag van munisipale bates (MATR), gepromulgeer op 22 Augustus 2008, die Raad die oordrag van restant erf 143338, Kaapstad, geleë te 1 St Patricklaan, Seawinds, beskryf in (a)(i), in beginsel goedkeur;
- c) Restant erf 143338, Kaapstad, geleë te 1 St Patricklaan, Seawinds, oorgedra word deur openbare mededinging, onderworpe aan die voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge die uitvoering van haar gedelegeer magtiging; en
- d) Die Raad bevestig dat, wanneer die oordrag van die eiendom teen minder as markwaarde oorweeg word soos bepaal in klousule 15.3 van die Raad se beleid oor die bestuur van sekere van die Stad Kaapstad se onroerende eiendom, die inhoud van regulasie 13(2) van die MATR behoorlik in ag geneem is.

IZINDULULO

Isiqqibo seseBhunga:

Kundululwe ukuba

- a) Ngokwecandelo-45(2)(a) loMthetho ongobuRhulumente boMmandla ongoLawulo lweziMali zikaMasipala (MFMA) ongunomb.56 wango-2003:

- i) IBhunga malithabathe isigqibo sokuba intsalela yesiza-143338, eKapa, esime kwa-1 St Patrick Avenue, Seawinds, Retreat, esibukhulu obumalunga nama-1568 m², esicandwe njengommandla woluntu 1: (C01) ongowoLuntu, esibonakaliswe ngoonobumba ABCDE kwiplani engu-LIS 2038 kwisihlomelo A eqhotyoshelweyo, asifuneki nganto ukuba sibonelele ngomlinganiselo othile weenkonziso ezingundoqo zikamasipala;
- ii) IBhunga maliqinisekise ukuba kuye kwathathelwa ingqalelo ixabiso lobulungisa lasemakethi njengoko lichazwe ku-(a)(i) nexabiso lezoqoqosho neloluntu eliyakuthi lifumaneka ngokutshintshelwana kweempahla ezicaciswe ku-(a)(i);
- b) NgokoMgaqo-5(1)(b) weMigaqo engokuTshintshelwa kweMpahla kaMasipala (MATR), R. 878 owamisela ngowama-22 Agasti 2008, iBhunga maliphumeze ngokomthetho-siseko ukutshintshelwa kwentsalela yesiza-143338, eKapa, esime kwa-1 St Patrick Avenue, Seawinds, njengoko kuchaziwe ku-(a) (i);
- c) Intsalela yesiza-143338, eKapa, esime kwa-1 St Patrick Avenue, Seawinds, eKapa, masitshintshelwe ngokokhuphiswano loluntu, ngokuxhomekeke kwimiqathango eyakuthi imiselwe nguMlawuli woLawulo lwePropati esebenzisa amagunya ache awagunyaziselweyo; kwakhona
- d) IBhunga maliqinisekise ukuba xa kuthathelwa ingqalelo kuthengiswa kwepropati ezingaphantsi kwexabiso lasemakethi, njengoko kubonelelwe kwisolotya-15.3 loMgaqonkqubo weBhunga ongoLawulo lwePropati ezithile ezingenakususwa weSixeko saseKapa, ziye zathathelwa ingqalelo iziqulatho zoMgaqo-13(2) weMigaqo engoTshintshelo lweMpahla kaMasipala (MATR)

ACTION: A HUMAN; R GELDERBLOEM

It is noted that this resolution is in line with Supply Chain Management Policy.

R Wootton

**MR RICHARD WOOTTON
EMPLOYEE No: 10207948
CHAIRPERSON : IMMOVABLE PROPERTY
ADJUDICATION COMMITTEE**

DATE: 6 April 2021

COMMENT:

Joan-Mari Holt
Digitally signed by Joan-Mari Holt
Date: 2021.04.08 07:37:48 +02'00'

LEGAL COMPLIANCE

COMMENT:

Certified as legally compliant based on the contents of the report.

DATE: _____

REPORT TO IPAC/MAYCO/COUNCIL

DATE

1. ITEM NUMBER

2. SUBJECT

PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE TRANSFER BY WAY OF A PUBLIC COMPETITIVE PROCESS, OF VACANT REMAINDER ERF 143338 CAPE TOWN, SITUATED AT 1 ST PATRICK AVENUE, SEAWINDS, RETREAT, FOR COMMUNITY PURPOSES

ONDERWERP

VOORGESTELDE TOESTAAN VAN BEGINSSELGOEDKEURING VIR DIE OORDRAG, VAN DIE ONBEOUDE ERF VAN ONBEOUDE RESTANT ERF 143338, KAAPSTAD, GELEË TE 1 ST PATRICKLAAN, SEAWINDS, RETREAT DEUR OPENBARE MEDEDINGING, VIR GEMEENSAPSDOELEINDES

ISIHLOKO

ISIPHAKAMISO SOKUNIKEZELWA NGOKOMTHETHO-SISEKO ISIPHUMEZO SOKUTSHINTSHELA INTSALELA YESIZA 143338, EKAPA, ESIVULELEKILEYO, ESIME KWA-1 ST PATRICK AVENUE, SEAWINDS RETREAT NGOKOKHUPHISWANO LOLUNTU, KULUNGISELELWA INDAWO YOLUNTU

L3299/K3298

3. DELEGATED AUTHORITY

For decision by Council

- 3.1 The legal provision for this non-delegable authority can be found in section 14 of the Municipal Finance Management Act, Act 56 of 2003 and regulation 5 of the Municipal Asset Transfer Regulations of 2008 (MATR).
- 3.2 In terms of the provisions of the Municipal Finance Management Act (MFMA) and the associated Municipal Asset Transfer Regulations (MATR), the City may only transfer of immovable property after;
 - a. the Council has made a determination that the asset is not required for the provision of basic municipal purposes and has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset, and
 - b. Approved in principle that the asset may be transferred.

