CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

DEVELOPMENT MANAGEMENT

APPEAL FORM (prescribed form in terms of section 108(1) of the City of Cape Town Municipal Planning By-Law, 2015 (MPBL))

You are required to complete this form should you wish to exercise your right of appeal in terms of section 108(1) of the City of Cape Town Municipal Planning By-law, 2015 (MPBL) against the decision specified in the subject decision letter.

Use of this form does not limit any supplementary documentation that you wish to bring to the attention of the appeal authority. All documents you wish to submit for consideration by the appeal authority should be attached and submitted simultaneously with this form.

Please complete/tick the appropriate boxes below, provide a motivation/explanation of your answer, attach any supplementary documentation and submit it together with a copy of the original decision letter being appealed to the relevant email address specified in the notice. Failure to complete and sign this form will result in an invalid appeal.

Note: The completed questionnaire must be accompanied by a copy of the original decision letter being appealed.
If you act on behalf of a person whose rights are affected by the decision, please attach a Power of Attorney (MPBL - LUM02 form).

Case ID: 70396369

Subject erf number: 151832

Date of original decision: 2 0 2 0 0 9 1 8

Who took the original decision?
- [X] Municipal planning tribunal
- [ ] Authorised official

Appellant type

- [ ] Applicant
- [ ] Owner (if not applicant)
- [ ] Intervener
- [X] Objector/petitioner

Provide an explanation if the appeal is based on and primarily concerned with the process followed prior to the decision.

Motivate and explain if you are appealing against the decision to approve/refuse the application(s).

While this appeal is set to address the failure to into cognisance the heritage and cultural components intrinsically linked to the land and the decision regarding its rezoning, the absence of submissions in appeal of the other reasons justifying the approval of the application should not be accepted as an admission or concession thereto.

In the case of multiple decisions, clearly state which decision is being appealed.

Motivate and explain if you are satisfied with the decision(s) but appealing against specific conditions of approval imposed.

Motivate how your rights are affected by the decision(s) taken.

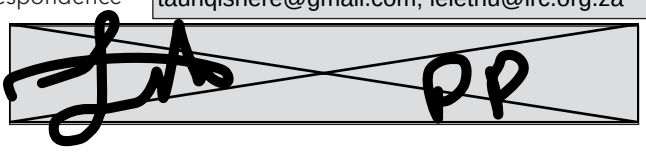
Reading the reasons for the appeal as outlined above, it is important to note the failure to take cognisance of the heritage consideration in their fullness adversely affects the rights of the Goringhaicona in so far as domestic and international legislation is concerned. Below is the list of rights that have been affected adversely or have not been given effect in their protection:

Does your appeal contain any new information (for clarification purposes) that was not submitted prior to the decision on the application? Briefly explain below what is new and why it was not submitted as part of your original application/objection.

Appellant's full names and surname: Tauriq Jenkins - High Commissioner, Goringhaicona Khoi Khoin Indigenous Traditional Council (or

Residential address:

Email address for correspondence: tauriqishere@gmail.com; lelethu@lrc.org.za

Appellant's signature: 

Date: 2 0 2 0 1 0 2 6

EXTRACT FROM THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015

108 Appeal

(1) A person contemplated in subsection (2) and an applicant contemplated in section 103 may appeal to the appeal authority by giving written notice of the appeal and grounds of appeal and by completing and signing the prescribed form.
(2) The following persons may appeal against a decision made in terms of this By-Law –
  (a) the applicant;
  (b) the owner if the owner is not the applicant;
  (c) the City Manager;
  (d) a person contemplated in section 89 who is granted intervener status;
  (e) a person contemplated in section 90(1) who submits a comment on or objection to the application which complies with the requirements of section 90; and
  (f) the owner or other person –
    (i) in respect of whom the City decides in terms of section 127 to withdraw an approval for a temporary departure or an approval granted for a limited period of time;
    (ii) who is issued with a directive in terms of section 128; or
    (iii) upon whom an administrative penalty contemplated in section 129 is imposed.
(3) An appeal contemplated in subsection (1) must be lodged within 21 days of the date of notification of the decision or, in the case of an appeal contemplated in section 103, within 21 days of the expiry of the period referred to in section 102.
(4) An appeal is invalid if it does not comply with this section.
(5) The appeal authority may receive relevant information and reconsider the matter afresh.
(6) The appeal authority must decide –
  (a) whether the appeal has been lodged timeously; and
  (b) the appeal according to the criteria for decision contemplated in section 99.
(7) The appeal authority may –
  (a) dismiss the appeal and confirm the decision appealed against;
  (b) uphold part or all of the appeal and –
    (i) vary the decision appealed against;
    (ii) set aside the decision and make a new decision; or
    (iii) set aside the decision and remit the matter to the decision-maker, with or without directions to any person or body to take appropriate steps;
  (c) decide on an application contemplated in section 103; or
  (d) refer the appeal back to the advisory panel, if one was appointed, or to the Department with directions to investigate, obtain further information from a relevant department of the City or consider specific facts or issues and to report back to the appeal authority.

105 Effective date of decision

(2) The effective date of a decision in terms of this By-Law is –
  (a) the date that the City gives notice that no appeal has been timeously lodged and that the decision is accordingly effective; or
  (b) subject to subsection (3), if an appeal is timeously lodged, the date that the appeal is decided by the appeal authority.

(3) If an appeal is lodged only against a condition imposed in terms of section 100, the City may determine that the operation of the approval of the application is not suspended

Method and date of notification

The date of notification is determined as follows:
if the notification is provided –
  (a) orally, it is the date of oral communication;
  (b) by hand ,it is the date of delivery or collection;
  (c) by registered post, it is regarded as the fourth day after the date stamped upon the receipt for registration issued by the post office which accepted the notice; or
  (d) by email or fax, it is the date that the email or fax is sent,

Interpretation Act No 33 of 1957 section 4

(4) Reckoning of number of days. – When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusive of the first and inclusive of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusive of the first day and exclusive also of every such Sunday or public holiday.

As an example, if the date of notification is 1 October, then the first day of calculation of the 21day appeal period will be 2 October and the 21st day would be 22 October. If 22 October is either a Sunday or a public holiday, then the closing date will the next following day that is not either a Sunday or a public holiday.