

ERF 5087, 14 FONTEINHOUT AVENUE, KLEINMOND: APPLICATION FOR DEPARTURE AND RELAXATION OF TITLE DEED: FVS TOWN AND REGIONAL PLANNERS (obo HB BUCKLE)

Notice is hereby given in terms of Section 48, read with Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that an application has been received for a departure to relax the street building line from 4m to 0,876m to accommodate a proposed carport.

The application also entails the relaxation of Clause C.10 of Title Deed No. T2949/2010 to relax the street building line from 6,3m to 0,876m to accommodate a proposed carport.

Full detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning at 16 Paterson Street, Hermanus, and at the Kleinmond Library, 5th Avenue, Kleinmond. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **29 October 2021**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Ms. H van der Stoep** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 5087, FONTEINHOUTLAAN 14, KLEINMOND: AANSOEK OM AFWYKING EN VERSLAPPING VAN TITELAKTE: FVS STADS- EN STREEKBEPANNERS (nms HB BUCKLE)

Kennis geskied hiermee ingevolge Artikel 48, saamgelees met Artikel 16(2)(b) van die Overstrand Munisipaliteit Gewysigde Verordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek om afwyking ontvang is vir die verslapping van die straaboulyn vanaf 4m na 0,876m ten einde 'n voorgestelde motorafdak te akkommodeer.

Die aansoek behels ook die verslapping van Klousule C.10 van Titelakte Nr. T2949/2010 ten einde die straatboulyn te verslap vanaf 6,3m na 0,876m ten einde 'n voorgestelde motorafdak te akkommodeer.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus en die Kleinmond Biblioteek, 5de Laan, Kleinmond. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **29 Oktober 2021**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Me H van der Stoep** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA 5087, 14 FONTEINHOUT AVENUE, KLEINMOND: ISICELO SOPHAMBUKO NOKUNYENISWA KWETAYITILE: FVS TOWN AND REGIONAL PLANNERS (obo HB BUCKLE)

Isaziso sinikwe ngokwemiqathango yeCandelo 48 lelifundwa kunye neCandelo 16(2)(b) loMthetho kaMasipala oLungisiweyo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa kuMhlaba kaMasipala, 2020 sokokuba isicelo sifunyenwe kulungiselelwa uphambuko kunyenyiso lomda wesakhiwo ongasesitalatweni ukususela kwi-4m ukuya kwi-0,876 ukulungiselela ikhapoti ecetywayo.

