



ERF 8314, 57 KUYASA STREET, KLEINMOND: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: FVS TOWN & REGIONAL PLANNERS ON BEHALF OF MJ PIETERSEN & JH DREYER

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that an application has been received for the following:

- **departure** in terms of Section 16(2)(b) to relax the 2m street building line as well as the 1m lateral building line to 0m to accommodate a proposed new living room.
- **determination of an administrative penalty** in terms of Section 16(2)(q) for unauthorised land use as mentioned above.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town & Spatial Planning, Hermanus and at the Kleinmond Library, Fifth 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 / loretta@overstrand.gov.za) on or before **1 August 2025**, 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 & Spatial Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 8314, KUYASASTRAAT 57, KLEINMOND: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: FVS STADS- EN STREEKBEPANNERS NAMENS MJ PIETERSEN & JH DREYER

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek soos volg ontvang is:

- **Afwyking** ingevolge Artikel 16(2)(b) om die 2m straatboulyn, sowel as die 1m syboulyn tot 0m te verslap om 'n voorgestelde nuwe sitkamer te akkommodeer.
- **Bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir ongemagtigde grondgebruik soos hierbo genoem.

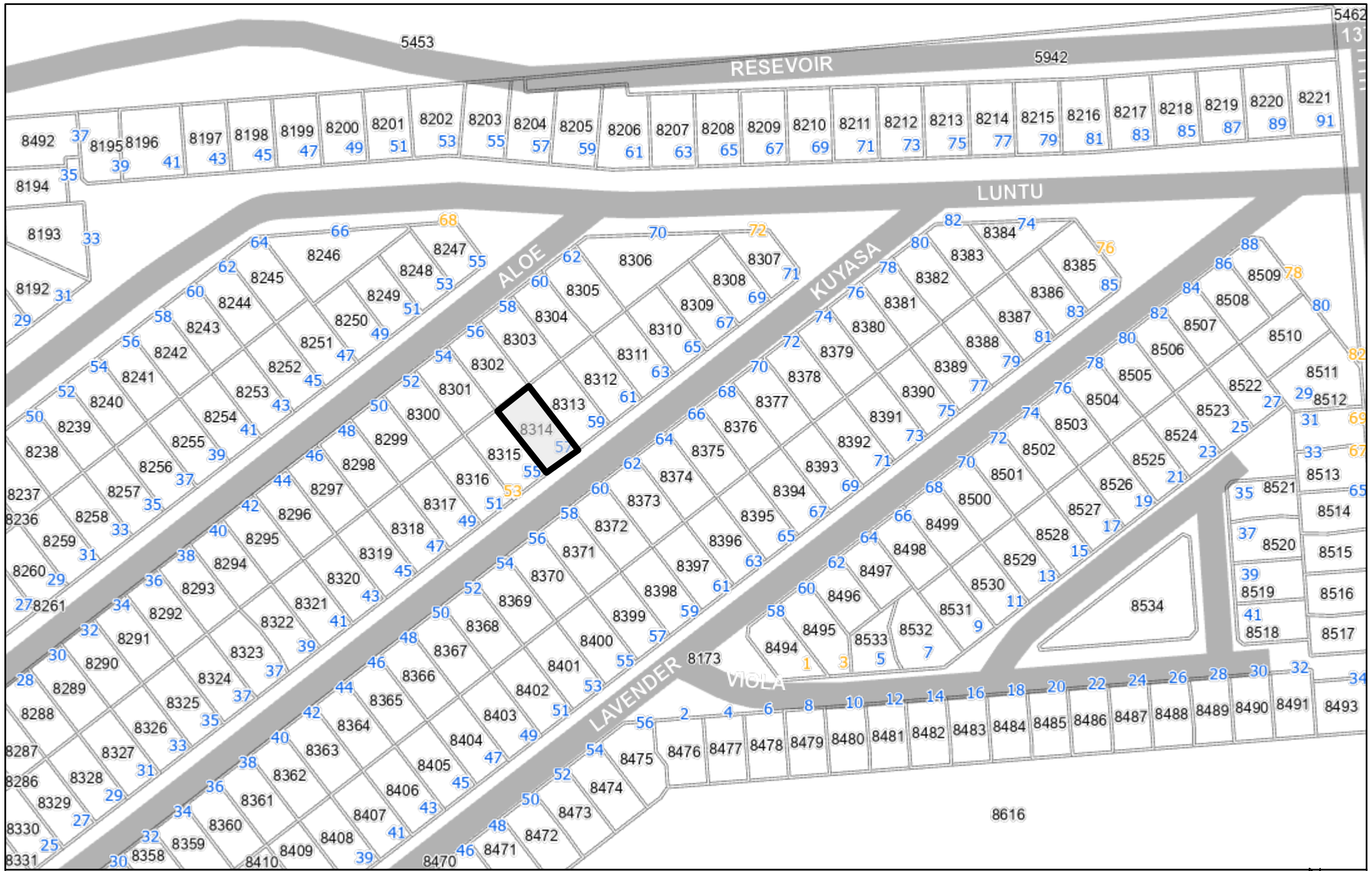
Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stads- en Streekbeplanning, Hermanus en by die Kleinmond Biblioteek, Vyfdelaan, Kleinmond. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / loretta@overstrand.gov.za) voor of op **1 Augustus 2025**, 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: Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA 8314,57 KUYASA STREET, E-KLEINMOND: ISICELO SOPHAMBUKO KUNYE NOKUMISELWA KWESOHLWAYO SOLAWULO: FVS TOWN & REGIONAL PLANNERS EGAMENI LIKA MJ PIETESSEN JH DREYER

