

# **COMMENT**

## **on**

### **DRAFT CITY OF CAPE TOWN MUNICIPAL PLANNING BYLAW 2024**

Our opinion is informed by:-

1. The MSDF/P, the subordinate DSDF/P's and LSDF/P's, the Human Settlements Plan, the economic and demographic forecasts by the CoCT on which those plans rely
2. Our interaction over many years with City planning officials, various MPT's and various Mayors relating to SDF/P's and "Planning" bylaws
3. Our experience of commenting on "Departures"
4. The proceedings of Urban Densification: Special Edition reviewed by Teller, J. (2021). Regulating urban densification: what factors should be used? *Buildings and Cities*, 2(1), pp. 302–317. DOI: <https://doi.org/10.5334/bc.123> (copy attached)

We believe the primary objective of the MPBL is to govern and give effect to the MSDF/P and the Human Settlements Plan. In its media release the City also identifies the following:-

#### **Making provision for densification and population growth**

The latest census confirms major growth in Cape Town, with projections indicating our population may soon surpass five million.

The City is preparing for this growth by addressing the legislative environment, among which the now revised draft Municipal Planning By-law; and through infrastructure development to meet the demands of our growing population, and to provide for the impact of densification.

**We contend that the proposed amendment to the MPBL is fundamentally flawed in that it not only fails to address the objective of orderly densification but by simplification and unification of regulations also progressively adds to the insidious sabotage of the LSDF/P's that recognise unique local characteristics so beloved of the residents**

#### **Densification**

According to Teller densification can be "hard" (centrally planned) concerned with "structure" as addressed by the MPBL or "soft" (informal) and functional (concerning people and jobs).

The CoCT economic and demographic forecast used to formulate the MSDF/P and Human Settlements Plan anticipated an influx of  $\pm 80k$  people pa into Cape Town over a ten year period. We have been told that number has been exceeded in recent years. 75% of those people were expected to be unable to afford the sort of accommodation regulated by the MPBL. 25% of the 75% might be able to afford subsidised housing of which there would be an inadequate supply. Some 25 to 50% would settle in informal settlements. A trip along the R310 or N7 and a plethora of other areas (Masiphumulele, Westlake, Capricorn et al) is proof of the prediction being realised and is obviously a major contributor to densification and the stress on the services infrastructure. We are aware that the national and provincial government are responsible/accountable(?) for addressing these issues but the effect on the CoCT MSDF/P and its other residents is local and the MPBL is both inapplicable and ineffective.

### ***Conflict with the LSDF/P's***

The LSDF/P's recognise the unique natural and built characteristics of the various areas of Cape Town, many of which are essential for the economic viability of the local areas concerned. The majority of the residents and property owners in those areas would like those characteristics preserved by customised regulations. Some of the areas have "overlays" but many that do not, desire them. By promulgating "one size fits all" regulations as successive MPBL amendments have done and this draft MPBL seeks to egregiously expand, these "local" rules that protect the unique character are eroded and isolated pockets of densification inconsistent with the transit oriented MSDF/P densification strategy arise to the chagrin of the surrounding residents.

Teller cites several studies of the negative effects of densification on the quality of life of residents in rapidly growing cities and the potential decreasing affordability that can arise, particularly when private developers become involved as CoCT desires. Indeed, Teller observes that public authorities are inclined to accept more density than was planned. Detailed examples of the regulations proposed in this draft MPBL and their probable deleterious effects on the FHVRRA area are listed in appendix 1.

### ***Conclusion***

***In brief, the draft MPBL grants far too much discretion to CoCT officials and developers to destroy the unique character of Cape Town neighbourhoods and damage the quality of life of their residents without contributing significantly to accommodating the majority of population growth***

This makes the need for a socioeconomic and environmental impact assessment of the proposed MPBL even more pressing.

### ***Proposed Resolution***

We believe that this matter can be addressed by allowing each local area that so wishes to develop an LAO in collaboration with the relevant CoCT planning officials. Our civic supports a voluntary group consisting of several architects, a retired City planning official, a project engineer and a facilitator formulating a "Fish Hoek Future (FHF)". We attach a draft of the LAO that they have developed for the Fish Hoek area as well as a motivation for the approach adopted. We also attach a draft of a proposal to coordinate the planning efforts of Muizenberg, Fish Hoek and Simonstown so that a consistent vision for that coastline arises.