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PROPERTY DESCRIPTION	Remainder Erf 143338, Cape Town situated at 1 St Patrick Avenue, Seawinds is vacant and surrounded by improved residential properties.				
PROPERTY LOCATION	Situated at 1 St Patrick Avenue, Seawinds shown lettered ABCDE on the attached plan LIS2038 (Annexure A).				
AREA	4	SUBCOUNCIL	18	WARD	67
SITE EXTENT	Approximately 1567.84m ²				
VIABLE	YES	x	NO		
CURRENT ZONING	Community Zone 1: Local (CO1)				
CURRENT USAGE	Vacant undeveloped site				
PROPOSED USAGE	The property will be used in accordance with the uses permitted in its zoning.				
INTERNAL AND EXTERNAL STAKEHOLDERS BRANCH COMMENTS	The proposed transfer of the property was circulated for internal and external stakeholder's comments, and it emerged that the property will not be required for provision of basic municipal services, therefore it can be transferred for residential purposes. (Annexure B).				
PUBLIC PARTICIPATION					
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FACTORS MOTIVATING DECISION	<ul style="list-style-type: none"> ▪ The sale of the land will relieve Council of the maintenance burden; ▪ A market-related income will be generated; ▪ The sale will enable better utilization of City land; ▪ Vacant land will be developed to its highest and best use. 				
STRATEGIC INTENT	INTEGRATED DEVELOPMENT PLAN (IDP)				
	SFA 1: An Opportunity City	Objective 1.1 (g) Leverage the City's assets, to rationalise and optimally utilise City assets to stimulate economic benefit for Cape Town.			
	ORGANISATIONAL DEVELOPMENT AND TRANSFORMATION (ODTP)				
	Optimisation & Rationalisation	The optimal utilisation of Council assets.			
	SPATIAL DEVELOPMENT FRAMEWORK (SDF)				
	Area Plan	The development of the property for residential purposes is not in contrary to the SDF.			
TRANSIT ORIENTATED DEVELOPMENT (TOD)					

	TDA Urban Integration Management	397 Subject property does not meet the requirement for Urban Planning and Mechanisms to do a TOD Comprehensive Land Use assessment. There is no objection from TDA; Urban Integration to the proposed sale of the property, but it is recommended that the property be utilised for the purpose of a community facility(ies).
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5. DISCUSSION/CONTENT

5.1 BACKGROUND

Reminder Erf 143338 Cape Town, situated at 1 St Patrick Avenue Seawinds, shown lettered ABCDE on the attached plan LIS 2038 (**Annexure A**) is a vacant site, situated within an existing residential area. It is zoned Community 1: (CO1) and is approximately 1567.84m² in extent. It is intended to sell the property for development in terms of its existing zoning.

5.2 CONSULTATION WITH INTERNAL DEPARTMENTS AND EXTERNAL STAKEHOLDERS

The various Council Departments and external stakeholders were consulted and have no objection to the sale of the property. A summary of branch comments is attached as **Annexure B** and **their requirements** will be included in the conditions of sale, where applicable.

Informal Settlements Water and Sanitation Directorate –Chwayita Macakati

The Water and Sanitation services appear to be affected if the land is to be developed. There is 150mm diameter sewer line running through the proposed property. No structures are to be erected over the existing sewer and water mains. Access for maintenance and inspection must be granted at all times.

The proposal complies with Section 14 of the Municipal Finance Management Act, Act 56 of 2003, in that the relevant branches of Council have confirmed that the subject property is not required for the provisions of the minimum level of basic municipal services.

Subcouncil 18 resolved to support the intention to transfer the subject property with further recommendations, (see **Annexure C** for Subcouncil resolution).

5.3 PUBLIC PARTICIPATION

In accordance with the authority obtained from the Director: Property Management on 6 November 2018, Council's intention to sell the subject property was advertised as follows:

Advertising	Weekend Argus and Die Burger	10 November 2018
	Southern Mail	14 November 2018
Notification	Provincial & National Treasury Sub-council Manager, Sub-council Chairperson & Ward Councillor	15 November 2018
Outcome	No objection or comments were received.	

5.4 VALUATION

The City's Professional Valuers were requested to undertake a desktop valuation of the subject property. The subject property was valued as at 31 October 2020. In this regard the following is of relevance:

The market value of the subject property is defined by International Valuation Standards Committee (IVSC) as:

The estimated amount for which an asset or liability should exchange on the date of valuation between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties acted knowledgeably, prudently and without compulsion.

Implicit in the market value of a property is the notion of highest and best use, which the IVSC defines as:

The most probable use of a property which is physically possible, appropriately justified, legally permissible, financially feasible, and which results in the highest value of the property being valued.

The comparable sales method was applied in valuing the property, which entails the following steps:

- i) Identifying recent sales transactions of similar properties in the same neighbourhood (or further afield if need be) for which information is available.
- ii) Comparing the comparable properties' value-forming characteristics with those of the subject properties, viz. location, stand size, etc.
- iii) Adjusting the sale prices of the comparable properties for effluxion of time between their sale's date and valuation date.
- iv) Deducing the value of the subject properties after taking due cognisance of all incomparable characteristics and their potential influence on the sale's price.

It should be noted that a desktop valuation was carried out which is deemed appropriate at this stage of the MATR process. A more comprehensive analysis will be undertaken closer to, and prior to, the property being transferred.

