



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Case ID 1500128082

**Erf 152437, 43 Heather Street,
Claremont**

Development Management

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MOTIVATION REPORT

DATE: 23 JULY 2024, REVISED 04 NOVEMBER 2024, REVISED 26 MAY 2025

APPLICATION FOR REZONING TO GENERAL RESIDENTIAL GR.2 TO ACCOMMODATE A COMBINATION OF RESIDENTIAL, YOGA AND SPORTS MASSAGE THERAPY PRACTICE: ERF 152437 CLAREMONT: 43 HEATHER STREET CLAREMONT

1. PURPOSE OF APPLICATION:

Site to be rezoned to General Residential GR.2 (Reduced parking requirements – Site located within PT.1 Zone).

The main function of the property is still that of a house (inhabited by the owner and her husband), which accommodates a yoga studio and a massage therapy room, which are to be accommodated with consent use, as per GR.2 DMS development rules.

GR.2 COVERAGE ANALYSIS:

Existing Dwelling = 107,3 m²

Yoga Area = 59,5 m² (ENCROACHES OVER 5.0-METER BUILDING LINE SETBACK – TRIGGERS S.42(b) DMS DEPARTURE)

Massage Therapy = 14,5m² (LOCATED WITHIN 5.0-METER BUILDING LINE SETBACK – TRIGGERS S.42(b) DMS DEPARTURE)

Proposed Store = 9,7 m² (LOCATED WITHIN 5.0-METER BUILDING LINE SETBACK – TRIGGERS S.42(b) DMS DEPARTURE)

Total Coverage Area = 191,0 m²

Coverage = $191,0 / 399,8 = 47,7\%$

Permitted Coverage (GR2) = 60%

Application is made herewith, in terms Section 42(a) and 42(i) of the Municipal Planning By-Law, for the rezoning of Erf 152437, Claremont from SR1 to GR2, to allow for a combination of residential and a yoga practice (place of instruction – with consent) and sports massage therapy practice (clinic – with consent).

A S.42(b) MPBL DMS departure application is made herewith for a permanent DMS 5.0-meter street frontage and rear common boundary

building line departure, in respect of the existing house and the yoga studio and the massage therapy room, as shown on the enclosed SDP.

The massage therapy room, which is a converted garage, is located hard up against the street boundary of Heather Street.

The existing house way is located 2.298-meters and 2.345-meters from the rear common boundary, instead of 5.0-meters.

The existing yoga studio access way is located 2.345-meters from the rear common boundary, instead of 5.0-meters.

Massage Therapy Room – LOCATED WITHIN 5.0-METER BUILDING LINE SETBACK – TRIGGERS S.42(b) DMS DEPARTURE

Proposed Store Room – LOCATED WITHIN 5.0-METER BUILDING LINE SETBACK – TRIGGERS S.42(b) DMS DEPARTURE

The building line departures will have no impact on the neighbours.

The rear building line departure, is triggered by the existing house buildings, which are set back sufficiently from the rear neighbour, and the street boundary zero setback, of the garage converted into the massage therapy practice, faces away from the street and will therefore have no impact on the surrounding neighbours.

The PT.1 parking requirements for the existing house is 1 onsite parking bay, as per development rules – Parking requirement will be met – Existing garage to be moved backwards against rear boundary.

The PT.1 parking requirements for the yoga studio is 1 onsite parking bay, based on a maximum of 6 students per class – Parking requirement has been met – One onsite visitors parking bay provided.

The PT.1 parking requirements for the massage therapy room is 2.5 onsite parking bay, as per development rules, which is deemed excessive – One onsite visitors parking bay suffices for the small massage therapy room, given there is only one sports massage therapist and that only one client is permitted in the practice at a time.

A permanent S.42(b) parking departure is triggered re the parking shortfall of 1.5 onsite bays, in respect of the massage therapy room, which should not impact negatively on traffic movement in the area.

The on-site visitors parking provision of 2 bays should be sufficient to cater for the parking needs of the yoga/massage therapy practice.

The two parking bays, have been provided in the form of parallel parking as per the SDP, which is an improvement on the existing parking situation and are DMS compliant.

The proposed parking provision is not inconsistent with the parking provision trends in the area, where there is generally limited on-site parking space available throughout the area.

Permitted Bulk: 1 (399.81 sq. m's)

Proposed Total Floor Area: 181.3 sq. m's (approx.)

