



**CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD**

Case ID 1500167439

**Erf 584, 99 Plattekleef Road,
Monte Vista, Goodwood**

Development Management

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MOTIVATION REPORT

PROPOSED NEW ROOM AND MAID'S ROOM TO GYM CONVERSION ON ERF 584, MONTE VISTA

BUILDING PLAN APPLICATION TRIGGERS DMS DEPARTURES AND ROR APPLICATION

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NO 99 PLATTEKLOOF ROAD, MONTE VISTA

PLOT SIZE: 694 SQ M'S

ZONING: RESIDENTIAL (R.1)

1. DMS PERMANENT BUILDING LINE DEPARTURES

APPLICATION IS HEREBY MADE FOR THE FOLLOWING PERMANENT DEPARTURES TO BE GRANTED IN TERMS OF SECTION 42(d) OF THE MPBL:

- 1.1 A RELAXATION OF THE DMS SIDE (SOUTH) BUILDING LINE TO ACCOMMODATE MAID'S ROOM TO GYM CONVERSION, FROM 3.0 METERS TO 1.6 METERS

SEE DRAFT BUILDING PLAN

PROPOSED INTERNAL CONVERSION OF EXISTING MAID'S ROOM INTO A GYM

MOTIVATION: NORMAL EXTENSIONS / POSITIONING MOTIVATED BY INTERNAL CONFIGURATION OF EXISTING HOUSE / WILL NOT IMPACT NEGATIVELY ON NEIGHBOURS

- 1.2 A RELAXATION OF DMS REAR BUILDING LINE TO ACCOMMODATE NEW ROOM, FROM 3.0 METERS TO 1.2 METERS

SEE DRAFT BUILDING PLAN

MOTIVATION: NORMAL EXTENSIONS / POSITIONING MOTIVATED BY INTERNAL CONFIGURATION OF EXISTING HOUSE / WILL NOT IMPACT NEGATIVELY ON NEIGHBOURS

1.3 **A RELAXATION OF DMS SIDE (SOUTH) BUILDING LINE – TO ACCOMMODATE NEW ROOM, FROM 3.0 METERS TO 2.5 METERS**

SEE DRAFT BUILDING PLAN

MOTIVATION: NORMAL EXTENSIONS / POSITIONING MOTIVATED BY INTERNAL CONFIGURATION OF EXISTING HOUSE / WILL NOT IMPACT NEGATIVELY ON NEIGHBOURS

THE PROPOSED DMS DEPARTURE APPLICATION IS CONSISTENT WITH THE CITY'S OVERALL INWARD-GROWTH LAND USE INTENSIFICATION AND RESIDENTIAL DENSIFICATION SPATIAL PLANNING POLICY.

2. REMOVAL OF RESTRICTIONS

APPLICATION IS HEREBY MADE IN TERMS OF S.42(g) AND (j) OF THE MPBL, FOR THE REMOVAL/DELETION OF RESTRICTIVE TITLE CONDITION B(c) AND B(d) OF DEED OF TRANSFER AS REFERRED TO BELOW:

1. **REMOVAL OF TITLE DEED CONDITION NO.: B(d): T/DEED 1.57 METER REAR BUILDING LINE TO BE RELAXED TO 1.2 METERS TO ACCOMMODATE NEW ROOM AS SHOWN ON PLAN**

MOTIVATION: PROPOSED NEW ROOM EXTENSION, THE POSITIONING OF WHICH IS MOTIVATED BY INTERNAL CONFIGURATION OF EXISTING HOUSE

2. **REMOVAL OF TITLE DEED CONDITION NO.: B(c): T/DEED ONE-THIRD COVERAGE RESTRICTION – NEW COVERAGE PROPOSED IS 40% AS SHOWN ON PLAN**

MOTIVATION: IT IS TO BE NOTED THAT THE DMS DEVELOPMENT RULES DO NOT IMPOSE ANY COVERAGE RESTRICTIONS – ADDITIONAL COVERAGE IS REQUIRED TO ACCOMMODATE NORMAL HOUSE EXTENSIONS – PROPOSED COVERAGE OF 40% IS STILL QUITE LOW BY COMPARISON TO THE OVERALL BUILDING NORM IN CAPE TOWN

THE PROPOSED REMOVAL OF RESTRICTIVE TITLE CONDITIONS APPLICATION IS CONSISTENT WITH THE CITY'S OVERALL INWARD-GROWTH LAND USE INTENSIFICATION AND RESIDENTIAL DENSIFICATION SPATIAL PLANNING POLICY.

