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10 September 2020

For Attention: J SAN GIORGIO (Senior Professional Officer) and Marx Mupariwa.

Director: Development Management, TDA Cape Town

Email: comments_objections.tablebay@capetown.gov.za

Re: TRUPA Response to the “Proposed Application for REZONING, and DEVIATIONS from City Policies in terms of City of Cape Town Municipal Planning Bylaw in respect of the River Club site, ERF 151832, 6 Liesbeek Parkway, off Observatory Road, Observatory, Cape Town.

Application Number **70396369** as submitted by Planning Partners for **Liesbeek Leisure Properties Trust**.

TRUPA’S OBJECTION TO REZONING & DEVIATIONS TO ERF 151832

1. The **Two Rivers Urban Park Association (TRUPA)** would like to submit the following comment and objection in firm response to the unfortunate **application to rezone the River Club** site as per the application 70396369. TRUPA have submitted a number of previous objections and comments representing TRUPA’s mandate.

TRUPA represents stakeholders and interested parties as per its constitution, since 2003. Many years of consultation went into formulating the principles of the ‘Development Framework’ to preserve the park in a sustainable way and we participated in formulating the Manifesto regarding the future of the TRUP, facilitated by ‘Sun Development’. The River Club Site is part of T R U Park and is also guided by the ‘Table Bay District Plan’ to be updated, *not undermined!* We have a direct responsibility to engage with all aspects of the park as mandated, to guide its implementation, in partnership with stakeholders and City of Cape Town.

2. The proposed “Rezoning and Deviations from policy” notice sent by TDA, dated 27 August is contrary to planning guidelines for the Park and is contrary to all current policy and vision that stakeholders aim to achieve. The proposal ignores the Draft Manifesto and the updated vision to guide the future of the Park.

TRUPA and stakeholders are firmly against the unacceptable proposal with substantial high density development intruding into the flood plain of the declared Two Rivers Urban Park. It disrespects the vision and the park!

The TRUPA reject this proposed REZONING of the River Club site and Deviations from current City Policy, put in place to protect the sensitive park environment. We strongly oppose the poorly conceived proposal to fill in the flood plain and the existing Liesbeek River, north of Observatory Road! (Current opinion is that rivers and wetlands should be restored and the hugely significant heritage of the park should be respected and enhanced. This is set, as part of existing planning policy. Current Zoning: **Open space for conservation** (with concessions).

TRUPA strongly oppose drastic proposed changes in zoning of the sensitive riverine and flood plain environment. This unique park is for conservation not rampant development, not permitted! A new ‘Subdivisional Area Zoning’ (‘general business’ and bits of ‘open space zones’ with numerous other deviations, ignore the fact that this is a declared park with sensitive flood plain, vulnerable rivers with natural habitat and rejected by planning policy!

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3. TRUPA strongly reject REZONING the flood plain for massive development Any motivation for appropriate development needs to be strictly limited and handled very carefully, and not negligent of need for **conservation!** The respectful best practice example would be upper Kirstenbosch that enables a balance to ensure the success of our upstream sister park. The River Club site is an important part of TRUP. It's a flood plain, a confluence area of the two rivers, an important Heritage Site with an amazing history of many thousands of years covering all of Cape history, since first inhabited and used by First People. This **heritage significance** has been well established by independent heritage researchers, described in texts from precolonial and colonial times and as we are aware of HWC noted grading as Grade 2 Provincial Heritage, up to Grade 1 National Heritage as is the SAAO.

4. TRUP's **historical significance for First People** tracks its role in sustaining First People through centuries of droughts, and described as the place behind the mountain, 6 km from the Camissa that was attacked by d'Ameida's forces in 1510. The Khoiena people fought back and defended themselves. It was the site of the first Dutch farms and the 1658 'First Frontier' where First People were evicted from their ancestral lands by war in 1659. This Varsvlei wetland /flood plain and sacred site was also the gateway at Varschedrift to the Peninsula. HWC have acted responsibly to place the River Club Site under **provisional protection** based on its assessment of significant heritage grading. There is a need to investigate the depth of heritage and environmental vulnerability, so its unacceptable to push ahead with rezoning, particularly since this proposal for development is unbelievably brutal and blind to all essential factors inherent that need to be protected on this unique and contested site!

This is prime land stolen from First People who inhabited it for thousands of years and it remains as a **memory of the 'First Frontier' of abuse of our people by colonial powers.** The site recalls the decimation that undermined the Khoi and should be the site of memory and transformation. A people's park can restore its natural environment, and to preserve the neglected early Cape heritage of Two Rivers Urban Park. A Preserved Park with an enhanced sense of place would have a great potential to heal our City and contribute greatly towards facilitating social inclusivity and cultural recognition. **A special park that enhances heritage** in a restored environment with natural wetland habitat and great accessible facilities in the park will act **as a major catalyst** for facilitated well located high density affordable housing as intended by our MSDF along transport corridors like Voortrekker Road and throughout underutilized brownfield lands throughout central Cape Town that is the 'Heart of our City' This type high density development should not be inappropriately placed in our declared parks and particularly not in this way that impacts negatively on our existing wetland and these flood plains.