It was concluded that the market value of the subject property is in order of **R700 000 (excluding VAT)**

In terms of the City's Policy on the Management of Council's Immovable Property:

"Immovable property may be alienated to social care users, the purchase price payable shall, unless otherwise directed by Council, be fixed at between 10% and 25% of market value subject to a suitable reversionary clause being registered against the title deed of the property."

Should the property be sold at a reduced policy rate, it was recommended that price be set at 25% of market value, that is:

$R700\ 000 \times 25\% = \mathbf{R175\ 000}$ (excluding VAT)

Notwithstanding the above, and to allow for the efflux in time, the following escalation and validity period have been applied to the valuation:

- a. The transfer price shall escalate at ~~3%~~ **399 per annum** compounded annually on a pro rata basis commencing 6 months from date of valuation (i.e. as from 2021-05-01) until date of registration.

The market value is to be reassessed if the transaction is not approved by the relevant decision making authority of Council within 24 months from date of valuation (i.e. by 2022-10-31).

5.5 CONSTITUTIONAL AND POLICY IMPLICATIONS

- a) The proposal complies with Section 14 of the Municipal Finance Management Act, Act 56 of 2003, in that the relevant branches of Council have confirmed that the land is not required for the provision of the minimum level of basic municipal services;
- b) Chapter B of Council's policy relating to the Management of certain of the City of Cape Town's Immovable Property (approved 26 August 2010), permits the sale of immovable property.

5.6

FINANCIAL IMPLICATIONS

All costs involved in this transaction will be for the Purchaser's account.

5.7 SUSTAINABILITY IMPLICATIONS

Does the activity in this report have any sustainability implications for the City?

No Yes

5.8 LEGAL COMPLIANCE

5.8.1 The proposal complies with section 14 of the Municipal Finance Management Act, Act 56 of 2003 (MFMA);

5.8.2 The transfer of municipal capital assets is governed by Chapter 2 of the MATR.

5.8.3 Council may, in terms of **Reg 5(1)(b) of the MATR**, transfer or dispose of non-exempted capital assets after it has, in a meeting open to the public, made the determinations required by section 14(2)(a) and (b) of the MFMA:

- The erf (asset) is not needed for provision basic municipal services;
- Considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

5.8.4 In terms of **Regulation 7 of the MATR**, the municipal council must, when considering any proposed transfer or disposal of a non-exempted capital asset in terms of regulation 5(1)(b), take into account the factors highlighted in bold below:

- a) **Factor A: Whether the capital asset may be required for municipality's own use at a later date;**

Council's service branches have confirmed that the asset is not required for its own

- b) **Factor B: the expected loss or gain that is expected to result from proposed transfer or disposal;**

Council will not make a loss, but a gain on receipt of market value for the transfer of the subject property and future rates and the sale revenue will stimulate economic growth.

- c) **Factor C: The extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a significant economic or financial cost or benefit to municipality;**

Council will receive financial benefits in the form of the sales price as well as future rates revenue in respect of the property. The desktop value of the property, using comparable sales method is estimated to be in the region of **R700 000 (excluding VAT)**.

Since it is intended to sell the site for community purposes, it is recommended that it be sold at 25% of market value i.e. **R157 500 (excluding VAT)** as provided for in Council's Policy on the Management of Certain of the City's Immovable Property (Chapter B, section 15.3), which allows for the disposal of social care sites at purchase prices of between 10% and 25% of the fair market value, subject to a reversionary clause being registered against the title of the property should the asset not be utilised for social purposes.

The transfer price shall escalate at 5% per annum compounded annually on a pro rata basis commencing from date of valuation (i.e. as from 2021-05-01) until date of registration.

The market value is to be reassessed if the transaction is not approved by the relevant decision making authority of Council within 18 months from date of valuation (i.e. by 2022-10-31).

- d) **Factor D: The risks and rewards associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the municipality's interests;**

The rewards are anticipated in a form of future rates revenue. There is no envisaged operational or control risk anticipated against the City' interest.

- e) **Factor E: the effect that the proposed transfer or disposal will have on the credit rating of the municipality, its ability to raise long- term or short-term borrowings in the future and its financial position and cash flow;**

The proposed intention in relation to the subject property will attribute positively into the financial position of the City, through sales income, future rates revenue anticipated. The envisaged transaction is not expected to have negative impact on the credit rating of the City, due to anticipated cash inflows.

- f) **Factor F: Any limitations or conditions attached to capital asset or the transfer or the disposal of the asset, and consequences of any potential non-compliance with those conditions;**

There is 150mm diameter sewer line, running through the proposed property which should be protected by the registration of a servitude (see attached **Annexure A** for LIS Plan 2038).

g) **Factor G: Estimated cost of the proposed transfer or disposal;**
401

The normal costs related to advertisements and land surveying, if applicable, will be incurred by Council. The purchaser will be responsible for the transfer costs.

h) **Factor H: The transfer of any liabilities and reserve funds associated with the capital asset;**

None.

i) **Factor I: Any comments or representations on the proposed transfer or disposal received from the local community and other interested persons;**

The City's intention to transfer Remainder Erf 143338, Cape Town 1 St Patrick Avenue, Seawinds, was duly advertised in the local and community newspapers.

The relevant Subcouncil Manager, Subcouncil Chairperson and Ward Councillor and Regional Office were also notified of the intention to transfer the property.