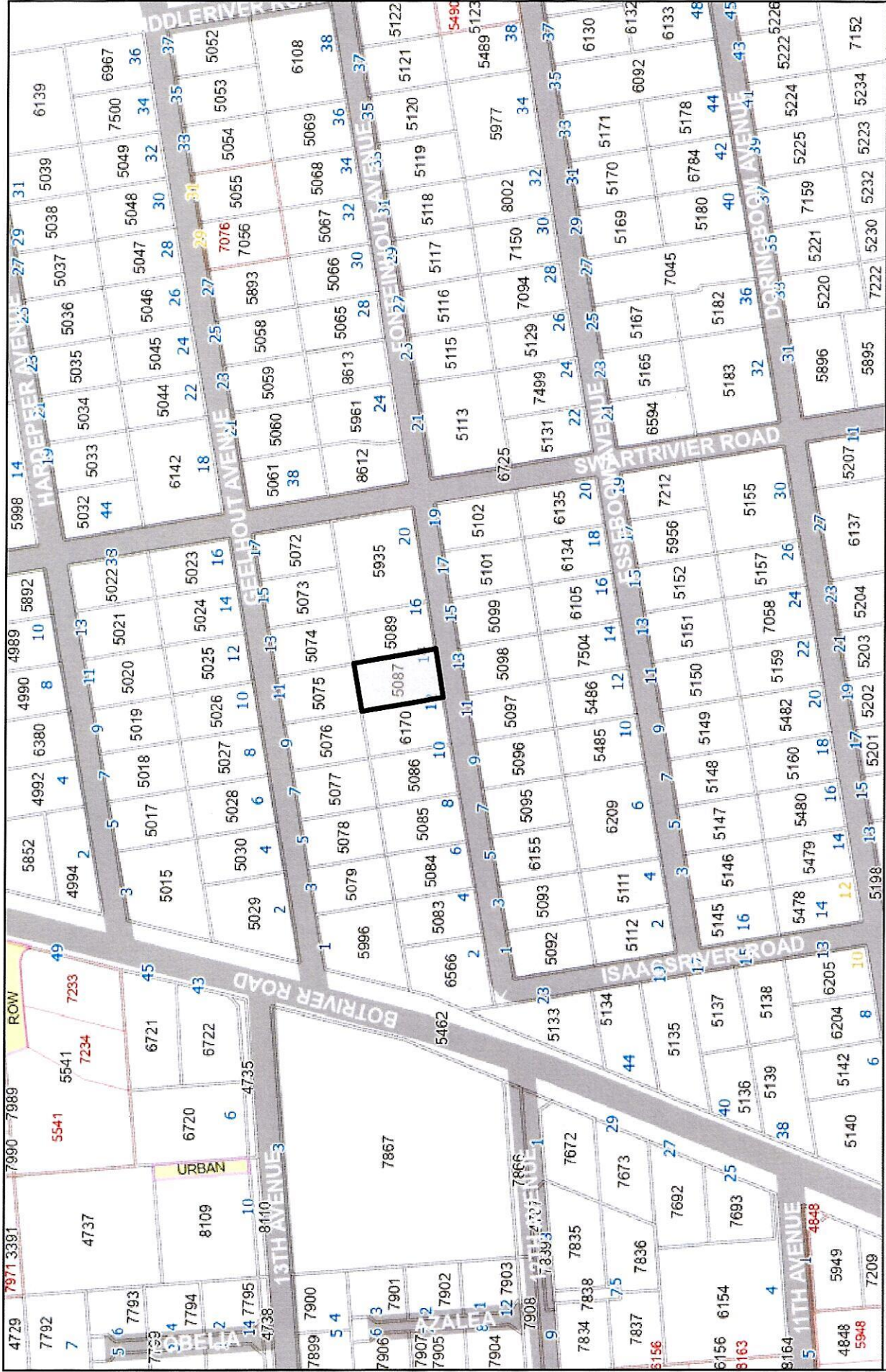
Isicelo siqulathe ngokunjalo ukunyenyiswa kweGatya C. 10 leTayitile enguNombolo T2949/2010 ukunyenyiswa komda wesakhiwo ongasesitalatweni ukususela kwi-6,3m ukuya kwi-0,876 ukulungiselela ikhapoti ecetywayo.

Iinkcukacha ezipheleleyo ngokuphathelene nesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zokusebenza ngamaxesha okusebenza aphakathi kwentsimbi yesi-08:00 ne-16:30 kwiSebe: loCwangciso lweDolophu kwa-16 Paterson Street, Hermanus nakwiThala leeNcwadi laseKleinmond, 5th Avenue, Kleinmond. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zeSoloty lama51 nama52 oMthetho kaMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla **wama-29 ku-Oktobha 2021**, uchaze igama lakho, iadresi, iinkcukacha zonxibelelwano, umdla wakho kwesi sicelo nezizathu zokunika uluvo. Imibuzo ngomnxeba ingathunyelwa ku**Nksk. H van der Stoep** kule nombolo yomxeba 028-313 8900. UMasipala angala ukuthatha izimvo ezifunyenwe emva komhla wokuvalwa. Nabani na ongakwazi ukufunda nokubhala angahambela kwiSebe lokuCwangciswa kweDolophu apho igosa likamasipala liza kuncedisa ukuze ukwazi ukuqulunqa izimvo zakhe.

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INTRODUCTION

FVS Town and Regional Planners is a professional town planning consultancy based in the Western Cape of South Africa, with project experience throughout the country. We strive to deliver town planning services to individuals, companies, and communities to create sustainable environments.

We have a combined experience of 10 years in both public sector and private sector. We can assist with all varieties of land - use related issues. With a dynamic and efficient team, we can assist with the management of both large and small-town planning projects and will be able to provide our consultation services where necessary.

Background Information

The property owners contacted this office to ask for advice or assistance with a few concerns they had pertaining to their property. During a site visit and consultation, it was evident that with the proposed additions and alterations they would also have to apply for a building line relaxation, in conjunction with a title deed building line relaxation.

Planning Brief

This motivation report and supporting documents have been submitted to apply for the building line departure and title deed building line relaxation, as described in Section 2 of this report. Please see herewith the Motivation Report and supporting documentation that includes the following:

- Application Form
- Power of Attorney
- Title Deed
- Locality Plan
- Proposed Building Plan
- Surveyor General Diagram
- Proposed Building Plan
- Neighbour's Consent
- Proof of Payment



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PROPERTY DETAILS

Section 1 of this report consists of the details pertaining to the subject property, such as its locality and ownership details and the property.

