

**DATE:** AMENDED June 2021

**OUR REF:** 10406 (Hayley Geary)

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### GROOT CONSTANTIA ESTATE

#### **APPLICATION FOR REZONING, CONSOLIDATION, DEPARTURES, RELAXATION OF TITLE DEED CONDITIONS & CONSENT USES ON ERVEN 1064, 2623, 2744-RE, 2755, 2761, 7395, 10860, 10861 AND 10862 CONSTANTIA, 13 RUSTENBURG AVENUE**



## **1. INTRODUCTION**

This report serves to motivate the application for rezoning, consolidation, departures, city approval, relaxation of restrictive title deed conditions & consent uses required in terms of the City of Cape Town's Municipal Planning By-Law, 2015 ('MPBL') in respect of Erven 1064, 2623, Re-2755, 2761, 7395, 10860, 10861 & 10862 Constantia (hereafter referred to as the 'site'), to regularize the existing agricultural, tourism facilities, office and home occupation, as well as to make extensions and alterations to the existing uses & structures.

The applications being made are to regularize the activities existing on Groot Constantia Estate, which is a popular tourism destination in Cape Town. The properties are currently zoned Utility Zone (UZ) which do not permit the existing land uses.

The proposal is as follows:

- To rezone all the erven from Utility Zone to Agriculture.
- To rezone a portion of Erf 1064 to General Business Zone 1, to permit offices.
- To consolidate Erven 10861 & 10862 as the existing buildings straddle the common boundary.
- To rezone a portion of consolidated Erven 10861 & 10862 to Community Zone 1, permit a place of instruction for learning, exclusively for the farm workers.
- Simultaneously with the rezoning to Agriculture, to apply for consent to permit tourism activities to regularize the restaurants, wine tasting and sales, the museum, the gift shop and all utility service areas.

Application is therefore made for;

1.1 In terms of Section 42(f) of the MPBL to **consolidate** Erf 10861 & Erf 10862.

1.2 In terms of Section 42(a) of the MPBL to **rezone** all the erven from Agriculture, Utility Zone (UT) & Community Zone 1 (CO1) as follows:

- To rezone **a 571m<sup>2</sup> portion** of Erf 1064 from UT to General Business Zone 1 (GB1) to permit offices.
- To rezone the **remainder** of Erf 1064 to Agriculture.
- To rezone **a 1169m<sup>2</sup> portion** of consolidated Erven 10861 & 10862 from UT to Community Zone 1, to permit a place of instruction for maximum 33 learners.
- To rezone the **remainder** of consolidated Erven 10861 & 10862 to Agriculture.
- To rezone Erven 2623, Re-Erf 2744, 2755, 7395 & 10860 to Agriculture.

1.3 In terms of Section 42(b) of the MPBL to permit the following **departures**:

- **Erf 1064-** Item 109(b) of the DMS to permit
  - Bertrams Building: Item 109(b) of the DMS to permit portions of the existing Bertrams Building to be 0m, from the Rustenburg Street boundary building line, in lieu of 15m.
  - Schoenstatt Ave. Houses: Item 109(b) of the DMS to permit the existing Schoenstatt Ave. Houses to be 0m from the Schoenstatt Ave. street boundary building line, in lieu of 15m.

- **Consolidated Erven 10861 & 10862-**
  - Item 109(a) of the DMS to permit a total floor space of 1894m<sup>2</sup> for the dwelling units and staff accommodations, in lieu of 1500m<sup>2</sup> as permitted.
  - Item 109(b) of the DMS to permit the existing farm workers cottages to be 4m, 6m & 17m from the Rustenburg Street boundary building line, in lieu of 30m.
  - Item 109(d) of the DMS to permit a total height of the production Cellar on Erf 10861 to be 16.2m, in lieu of 12m as permitted.
  
- **REM.Erf 2755-** Item 109(b) of the DMS to permit
  - Cellar: Item 109(b) of the DMS to permit portions of the existing cellar to be 2.8m, from the north-western common boundary building line, in lieu of 15m.
  - Dwelling House: Item 109(b) of the DMS to permit portions of the existing dwelling house to be 14m, from the southern common boundary building line, in lieu of 15m.
  
- **Erf 7395-** Item 109(b) of the DMS to permit
  - Dwelling House & Garage: Item 109(b) of the DMS to permit portions of the **existing** dwelling house & garage to be 0m, from the eastern and south-eastern common boundaries building line, in lieu of 15m.

1.4 In terms of Section 42(h) of the MPBL to **relax the restrictive title deed condition B2** on Erf 1064, relating to one residential building per acre of land, from deed of transfer T22925/1975.

1.5 In terms of Section 42(h) of the MPBL to **relax the restrictive title deed condition B3** on Erf 1064, restricting the use of the land for residential and agricultural only, from deed of transfer T22925/1975.

1.6 In terms of Section 42(i) of the MPBL for **Consent Use** in terms of Item 108(c) of the DMS to permit tourism facilities (namely; wine tasting, sales & gift shop) on Erf 1064.

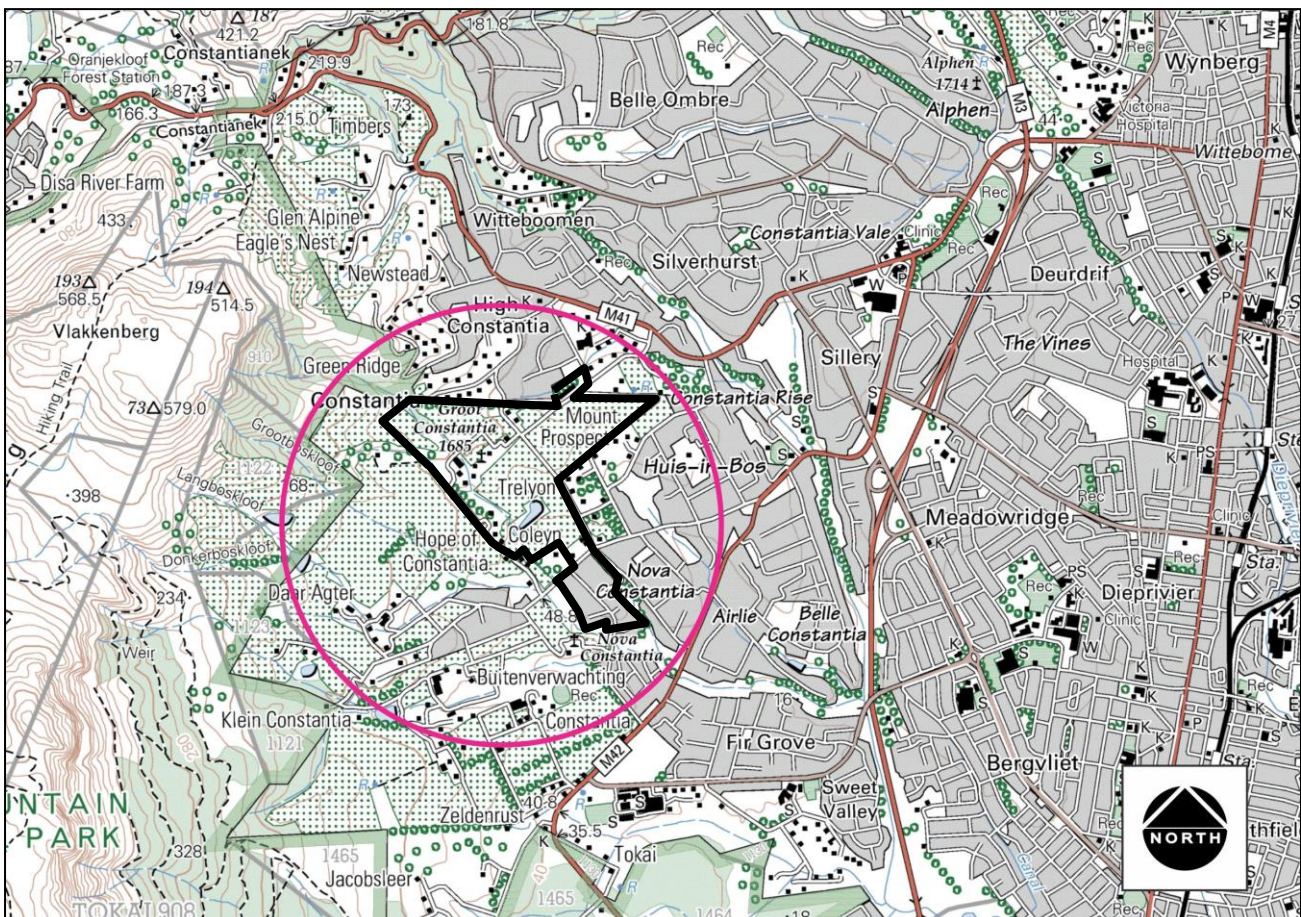
1.7 In terms of Section 42(i) of the MPBL for **Consent Use** in terms of Item 108(c) of the DMS to permit tourism facilities (namely; wine tasting, sales, museum, restaurants, gift shop & utility service) on Consolidated Erven 10861 & 10862.