5. It is noted that **research on impact of flooding** has been defective! The reports do not disclose how extensive filling and building in the River Club Flood Plain would cause substantial escalated vulnerability to *more frequent* higher flood levels, impacting the natural habitat and use of the park. Transport services like road and rail are likely to be flooded more often! **The concept of filling the flood plain** with thousands of cubic meters of fill is unacceptable and is very negative, environmentally. To propose this in a wetland where flood waters are recorded to reach a high flow of 240 cubic meters per second is unsustainable! Its made worse since the exit route out for flood water after the confluence is severely reduced due to low, crazy, restricted railway bridges!

6. Massive high-rise buildings as proposed to be built above extensive lower floor parking garages, extending across most of the site, raising the new ground floor levels high above natural ground is not what we would support for the Two Rivers Urban Park that is also a significant unique heritage site. TRUPA do not support the proposed extensive wide highways and service roads, either. It's the end of conservation of this significant park!

7. The requested deviations in terms of Sec. 42(a) and 42(i) attempt to permit massive retaining structures which are certainly not acceptable in a flood plain at such a huge scale! This was once partly a wetland and should be restored where possible. We object to this provision over such a huge area and scale! **We cannot support deviations from the Table Bay District Plan**, of this extent. T R U Park is unique with its open space, buffer zones

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etc that need to be preserved! Only minor reasonable deviations should be considered in order to make the park more sustainable and successful for meaningful quality use. TRUPA can't support destruction of character!

8. We are not sure what is meant by "develop/obstruct the 'free of' water within the 20-year floodplain?"

There are issues also to infill within the 50-year flood plain" that is 'a **deviation of the Flood plain and River Corridor Management Policy (2009)**.' TRUPA is strongly opposed to private developers making changes to the rivers and flood plain. Even minor changes need full consensus for improving sustainability of the park wetland habitat. We do not support extensive filling proposed for the flood plain nor the filling in of the Liesbeek River . (It should be rehabilitated as part of the wetland of the park, not filled while being replaced by the Flood Canal!) It is outrageous to request deviations when the flood plain should be conserved and restored with all its precious qualities! Authorization is unacceptable. It must be rejected particularly as research on flooding has been false.

9. We cannot support the scantily stated "**Deviation from the Management of Urban Stormwater Impacts Policy (2009)**. Nor *deviation from the requirement of "24 hour extended detention of the 1-year Recurrence interval , 24 h storm event in a green field development greater than 50 000m²"!* Why does a 1-year Recurrence Interval, 24h storm not require 24hrs extended retention? Why should a 10 year Recurrence Interval peak flow be reduced to pre-development level? Why deviate for "up to 50-year Recurrence Interval peak flow to be reduced to the existing development levels, in a greenfield development greater than 50 000m²"? **TRUPA expect best practice to prevent flood damage!** We are well aware that the flood recurrence levels before the development will in fact now occur far more often (if this non-compliant development were to be built due to massive filling). It will take less rain and shorter time to reach maximum flood levels. Extra displacement due also to 'submerged parking' above existing natural ground levels, including filling the existing Liesbeek River and raised roads and landscaped areas above flood levels will cause negative impact more often and these deviations should not be permitted!

Typically, a 50 year recurrence flood has substantial 230 cubic meters per second of water flow into the flood plain. Within a much shorter time the capacity of the flood plain will be reached, far more often! It's likely that 100 year floods will also happen more often! More frequent flooding will affect local roads and houses of lower Observatory. It will overflow the railway bridges more often. Claims that flood levels will not go above the existing 100 year level is not the only issue! These deviations cannot be supported by TRUPA. They are ill-advised and unmotivated deviations that will have a negative impact on the Park and surrounds for future generations!

10. It needs to be pointed out that the Case Officer claims the application is proposed to accommodate a mixed use development of 150 000 m² comprising a range of uses where only 20 % is residential and only 20% of that is allotted as '**inclusionary housing**' without giving numbers of units or sizes. 'Inclusionary housing' does not give clarity how affordable they will be, to buy or rent and percentage of the total investment into huge undesirable destruction of the flood plain, serious impact of massive structures affecting the character of the park and its rivers. To request huge deviations from good planning policy that affects the significant heritage of the area and the sensitive environment, is unjustified particularly since it provides a tiny group of unaffordable units that actually do not offer much noticeable worthy inclusion of people looking for affordable accommodation? Why?