Isaziso sinikezelwa ngokwemiqathango yeCandelo 48 loMthetho kaMasipala oLungisiweyo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 sokuba isicelo sifunyenwe **soku kulandelayo**

- **Uphambuko** ngokwemiqathango yeCandelo 16(2)(b) sokunyeniswa komda wesitalato nge 2 mitha nakunye ne 1 mitha ecaleni kwisakhiwo ukuya ku 0mitha ukulungiselela isiphalamiso entsha yegumbi lokuhlala.
- **Ukumiselwa Kwesohlwayo Solawulo** ngokwemiqathango yeCandelo 16(2)(q) usebenziso lomhlaba olungagunyaziswanga njengoko kukhankanywe ngasentla.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zokusebenza ngamaxsha okusebenza phakathi kwentsimbi yesi-08:00 neye-16:30 kwiSebe: UCwangciso lweDolophu, eHermanus kunye neThala leeNcwadi laseKleinmond, 5th Avenue, eKleinmond. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokuhambelana nezibonelelo zeCandelo lama-51 kunye nelama-52 alo Mthetho kaMasipala oxeliweyo kuMasipala (16 Paterson Street, Hermanus / loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama-1 **EyeThupha 2025**, uchaze igama lakho, idilesi kunye neenkukacha zoqhagamshelwano, umdla kwisicelo kunye nezizathu zezimvo. Imibuzo ngomnxeba ingenziwa kuMchwangcisi weDolophu, **UNksk. H van der Stoep** kule nombolo yomnxeba 028-313 8900. UMasipala unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iSebe loCwangciso lweDolophu apho igosa likamasipala liya kuthi limncedise ukuze abhale ngokusesikweni izimvo zakhe.





Town and Regional Planners

July 2023

Town Planning
Overstrand Municipality
16 Paterson Street / PO Box 20
Hermanus
7200

Attention: Municipal Manager

APPLICATION FOR BUILDING LINE RELAXATION AND DETERMINATION OF ADMINISTRATIVE PENALTY IN TERMS OF SECTION 16 OF THE OVERSTRAND MUNICIPALITY LAND USE PLANNING BY-LAW, ON ERF 8314, KLEINMOND.

Dear Municipal Manager,

Please find attached hereto, with the motivation report, the following for your department:

- Application Form
- Power of Attorney
- Title Deed
- Locality Plan
- Site Development Plan
- Surveyor General Diagram

Client:

Consultants: FVS Town and Regional Town Planners

Author:

Jaco van Schalkwyk (C/8702/2018)

Kind Regards,

Jaco van Schalkwyk

Director of FVS Town and Regional Planners

Revision 3:

November 2024



Town and Regional Planners

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Town and Regional Planners

1. SECTION 1: 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. To create sustainable environments, we strive to deliver town planning services to individuals, companies, and communities.

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.

1.1. BACKGROUND INFORMATION

The property owners approached this office to assist with the submission of a land use planning application for the proposed additions and alterations to the existing dwelling. Herewith is the subsequent application and motivation report for the proposed additions and alterations to Erf 8314, Kleinmond.

1.2. PLANNING BRIEF

Taking the aforesaid into consideration, the application is hereby made in terms of Section 16 of the Overstrand Municipality By-law on Municipal Land Use Planning for the following:

- 1.2.1. Section 16 (2) (b) - Permanent departure from the provisions of the zoning scheme: Relaxation of the side boundary building line from 1m to 0m.
- 1.2.2. Section 16 (2) (b) - Permanent departure from the provisions of the zoning scheme: Relaxation of the street boundary building line from 2m to 0m.
- 1.2.3. Section 90 (5) - Determination of an Administrative Penalty

Please refer to the following annexures for the Application Form and Power of Attorney:

Annexure A – Application Form

Annexure B – Power of Attorney

Section 3 of this motivation report will provide the reader with a full description of the application and proposed additions and alterations as proposed.

2. SECTION 2: PROPERTY DETAILS

Section 2 of this report consists of the details pertaining to the subject property, such as its locality and ownership details and the property.

2.1. OWNERSHIP DETAILS

Below are the details as contained in the subject Title Deed.

Property Description	Erf 8314 Kleinmond, in the Overstrand Municipality, Division Caledon, Western Cape Province
Deed Number	T27577/2021
Ownership	Marthinus Jacobus Pietersen & Jasmine Hillgard Dreyer
Extent	126m ²

A perusal of the title deed revealed that there are no restrictive conditions registered on Erf 8314, that would prohibit the approval of this application.

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

2.2. LOCALITY

The application site is situated at number 57 of Kuyasa Street in the coastal town of Kleinmond, in the Overberg District of the Western Cape Province. Kleinmond is approximately 90km east of Cape Town on the southern coast of the Western Cape.