The Proposal

The proposal entails the construction of a carport, approximately 46m² in extent, constructed out of six (6) DIA Steel posts and corrugated roof sheeting, in conjunction with the attached Plan A101.

The Application

Application is hereby made in terms Section 16 (2) (b) of the Overstrand Municipal Land Use Planning By-Law for the following:

"Permanent Departure from the provisions of the zoning scheme"

- Relaxation of the street boundary building line from 4m to 0.876m.

Application is hereby made in terms Section 16 (2) (b) of the Overstrand Municipal Land Use Planning By-Law for the following:

"Relaxation of the title deed"

- Relaxation of the title deed street boundary building line from 6.3m to 0.876m. Refer to *Clause C.10* of the subject title deed.

Please refer to the following attached Annexures:

Annexure A: Application Form

Annexure B: Power of Attorney

Ownership Details

Erf 5087, Kleinmond (Title Deed Number: T2949/2010) is currently registered in the name of HELENA BEATRIX BUCKLE and described as the following:

Remainder of Erf 5087, KLEINMOND
In the MUNICIPALITY KLEINMOND
CALEDON Division, WESTERN CAPE
In extent: 596m²



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Please refer to **Annexure C** for a complete copy of the Title Deed.

Locality

The application site is situated Fonteinhout Avenue in the coastal town of Kleinmond, in the Overberg District of the Western Cape Province. Kleinmond is approximately 100km from Cape Town located beneath the Kogelberg Mountains.

Please refer to **Annexure D** for the Locality Plan.

Character of the Surrounding Area

Due to the town's relatively small footprint the application site is situated in proximity of the Central Business District (CBD), as indicated in the Figure 1 below. The surrounding area consists mainly of single residential dwellings and group housing. Figure 2 gives an indication of surrounding zonings in the area, single residential (bright yellow areas) and general residential (dash brown areas). Kleinmond currently has one primary school and various smaller business.

Kleinmond, including other towns such as Betty's Bay, Pringle Bay and Hermanus, is mainly sustained by the tourism trade and offers a wide variety of activities such as golfing, hiking, horse riding and other water related activities such as fishing and kayaking. The surrounding area is further stimulated by holiday goers coming to visit their holiday homes and a relatively large retirement community.

Please refer to Figure 1 and Figure 2 below:

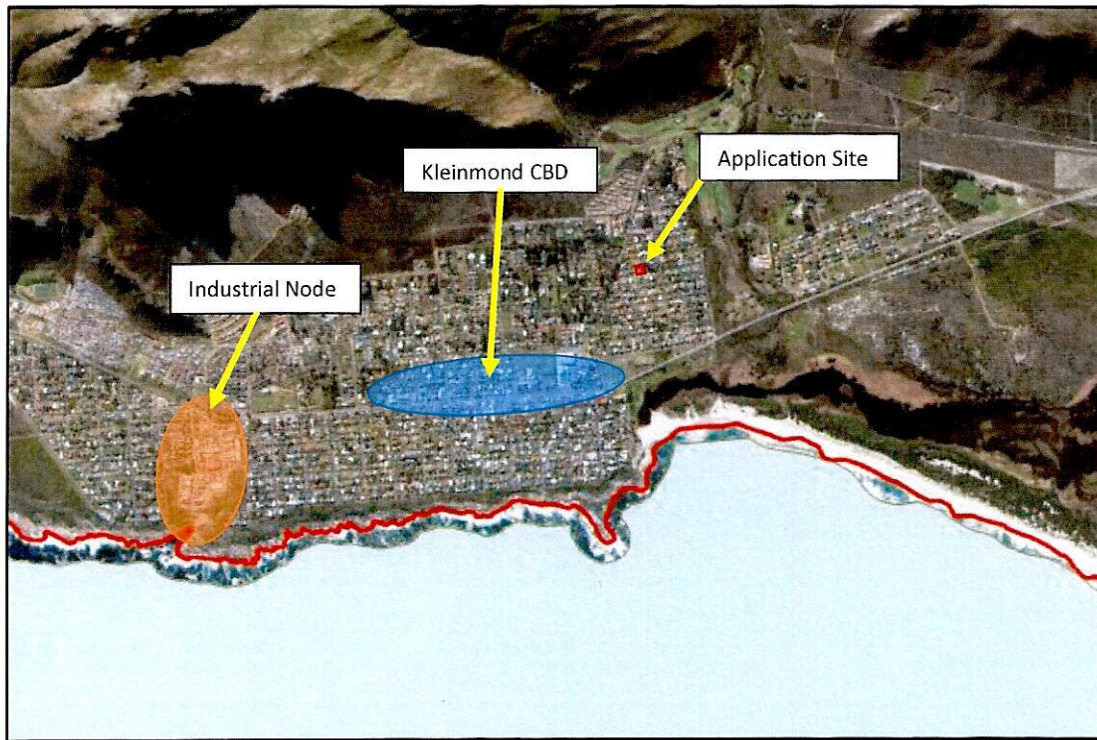


Figure 1: Overstrand Public Viewer, September 2021 – Kleinmond CBD



Figure 2: Overstrand Public Viewer, September 2021 – Surrounding Zonings



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MOTIVATION

Section 2 of the motivation report deals specifically with the type of application and what will be applied for.

Property Particulars

Erf 5087, Kleinmond is currently zoned as Single Residential Zone 1. Please refer to the table below for an extract from the Overstrand Municipality Land Use Scheme 2020. Also, refer to the Overstrand Municipality Land Use Scheme, 2020 for additional parameters, such as parking, loading bays and screening, pertaining to the Single Residential Zone 1.

OVERSTRAND MUNICIPALITY LAND USE SCHEME OF 2020 In terms of Section 16 of the Overstrand Municipality By-Law	
Development Parameters Erf 5087, Kleinmond	
Zoning	Single Residential Zone 1
Primary Uses	Crèche, dwelling house, guest rooms, home occupation, second dwelling and self-catering.
Consent Uses	Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, and intensive horticulture.
Building Lines - Street	4m (erven larger than 400m ²)
Building Lines – Side and Rear	2m (erven larger than 400m ²)
Height	8m from base level
Coverage	50% (erven larger than 400m ²)
Parking	Please refer to Chapter 17.1 of the Overstrand Municipality Land Use Scheme of 2020



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LEGISLATION

Section 3 of this report consists of the details pertaining to the subject property, such as its locality and ownership details and the property.

Forward Planning

Western Cape Provincial SDF, 2005 & 2009

The Western Cape Provincial Spatial Development Framework (WCPSDF) is a structured plan approved in terms of Section 4(6) of the Land Use Planning Ordinance, aimed at providing spatial expression to the Provincial Growth and Development Strategy.

The guiding principle of the Western Cape Provincial Spatial Development Framework (WCPSDF) is sustainable development. Accepted international consensus is that sustainability consists of three pillars, often referred to as the "triple bottom line", namely "economic efficiency/prosperity", "ecological integrity" and "social equity".

Sustainability encompasses all three pillars. Ecological integrity or social equity alone does not constitute sustainability. The triple bottom line propagates a holistic approach. The WCPSDF contains several objectives. These are:

- Align the future settlement pattern of the province with economic potential and the location of environmental resources e.g., the Provincial urbanisation strategy.
- Optimise the provincial settlement pattern concerning where people live, the availability of resources and future economic potential for growth.
- Economic development locations - Tourism within the whole Province with Tourism Development Areas (TDAs) and golf and eco-estates inside urban edges.
- Combined road and rail transport corridors - Transport corridors containing both road and rail routes should be developed as primary freight and passenger routes and settlements along these linkage corridors should generally be Priority Fixed Investment Urban Settlements.
- Deliver human development programmes and basic needs programmes wherever they may be required.
- Strategically invest scarce public resources where they will incur the highest socio-economic returns (e.g., Priority Fixed Investment Urban Settlements - Settlements that show high economic growth potential and have high population thresholds shall be prioritised as locations for fixed infrastructure investment).
- Support land reform.
- Conserve and strengthen the sense of place of important natural, cultural, and productive landscapes, artefacts, and buildings (e.g., appropriate architectural character - foreign and unsympathetic styles shall be discouraged in urban settlements and rural areas to strengthen the local sense of place and minimise visual impact).
- End the apartheid structure of urban settlements (e.g., through densification).
- Conveniently locate urban activities and promote public and non-motorised transport (e.g., through the integration of urban activities).
- Protect biodiversity and agricultural resources (e.g., through land use management).



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- Minimise the consumption of scarce environmental resources, particularly water, fuel, building materials, mineral resources, electricity, and land (e.g., through water conservation).