Residential: 107.3 sq. m's

Coverage Permitted: 60%

Proposed Total Coverage: 47.7%

An admin penalty was determined and paid for in respect of the unauthorized DMS departures – 1500108992.

There are no restrictive Title Conditions – No removal of restrictions is therefore required.

ADVERTISING: IT IS REQUESTED THAT COUNCIL ADVERTISES THE APPLICATION AND SERVES NOTICES ON THE NEIGHBOURS.

3. PROPERTY RELATED INFORMATION:

- | | | |
|------------|------------------------------------|-----------------------------|
| 3.1 | <u>ERF NUMBER:</u> | Erf 152437, Claremont. |
| 3.2 | <u>ERF SIZE:</u> | 399.81 sq. m's. |
| 3.3 | <u>EXISTING ZONING:</u> | SR.1. |
| 3.4 | <u>PROPOSED USAGE:</u> | See enclosed SDP. |
| 3.5 | <u>SURROUNDING ZONING:</u> | SR.1. |
| 3.6 | <u>SURROUNDING USAGE:</u> | Medium Density Residential. |
| 3.7 | <u>SURROUNDING DENSITY:</u> | Medium Density Residential. |
| 3.8 | <u>PROPOSED ZONING:</u> | N/A – No rezoning required. |

4. SPATIAL PLANNING POLICY:

The site is located within an old and established part of Cape Town, with a distinctive mixed-use character.

The site is located within a built-up residential area, designated spatially for urban development and is therefore construed to be consistent with the MSDF as read with the applicable Local District Plan, in terms of which 'inward growth' is promoted.

The application would by definition constitute 'inward growth' and thereby contribute towards the already existing organic transformation of the area, in response to the needs of the local residents for personalized services.

The site is located within an area designated for 'urban development' in terms of the applicable local District Spatial Development Framework, which allows for land use intensification and residential densification in the area, in keeping with the spatial planning objectives of the Local District Plan.

The Local District Plan allows for residential densification and land use intensification, in a manner that will not detract from the mixed-use urban character of the area.

The proposed rezoning is therefore deemed to be consistent with the 'inward growth' spatial planning policy of the MSDF and the local District Plan, with specific reference to the none intrusive nature of the land use activities, which are collectively viewed as an associated land use activity.

6. HERITAGE PROTECTION OVERLAY ZONE:

N/A.

7. TITLE DEED CONDITIONS:

N/A

8. ZONING APPROPRIATENESS:

The proposed GR.2 zoning is deemed appropriate to accommodate both the yoga and massage therapy practice, as consent use activities, on the subject property.

9. COMPARISON BETWEEN EXISTING LAND USE RIGHTS AND LAND USE RIGHTS APPLIED FOR:

The existing SR.1 development rights are being expanded to accommodate, the yoga and massage therapy practice, as consent use activities, on the subject property, with the primary use of the property remaining residential.

10. IMPOSITION OF CONDITIONS:

As would be deemed by Council to be appropriate in this instance.

11. IMPACT ON NEIGHBOURS & DEPARTURES:

Impact deemed to be minimal.

The sports massage therapy practice, which is being operated from the converted garage operates from Tuesdays to Fridays from 9am to 4pm and has one practitioner. There is no receptionist or reception area.

Only one client is permitted into the sports massage therapy practice at a time.

The yoga practice is operated from inside the house lounge area on weekday mornings and the evenings and on Saturday and Sunday mornings and the average class attendance is 3 to 6 clients at a time.

Many clients live locally and walk to the property or make use of uber/public transport).

The yoga classes are supervised by either the landowner or the instructor teaching class, who always checks before a class begins that no one has parked offensively, or in any way that affects the neighbouring properties.

During the week 60-minute yoga classes are offered in the mornings and in the evenings.

On weekends one 60-minute yoga class is offered on Saturday and Sunday mornings.

During school term times a Kids Yoga and Tweens Yoga class are offered on a Wednesday at 3pm and 4pm respectively. Generally, only 3 or 4 children attend each class.

A "drop-and-go policy" is applied for these classes, so parents are not parked at the studio during those times.

Most yoga clients are from the local Lynfræ, Harfield and Kenilworth areas. Many of them (including non-client neighbours) have commented that they love having a yoga business in the area as they feel it uplifts the neighbourhood and adds to the community.

At any given time, there will not be more than 2 people involved in the operational activities of the yoga classes and the sports massage therapy practice.

