

FISH HOEK VALLEY RATEPAYERS & RESIDENTS ASSOCIATION

(Incorporating Fish Hoek, Clovelly and Sun Valley)

~~Central Circle, Fish Hoek 7975~~

Web: <https://www.fhvrra.org.za/> Facebook: www.facebook.com/FHVRRRA/

Heritage Western Cape: Conservation Body

TO: MAYOR OF THE CITY OF CAPE TOWN
mayor.mayor@capetown.gov.za

SUBJECT: APPEAL DECISION FOR 1500000249: APPLICATION FOR DEPARTURES
IN TERMS OF THE MUNICIPAL PLANNING BY-LAW, 2015: REMAINDER
ERF 89048 CAPE TOWN AT CLOVELLY, 42 CLOVELLY ROAD

We believe that your rejection of our objections to this application for departures is flawed in that:-

1. Public Participation and Democratic Rights

Your dismissal with disdain as irrelevant our claims that “the City’s Planning public participation process pays only lip service and that democratic rights are ignored” is invalid.

We attach a letter to you from the Far Sough Peninsula Community Forum (FSPCF) dated 1 August 2023. “Following the public participation process procedure” is compliance with the rule of law, which we expect.

In an excellent article at www.coe.int, in which the Council of Europe (CoE) describes democracy as an accommodation of often conflicting interests in such a way that there is a balanced and minimal infringement of the human rights of all parties.

You are the Appeal Authority. As an elected politician among the City’s Planning decision makers regarding departures and are beholden to your political party in the first instance for your position. Under these circumstances the CoE article claims civic associations, ward committees ¹ and pressure groups should be the mechanism through which democratic accommodation is achieved. Clearly this was not the case in any of the 300 plus objections made by the FSPCF civics to departures, so, our claim that rejection of this objection would be just another example of paying lip service to public participation and a violation of democratic principle is relevant.

2. Merit

Your claim that all departures are assessed on “merit” depends on your and the Planning personnels’ perception of “merit”. We know from our interaction with City “Planning” officials that:-

¹ The ward committees offer a limited opportunity for constituents to communicate their desires to their councillors and to institute projects for their wards. A clumsy attempt by officials (apparently aided and abetted by certain councillors in the Far South) to “educate” committee members and direct activities via report formats and KPA’s has been ignored by the ward 64 committee

- 2.1 Development (at any cost?) is perceived to be the council determined mandate of Planning;
- 2.2 Planning officials regard themselves as “professionals”, who can assess “planning that has merit”;
- 2.3 Most “Development Planning” officials desire uniform regulations across the board, rather than regulations tailored to the “character” of a neighbourhood;
- 2.4 Developers and their architects / designers have an inalienable right to apply for departures and officials are reluctant to propose redesign within regulations;
- 2.5 Only a few SDP authors accept that certain areas in the City and the Far South in particular have a “character” that implies “one rule suits all” is not applicable and “overlays” are desirable / acceptable.

This means that the recognition of “character” in the SDPs is often overridden and “merit” is based on the other perceptions rather than the democratic principle of “accommodation”.

So, claims that this departure would infringe on privacy and reduce light (in a south facing area that is often in shadow until late morning in winter) are rejected as being without supporting evidence, while the counter claim by the City that designing within regulations would be less desirable is stated as self evident.

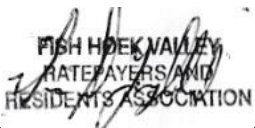
3. Overlay

Clovelly, as part of the old Cape Town Municipality zoning scheme, has a local area overlay limiting it to two (2) storeys, rather than three (3) storeys.

The acceptance of this departure application height exception based on the criterion that 6,58m above EGL is not excessive given that SR1 zoning allows 10m, displays exactly the prejudice described in 2.3. Even though its impact may be minimal in this case, it establishes a precedent that will eventually destroy the unique character of Clovelly.

4. Summary

We, the Fish Hoek Valley Ratepayers & Residents Association, request that this appeal rejection decision be reviewed.

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SIGNATURE	 FISH HOEK VALLEY RATEPAYERS AND RESIDENTS ASSOCIATION
DATE	8 January 2024