11. The fact is that the entire development is destructive to the park, and all departures are to give the private owners the right to do so, just to make a big profit? This site is zoned for conservation, not this development! **There is little to no 'public good' in it.** We do not want mega shopping and commercial space intruding into our heritage park for profit! We can't justify destruction of the park even for affordable housing! This park only gains if its significant heritage and its valuable park environment is upgraded to have a huge catalytic impact on potential well located affordable housing as per MSDF planning policies along existing transport corridors rather than in the flood plain of this significant and unique park! Any upgrade to the **flood canal** between SAAO and River Club may have some value where canal sides are collapsing and we would agree that better, more natural

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edges along banks and with better integration with restored wetland. This in no way can be thought to justify the removal of the Liesbeek! Stakeholders have explored an **alternative vision for the River Club Flood Plain**, developed in close collaboration with the TRUP Association, following the Manifesto. It was intended to form part of the higher order Local Spatial Development Framework process that has been underway for some years.

12. The Case Officer claims that “the application is proposed as a 2 to 9 storey development above ‘base level’” but the architects had presented it as a **“4 to 12 storey development”** as LLPT’s preferred proposal that has 150000m² floor space. We need facts clarified and shared with I&AP’s! Policy determining ‘base level’ has been defined as the average existing ground level, not ground level one chooses to fill to above false basements! A basement is below existing ground level! We need to know why these basic facts are in conflict, misrepresenting what the architects presented to us. It seems that we should be told who is responsible and why?

The T R U Park Manifesto Document and the concepts expressed in the well supported ‘Scenario C’ Vision were intended to help upgrade the LSDF in a collaborative Co-Design Process and the River Club Site should be assessed as part of the entire integrated heritage rich T R U Park! The Applicants proposal is very far from the principles aimed for in the Manifesto and it is not at all in tune with the TRUP vision! The request for rezoning for such an inappropriate proposal, that is **negligent of the needs of the park as a whole** and is unconcerned with essential significant ‘African Heritage issues’ particularly regarding early history civilization on the site in the Cape is a great concern. Integration of heritage and the riverine environment into the park is essential. Sustainability required as per TRUP Manifesto in line with planning policy, including the **MSDF**(guiding appropriate location of development within a preferred core) on existing transport corridors, NOT a flood plain or inside a heritage park!

13. The HIA processes and the EIA processes should be completed while also completing the updated LSDF of the TRUP as a whole, in the context of the broader ‘Heart of the City’. Based on that, local qualities can influence and justify any amendments to existing planning policy. We should not be placed under unjustified pressure to instead change pockets of land within the most sensitive parts of the T R U Park particularly when the existing zoning is so restricted to open space and conservation, hugely contrasted and in conflict with these outrageous River Club development proposals that are not at all compliant!

TRUPA have to reject such proposals, particularly in the sensitive flood plain and while Heritage issues are still contested and significant to the future of our City, it’s People and the sustainability of our Planet!

14. Any attempt to by-pass steps while the application is in review will not contribute to it being more compliant, or more to the public good. **The vision for sustainability of TRUP**, were set as per its clear manifesto. Limits were proposed prior to the sudden disclosure that this 14,7 hectare site that belonged to railways was sold to private developers, without any public process, for only R12 million plus VAT. It has no rights to develop. It is defined as open space for conservation and it was granted a few ‘use concessions’ of existing and upgraded facilities. It is plain to see that this development application is essentially geared towards private and commercial interests and is **inconsistent with the SPUMLA principles like ‘Spatial Justice’** particularly taking into account the history of the site and its significance to our Heritage, particularly since it was the nexus of Cape life for the Khoi-San, from thousands of years before the ‘First Frontier’ and Dutch expulsion of the Khoi.

It is now the site of a kind of ‘Final Frontier’ where powerful developer groups recklessly propose destruction of such a precious site, not seeing its potential as a central sustainable well used heritage park, essential to the people of Cape Town, now planned with massive new densification and well located development in full swing. We need open space parks like TRUP to be preserved, accessible for growing well located population.

TRUPA cannot support the LLPT application since it neglects to adapt to being part of a Park and is negligent of the unique environmental and heritage qualities of the site. The open space is part of a public park focused also on recreation and conservation. Good planning needs address the public good!

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15. The application lacks valid motivation and the information remains somewhat unclear. Mention is made for example of “Surface water hydrology, biodiversity, fauna and flora and visual impact yet the proposal seems to have negative impact!

Heritage is blocked out and severely disrespected in this application. Once destroyed, thousands of years of footprints and memory will no longer enrich our culture. Its education would have been lost!