Notwithstanding the above, it should be noted that the WCPSDF defines guidelines as “policies that are intended as general developmental goals and whose detailed implementation may vary due to place specific conditions and therefore requiring a certain amount of flexibility in their application.” The WCPSDF has as one of its goals to be sensitive to the principle of co-operative governance and recognise that the detailed implementation of principles and policies must occur at the local authority (municipal) level.

Integrated Development Plan (May 2020)

The Overstrand Municipality Integrated Development Plan (IDP) is aimed towards addressing the development needs of our communities with clearly defined strategic objectives and performance indicators. These strategic objectives are as follows:

- The provision of democratic, accountable, and ethical governance
- The provision and maintenance of municipal services
- The encouragement of structured community participation in the matters of the municipality
- The creation and maintenance of a safe and healthy environment
- The promotion of tourism, economic and social development.

The IDP further supports the initiative of early childhood development centres (as the one proposed) as a crucial element in our communities to alleviate poverty and inequality.

Overstrand Municipality Spatial Development Framework (May 2020)

The Municipal Spatial Development Framework is a sectoral component of the IDP that, in terms of the Municipal Systems Act, 2000 (Act No. 32 of 2000), is aimed at providing general direction to guide decision making on an ongoing basis, aiming at the creation of integrated, sustainable, and habitable regions, cities, towns and residential areas.

The key statutory requirements of the SDF are as follow:

- Give effect to the principles, norms, and standards.
- Include a written and spatial representation of a five-year spatial development plan for the Municipality.
- Include a longer spatial development vision statement.
- Identify current and future structuring elements of the Municipal spatial form (i.e., development corridors, activity spines, economic nodes, etc.).
- Include population growth estimates for the next five years.
- Include estimates for the demand of housing units and the planned location and density of future housing developments.
- Include estimates of economic activity and employment trends and locations in the Municipality for the next five years.



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- Identify, quantify, and provide location requirements of engineering infrastructure and services provision for the next five years.
- Identify the designated areas where a national or provincial inclusionary housing policy may be applicable.
- Include a strategic assessment of the environmental pressures.
- Create opportunities (incl. spatial location of environmental sensitivities, high potential agricultural land and coastal strips).
- Identify areas in which more detailed local plans must be developed and shortened land use procedures may be applicable.
- Provide spatial expression of integration of municipal sectoral policies.
- Determine a capital expenditure framework for the Municipal development programmes depicted spatially.
- Include an implementation.

Planning Principles

The proposed development supports the principles of Chapter VI (Article 59) of the Land Use Planning Act (LUPA), Act 3 of 2014, and Chapter 2 (Article 7) of the Spatial Planning and Land Use Management Act (SPLUMA), Act 16 of 2013, as follows:

Spatial Justice

Refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services, and land.

The proposed application will not contribute to the perpetuation of past apartheid spatial development imbalances.

Spatial Sustainability

A spatially sustainable settlement will be one which has an equitable land market while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity-rich areas, as well as scenic and cultural landscape and ultimately limits urban sprawl.

The proposed development will continue to protect any environmentally sensitive areas and cultural landscapes.

Efficiency

Efficiency refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources, and land.

The proposed development will optimally harness the potential that sustainably exists on the subject property.

Spatial Resilience

Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems that should enable the communities to be able to resist, absorb and accommodate economic and environmental shocks and to recover from these shocks in a timely and efficient manner.



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The proposed development is well aligned with the spatial plans and policies and that will enable the subject property to be able to resist, absorb and accommodate environmental and economic shocks and recover from shocks in a timely and efficient manner.

Good Administration

Good administration in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure a joint planning approach is pursued.

The proposed development will promote consultative planning as the Municipality will advertise the proposal to the public to allow the comments of the public to be taken into consideration. FVS Town and Regional Planners will also respond to the comments of the public and take the comments into consideration in the planning of the project.

This section outlines how the proposed development is aligned with the core planning principles as outlined in SPLUMA and LUPA. The proposed can therefore be viewed as encompassing and promoting all planning principles.

NEMA

The proposal is not deemed to have a negative impact on National Heritage Resources Act as it is not older than 60 years and would also not have an impact on NEMA. The application site is not situated in the flood line area, the 1:10 year, 1:50 year and 1:100-year flood lines and is not situated in an environmentally sensitive area.

Impact on Municipal Services

The proposal is not deemed to have a negative impact on the municipal engineering services. The application site is well serviced, and the proposal is not deemed to have an additional impact on the municipal services. See hereunder the use of each of the services:

Water

The application site is already connected to the existing water network of the Overstrand Municipality, providing services to the neighbourhood.