1.8 In terms of Section 42(i) of the MPBL for **Consent Use** in terms of Item 108(c) of the DMS to permit utility services on Remainder Erf 2744.

The following documents are attached:

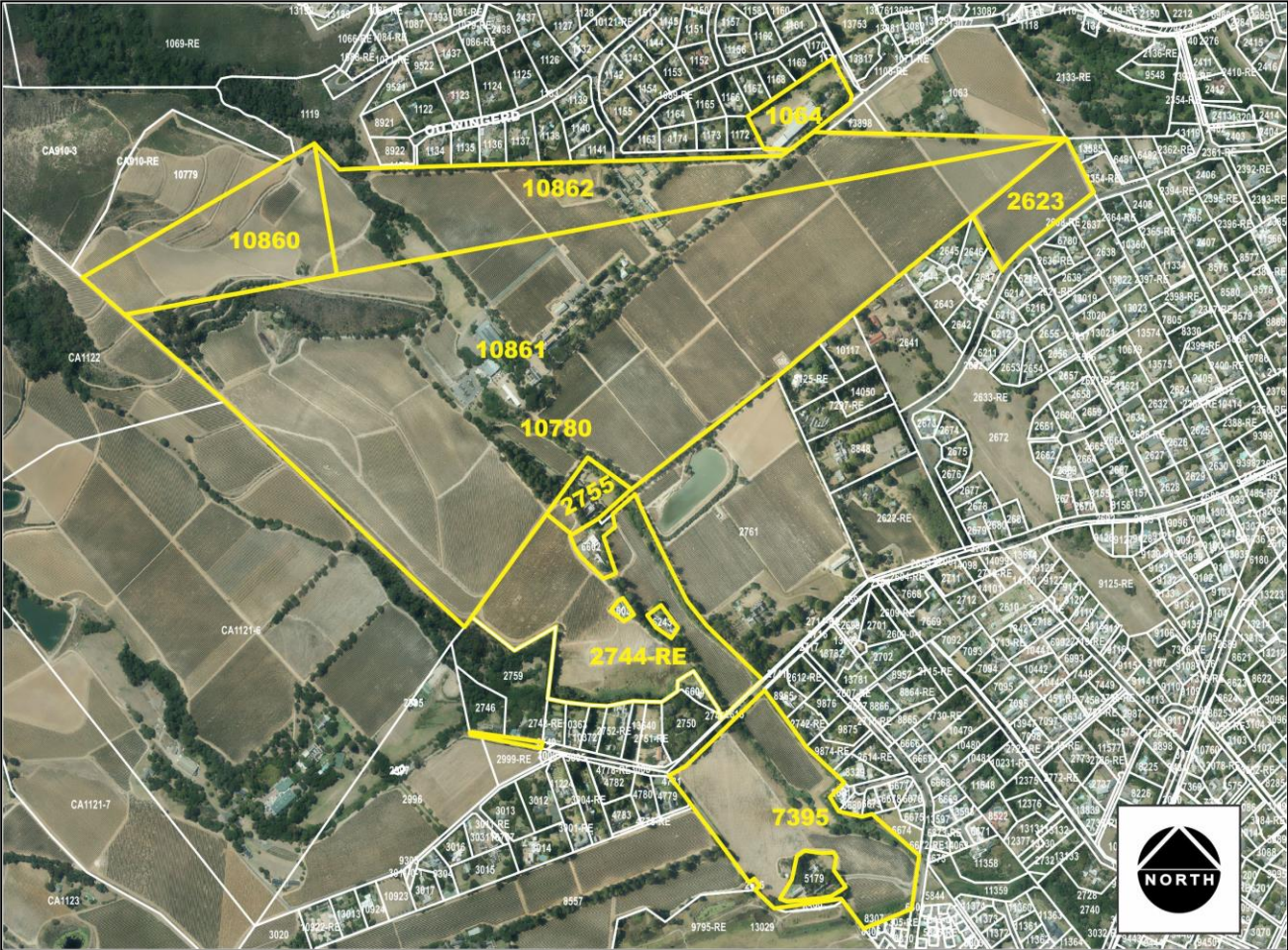
- Application Form
- Power of Attorney
- Resolution
- Title Deeds
- Conveyancer's Certificates
- Proposed Site Development Plan's (SDP's)
- Consolidation Plan

## 2. LOCATION & SITE CONTEXT



Locality Map

Groot Constantia Estate is situated in the Constantia Winelands and the Estate directly abuts Table Mountain National Park. Groot Constantia is accessed via Groot Constantia Road.



Aerial Photograph

The Groot Constantia Trust owns a number of abutting properties in Constantia, some of which are situated along Rustenburg Avenue, Pagasvlei Road and Klein Constantia Road as shown in the Figure above. The properties are predominantly used as vineyards and a number of the buildings on the site are used for tourism activities, such as wine tasting, sales, restaurants and museums.

**3. BACKGROUND**

The subject properties have rich historical value and have a recorded history dating back to 1695 when the land was granted to Simon van der Stel and named Constantia.

It was in 1716 when the land was first subdivided to form Groot Constantia, Klein Constantia and Bergvliet.

Over the years the farm Groot Constantia was transferred to various owners who undertook a number of restorations and additions to the farm.

It was not until 1927 that the homestead was opened as a museum to celebrate the history of the wine estate.