Kleinmond is a small coastal town in the Overberg region of the Western Cape province, South Africa. It is situated inside a UNESCO-declared biosphere about 90km east of Cape Town between Betty's Bay and Hermanus. The town's name, meaning "small mouth" in Afrikaans, refers to its location at the mouth of the Bot River lagoon. Hermanus, being the main town of the Overstrand Municipal area, is host to numerous smaller settlements on this coastal strip and includes Rooi Els, Pringle Bay and Gansbaai.

Tourism plays a large role in the town's economy due to its popularity with holidaymakers from across the Western Cape and Cape Town in particular.

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

2.3. CHARACTER OF THE SURROUNDING AREA

The application site is situated towards the Kogelberg Biosphere Reserve (north-western section of Kleinmond). The immediate surrounding area is zoned as Single Residential Zone 1 and is thus predominately a residential area.

Kleinmond, including other towns in the area, is mainly sustained by the tourism trade and offers a wide variety of activities such as golfing, hiking, and other tourist-related activities such as fishing and kayaking. The surrounding area is further stimulated by various economic activities associated with the normal functions of any town.



Figure 2: Aerial Photograph of the application site and surrounding area (Overstrand Public Viewer, June 2022)

3. SECTION 3: MOTIVATION

Section 3 of the motivation report deals specifically with the type of application and what will be applied for, as well as the development particulars.

3.1. THE APPLICATION

Application is made in terms of Section 16 (2) (b) and Section 90 (5) of the Overstrand Municipal Land Use Planning By-Law for the following:

“Permanent Departure from the provisions of the zoning scheme:”

- Application is hereby made for the relaxation of the side boundary building line from 1m to 0m.

“Permanent Departure from the provisions of the zoning scheme:”

- Application is hereby made for the relaxation of the street boundary building line from 2m to 0m.
- Determination of an Administrative Penalty

3.2. THE PROPOSAL

The proposal entails the relaxation of the side and street boundary building line from 1m to 0m and 2m to 0m for the construction of a new living room (addition) to the existing dwelling as per the attached site development plan (Project Number: KM8297/19), and the determination of an administrative penalty for the contravention of the By-law relating to the construction of the additions without approval of building plans.

Please refer to the figures below for extracts from the proposed site development plan, attached hereto as **Annexure E**.

Administrative Penalty (Section 90 (5))

Application is hereby made in terms of Section 90 of the Overstrand Municipality Amended By-Law on Municipal Land Use Planning, 2020 for the determination of an administrative penalty. An administrative penalty is a direct contravention of the Overstrand Municipal Planning By-Law on Land Use Planning. The following measures must be addressed to the satisfaction of the Municipality to determine whether the imposition of an administrative penalty is applicable. The information required is stipulated as follows:

The nature, duration, gravity, and extent of the contravention.

The administrative penalty application pertains to the construction of a room (addition) to the existing dwelling that extends over the prescribed building lines (as per this application). The additions are not out of the ordinary when considering their uses. The additions form part of the existing dwelling and character of the surrounding area.

The addition is approximately 18m² in extent and adds significant value to the existing dwelling. The existing dwelling, like many others in the surrounding area, is very small and usually accommodates more than three occupants. The owner contacted a local Builder to provide a quotation which was delivered in December 2021. The construction subsequently started in January 2022 and was concluded by the end of the following month (February 2022).

The extent of the contravention is as follows:

New Addition: 18m²

Area over building lines: 10m²

The conduct of the person (allegedly) involved in the contravention.

The property owner realised that his actions were not considered favourable and should have been done differently. He immediately sought the services of professionals to assist in this matter. The purpose of the additions was predominantly to provide additional rooms and add value to the existing dwelling.

A report by a quantity surveyor in matters of unauthorised building/construction.

Please refer to the attached Appendix 1 for the cost estimate from the Builder. The total value of the project was R43 120.00 (December 2021).

Whether the unlawful conduct was stopped.