A CERTIFIED COPY OF **TITLE DEED** AND A **CONVEYANCER'S CERTIFICATE** ARE ENCLOSED.

NO **BOND** REGISTERED OVER THE PROPERTY.

ADVERTISING: It is requested that Council advertises the application and serves notices on the affected neighbours, as is required.

3. PROPERTY RELATED INFORMATION:

- | | | |
|------------|------------------------------------|--------------------------|
| 3.1 | <u>ERF NUMBER:</u> | Erf 584, Monte Vista. |
| 3.2 | <u>ERF SIZE:</u> | 694 sq. m's. |
| 3.3 | <u>EXISTING ZONING:</u> | R.1. |
| 3.4 | <u>TOWNSHIP EST. COND.:</u> | As per Deed of Transfer. |
| 3.5 | <u>EXISTING USAGE:</u> | Dwelling. |
| 3.6 | <u>SURROUNDING ZONING:</u> | Single Residential. |
| 3.7 | <u>SURROUNDING USAGE:</u> | Houses. |
| 3.8 | <u>SURROUNDING DENSITY:</u> | Medium Density. |

4. HERITAGE PROTECTION OVERLAY ZONE:

The subject property is not included within a designated heritage protection area. No impact on heritage. Not impacted by an HPOZ.

5. ZONING APPROPRIATENESS:

The existing R.1 Zone of the subject property allows for the proposed house extensions/renovations.

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

Not applicable in this instance – No change of land use is proposed. Does not trigger rezoning. The predominant use of property is that of a single residential property, which allows for the proposed house extensions/renovations in terms of the R.1 DMS development rules.

7. IMPOSITION OF CONDITIONS:

As Council deems fit.

8. IMPACT ON NEIGHBOURS:

Limited impact on neighbours, if any. It is requested that Council serves notices on the neighbours. The departures are motivated herein.

9. 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.

10. SECTION 25 OF NATIONAL CONSTITUTION:

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

11. LUPA IMPLICATIONS:

The following are the LUPA implications of the ROR application.

S.39(5)(a) OF LUPA:

In our opinion the title condition(s) to be REMOVED is of and has no financial value to any landowner or any other party, as the title deed restriction(s) concerned merely serves to restrict the extent to which the land can be used for residential purposes, for the purpose of facilitating land use control.

S.39(5)(b) OF LUPA:

In our opinion the title condition(s) to be REMOVED does not result in any personal benefit to any of the neighbouring property owners or any other party, as the title deed restriction(s) merely serves to restrict the extent to which the land can be used for residential purposes, for the purpose of facilitating land use control.

S.39(5)(c) OF LUPA:

The REMOVAL of the applicable title condition(s) will free up the property to enable the landowner to utilize the said premises more effectively for the intended use.

The proposed REMOVAL of the applicable title condition(s) will allow for the more efficient use of the property in question.

This in turn will have a positive impact on the value of the surrounding properties.

The proposed REMOVAL of the applicable title condition(s) is therefore in the interest of the community concerned, in the sense that it will create an additional precedent to free up and to facilitate the processing of similar land use applications in the area.

S.39(5)(d) OF LUPA:

There will be no social benefits should the REMOVAL of the applicable restrictive title condition(s) not be granted.

The applicable restrictive title condition(s) is onerous and severely limits the development potential of the subject property.

If not REMOVED, the area will be deprived of the opportunity of being able to expand its amenities, in keeping with current development trends in the area.

Also, the refusal of the application for the REMOVAL of the applicable restrictive title restriction(s) will set an undesirable precedent, which will thus cause COCT to have to refuse all other similar development applications in the area, which will cause economic stagnation.

The social benefits to be derived from the improvements as reflected on the attached plan, will create job opportunities in terms of construction, upkeep and maintenance, which will boost the local economy.

S.39(5)(e) OF LUPA:

The proposal will have a positive social impact on the area, as it will allow for the area to evolve spontaneously into being able to accommodate other similar developments/improvements/related land use activities in the area, which will be good for the development of the area and boost the local economy.

S.39(5)(f) OF LUPA:

Application is made for the REMOVAL of the applicable restrictive title condition(s).

The development of the site will continue to be subject to the development controls of the DMS, which is deemed adequate to safeguard the interests and welfare of the surrounding neighbours and that of the local community.