*The Homestead building now being used as the museum*

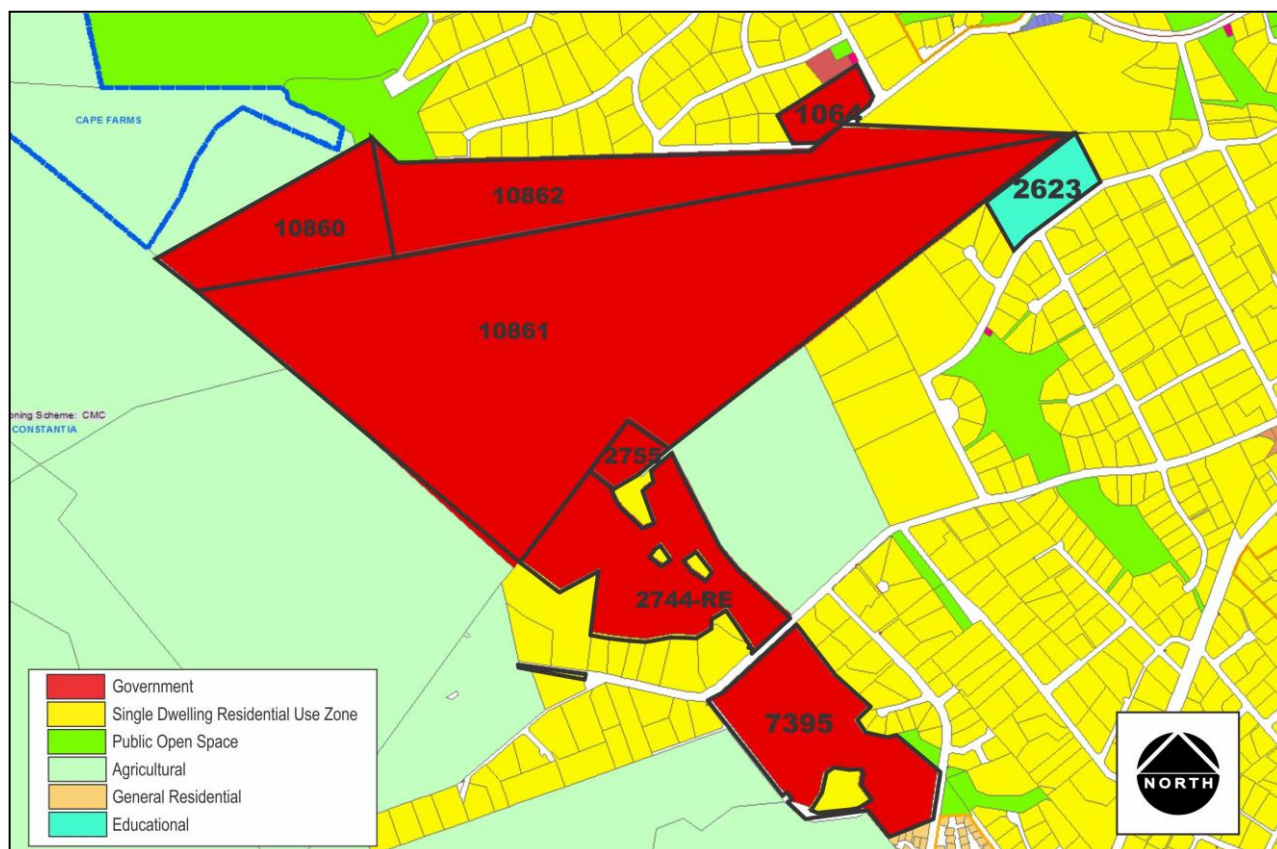
In 1936 the homestead, and the area surrounding it and objects thereon, were proclaimed a National Monument. In 1969 the South African Cultural History Museum, presently part of the Iziko Museums Cape Town, became responsible for the running of the homestead and the historic 'Cloete' wine cellar.

In 1984 the Groot Constantia and Hoop op Constantia homesteads and all the outbuildings thereon are declared a National Monument.

The Groot Constantia Control Board was established in 1976 to manage the estate. This Board replaced the Department of Agricultural Technical Services as the viticultural body managing the farm. However, the Control Board was disbanded in 1993. Ownership of the estate was then transferred from the government to an independent company

named the Groot Constantia Trust, who is now the sole owner of the farm. The main aim of the Company is to preserve and maintain the cultural heritage of estate.

It was during the State ownership of the farm that the property was allocated a utility zoning which has been carried through the years and never corrected. As can be seen in the Figure below, the historical zoning map confirms that the property was zoned for government purpose under the previous zoning scheme.



*Extract of Historical Zoning Map showing Groot Constantia under Government zoning*

The farm has a documented history of its various buildings, agricultural activities, as well as other land uses.

It should be noted that the Estate previously submitted an application for a rectification of the zoning to the City, but was refused by the MPT, case ID 70163893. The reason for the refusal was that the property was not incorrectly allocated the current zoning. Due to the State ownership, the property was intentionally zoned for Government Zoning, as indicated above. Therefore, the correct way forward is to undertake an application for rezoning.

Considering that the farm has been operating under the incorrect zoning; namely Utility Zone, an application for an administrative penalty was required. The application for administrative penalty was submitted in 2019 as the property is used for agricultural and tourism purposes, but is zoned as Utility, which does not permit agricultural activities as a use right. This application has since been concluded and the R10 000 penalty has been paid to the City (case ID 70484871).

#### 4. PROPERTY DETAILS

##### 4.1 Ownership and Title Deeds

Property Details	Ownership	Title Deed	Property Size
Erf 1064, Constantia, Cape Town	Groot Constantia Trust	T22925/1975	2.0456ha
Erf 2623, Constantia, Cape Town	Groot Constantia Trust	T14559/1967	2.9164ha
Remainder Erf 2755, Constantia, Cape Town	Groot Constantia Trust	T62949/1999	1.3268ha
Erf 7395, Constantia, Cape Town	Groot Constantia Trust	T62949/1999	11.1492ha
Erf 10860, Constantia, Cape Town	Groot Constantia Trust	T62949/1999	9.5668ha
Erf 10861, Constantia, Cape Town	Groot Constantia Trust	T62949/1999	76.6067ha
Erf 10862, Constantia, Cape Town	Groot Constantia Trust	T62949/1999	16.4547ha
TOTAL			120.0662ha



## 4.2 Title Deed conditions

Conveyancer's Certificates have been prepared by *Cliffe Dekker Hoffmeyr Attorneys* who confirmed that there **are restrictive conditions** registered against Erf 1064 Constantia, restricting its use for residential and agricultural only.

The conveyancer's certificate does outline that the restrictive conditions registered over Erf 1064 were imposed in terms of Act 21 of 1940, and therefore these conditions are regulated by the local authority. It is confirmed that these are in-fact developer's conditions and can be relaxed with the written consent of the Controlling Authority (who is the Council) in terms of Section 42(h) of the MPBL.

The proposal is to relax the following restrictive title deed conditions:

*B. SUBJECT to the following conditions contained in the said Deed of Transfer No. 9830 dated 15 July 1944 imposed by the divisional Council as controlling Authority in terms of Section 11(6) Act No. 21 of 1940:-*

*1)...*

*2) Not more than one building per acre for use as residence, together with such outbuildings required in connection therewith, which outbuildings may include quarters for domestic staff, and/or such buildings as may be needed in connection with bona fide farming operations, shall be erected without the prior consent of the controlling authority.*

*3. The land shall be used for residential and agricultural purposed only and no trading store or place of business or industry whatsoever may be opened or conducted on the land without the written Approval of the controlling authority as defined in Act 21/1940.*