A total of 4.5 onsite parking bays are required in terms of the DMS' PT1 ZONE PARKING REQUIREMENTS, in respect of the residential and the yoga and massage therapy practice, as consent use activities, on the subject property.

A parking departure, to allow for 3 instead of 4.5 parking bays, have been applied with, re 1.5 parking bay shortfall.

HOUSE OF YOGA OPENING HOURS:

The yoga studio is only open at the times that classes take place - it does not stay open for the whole day.

The studio will generally open up 10 minutes prior to the beginning of class as yoga students arrive, and will close shortly after a class finishes. They do not permit students to hang around afterwards.

The opening hours based on the class schedule are as follows:

Mondays (Total hours open: 3.25hrs)

9.15am - 10.15am

5.15pm - 7.30pm

Tuesdays (Total hours open: 3.25hrs)

8.30am - 9.30am

5.15pm - 7.30pm

Wednesdays (Total hours open: 4hrs)

9.15am - 10.15am

3pm - 5pm (Kids & Tweens Yoga)

6pm - 7pm

Thursdays (Total hours open: 3.25hrs)

IT IS REQUESTED THAT COUNCIL ADVERTISES AND SERVES NOTICE ON THE NEIGHBOURS.

12. S.99 (1, 2 & 3) DESIRABILITY:

12.1 PHYSICAL CHARACTERISTICS OF APPLICATION PREMISES AND SURROUNDING AREA:

This property is a house located within an area with a predominantly medium-density residential character.

12.2 SOCIO-ECONOMIC IMPACT:

The yoga and sports massage practices, add to the amenities of the area.

12.3 COMPATIBILITY WITH SURROUNDING USES:

The subject property is located within an area with a predominantly medium-density residential character, where there are a number of small home-based businesses in operation.

The predominant use of the property is still residential.

12.4 IMPACT ON EXTERNAL ENGINEERING SERVICES:

None – The predominant use of the property is still residential.

12.5 SURROUNDING COMMUNITY (HEALTH AND SAFETY):

No safety or health concerns, as the predominant use of the property is still residential.

12.6 IMPACT ON HERITAGE:

N/A

12.7 ENVIRONMENTAL IMPACT:

None. No environmental implications as this is a built-up area and the predominant use of the property is still residential.

12.8 IMPACT ON BIOPHYSICAL ENVIRONMENT:

None. No environmental implications as this is a built-up area.

12.9 TRAFFIC IMPACTS, PARKING, ACCESS AND OTHER TRANSPORT RELATED CONSIDERATIONS:

A total of 4.5 onsite parking bays are required in terms of the DMS' PT1 ZONE PARKING REQUIREMENTS, in respect of the residential and the yoga and massage therapy practice, as consent use activities, on the subject property.

A parking departure, to allow for 3 instead of 4.5 parking bays, have been applied with, re 1.5 parking bay shortfall.

12.10 WHETHER THE IMPOSITION OF CONDITIONS CAN MITIGATE AN ADVERSE IMPACT OF THE PROPOSED LAND USE:

As would be deemed by Council to be appropriate in this instance.

13. SPLUMA:

- **SPATIAL JUSTICE**

Has no relevance in this particular instance.

- **SPATIAL SUSTAINABILITY**

The proposal addresses this principle with respect to proposing a spatial compact development, in a location that is sustainable and limits urban sprawl.

- **PRINCIPLES OF EFFICIENCY**

The proposal addresses efficiency as it promotes the optimization of resources and discouraging urban sprawl.

- **PRINCIPLES OF GOOD ADMINISTRATION**

N/A – Has no relevance in this instance.

14. SECTION 25 OF NATIONAL CONSTITUTION:

No party's constitutional property rights will be infringed upon by virtue of the application submitted herewith.

15. **SECTION 99 (1, 2 & 3) OF PLANNING BYLAW:**

99. Criteria for deciding application:

(1) An application must be refused if the decision-maker is satisfied that it fails to comply with the following minimum threshold requirements –

(a) the application must comply with the requirements of this By-Law;

THIS APPLICATION IS CONSISTENT WITH THE MPBL.

(b) the proposed land use must comply with or be consistent with the municipal spatial development framework, or if not, a deviation from the municipal spatial development framework must be permissible;

THE APPLICATION IS CONSISTENT WITH THE MSDF AS READ WITH THE APPLICABLE DISTRICT PLAN.