No comments / objections were received.

j) **Factor J: Any written views and recommendations on the proposed transfer or disposal by National treasury and the relevant Provincial Treasury;**

No views and recommendations received from National and Provincial Treasury on the proposed transfer.

k) **Factor K: The interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community;**

None of these interests will be compromised through the proposed intention - in fact the disposal will support these interests through enhancing City's strategic objectives, and promoting socio-economic development for the benefit of the local communities.

l) **Factor L: Compliance with legislative regime that is applicable to proposed transfer or disposal**

The proposed transfer of the asset is compliant with the MFMA, Municipal Asset Transfer Regulations, Reg. 12 (1) and Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property (2010).

5.8.5 In terms of **Regulation 13(2) of the MATR**, Council must take into account the following factors (highlighted in bold) when considering any proposal to transfer or sell non-exempted capital assets at less than fair market value:

a) **Factor A: The interests of (i) The State and (ii) the local community**

i) It is in the interest of the of the Sate to transfer the capital asset at less than fair market value as it supports government's social and community programmers aimed at stimulating and accelerating investment in underprivileged neighborhoods.

ii) It is in the interest of the local community that the capital asset be made available to it at less than fair market value as this facilitates access to land

ownership, which is of benefit to the greater community.

b) **Factor B: The strategic and economic interests of the municipality or municipal entity, including the long-term effect of the decision on the municipality or municipal entity:** **402**

- i) The aim of this transaction is to leverage city assets through asset rationalisation and optimisation in order to stimulate socio-economic benefit for the City;
- ii) This proposed transfer is not intended to generate market-related return for the City and is intended to generate a social return for the community.

A more stable community with fewer social problems will save the City's resources by requiring less intervention to curb anti-social behaviour. A suitable reversionary clause will be a condition of sale should the properties be used for social purposes.

c) **Factor C: The constitutional rights and legal interests of all affected parties**

The constitutional rights and interests of affected parties will not be compromised through the transfer of the asset.

d) **Factor D: Whether the interests of the parties to the transfer should carry more weight than the interest of the local community and how individual interest is weighed against the collective interest:**

The transfer will not prejudice the local community; in fact, it will be in their interest as the asset will be used for community/social purposes. The interests of the community take precedence over that of an individual in that the asset will be required to be used to serve the community in perpetuity.

e) **Factor E: Whether the local community would be better served if the capital asset is transferred at less than its fair market value, as opposed to a transfer of the asset at fair market value.**

The transferee and community's interests are aligned; if the capital asset is sold at fair market value, it would severely reduce the ability of NPO's/NGO's to purchase the asset in order to develop and use it in terms of their intended land use.

5.9 STAFF IMPLICATIONS

Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?

No
Yes

6. RECOMMENDATIONS

For decision by Council

It is recommended that:

- a) In terms of section 14(2)(a) and (b) of the Municipal Finance Management Act (MFMA), Act 56 of 2003:
 - i) Council resolve that Remainder Erf 143338, Cape Town, situated at 1 St Patrick Avenue, Seawinds, Retreat shown marked ABCDE on the attached plan LIS 2038 (**Annexure A**), in extent approximately 1567.84m², zoned Community 1 (CO1), not be required for the provision of the minimum level of basic municipal services;

- 403
- ii) Council confirm that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset described in (a) (i) have been considered.
 - b) In terms of Regulation 5(1)(b) of the Municipal Asset Transfer Regulations (MATR), R.878 promulgated on 22 August 2008, Council approves in principle the transfer of Remainder Erf 143338, Cape Town situated at 1 St Patrick Avenue, Seawinds as described in (a)(i);
 - c) Remainder Erf 143338, Cape Town, situated at 1 St Patrick Avenue, Seawinds, be transferred by way of public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority.
 - d) Council confirm that when considering the transfer of the property at less than market value as provided for in terms of clause 15.3 of Council's Policy on the Management of Certain of the City of Cape Town's Immovable Property, the contents of Regulation 13(2) of the MATR have been duly taken into account.

AANBEVELINGS

Vir kennisname deur subraad 18:

Daar word aanbeveel dat:

- a) Ingevolge artikel 14 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur (MFMA), Wet 56 van 2003:
 - i) Die Raad besluit dat restant erf 143338, Kaapstad, geleë te 1 St Patricklaan, Seawinds, Retreat, ongeveer 1 567.48 m² groot, gesoneer as gemeenskapsone 1: plaaslik (CO1), aangetoon met die letters ABCDE op die aangehegte plan LIS 2038, (**bylae A**), nie vereis word om die minimum vlak van basiese munisipale dienste te lewer nie;
 - ii) Die Raad bevestig dat die billike markwaarde van die bate beskryf in (a)(i) en die ekonomiese en gemeenskapswaarde wat in ruil vir die bate beskryf in (a)(i) ontvang sal word, in ag geneem is;
- b) Ingevolge regulasie 5(1)(b) van die regulasies oor die oordrag van munisipale bates (MATR), gepromulgeer op 22 Augustus 2008, die Raad die oordrag van restant erf 143338, Kaapstad, geleë te 1 St Patricklaan, Seawinds, beskryf in (a)(i), in beginsel goedkeur;
- c) Restant erf 143338, Kaapstad, geleë te 1 St Patricklaan, Seawinds, oorgedra word deur openbare mededinging, onderworpe aan die voorwaardes opgelê deur die direkteur: eiendomsbestuur ingevolge die uitvoering van haar gedelegeer magtiging; en
- d) Die Raad bevestig dat, wanneer die oordrag van die eiendom teen minder as markwaarde oorweeg word soos bepaal in klousule 15.3 van die Raad se beleid oor die bestuur van sekere van die Stad Kaapstad se onroerende eiendom, die inhoud van regulasie 13(2) van die MATR behoorlik in ag geneem is.