## 4.3 Surveyor General Diagram & Consolidation

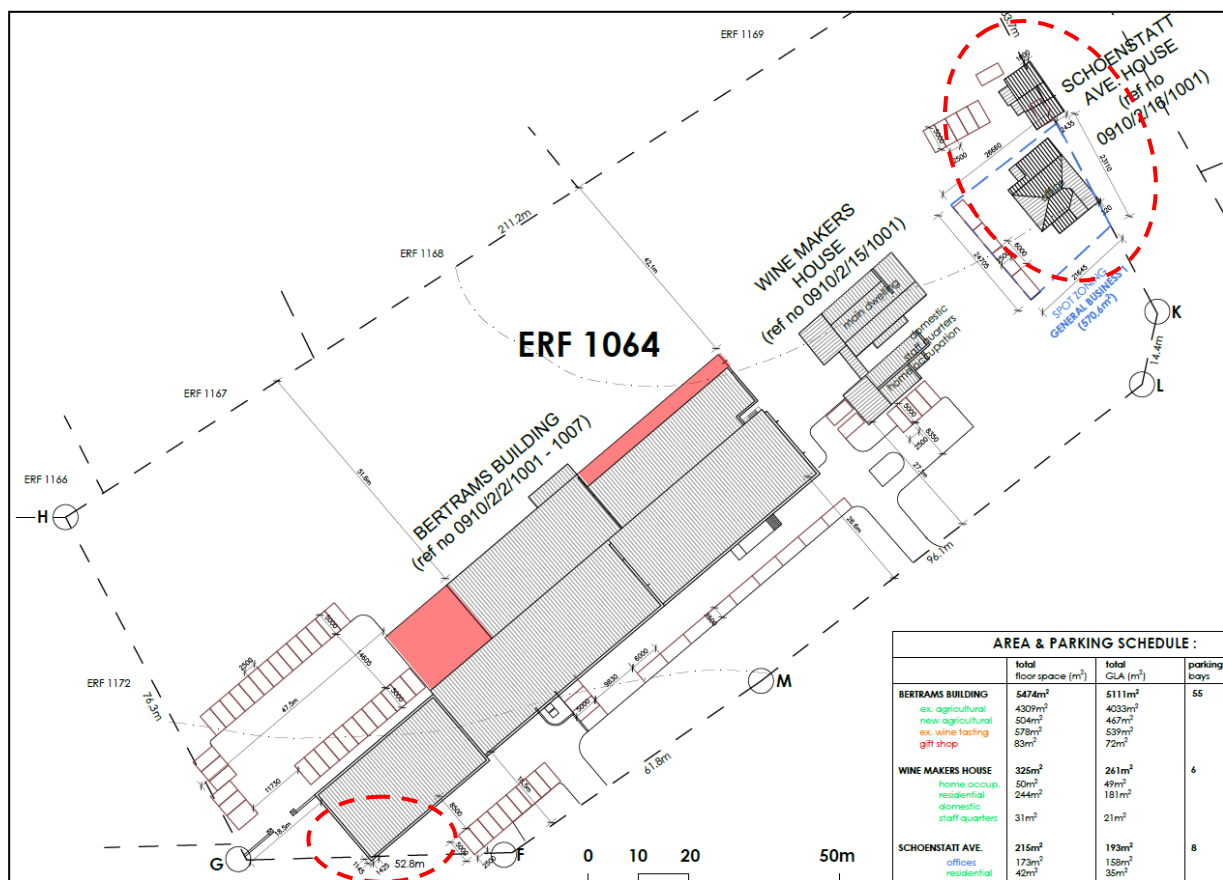
The site does not contain any servitudes which would potentially limit or inhibit the proposed development. It is noted that in 1994 the subject properties were consolidated to form one Erf (Erf 10780 Constantia); however, this consolidation was never registered in the Deed's Office. As such, the subject properties remain individual land units.

It should be noted that the cadastral boundaries of Erven 10861 & 10862 currently run directly through the middle of the existing farm workers cottages and therefore these two properties are proposed to be consolidated. The rest of the properties will remain separate properties.

#### 4.4 Building Encroachments

It should be noted that there are portions of the existing Schoenstatt Houses and the Bertrams Building which are constructed over the property boundary, in the road reserve. As such, an application will shortly be made to Property Management for the acquisition of Council land to regularize this situation.

- The corner of the Bertrams Buildings encroaches 1.4m into the road reserve.
- A portion of the Schoenstatt House encroaches 0.35m into the road reserve.
- The Schoenstatt Cottage encroaches 2.5m into the road reserve.

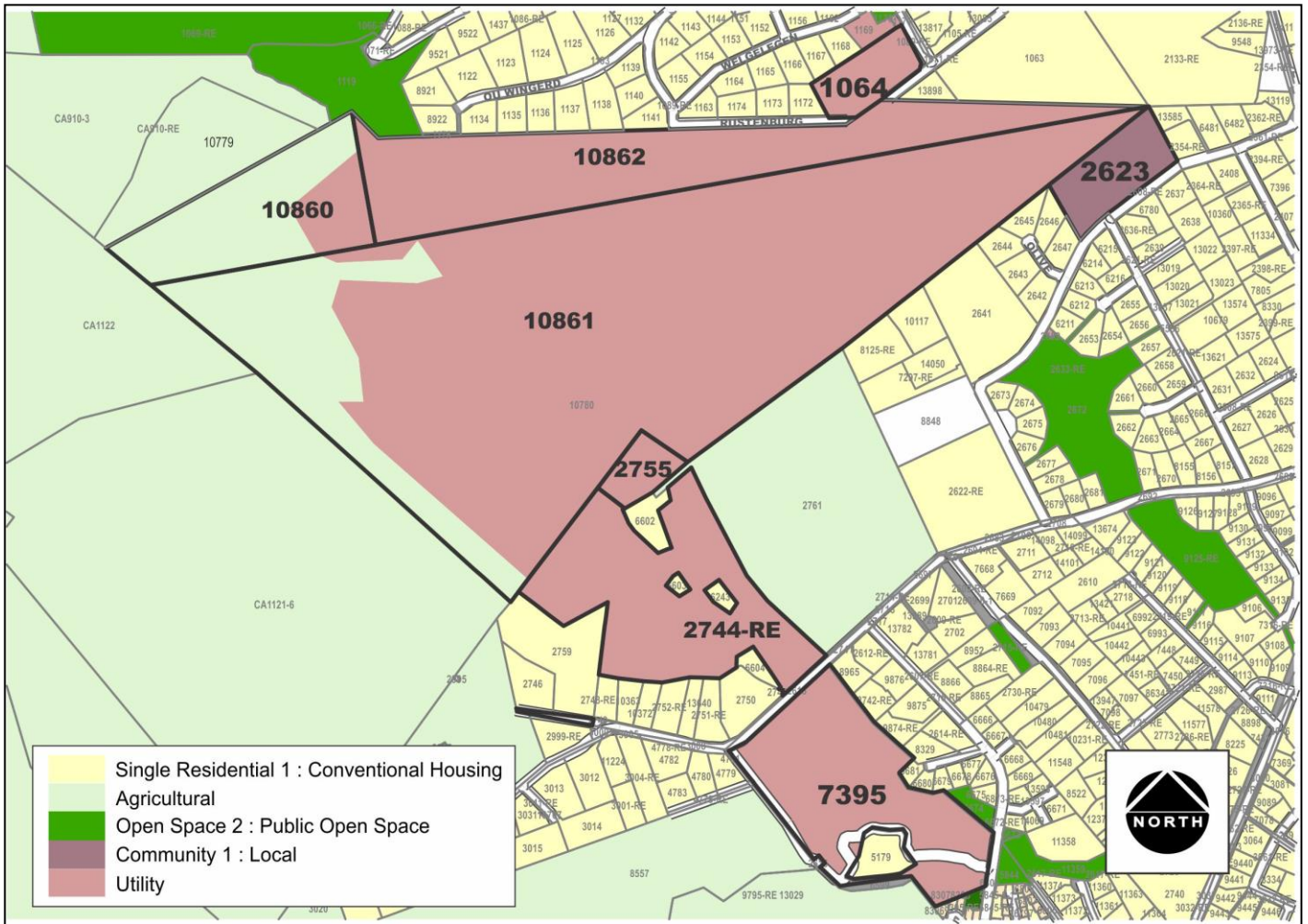


Areas of encroachment into road reserve

It is noted that for the purpose of this application, only the portions of buildings situated entirely within the cadastral boundary, will be rezoned.