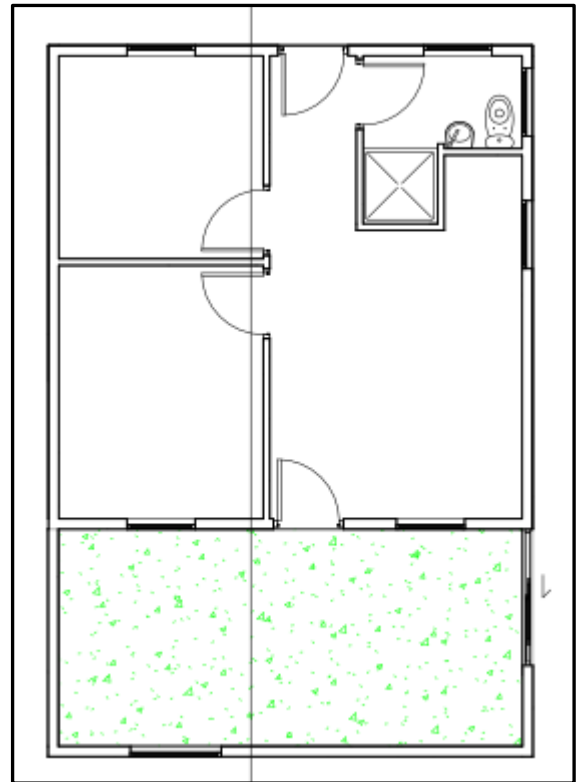
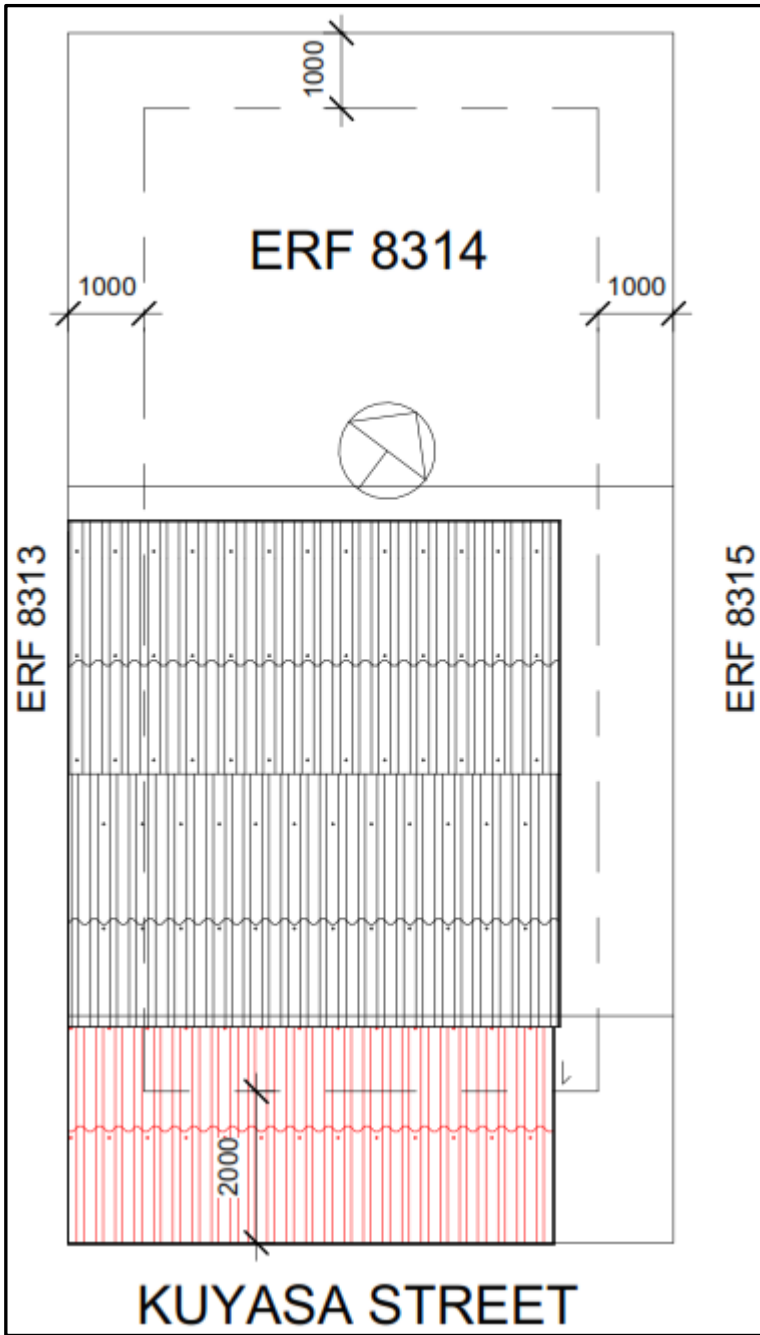
The matter was explained to the property owner, upon which the property owner expressed his concern about the process of the application and the potential financial impact it may have. No further construction work was implemented by the property owner, except for regular maintenance work to keep the structure in good standing.

Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.

To our knowledge, the current owners have not contravened this By-Law or any other previous planning law except for this infringement. It should also be noted that no notice was given to the property owner.

This office respectfully requests that a penalty not be imposed on the owners of Erf 160, due to the following reasons:

- The property owner was not duly informed of the required processes to follow at the time of construction and has subsequently complied with all procedures that are deemed necessary to rectify the contravention. It is common knowledge that builders are not entirely up to date with all procedures and do not provide their clients with all the necessary information.
- No complaints from the abutting neighbours or the surrounding community have been received.
- To the best of our knowledge, no previous contravention has been done by the property owners.
- The construction of the additions inevitably contributes to the existing dwelling and improves its resale value.
- The additions can be seen as fitting in with the surrounding area and that of a residential community. In other words, the additions are not out of character for the surrounding area.



Figures 3, 4 & 5: Consisting of the Site Plan, floorplan and typical section of the dwelling and proposed addition.