IZINDULULO

Yeyokuba iqwalaselwe iIBhungana 18

Kundululwe ukuba:

- a) Ngokwecandelo-45(2)(a) loMthetho ongobuRhulumente boMmandla ongoLawulo lweziMali zikaMasipala (MFMA) ongunomb.56 wango-2003:
 - i) IBhunga malithabathe isigqibo sokuba intsalela yesiza-143338, eKapa, esime kwa-1 St Patrick Avenue, Seawinds, Retreat, esibukhulu obumalunga nama-1568 m²,

esicandwe njengommandla woluntu 1: (C01) ongowoLuntu, esibonakaliswe ngoonobumba ABCDE kwiplani engu-LIS 2038 **kwisihlomelo A** eqhotyoshelweyo, asifuneki nganto ukuba sibonelele ngomlinganiselo othile weenkonziso ezingundoqo zikamasipala;


- ii) IBhunga maliqinisekise ukuba kuye kwathathelwa ingqalelo ixabiso lobulungisa lasemakethi njengoko lichazwe ku-(a)(i) nexabiso lezoqoqosho neloluntu eliyakuthi lifumaneke ngokutshintshelwana kweempahla ezicaciswe ku-(a)(i);
- b) NgokoMgaqo-5(1)(b) weMigaqo engokuTshintshelwa kweMpahla kaMasipala (MATR), R. 878 owamiselwa ngowama-22 Agasti 2008, iBhunga maliphumeze ngokomthetho-siseko ukutshintshelwa kwentsalela yesiza-143338, eKapa, esime kwa-1 St Patrick Avenue, Seawinds, njengoko kuchaziwe ku-(a) (i);
- c) Intsalela yesiza-143338, eKapa, esime kwa-1 St Patrick Avenue, Seawinds, eKapa, masitshintshelwe ngokokhuphiswano loluntu, ngokuxhomekeke kwimiqathango eyakuthi imiselwe nguMlawuli woLawulo lwePropati esebenzisa amagunya akhe awagunyaziselweyo; kwakhona
- d) IBhunga maliqinisekise ukuba xa kuthathelwa ingqalelo kuthengiswa kwepropati ezingaphantsi kwexabiso lasemakethi, njengoko kubonelelwe kwisoloty-15.3 loMgaqo-nkqubo weBhunga ongoLawulo lwePropati ezithile ezingenakususwa weSixeko saseKapa, ziye zathathelwa ingqalelo iziqulatho zoMgaqo-13(2) weMigaqo engoTshintshelo lweMpahla kaMasipala (MATR).

ANNEXURES

Annexure	A	Plan LIS 2038
Annexure	B	Summary of branch comments
Annexure	C	Subcouncil resolution 18SUB 17/03/2019

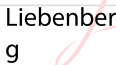
NAME	ANALIZE RAINHO	CONTACT NUMBER	021 400 1123
E-MAIL ADDRESS	ANALIZE.RAINHO@CAPETOWN.GOV.ZA		
DIRECTORATE	ECONOMIC OPPORTUNITIES & ASSET MANAGEMENT	FILE REF NO	14/3/4/3/1629/A00
SIGNATURE	MANAGER : PROPERTY ACQUISITIONS AND DISPOSALS	ANDRE HUMAN	Andre Human Digitally signed by Andre Human Date: 2020.12.03 15:17:21 +02'00'

DIRECTOR: PROPERTY MANAGEMENT (IN HER CAPACITY AS NOMINEE FOR THE EXECUTIVE DIRECTOR – ECONOMIC OPPORTUNITIES AND ASSET MANAGEMENT

NAME	RUBY GELDERBLOEM	COMMENT:
DATE		
SIGNATURE	 Digitally signed by Ruby Gelderbloem Date: 2020.12.07 12:36:18 +02'00'	

LEGAL COMPLIANCE

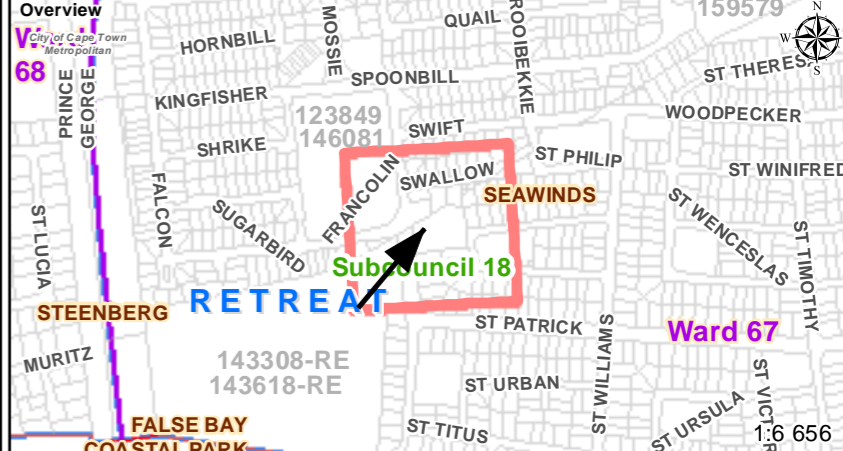
- REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION. NON-COMPLIANT

NAME		COMMENT:
DATE	Jason Sam Liebenberg	
SIGNATURE	 Digitally signed by Jason Sam Liebenberg Date: 2020.12.10 07:49:22 +02'00'	Certified as legally compliant based on the contents of the report

Note: IPAC delegation in terms of Part 42, delegations 1 (1) and 1 (2) of the approved System of Delegations.