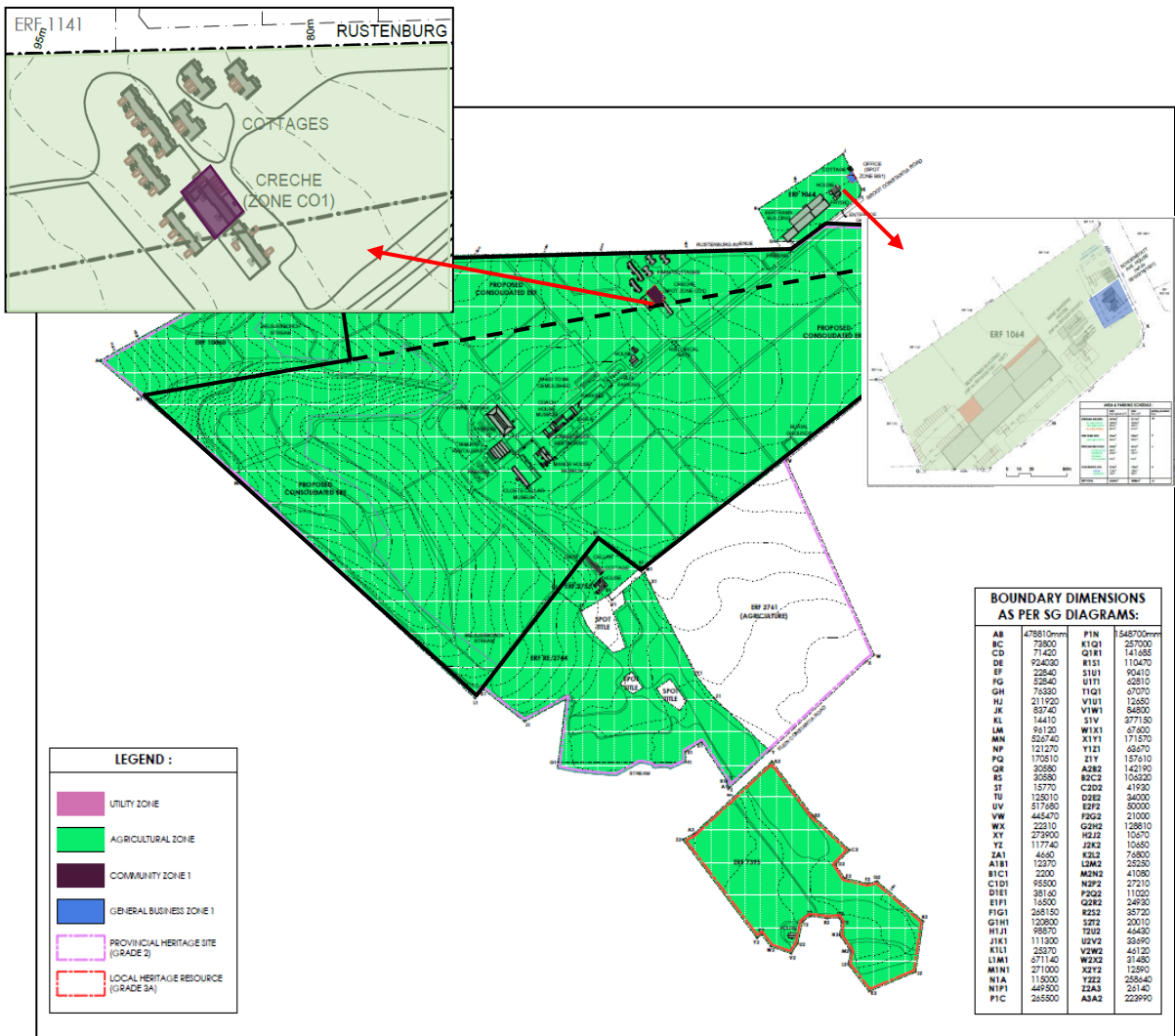
## 5. ZONING AND LAND USE

The site currently has a split zoning of Agriculture **AG**, Community Zone **CO1** & Utility **UT**, as can be seen in the zoning map below.



Existing Zoning - Map

The DMS does not permit the existing land uses in a Utility zoning. As such, the proposal is to rezone all the erven to Agriculture and to apply a spot zoning for General Business on a portion of Erf 1064, as well as a spot zoning of Community Zone (CO1 for a place of instruction for 33 learners aged from 3 months- 18 years) on a portion of the consolidated property (Erven 10861 & 10862), as can be seen in the proposed zoning map below