S.99(2) OF LUPA:

The subject property is located within an existing built-up area and is designated for 'urban development' in terms of the applicable structure/spatial development frameworks.

The proposed land use activities are consistent with the MSDF as read with the Local District Plan.

The application is desirable as contemplated, in terms of subsection (3).

There will be no negative impact on existing rights.

S.99(3) OF LUPA:

The proposed REMOVAL of the applicable restrictive title condition(s) in respect of the land will allow for the more efficient utilization of the land, where land is a scarce resource.

From an engineering services point of view, the services implications re the usage of the site as shown on the enclosed plan, will remain unchanged.

The property is not situated in a heritage protection area – The residential character of the premises is to remain the same.

There will be no negative impact on the bio-physical environment.

The parking and access arrangements will comply with the development controls of the DMS and there will be no negative impact on the area from a parking and traffic point of view.

With regard to the imposition of conditions, it is to be noted that this is an application for a removal of restrictive title conditions, combined with a DMS departure application, including a BDM building plan application.

12. SPLUMA IMPLICATIONS:

12.1 SECTION 42(1)(c) of SPLUMA:

Core Considerations Under Section 42(1)(c)

When evaluating any land development or rezoning application, the competent authority must account for:

- **The public interest** (sub-item i) – Decision-making criteria applicable to competent authority – To be addressed by COCT, as decision-making body, when assessing the application – Refer to aspects of Section 47(2) of SPLUMA referred to hereunder, including aspects of LUPA and Section 99(3) of the MPBL addressed herein.
- **Constitutional transformation imperatives** and the related duties of the State (sub-item ii) – Decision-making criteria applicable to competent authority – To be addressed by COCT, as decision-making body, when assessing the application.
- **The facts and circumstances** relevant to the specific application (sub-item iii) – Decision-making criteria applicable to competent authority – To be addressed by COCT, as decision-making body, when assessing the application – Refer to aspects of Section 47(2) of SPLUMA referred to hereunder, including aspects of LUPA and Section 99(3) of the MPBL addressed herein.
- **The respective rights and obligations** of all parties affected by the decision (sub-item iv) – Decision-making criteria applicable to competent authority – To be addressed by COCT, as decision-making body, when assessing the application – Refer to aspects of

Section 47(2) of SPLUMA referred to hereunder, including aspects of LUPA and Section 99(3) of the MPBL addressed herein.

- **The state and impact of engineering services**, social infrastructure, and display of needs (sub-item v) – Decision-making criteria applicable to competent authority – To be addressed by COCT, as decision-making body, when assessing the application – Refer to aspects of Section 47(2) of SPLUMA referred to hereunder, including aspects of LUPA and Section 99(3) of the MPBL addressed herein.
- **The impact on the environment** (sub-item vi) – Decision-making criteria applicable to competent authority – To be addressed by COCT, as decision-making body, when assessing the application – Refer to aspects of Section 47(2) of SPLUMA referred to hereunder, including aspects of LUPA and Section 99(3) of the MPBL addressed herein.

12.2 SECTION 47(2) of SPLUMA:

The following are the LUPA implications of the ROR application.

S. 47(2) of SPLUMA:

The proposed REMOVAL of the applicable title condition(s) will not result in any person being deprived of property, in that the applicable restrictive title condition does not grant land use rights or servitude rights in favour of third parties, but endeavours to facilitate the control of land use, emanating from a time when the only means of land use control was via the imposition of title conditions.

S.47(2)(a) of SPLUMA:

The proposed REMOVAL of the applicable title condition(s) does not affect the property rights of any party, in that the applicable restrictive title condition does not grant land use rights or servitudes in favour of third parties, but endeavours to facilitate the control of land use, emanating from a time when the only means of land use control was via the imposition of title conditions.

S. 47(2)(b) of SPLUMA:

The proposed REMOVAL of the applicable title condition(s) does not impact negatively on the rights of any party and the public has no interest in the land use activities as it relates to the subject property, in that the applicable restrictive title condition(s) does not grant land use rights or servitudes in

favour of third parties, but endeavours to facilitate the control of land use, emanating from a time when the only means of land use control was via the imposition of title conditions.

The only interest that the public has in the subject property is in terms of how the use may affect them with regard to traffic/parking, noise and other possible nuisances which can easily be controlled by means of the imposition of suitable conditions and/or existing relevant municipal by-laws.

S.47(2)(c) of SPLUMA:

The proposed REMOVAL of the applicable title condition(s) is being affected in the prescribed manner.