NO DEVIATIONS ARE REQUIRED FROM DISTRICT PLAN

(c) the proposed land use must be desirable as contemplated in subsection (3); and

THIS APPLICATION IS DESIRABLE AS CONTEMPLATED IN TERMS OF 99 (3)

APPLICABLE SECTION 99(3) CRITERIA ADDRESSED HEREIN

(d) in the case of an application for a departure to alter the development rules relating to permitted floor space or height, approval of the application would not have the effect of granting the property the development rules of the next subzone within a zone.

NOT APPLICABLE IN THIS INSTANCE

(2) If an application is not refused under subsection (1), when deciding whether or not to approve the application, the decision maker must consider all relevant considerations including, where relevant, the following –

(a) any applicable spatial development framework;

THIS APPLICATION IS CONSISTENT WITH THE MSDF AS READ WITH THE APPLICABLE DISTRICT PLAN

NO DEVIATIONS ARE REQUIRED FROM APPLICABLE DISTRICT PLAN.

(b) relevant criteria contemplated in the development management scheme;

THE APPLICATION SUBMITTED HERewith IS CONSISTENT WITH RELEVANT CRITERIA CONTEMPLATED IN THE DMS

(c) any applicable policy or strategy approved by the City to guide decision making, which includes the Social Development Strategy and the Economic Growth Strategy;

THE APPLICATION IS CONSISTENT WITH THE CITY'S SOCIAL DEVELOPMENT STRATEGY IN THAT IT ASSISTS WITH THE DEVELOPMENT OF THE LOCAL COMMUNITY AND THE PROVISION OF MUCH NEEDED JOBS FOR SKILLED PROFESSIONAL PERSONS AND OTHER WORKERS.

(d) the extent of desirability of the proposed land use as contemplated in subsection (3);

THE APPLICATION IS DEEMED TO BE DESIRABLE AS CONTEMPLATED IN SECTION 99(3) OF BYLAW – APPLICABLE SECTION 99(3) CRITERIA ADDRESSED HEREIN.

- (e) impact on existing rights (other than the right to be protected against trade competition);

THE APPLICATION DOES NOT IMPACT NEGATIVELY ON EXISTING RIGHTS, AS NO THIRD PARTY HAS ANY REGISTERED RIGHTS OR SERVITUDES IN PLACE WHICH MAY BE COMPROMISED BY THE PROPOSAL HEREIN.

- (f) in an application for the consolidation of land unit –

NOT APPLICABLE – NO CONSOLIDATION PROPOSED.

- (g) other considerations prescribed in relevant national or provincial legislation, which includes the development principles as contained in section 7 of the Spatial Planning and Land Use Management Act, 2013 (Act no. 16 of 2013).

APPLICABLE SPLUMA CRITERIA ADDRESSED HEREIN.

- (3) The following considerations are relevant to the assessment under subsection (1)(c) of whether, and under subsection (2)(d) of the extent to which, the proposed land use would be desirable –

- (a) socio-economic impact;

APPLICABLE SECTION 99(3) CRITERIA ADDRESSED HEREIN.

- (b) ...

- (c) ...

- (d) compatibility with surrounding uses;

***APPLICABLE SECTION 99(3) CRITERIA
ADDRESSED HEREIN.***

- (e) impact on the external engineering services;

***APPLICABLE SECTION 99(3) CRITERIA
ADDRESSED HEREIN.***

- (f) impact on safety, health and wellbeing of the surrounding community;

***APPLICABLE SECTION 99(3) CRITERIA
ADDRESSED HEREIN.***

- (g) impact on heritage;

NOT APPLICABLE.

- (h) impact on the biophysical environment.

***APPLICABLE SECTION 99(3) CRITERIA
ADDRESSED HEREIN.***

- (i) traffic impacts, parking, access and other transport related considerations; and

A total of 4.5 onsite parking bays are required in terms of the DMS' PT1 ZONE PARKING REQUIREMENTS, in respect of the residential and the yoga and massage therapy practice, as consent use activities, on the subject property.

A parking departure, to allow for 3 instead of 4.5 parking bays, have been applied with, re 1.5 parking bay shortfall.

- (j) whether the imposition of conditions can mitigate an adverse impact of the proposed land use.

***CONDITIONS TO BE IMPOSED, AS DEEMED
APPROPRIATE, BY THE CITY OF CAPE
TOWN.***