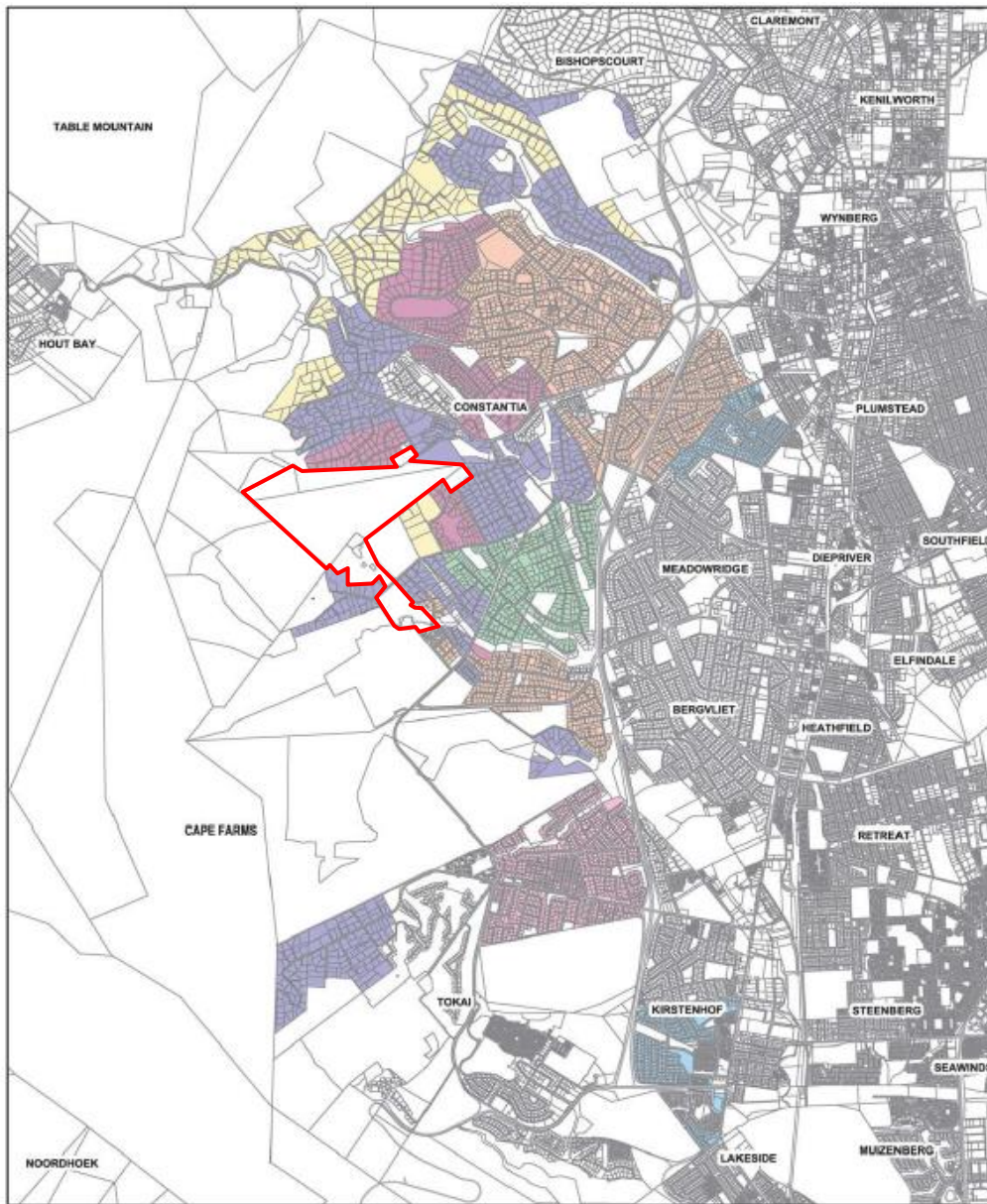


Proposed Zoning - Map

## 6. SITE PARTICULARS


### 6.1 Constantia Local Area Overlay Zoning

The properties are situated outside of the Constantia LAO zone and this LAO is not applicable to the subject properties. The proposal therefore complies with the Constantia LAO.




**CONSTANTIA - TOKIA LOCAL AREA OVERLAY ZONE**

MINIMUM ERF SIZES


 1350m <sup>2</sup>	 8000m <sup>2</sup>
 2000m <sup>2</sup>	 900m <sup>2</sup>
 4000m <sup>2</sup>	 NO FURTHER SUBDIVISION
 700m <sup>2</sup>	

NOTE: FOR MORE DETAILED INFORMATION REFER TO THE DIRECTOR: PLANNING & BUILDING DEVELOPMENT MANAGEMENT

**SOUTHERN DISTRICT LOCAL AREA OVERLAY**



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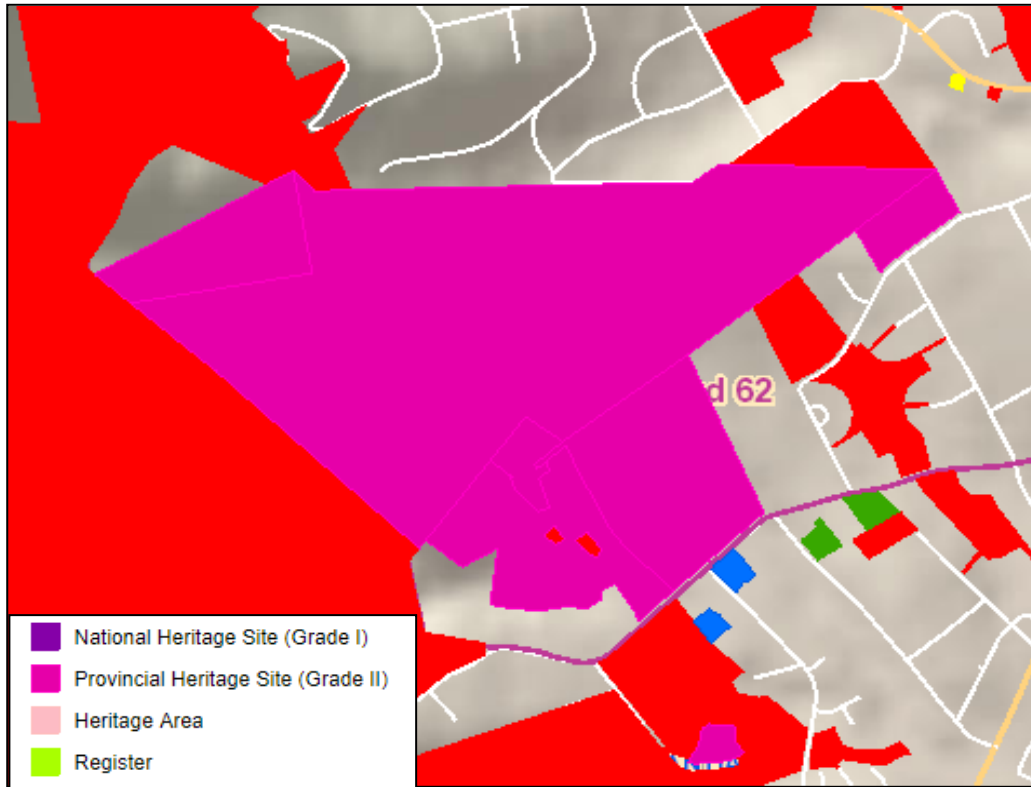
November 2012

**LAO / 3**

Constantia LAO Map

## 6.2 Heritage Resources

Note that the site itself is a recognised heritage resources and has been declared a National Monument. The large pink areas (as per the below Figure) indicate that the site is a recognized Provincial Heritage Site, a Grade II heritage resource.



*Heritage Resource Map*

A number of the existing structures on the properties are older than 60-years and are protected heritage resources.

In this regard, any alteration or change to the planning status of any such heritage site requires a that an application be submitted to the relevant heritage body. It is noted that SAHRA has confirmed that Heritage Western Cape (HWC) is the relevant authority to assess this application and submission will be undertaken shortly.

It is noted that this application for rezoning will in-fact protect the existing heritage resource which is characterized by its unique vineyards and wine production.

## **7. LAND USE PROPOSAL**

### **7.1 Proposal & Site Development Plan ('SDP')**

The application is made to regularize the existing land uses in light of the current Utility zoning assigned to the Groot Constantia Estate. There are also a number of extensions proposed to the existing land uses, as well as a proposal for a place of instruction for the staff and their children residing on the farm. Refer to the table below for details:

Property Description	Current Zoning	Existing Land Use	Proposed Land Use/ Development	Zoning Required/Proposed
<b>Erf 1064</b>	Utility Zone	<ul style="list-style-type: none"> <li>• Tourism facilities for wine tasting &amp; sales</li> <li>• Wine bottling activities</li> <li>• Agricultural Storage</li> <li>• Offices</li> <li>• Wine Makers House</li> <li>• Rented Cottage</li> <li>• Vineyard</li> </ul>	<ul style="list-style-type: none"> <li>• Tourism facilities for wine tasting, sales &amp; gift shop (<u>611m<sup>2</sup> GLA</u>)</li> <li>• Extensions to Bertrams building</li> <li>• Offices (<u>158m<sup>2</sup> GLA</u>)</li> <li>• Wine Makers House</li> <li>• Home Occupation of physio (<u>49m<sup>2</sup> GLA</u>)</li> <li>• Rented Cottage</li> <li>• Vineyard</li> </ul>	Rezone to <b>Agricultural</b> with consent use to permit tourism & spot zoning for General Business ( <b>GB1</b> )  Departures
<b>Erf 2623</b>	Community Zone 1	<ul style="list-style-type: none"> <li>• Vineyard</li> </ul>	<ul style="list-style-type: none"> <li>• No proposal at this time</li> </ul>	Rezone to <b>Agricultural</b> Zone
<b>Remainder Erf 2744</b>	Utility Zone	<ul style="list-style-type: none"> <li>• Vineyard</li> <li>• Substation</li> </ul>	<ul style="list-style-type: none"> <li>• Spot zoning for existing substation</li> </ul>	Rezone to <b>Agricultural</b> Zone  Spot zoning for <b>Utility</b>
<b>Erf 2755</b>	Utility Zone	<ul style="list-style-type: none"> <li>• Dwelling house</li> <li>• Second dwelling</li> <li>• Vineyard</li> </ul>	<ul style="list-style-type: none"> <li>• No proposal at this time</li> </ul>	Rezone to <b>Agricultural</b> Zone  Departures
<b>Erf 7395</b>	Utility Zone	<ul style="list-style-type: none"> <li>• Dwelling house</li> <li>• Vineyard</li> </ul>	<ul style="list-style-type: none"> <li>• No proposal at this time</li> </ul>	Rezone to <b>Agricultural</b> Zone
<b>Erf 10860</b>	Split Zone - Agricultural Zone & Utility Zone	<ul style="list-style-type: none"> <li>• Vineyard</li> </ul>	<ul style="list-style-type: none"> <li>• No proposal at this time</li> </ul>	Rezone to <b>Agricultural</b> Zone
<b>Erf 10861</b>	Split Zone - Agricultural Zone & Utility Zone	<ul style="list-style-type: none"> <li>• Restaurant x2</li> <li>• Museum</li> <li>• Wine sales and cellar tours</li> <li>• Vineyard</li> </ul>	<ul style="list-style-type: none"> <li>• Minor alterations to existing bathroom at Jonkershuis restaurants (<u>594m<sup>2</sup> GLA</u>)</li> <li>• Minor alteration to existing museum</li> <li>• Alterations &amp; renovations to existing wine sales</li> </ul>	Rezone to <b>Agricultural</b> Zone with consent use to permit tourism facilities.  Departures  Consolidation with Erf 10862
<b>Erf 10862</b>	Utility	<ul style="list-style-type: none"> <li>• Staff accommodations</li> <li>• Place of instruction</li> <li>• Vineyard</li> </ul>	<ul style="list-style-type: none"> <li>• Place of instruction for 33 pupils</li> <li>• Educational centre for learning</li> </ul>	Spot zoning to Community Zone <b>CO1</b> to permit a place of instruction.  Consolidation with Erf 10861



Erf 1064:

- The Bertrams building currently contains tourism facilities (wine tasting, sales and a gift shop (611m<sup>2</sup> of GLA), as well as existing offices. The proposal is to relocate the offices to the Schoenstatt Avenue House (This relocated office will have a maximum of 158m<sup>2</sup> of GLA).



*Bertrams Building Wine Tasting & Sales area*

- There will be extensions made to the rear portion of the Bertrams building to accommodate additional wine storage and agricultural related activities.
- The proposed additions to the Bertrams building are minor and will all be erected within the building lines.
- It is reiterated that these additions will take place at the back of the building, which already contain a number of additions. This will therefore have no impact on the quality of the heritage resource.
- The existing wine makers house will remain and the home occupation (small physio practice) will be restricted to the outbuilding and 50m<sup>2</sup> in extent.
- The existing cottage along Schoenstatt Avenue will remain as a residential dwelling.

Erven 10861 & 10862:

- The proposal is to retain the existing agricultural and tourism related activities.
- The two restaurants, namely; Simons (1066m<sup>2</sup> of GLA) and Jonkershuis (597m<sup>2</sup> of GLA), will remain on site, without any extensions.
- The existing museum areas will remain (1099m<sup>2</sup> of GLA).
- The existing wine tasting, sales and gift shop areas will remain (841m<sup>2</sup> of GLA).

- The existing restaurants, wine tasting & sales and museum will all be dealt with as a consent use in terms of the proposed agricultural zoning.



*Jonkershuis Restaurant*

- The museum is not considered to be a place of instruction, but rather a tourism facility as it is ancillary to the agricultural activity. The purpose of the museum is to showcase the Groot Constantia Homestead with its historical furniture, paintings and the historical wine cellar and tasting vessels. The museum is therefore sharing the history of Groot Constantia Estate. Below is an extract taken from the Iziko Museum website:

### **Iziko Orientation Centre at Groot Constantia**

The Orientation centre covers various aspects of the estate, past and present. Panels with aerial views of the farm explain the Constantia Valley and layout of the farm. This is enhanced with a scale model of the Groot Constantia estate.

- It is noted that a (1169m<sup>2</sup>) portion of the existing farm workers complex will be rezoned to Community Zone 1 to accommodate a place of instruction, exclusively for the children of the farm workers.
- A total of 33 learners will be accommodated in the facility.
- The place of instruction will accommodate children from 3 months- 18 years in different classrooms.
- It is noted that the number of children per class will change each year as the children progress.
- A building currently straddles the erf boundary between Erf 10861 & 10862 and therefore these properties will be consolidated.



*The existing farm workers complex where the building straddles the boundary*

We are of the opinion that the **Agricultural Zone is the most appropriate zone** as the agricultural activities are the dominant land uses on the properties. Furthermore, this zoning will protect these agricultural activities, whilst still allowing minor flexibility for other economic activities (by means of consent uses), without causing any impact on the primary agricultural resource.

It is noted that the proposal is to rezone a small 1146m<sup>2</sup> portion of Erf 1064 to GB1 to permit offices within the existing building. This portion is situated along Schoenstatt Avenue and does not lend itself to agricultural activities. The estate would use this house

as an income generating activity and considering that it will be restricted to the existing structure, there would be no change in the existing character of the street, nor would it impact on any of the neighbours, therefore the **business zoning would be the most appropriate zoning** for this use.

Regarding the community zoning, it is reiterated that the learning centre will be exclusively for the farm workers. This will help to enhance the educational opportunities of the farm workers children. This means that the labourers residing on the premises will not have to leave the property in the mornings and afternoons to deliver and collect their children from a school off-site. Therefore, this educational centre is critical to the families living on the estate.

## **7.2 Development Rules**

### Floor Space

It should be noted that there are no floor space restrictions in the **AG** zoning for tourism facilities and agricultural related uses. However, Item 109(a) of the DMS restricts the total floor space of all dwelling units, including for bona fide agricultural workers, to 1500m<sup>2</sup>.

### **CONSOLIDATED ERVEN 10861 & 10862**

The floor space for dwelling units on the consolidated erven, including staff accommodation is 1894m<sup>2</sup>, whereas 1500m<sup>2</sup> is permitted, thus a **departure** is required.

Considering that the staff accommodation already exists on-site, this departure will not have any impact on the surrounding properties, or the character of the site. It is merely technical in nature.

### Building lines

The building lines applicable to agricultural land is 15m for properties smaller than 20ha, and 30m for properties larger than 20ha.