Sun Valley (LAO 12) and Clovelly (LAO 6) are also parts of the the FHVRRA constituency. The residents in these areas would like to see their respective LAO's preserved and later enhanced by the FHF.

However, such an LAO approach would require a paradigm shift in philosophy and attitude in the "Planning and Building Development Management" department of the City. None other than the Director of that department has told us that, "We don't like overlays". LAO regulations would have to be applied and upheld. Between 2018 and 2020 our "Departures" sub committee consisting of two architects and an architect/urban planning specialist submitted  $\pm 200$  objections to  $\pm 40\%$  of all "Departures" in our area. None was upheld. Other civics in the FSPCF suffered the same fate. Since 2020 we changed our approach to only support objections to "Departures" by "neighbours" or constituents if we agreed with them. Despite the change none has been upheld.

Our experience with "Departures" supports the widely held opinion of many civics that CoCT's public participation process is just a "tick box" exercise. Unfortunately, a recent meeting between the Collective Ratepayers Association (CRA) and the CoCT officials responsible for the draft MPBL reaffirmed the yawning gap in perceptions about public

participation.

**Our proposed collaborative development of planning regulations customised for different areas would be a meaningful public participation process.**

## **Appendix 1 Objections to Specific Regulations**

### Schedule A Chapter 8

The MPT is not sufficiently representative so add:-

“115(2)

(e) provided that the number of officials must be less than half the total number of members of the MPT; and

(f) the MPT must be broadly representative of the community it serves and should include (but not be limited to) representatives of residents and ratepayers associations, environmental associations, heritage associations, private developer associations, and architectural and urban planning associations”

The Advisory Panel is not sufficiently representative so add:-

“121

The members of the panel must include the ward councillor and a representative of the relevant ratepayers and residents association”

### Schedule 3

#### Chapter 1: Definitions and Interpretation

“family” means

(b) “one or more parents and their dependants living together”

That could mean any number of people. Is that the intention?

### Table A & Chapter 5 Part 1 items 21 to 25

We have applied the proposed regulations for R1 zoning relating to heights, boundary lines, coverage and dwelling units to those even typical of the FHVRRA area which predominantly lie in the range 350 to 650 m<sup>2</sup> and 650 to 1000 m<sup>2</sup>.

### **350 to 650 m<sup>2</sup>**

A developer or individual wishing to optimise built space would be entitled to 3 x 100 to 150 m<sup>2</sup> floor space rectangular (“little box”) ±6m high duplex dwelling units with 0 m lateral boundaries and shared internal walls

### **650 to 100 m<sup>2</sup>**

A developer or individual wishing to optimise built space would be entitled to 3 x 240 to 400 m<sup>2</sup> floor space rectangular (“large box”) dwelling units each with 12 m long by 6 to 9 m wide 10 m high blocks with shared interior walls on the road side and 11 plus m long by 6 to 9 m wide 4 m high blocks with shared interior walls. In other words a block of large apartments. In terms of 22 (c) (ii), a property south of an EW road the 10m high “block” would be nearest the road!

The photo is of two adjoining properties in 2nd Ave, Fish Hoek zoned General Residential 2 (GR2).

On the right is a 4 storey section of 10 dwellings built in accordance with existing regulations. On the left one of the many similar houses in the street. Note the gap between buildings, the intrusion on privacy, blocked view, exclusion of sunlight etc. In terms of the new draft regulations, a property previously zoned SR1, now R1 will be allowed to build 3 dwelling units of 3 storeys each similar to the building on the right but minus the top (beige) floor.

FHVRRA Exco would not like to see our area develop in this fashion, so we will oppose the “one size fits all” regulations by applying for a Local Area Overlay (LAO) that prevents it.



**While there may be residents or property owners in our area who might wish to exploit the proposed R1 zoning regulations, the vast majority would believe that the character of their neighbourhood would be destroyed by the sort of developments allowed and that their quality of life had been assaulted by the MPBL.**