3.3. ZONING

Erf 8314, 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 the development parameters, such as Primary and Consent uses, and building lines on 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 (applicable to erven smaller than 150m ²) Erf 8314, 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	1m
Building Lines – Side and Rear	Side: At least 1m on one side and 0m on the other side. Rear: 1m
Height	8m from base level
Coverage	80% (erven less than 150m ²)
Parking	Please refer to Chapter 17.1 of the Overstrand Municipality Land Use Scheme of 2020

3.4. IMPACT ON MUNICIPAL SERVICES

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

3.4.1. Water

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

3.4.2. Electricity

Erf 8314 is currently supplied with sufficient electrical needs as currently supplied by Eskom.

3.4.3. Sewerage

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

3.4.4. 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.

3.4.5. Access

Access to the application site is currently from Kuyasa Street, which is to remain as is currently the case.

Please note that the proposal will not lead to an increase in the existing services network as the current capacity is deemed to be sufficient.

3.5. DESIRABILITY

For the Authorised Official to decide on the merits of the proposal it is important to consider factors that will aid with the desirability and feasibility of a proposal. The proposal is for a new addition to the existing dwelling situated on the property boundary. The proposal is deemed desirable in terms of the following:

- The proposed structure will add value to the existing dwelling.
- The proposed addition is in line with any residential property and residential neighbourhood.
- No additional municipal services will be utilised.
- The proposal is not deemed to detract from the vistas or privacy of the abutting neighbours.
- No negative impact on the traffic flow of Kuyasa Street is envisaged.

The surrounding area and subsequent erven all have a very small extent. The subject property is around 120m², which leads to an even smaller dwelling unit on the property. The owner expressed their wishes to enlarge the existing dwelling, in this case, an additional living room. The proposal will add value to the existing dwelling and make it a more functional dwelling that will serve the needs of the property owners, without compromising the streetscape of Kuyasa Street nor impacting negatively on the abutting neighbours in terms of loss of privacy.

As stated earlier in this motivation report, the extent of the subject property and the existing dwelling is very limited. The section to the rear of the property, which is deemed to be a more suitable location for the proposed extension, is utilised for alternative uses such as the laundry area and outside play area for the children. The owners stated that they utilise the rear of the property to ensure the safety of their children, whilst optimally using the full extent of the property. The existing dwelling does not provide the owners with adequate living space and therefore the extension of the dwelling towards Kuyasa Street. Another factor to consider is the stormwater runoff from Aloe Street. Due to the complex slope of the surrounding area, it has been proven that annual rains cause water damage to the dwelling and built-in cupboards. The owners had to replace the built-in cupboards on a previous occasion due to the stormwater run-off into the dwelling.

The owner also stipulated that the intention was to extend the dwelling to the rear of the subject property, but upon further investigation, it was found that a large boulder (mountain rock) would further restrict construction. The financial costs of removing or destroying such a large rock could be too excessive for the property owners. The aforementioned mountain rock also leads to the channelling of stormwater into the foundations of the existing dwelling, leading to water damage. The only viable alternative for the extension is to the front of the property.

Various examples of extensions to the 0m street boundary building line can be identified in the surrounding area. This is directly influenced by the lack of space and living areas within the dwellings. It is important to also note that the surrounding area is predominately inhabited by low-income earners. These types of properties are normally inhabited by two or generations of families living within the limited extent of the existing dwellings in the immediate area. The need to enlarge the existing dwellings will always be a prevailing factor, and thus the evidence of similar extensions within the vicinity of the application site and surrounding area (refer to Figure 2).

The proposal is not deemed to impact negatively on the surrounding area in terms of the health and safety of the community nor impact negatively on the traffic flow as this area is predominately a low-traffic area (very little movement of vehicles).

4. SECTION 4: LEGISLATION

Section 4 of this report consists of the applicable Legislation pertaining to this application.

4.1. FORWARD PLANNING

Western Cape Provincial Spatial Development Framework, 2005 & 2009

The Western Cape Provincial Spatial Development Framework (WCPSPDF) 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 (WCPSPDF) 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 WCPSPDF 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).
- 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 WCPSPDF 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 cooperative governance and recognise that the detailed implementation of principles and policies must occur at the local authority (municipal) level.

Although the proposal will not be evaluated on a Provincial level it is important to take consideration of the SDF's objectives. It is important to point out that the proposal takes cognisance of the settlement pattern of people. The proposal is in line with any normal residential area and is thus not out of character for that of a residential area. The proposal further protects biodiversity areas and agricultural resources as it is in an already developed area.

Western Cape Land Use Planning Act (Act 3 of 2014)

In terms of Section 49 of the Land Use Planning Act (Act 3 of 2014) (LUPA) an application must be considered in terms of the “Basis of assessment of land use applications” which promotes the following:

- When a municipality considers and decides on a land use application, the municipality must have regard to at least—
 - the applicable spatial development frameworks;
 - the applicable structure plans;
 - the principles referred to in Chapter VI;
 - the desirability of the proposed land use; and
 - guidelines that may be issued by the Provincial Minister regarding the desirability of proposed land use.

This office believes that this application complies with the relevant spatial development frameworks and structure plans as identified in this motivation report. Further to the aforesaid, the application is not deemed to harm the surrounding area in terms of the health and safety of the community or abutting neighbours as it is substantially under any residential neighbour and would thus not be out of character in terms of the zoning requirements.