Urban design guidelines for such a precious remaining green field Urban Park seem disregarded in this proposal as are highly significant and urgent issues like recognition of Socio-economic realities relating to land and the essential changes we aspire to. The need to focus on upgraded public transport, using rail and existing transport corridors is lost while NMT routes and modest road connectors have been replaced by highways that unfortunately seem an obsession of this proposal but do not provide much relief! Instead it will have a devastating impact bringing thousands more cars into the precious, rare potentially environmentally stimulating green lung, heritage rich T R U Park! Is Kirstenbosch next?

16. The ‘specialist studies’ appear to have little corrective influence and the factors listed as motivation for the development are not at all convincing since the application fails dismally on its basic minimum requirement of giving recognition for the exceptional historic heritage and the environmental sensitivity is lost when rejecting that the site is zoned as open space for conservation. The site has thousands of years of cultural history interrupted as it was by the well documented intrusive colonial brutality that shattered its earlier significance as a historic and iconic whole integrated site, since earliest times.

There is a need for historical and cultural recognition of heritage within the Park environment also by facilitating social inclusion, the T R U Park will have the potential to enrich the lives of the people of Cape Town.

17. The listed factors that are listed to motivate the proposal are easily refuted as stated below.

*They should rather increase population density along existing transport routes that would better support efficient public transport if development follows guidelines of the MSDF, not highways through park floodplains.

*Road networks are better improved upgrading existing roads like the wide Voortrekker Road and using minor narrow roads around the outside of parks to shorten local travel distances and improved links.

*Economic opportunities and jobs are best stimulated mainly along major corridors like Voortrekker Rd.

*We support rehabilitation of freshwater systems and enhanced public access in better ways than this!

* Talk about enhancing heritage value of Liesbeek River while they propose filling it in is amazing. They destroy the confluence of Liesbeek and Black, substituting the flood canal that is a closed in space with no mountain views and not linked to its historic location on west of the flood plain. It is false to claim Liesbeek River has been nonfunctional when the connecting pipe under Observatory Road was blocked!

*The confluence of the Liesbeek and Black needs to be accessible to have any spiritual and ceremonial heritage value. The proposal does not satisfy, with Malta–Berkley road cutting it off from the park.

* This proposal has no positive features to talk about regarding diversification and choice of housing types and tenure options as far as we can see! The limited housing provided in this huge profit driven project is negligent in offering zero affordable housing and very limited affordable of anything else.

It is totally false to suggest that the proposal offers any cost effective provision or optimal use of services infrastructure. Huge amounts are spent to destroy the flood plain by filling it in building very expensive infrastructure that is far more expensive than the average development.

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*This project converts the green open space of the park and existing facilities into an opportunity for private and commercial gain. It destroys the future potential of TRUP. We rather need a preserved park with high density development with affordable accommodation around the park while retaining the special park, preserved for accessible enhanced recreation and cultural and heritage opportunities plus educational, healing, environmental and tourist facilities that need to be extended for all.

18. We agree that the applicants **should be ordered to withdraw their faulty application** and to give recognition to the special qualities and constraints of the site. HWC need to make a considered ruling in terms of 'grading' that also look at National and World Heritage status because of its place in history and the recognition needed to heal the cruel and painful past while also providing our people with access and use of the site's rich park environment that should be treasured by all the people of our City, our visitors and future generations.

The Park and its rivers are our heritage and owners of land by any circumstances should not be permitted to destroy it. The owners should be told to withdraw their application and to submit a proposal that takes cognizance of the existing limits and guidelines, in a responsible way that fits the basic requirements of the site. They have no rights to obtain what they are proposing to build. This unacceptable destructive proposal must be rejected for its non-compliance.

This application must be rejected for its lack of recognition of the significant heritage and need to conserve environmental qualities that should be preserved as a park for the people of Cape Town.

- 1. The TRUPA believe that Rezoning needs to be delayed. It is impossible to meaningfully assess the site specific impacts outside of the surrounding TRUP precincts as per vision and LSDF.**
- 2. The TRUPA believe that the River Club development cannot be meaningfully assessed until higher order planning frameworks following the Manifesto replace the existing framework.**
- 3. The TRUPA are concerned that several elements of the EIA process have been flawed.**
- 4. TRUPA believe several arguments presented in the EIA Report ignore heritage and are false:**
 - *The River Club cannot justify the need for development because present operations are "financially unsustainable" and
 - *That the land has already been disturbed or transformed ("person-made") from its natural state, and that is why it should be developed further, (to its maximum, regardless of heritage).
 - *The open space character of the present River Club is not a factor worthy of consideration in planning and development design.
 - *The visual impacts can be ignored, because "they are unavoidable" (as "concluded" by the SRK VIA Report, compiled by the consultants responsible for the EIA).
 - *The heritage value of the area does not exist because there is no evidence for it!

The people of our City deserve better!

Yours sincerely,

Tauriq Jenkins (TRUP Association Chair) and Marc Turok (TRUPA Deputy)