The restrictive title condition(s) currently deemed to still be effective has been identified and it is this/these title condition(s) that we have applied for it to be REMOVED.

13. 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 PROPOSAL IS CONSISTENT WITH THE MSDF AS READ WITH THE APPLICABLE DISTRICT PLAN.

NO DEVIATIONS ARE REQUIRED FROM DISTRICT PLAN

THE SITE IS LOCATED WITHIN AN OLD AND ESTABLISHED PART OF CAPE TOWN, WITH A DISTINCTIVE MEDIUM DENSITY RESIDENTIAL CHARACTER.

THE SITE IS LOCATED WITHIN A BUILTUP 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 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 URBAN CHARACTER OF THE AREA.

THE PROPOSED DEVELOPMENT, WHICH IS OF A LIMITED SCALE, IS

THEREFORE DEEMED TO BE CONSISTENT WITH THE 'INWARD GROWTH' SPATIAL PANNING PLAN-NING POLICY OF THE MSDF AND THE LOCAL DISTRICT PLAN, WITH SPE-CIFIC REFERENCE TO THE NATURE OF THE PROPOSED BUILDING PLAN PROPOSALS, WHICH IS VIEWED AS AN ASSOCIATED LAND USE ACTI-VITY.

THE BUILDING PLAN APPLICATION IS THEREFORE DEEMED TO BE CON-SISTENT WITH THE LOCAL 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)

THE PROPERTY IS LOCATED WITHIN AN AREA WITH A PREDOMINANTLY LOW-DENSITY RESIDENTIAL CHA-RACTER, WITH A ZONING THAT ALLOWS FOR THE PROPOSED CONSTRUCTION.

- (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 PROPOSAL 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 PLAN PROPOSAL IS DESIRABLE AS CONTEMPLATED IN SECTION 99(3) OF BYLAW – APPLICABLE SECTION 99(3) CRITERIA ADDRESSED HEREIN.

THE BUILDING PLAN APPLICATION IS CONSISTENT WITH THE CITY'S OVERALL INWARD-GROWTH DENSIFICATION SPATIAL PLANNING POLICY.

IT ALSO HAS TO BE BORNE IN MIND THAT FROM A DMS POINT OF VIEW, THE SUBJECT PROPERTY CAN BE DEVELOPED TO A MAXIMUM OF THREE HOUSES, WHICH COULD THEORETICALLY BE SECTIONAL-TITLED, REGARDLESS OF THE SIZE OF THE PARENT PROPERTY.

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

THE PROPOSAL 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;

WILL PROVIDE MUCH-NEEDED ADDITIONAL JOB OPPORTUNITIES, WHICH WILL BE GOOD FOR THE GREATER COMMUNITY.

(b) ...

(c) ...

(d) compatibility with surrounding uses;

THE SITE IS LOCATED WITHIN AN OLD AND ESTABLISHED PART OF CAPE TOWN, WITH A DISTINCTIVE MEDIUM/LOW DENSITY RESIDENTIAL 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 LOCAL DISTRICT PLAN ALLOWS FOR RESIDENTIAL DENSIFICATION AND LAND USE INTENSIFICATION, IN A MANNER THAT WILL NOT DETRACT FROM THE URBAN CHARACTER OF THE AREA.

(e) impact on the external engineering services;

LIMITED ADDITIONAL IMPACT ON EXTERNAL ENGINEERING SERVICES.

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

WILL NOT DETRACT FROM SAFETY ASPECTS OF THE AREA, AS THE PROPOSED BUILDING WORK IS FOR RESIDENTIAL PURPOSES, WHICH IS NOT A NOXIOUS USE, WHICH WILL IMPROVE THE LIVING CONDITIONS OF THE EXISTING PREMISES.

- (g) **impact on heritage;**

THE SUBJECT PROPERTY IS NOT INCLUDED WITHIN A DESIGNATED HERITAGE PROTECTION OVERLAY ZONE.

- (h) **impact on the biophysical environment.**

NO BIOPHYSICAL IMPLICATIONS. CONSTITUTES A SIMPLE BUILDING PLAN APPLICATION.

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

NO IMPACT. ONSITE PARKING REQUIREMENTS HAVE BEEN MET AS PER DMS REQUIREMENTS.

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

AS DEEMED APPROPRIATE BY COUNCIL.

**ADRIAAN VAN DER MERWE
PLAN AFRICA CONSULTING
DATE: 10 AUGUST 2026**