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 follows:

- 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.

- 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.

The proposal is not deemed to be in contravention of the Overstrand SDF as it is not in contradiction with the abovementioned statutory requirements of the SDF.

Overstrand 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 is crucial to take into consideration in any planning-related applications. It is the opinion of this office that the proposal promotes social development and creates a safe and healthy environment, not only for the property owner but also for the surrounding residents of the area.

Overstrand Municipality Amended By-Law on Municipal Land Use Planning (2020)

It is important to consider Section 66 of the Overstrand Municipality Amended By-Law on Municipal Land Use Planning in terms of the “General criteria for consideration of applications”:

- When the Authorised Official or Municipal Planning Tribunal considers an application, it must have regard to the following:
 - the application submitted in terms of this By-law;
 - the procedure followed in processing the application;
 - the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses;
 - the comments in response to the notice of the application and the comments received from organs of state and internal departments;
 - the response by the applicant to the comments referred to in paragraph (d);
 - investigations carried out in terms of other laws which are relevant to the consideration of the application;

- a registered planner, or a planner eligible for registration, written assessment, which includes:
 - an amendment of a Spatial Development Framework or land use scheme
 - an approval of an overlay zone contemplated in the land use scheme
 - a phasing, amendment or cancellation of a subdivision plan or part thereof
 - a determination of a zoning
 - a rezoning
- the integrated development plan and Municipal Spatial Development Framework;
- the applicable Local Spatial Development Frameworks adopted by the Municipality;
- the applicable policies of the Municipality that guide decision-making;
- the Provincial Spatial Development Framework;
- where applicable, the regional spatial development framework;
- the policies, principles, planning and development norms and criteria set by national and provincial government;
- the matters referred to in Section 42 of the Spatial Planning and Land Use Management Act;
- the principles referred to in Chapter VI of the Land Use Planning Act; and
- the relevant provisions of the land use scheme.
- An Authorised Official or Municipal Planning Tribunal must approve a site development plan submitted to the Municipality for approval in terms of applicable development parameters or conditions of approval if the site development plan—
 - is consistent with the development parameters of the zoning;
 - is consistent with the development parameters of the overlay zone;
 - complies with the conditions of approval; and
 - complies with this By-law.
- When a site development plan is required in terms of development parameters or conditions of approval—
 - the Municipality may not approve a building plan if the site development plan has not been approved; and
 - the Municipality may not approve a building plan that is inconsistent with the approved site development plan.

The proposal is not considered to be a deviation from the aforesaid requirements, however, is substantially under any residential neighbourhood, and is not deemed to pose a significant threat to the abutting property.

4.2. 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, as it is in an already developed residential area, and will thus not alter any environmentally sensitive areas.

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 as is evident on the proposed SDP.

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.

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 consider the comments 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 proposal can therefore be viewed as encompassing and promoting all planning principles.

5. SECTION 5: CONCLUSION

5.1. REASONS FOR APPROVAL

- *No additional Municipal Services will be required. The application site is already serviced and will thus not require the creation of additional service capacity. Please refer to Section 3.4 of this motivation report.*
- *The proposal is deemed desirable in terms of the Overstrand Municipality Land Use Scheme of 2020, as set out under Section 4 of this Motivation report.*
- *No negative impact is foreseen on the abutting neighbours in terms of privacy as the proposal does not entail the construction of a living space.*
- *The proposal is in line with any residential neighbourhood, and similar instances can be found throughout the town of Kleinmond and its surrounds.*
- *The proposal is further deemed to add value to the application site as it will increase the resell value.*