DIM TEXT	DIM [metre]
AB	36.56
BC	14.46
CD	35.76
DE	47.00
EA	23.68

PROPERTY DISPOSALS CAPE TOWN - ERF 143338-RE SEAWINDS



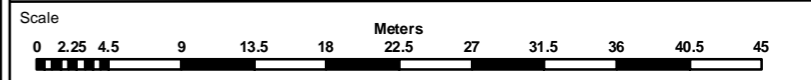
Legend:

- Disposal Area
- Elec - Substations
- Streetlight
- Elec - Underground Cables
- Water - Hydrants Reticulation
- Water - Valves Reticulation
- Water - Mains Reticulation
- Sewer - Connection Line
- Sewer - Manholes
- Sewer - Mains Reticulation
- STW - Manhole
- Catchpit
- STW - Pipe
- STW Connection
- Servitude
- SG Approved Property

Notes:

- 1) The figure ABCDE represents ERF 143338-RE CAPE TOWN, in extent of 1567.84 m². Zoning Scheme: **Community 1 : Local** owned by **City Of Cape Town**.
- 2) Title Deed No. **T 50052/1993**.
- 3) **CONDITIONS** 1.No Structures are to be erected over the existing Sewer and Water Mains
2.Access to maintance and inspection must be granted at all times
- 4)
- 5)

Ward Number: 67, Subcouncil: 18



Drawn By: **MLAMLI LIVINGSTONE NGCWAYI** Telephone: **+ 27 (0)21 487 2817**
 Email: **mlamli.livingstone@capetown.gov.za** Date: **19 October 2018**



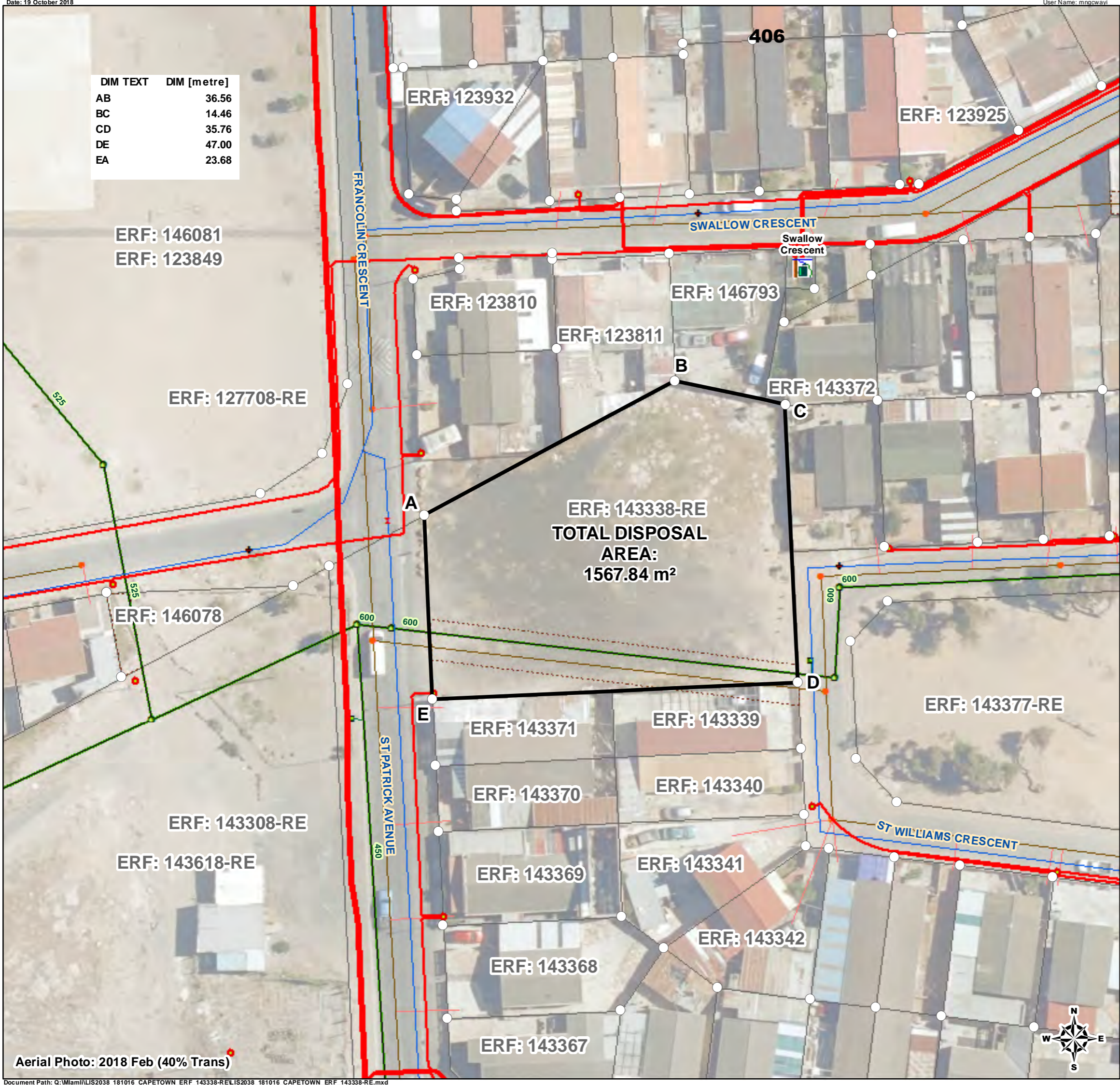
CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

City of Cape Town Metropolitan Municipality
 Property Management: GIS and Surveys
 Civic Center
 Cape Town
 8001
 Private Bag X298
 Cape Town
 8300
 Tel: +27 (0) 21 400 2226
 Email: **mashudu.mudau@capetown.gov.za**

Project Manager: **PHAKAMILE KHATSOLO**

Case Nr: **LIS2038**
 File Reference: **HO14/3/4/3/1629/A00**

Disclaimer
 City of Cape Town accepts no responsibility for the accuracy or completeness of the data presented on this map and will not be held liable for damages, including loss of profits or consequential damages, arising out of the use of this information.