Electricity

Erf 5087 is currently supplied with sufficient electrical needs as currently supplied by Eskom.

Sewerage

The application site is connected to the Overstrand Municipal sewage network providing services to the neighbourhood.

Surface Water

All surface water will be accommodated on the property and will be channelled via the Overstrand Municipality Stormwater system of the town, as is the current situation.

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Access

Access will be obtained via Fonteinhout Avenue, Kleinmond, as is currently the case.

Photos of the Site



Photo 1

Western View

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Photo 2:
View from Fonteinhout
Avenue



Photo 3:
Eastern View



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DESIRABILITY

In terms of Section 55 (b) and Section 55 (c) of the Western Cape Land Use Planning Act, 2014, an application can be refused based on whether it is undesirable. The measure to assess the desirability of the application is the consistency of the application with spatial development frameworks, applicable structure plans, the planning principles and guidelines issued by the Provincial Minister regarding the desirability of the proposed development.

The proposed development needs to be desirable and consistent with the logical character of the area and surrounding properties and must add value for the owner and the community.

The Department of Environmental Affairs and Development Planning (DEADP) published a Guideline on Need and Desirability as part of the EIA Guideline and Information Document Series. Although this application does not include an environmental authorization, the desirability guidelines set out in the document are also applicable in planning and thus appropriated to use in this land-use planning application for a consent use.

To evaluate the proposed land use activity, the layout of the current and proposed activities should be scrutinized within of what is proposed. In terms afore mentioned, several questions need to be asked concerning the need and desirability of a proposal, which includes the following:

Need and Desirability Measure	Yes / No	Applicability to the subject property
Is the land use considered within the timeframe intended by the existing approved SDF agreed to by the relevant environmental authority?	Yes	The proposed development is within the existing timeframe intended by the existing approved SDF. The spatial planning initiatives section of this report will also motivate how the proposal is well aligned with the core principles of the SDF.
Does the community / area need the activity and the associated land use concerned?	Yes	Due to the small scale of the proposal, it is deemed that the application will not have a detrimental impact on the surrounding community or the greater Kleinmond area
Are the necessary services with adequate capacity currently available, or must additional capacity be created to cater for the development?	Yes	There are existing services available for the application site that have adequate capacity and there is no need for the provision of additional service capacity.
Is this development the best practicable environmental option for this land/site?	Yes	The proposed development will not have any adverse impact on the environment as the property will be utilised sustainably. The proposed development can, therefore, be deemed as the best practicable environmental option for the property.



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Would the approval of this application compromise the integrity of the existing approved and credible municipal IDP and SDF as agreed to by the relevant authorities?	No	The proposal is well aligned with the approved municipal SDF and IDP as the spatial planning initiatives section of this report will prove.
Do location factors favour this land use?	Yes	The location and land use are in line with any neighbourhood property.
How will the activity or the land use associated with the activity applied for, impact on sensitive natural and cultural areas?		The proposed application is on land which is outside the sensitive natural and disturbed areas of the property. The subject property is within the urban edge of Kleinmond and already developed.
Will the proposed activity or the land use associated with the activity applied for, result in unacceptable opportunity costs?	No	The proposed development will not result in an unacceptable opportunity cost.
Will the proposed land use result in an unacceptable cumulative impact?	No	The proposed development will not result in an unacceptable cumulative impact on society, the environment, and the economy of the property and surrounding area.

The table above indicates that the proposed development is aligned with the core principles of the SDF, no additional services are required, and no additional capacity needs to be created due to the proposal, and location factors favour this land use. The proposal will also not harm the sensitive natural and cultural areas. The proposed development can, therefore, be deemed to be aligned with the principles of desirability as stipulated above.



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CONCLUSION

Reasons for Approval

- No additional Municipal Services will be required.
- The proposal is deemed desirable in terms of the Overstrand Municipality Land Use Scheme of 2020.
- No negative impact is foreseen on the abutting neighbours as the proposal does not entail the construction of new boundary walls and will thus not impact negatively on the sunlight of the abutting neighbours.
- The proposal is in line with any residential neighbourhood.

Considering the above information, Council is respectfully requested to favourably consider the application for the following:

Approval for the proposed building line relaxation and title deed building line relaxation, in terms of the Overstrand Municipality Land Use Planning By-law on Erf 5087, Kleinmond.

Kind Regards,

A handwritten signature in black ink, appearing to read 'Jaco van Schalkwyk', is written over a horizontal line.

Jaco van Schalkwyk
Director of FVS Town and Regional Planners