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

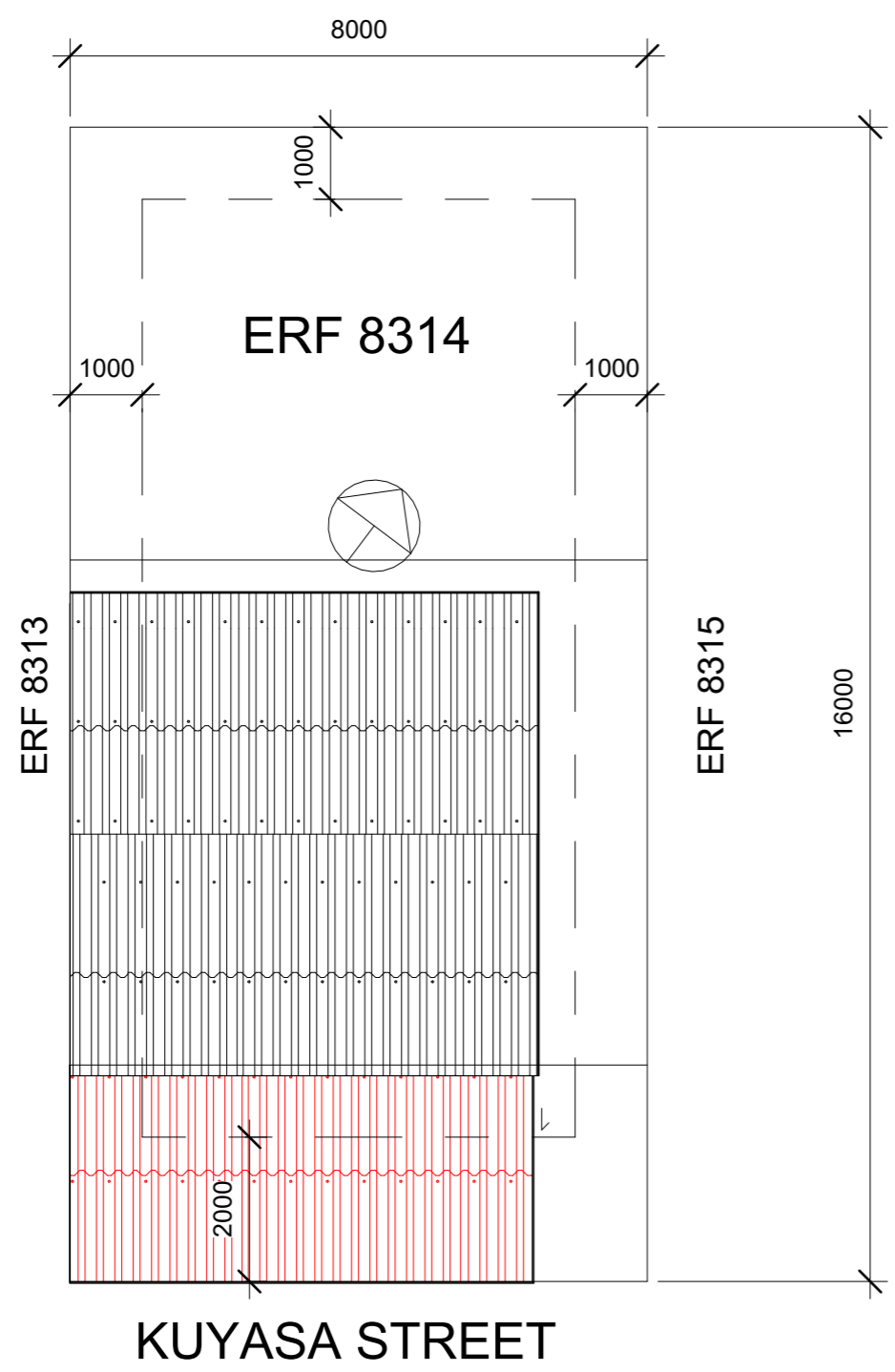
Approval for the proposed building line relaxations and favourable consideration of the administrative penalty in terms of the Overstrand Municipality Land Use Planning By-law on Erf 8314, Kleinmond.

Kind Regards,

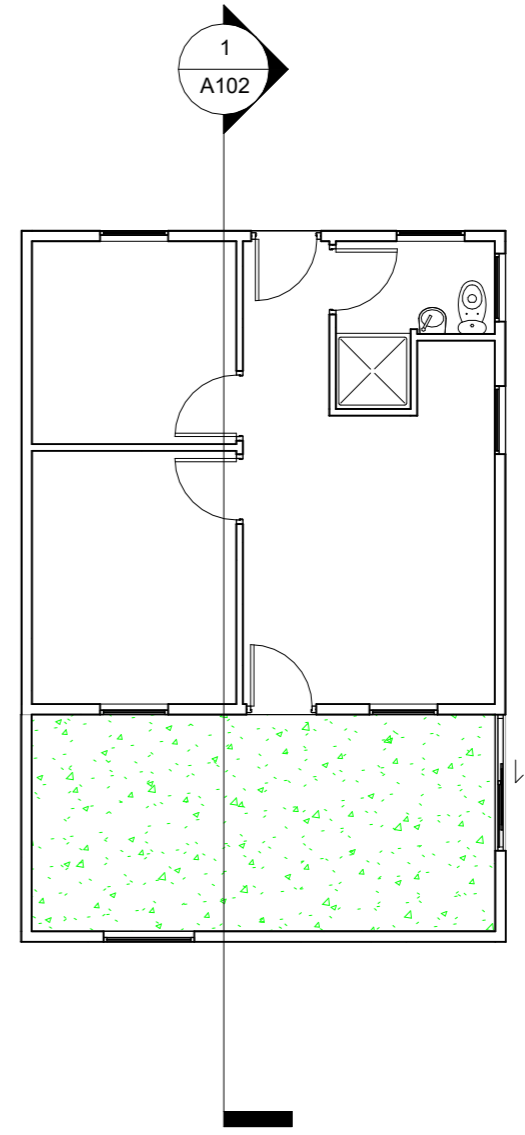


Jaco van Schalkwyk

Director of FVS Town and Regional Planners



2 SITEPLAN
1 : 100



1 GROUND STOREY
1 : 100

A.H.D.