Aerial Photo: 2018 Feb (40% Trans)



**PROPERTY DISPOSALS
ASSETS & FACILITATION MANAGEMENT**

Phakamile Khatsolo
Clerk: Property Disposals

E: Phakamile.khatsolo@capetown.gov.za
File ref: 14/3/4/3/1629/A00

2018/08/25

TECHNICAL INVESTIGATION CONTROL SHEET	
PROPERTY	Erf 143338-RE, 1St Patrick Avenue, Seawinds, Cape Town
Extent	1568
Zoning	Community Zone 1: Local
Title Deed No.	T50052/1993
Disposal Plan No.	2038
Date comments requested	20.07.2018
Reminder	02.08.2018
Closing date for comments	10.08.2018

Department	Official	Response received Date	Comments
TDA: DEVELOPMENT MANAGEMENT	Donald Suttle	08.08.2018	Remainder Erf 143388 Cape Town at Seawinds is zoned Community Zone 1. This department has no objection to the sale of the property.
TDA: ASSET MANAGEMENT AND MAINTENANCE	Fatiema Benjamin	24.07.2018	We have no objection with the sale of erf 143338-RE, subject to registration of services servitude to accommodate the storm water infrastructure at the Southern point of the proposed land (Refer to Annexure A).

TDA: URBAN INTEGRATION	Willem Naude	-	No response
TDA: IMPACT ASSESMENT & DEVELOPMENT CONTROL	Mervyn August	20.07.2020	This communication serves to inform Property Management, that the Human Settlements Directorate has no objections to the sale of the property.
TDA: BUILT ENVIRONMENT MANAGAMENT INFRASTRUCTURE MANAGEMENT & INVESTMENT	Glenwin Sampson	02.08.2018	With reference to the CITP 2017-22 and the approved Public Right of Way / Road Network Plan (2017), The Conceptual Design & Planning Branch of TDA: Urban Catalytic Investment has no objection to the disposal of Erf 143338re, St Patrick Avenue, Seawinds as the property is are not required for future road network improvements.
TDA: ENVIROMENTAL MANAGEMENT ENVIROMENT AND HERITAGE MANAGEMENT	Rashaad Samaai	14.08.2018	The Department has no objection to the abovementioned application since the property has no environmental and heritage conservation value.
TDA: INTEGRATED TRANSPORT IMPLEMENTATION	Kamiel Velloo	23.08.2018	No objection to the sale at this time. However, I would the NMT planning department may consider maintaining the existing pedestrian link/walkway between St Patrick Avenue and St Williams Crescent as this appears to be a natural pedestrian desire-line across the property, which appears to be in regular use.
TDA: ENVIRONMENTAL MANAGEMENT COASTAL MANAGEMENT	Gregg Oelofse	-	No response
FINANCE	Danie Malan	-	No response
SOCIAL SERVICES: RECREATION AND PARKS	Jennifer Fabing	-	No response

SOCIAL SERVICES SOCIAL DEVELOPMENT & EARLY CHILDHOOD DEVELOPMENT (SDECD)	Brian Ford	20.07.2018	No objection.
SOCIAL SERVICES CITY HEALTH	Zisile Mqhayi	15.08.2018	From the Environmental Health point of view the proposed disposal of this property is fully supported because the community utilizes it for illegal dumping of various types of waste, in particular builder's rubble and garden refuse
SOCIAL SERVICES PLANNING AND DEVELOPMENT & PMO	Leeroy May Bradley Burger	-	No response.
SAFETY AND SECURITY FIRE SERVICES	Ian Schnetler	20.07.2018	No objections from Fire and Rescue
SAFETY AND SECURITY LAW ENFORCEMENT, TRAFFIC & CO- ORDINATION LAW ENFORCEMENT SERVICES	Rudolf Wiltshire	-	No response.
SAFETY AND SECURITY LAW ENFORCEMENT, TRAFFIC & CO- ORDINATION TRAFFIC SUPPORT SERVICES: TRAFFIC	Mark Harding	20.07.2018	This department has no objections to the proposed sale of ERF 143338-RE.
AREA BASED SERVICE DELIVERY	Freddie Prince/ Wessie van der Westhysen	-	No response.
AFM: FACILITIES MANAGEMENT CENTRALISED FACILITIES MANAGEMENT AND MAINTENANCE PLANNING	Jenna Reisenberg	27.07.2018	No objection to the sale of the proposed ERF, as the vacant land is not required by FM Area 4.