ahd@mweb.co.za

072 315 1336



COUNCIL DRAWINGS

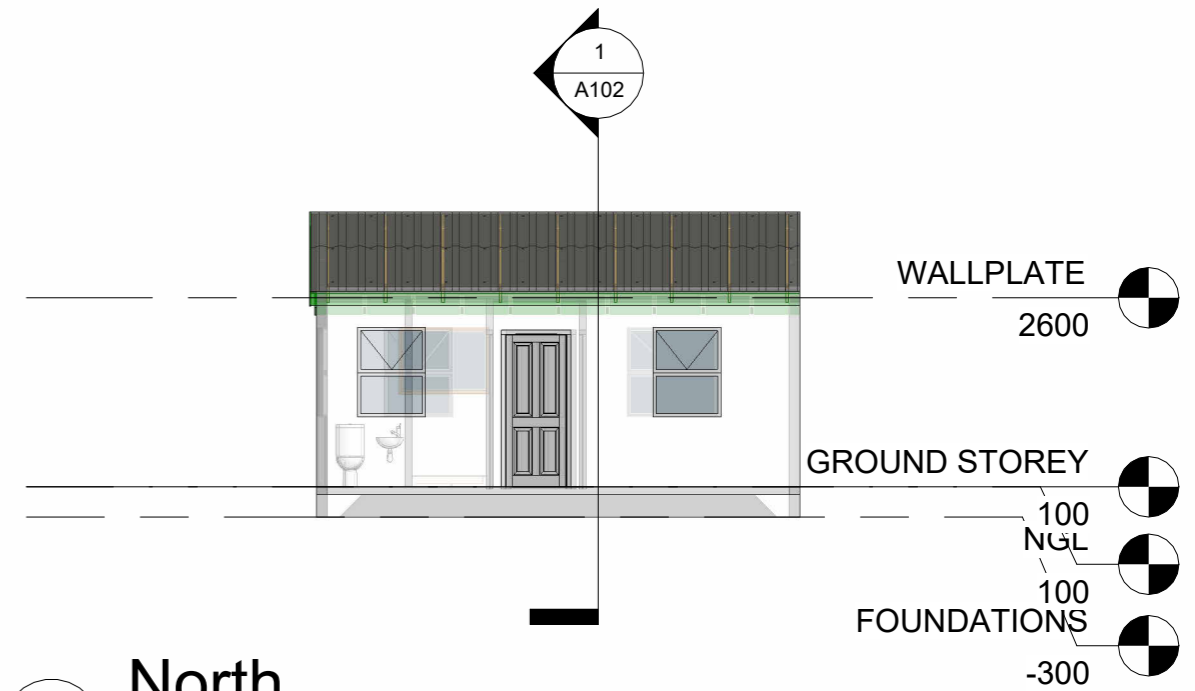
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Date	15/08/2019
Drawn by	pjm
Reg nr	PAD 20652

A101

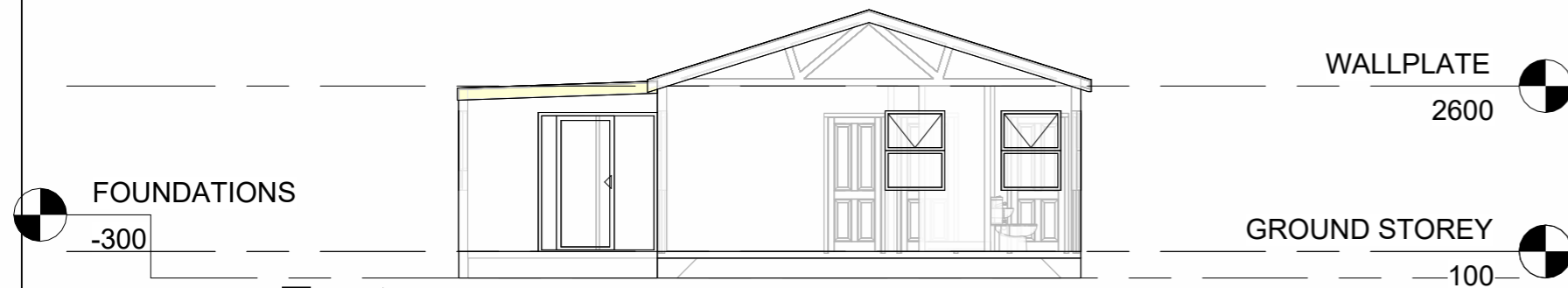
Scale 1 : 100



1 Section 1
1 : 100



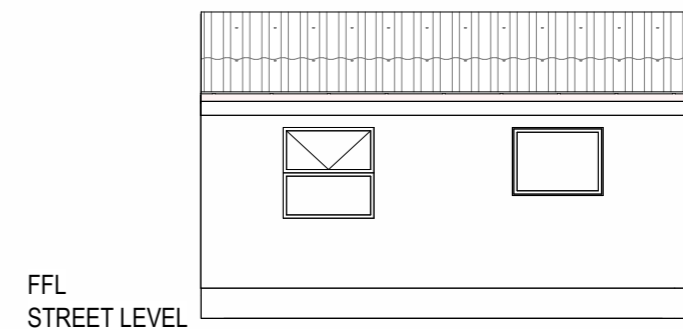
3 North
1 : 100



2 East
1 : 100



5 West
1 : 100



4 WALL ELEVATION
1 : 100

A.H.D.

ahd@mweb.co.za

072 315 1336



COUNCIL DRAWINGS

Project number	KM8297/19
Date	15/08/2019
Drawn by	pjm
Reg nr	PAD 20652

A102

Scale 1 : 100