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<p>AFM PROPERTY MANAGEMENT PROPERTY HOLDING</p>	<p>Alcino Moses</p>	<p>24.07.2018</p>	<p>No objection or comments on this proposed disposal. Note that there is some history on the property.</p>
<p>PROPERTY TRANSACTION MANAGEMENT</p>	<p>Samuel Mukori</p>	<p>20.07.2018</p>	<p>No Objections</p>
<p>AFM PROPERTY MANAGEMENT IMMOVABLE PROPERTY PLANNING</p>	<p>Deidre Khan</p>	<p>14.08.2018</p>	<p>The subject area proposed for sale is Remainder Erf 143338 Cape Town, zoned CO1. IPP has no objection to the sale of the subject property, however we bring to your attention that the User Department for the usage areas identified as UA1 (AO ID: 52749399) is Recreation and Parks where accountability means the responsibility for use, management and control of the immovable property asset. As the User Department, Recreation and Parks must be afforded the opportunity to comment on the proposed sale. We also note, a stormwater servitude runs across the southern edge of the property. The following is noted: City Manager Directive 19 of 2017 required all Directorates to identify their need for immovable property assets over the next 5 years. This asset demand data reveals the following needs for operational purposes: Proximity/Area where need identified Need (Y/N) Type of need (usage) Suburb Sea Winds Y Libraries Ward 67 Sub – council 18 Should the disposal application be approved by the Director: Property Management, the signed transfer must be made available to IPP in order to ensure that the City's Immoveable Property Asset Register (IPAR) is updated. Furthermore, we bring to your attention that an Accountable Department must be designated in accordance with the Immoveable Property Asset Management Policy (C06/12/15):</p>

			The immovable property asset has not been subject to an immovable property asset management performance assessment.
AFM: PROPERTY MANAGEMENT TRANSVERSAL REAL ESTATE SERVICES	Fariied Shariff	-	No response
ENERGY: ELECTRICAL GENERATION AND DISTRIBUTION ENGINEERING	Susan Nel	21.08.2018	This Department has no objection to the proposal subject to the condition that any alterations or deviations to electricity services necessary as a consequence of the proposal, or requested by the applicant, will be carried out at the applicant's cost.
ENERGY: ELECTRICAL GENERATION AND DISTRIBUTION ENGINEERING REVENUE MANAGEMENT	Natalie Allies	-	No response
INFORMAL SETTLEMENTS WATER AND SANITATION ALL BRANCHES	Chwayita Macakati	17.08.2018	<p>Proposed Land use The Department of Water and Sanitation has not identified any intended use for the above-mentioned property.</p> <p>Services affected The Water and Sanitation services appear to be affected if the land is to be developed. There is 150mm diameter sewer line running through the proposed property site (Refer to Annexure A).</p> <p>Infrastructure spare capacity for potential future development Given that, the future development intention for the property is yet to be confirmed, confirmation of spare capacity of the existing infrastructure cannot be provided at this stage.</p> <p>Conditions</p> <ul style="list-style-type: none"> <input type="checkbox"/> No structures are to be erected over the existing Sewer and Water mains. <input type="checkbox"/> Access for maintenance and inspection must be granted at all times. <input type="checkbox"/> The area where the services are situated can be used for light gardening to avoid any damages to the sewer line.

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CORPORATE SERVICES	Thembelani Mangena Wallied Taliep	-	No response.
INFORMAL SETTLEMENTS: WATER AND WASTE SERVICES INFORMAL SETTLEMENTS AND BACKYARDS INFORMAL SETTLEMENTS ENGINEERING SERVICE	Susan Groenewald	-	No response.
INFORMAL SETTLEMENTS: WATER AND WASTE SERVICES SOLID WASTE MANAGEMENT	Rosina Lesoetsa	21.08.2018	The property is not required for the provision of waste management services, the sale is supported.
TELKOM SA LTD	Erica Burg (EJ) <EricaB@openserve.co.za>	-	No response.

The Subcouncil at its meeting of 15/03/2019 resolved as follows:

Report Subject	PROPOSED GRANTING OF IN-PRINCIPLE APPROVAL FOR THE TRANSFER, OF VACANT REMAINDER ERF 143338, SITUATED AT 1ST PATRICK AVENUE, SEAWINDS, CAPE TOWN BY PUBLIC COMPETITION, FOR COMMUNITY PURPOSES
Meeting Date	15/03/2019
Date Sent	29/03/2019
Directorates	ECONOMIC OPPORTUNITIES AND ASSET MANAGEMENT
Author	Analyze Rainho
Author Contact No	0214001123
Delegation Information	10(1)
Agenda Item No	18SUB 17/3/2019
Preamble	
Resolution	Recommend
Resolution Details	<p>RECOMMENDATION</p> <p>Not delegated: for decision by Council and noting by Subcouncil 18:</p> <p>Subcouncil 18 SUPPORTS that :</p> <p>a)In terms of section 14(2)(a) and (b) of the Municipal Finance Management Act (MFMA), Act 56 of 2003 :</p> <p>i)Council resolve that Remainder Erf 143338, situated at 1st Patrick Avenue, Seawinds, Cape Town in extent approximately 1568m², zoned Community zone 1: Local (CO1), shown lettered ABCDE on the attached plan LIS 2038, not be required for the provision of the minimum level of basic municipal services;</p> <p>ii)Council confirm that the fair market value of the asset described in (a)(i) and the economic and community value to be received in exchange for the asset described in (a)(i) have been considered ;</p> <p>b)In terms of Regulation 5(1)(b) of the Municipal Asset Transfer Regulations (MATR), Remainder Erf 143338, situated at 1st Patrick Avenue, Seawinds, Cape Town R.878 promulgated on 22 August 2008, Council approve in principle the transfer of as described in (a)(i);</p> <p>c)Remainder Erf 143338, situated at 1st Patrick Avenue, Seawinds, Cape Town be transferred by public competition, subject to conditions to be imposed by the Director: Property Management in the exercise of her delegated authority ;</p> <p>d) Council confirm that when considering the transfer of the property at less than market value as provided for in terms of clause 15.3 of Council's Policy on the Management of Certain of the City of Cape Town's</p>

Immovable Property, the contents of Regulation 13(2) of the MATR have been duly taken into account.

ACTION : MS A RAINHO : PROPERTY MANAGEMENT