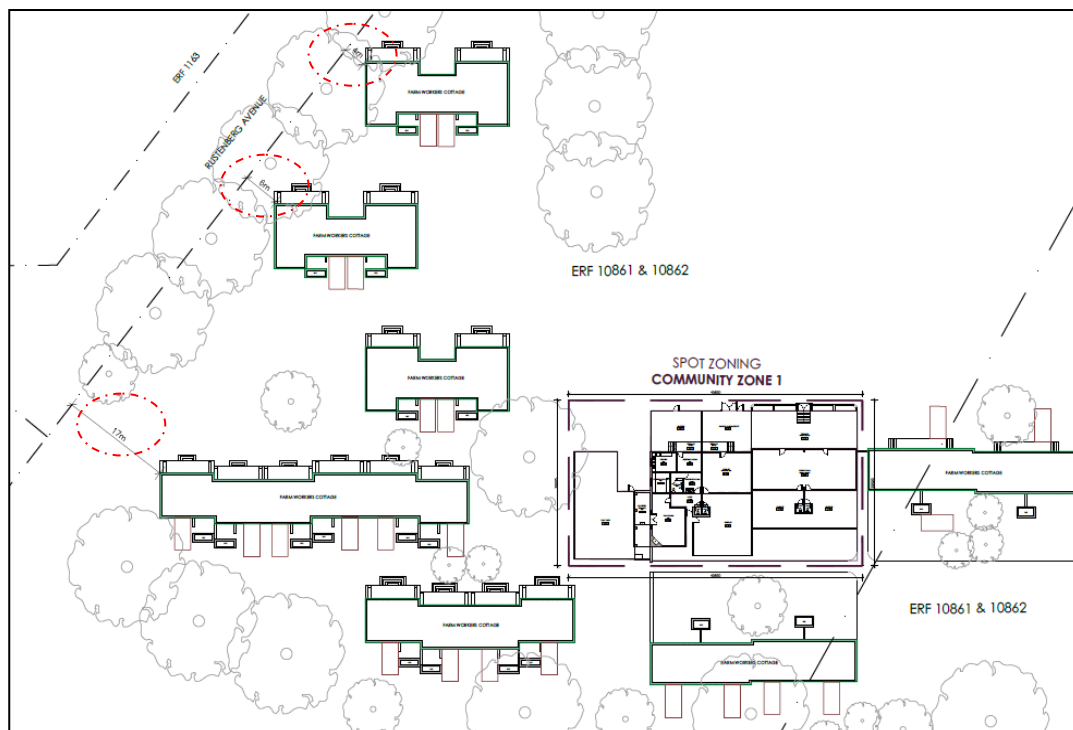
### **CONSOLIDATED ERVEN 10861 & 10862**

In this regard, only consolidated erven 10861 & 10862 are larger than 20ha and therefore have 30m building line setbacks. However, considering that there are only existing structures (workers cottages) erected within these building line setbacks, these

departures are technical in nature and have no impact on the character of the area or the surrounding properties.

The following departures are required:

- **Workers cottages- Building 1:** To be 4m from the Rustenberg Avenue Street boundary, in lieu of 30m.
- **Workers cottages- Building 2:** To be 6m from the Rustenberg Avenue Street boundary, in lieu of 30m.
- **Workers cottages- Building 4:** To be 17m from the Rustenberg Avenue Street boundary, in lieu of 30m.

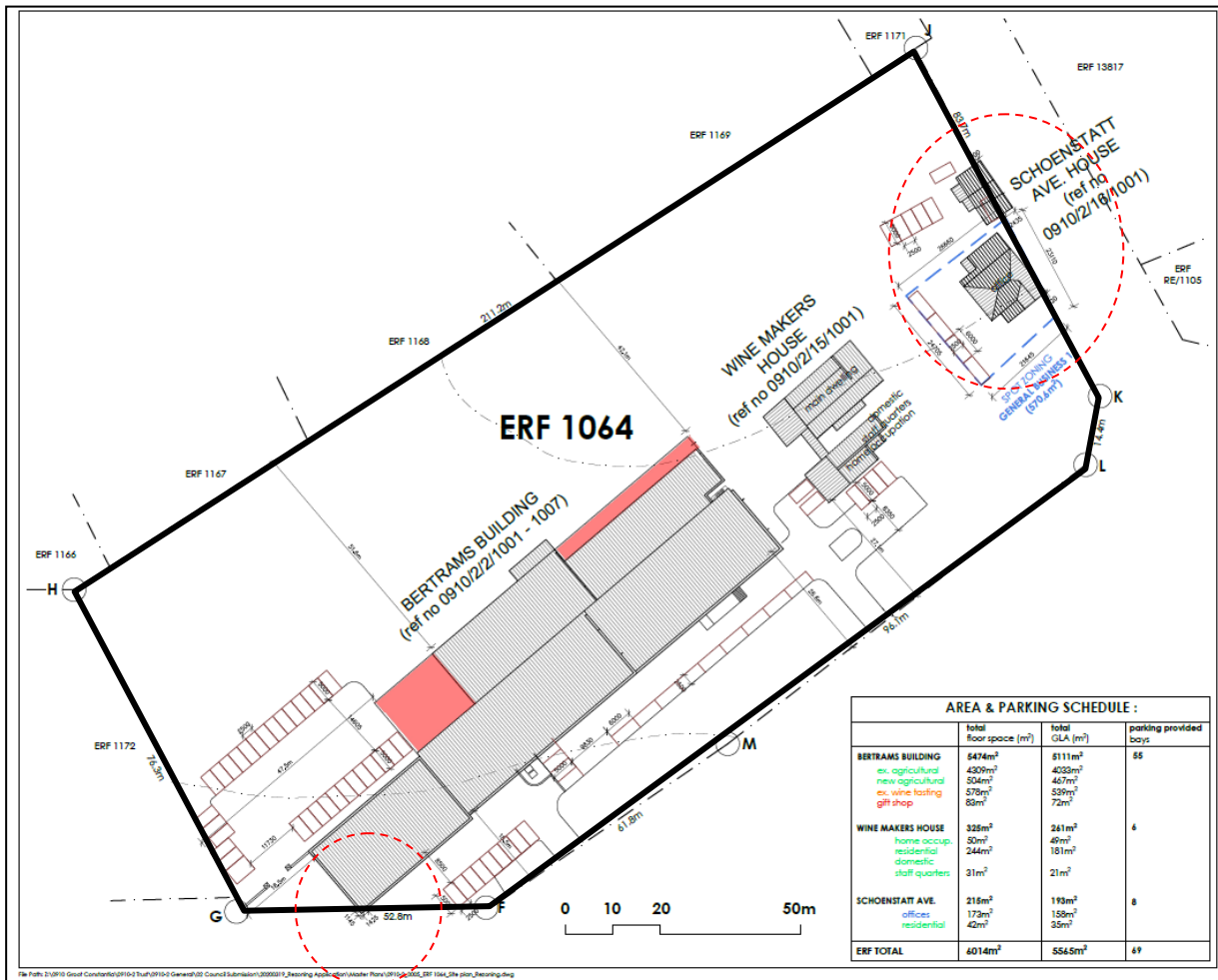


*Workers cottages erected within the 30m street building line on consolidated Erven 10861 & 10862*

The rest of the properties are smaller than 20ha and therefore their respective building lines are 15m.

#### **ERF 1064**

On erf 1064, there are a number of existing buildings which have been erected within the 15m building line setback, including the Bertrams building & Schoenstatt Avenue Houses.



Erf 1064- Building line departures for Schoenstatt structures & Bertrams building

The existing Bertrams Building and Schoenstatt Avenue Houses require building line departures as they have in-fact been developed over the cadastral boundaries into the road reserve. However, considering that these are all existing structures, this departure will not have any impact on existing rights as it is merely technical in nature.

The following departures are required:

- **Portions of the existing Bertrams Building:** To be 0m from the Rustenberg Avenue Street boundary, in lieu of 15m. The corner of the Bertrams building encroaches 1.4m into the road reserve.
- **Schoenstatt Avenue Houses:** To be 0m from the Schoenstatt Avenue Street boundary, in lieu of 15m. The Schoenstatt House encroaches by 0.35m; whereas the cottage encroaches into the road reserve by 2.5m.

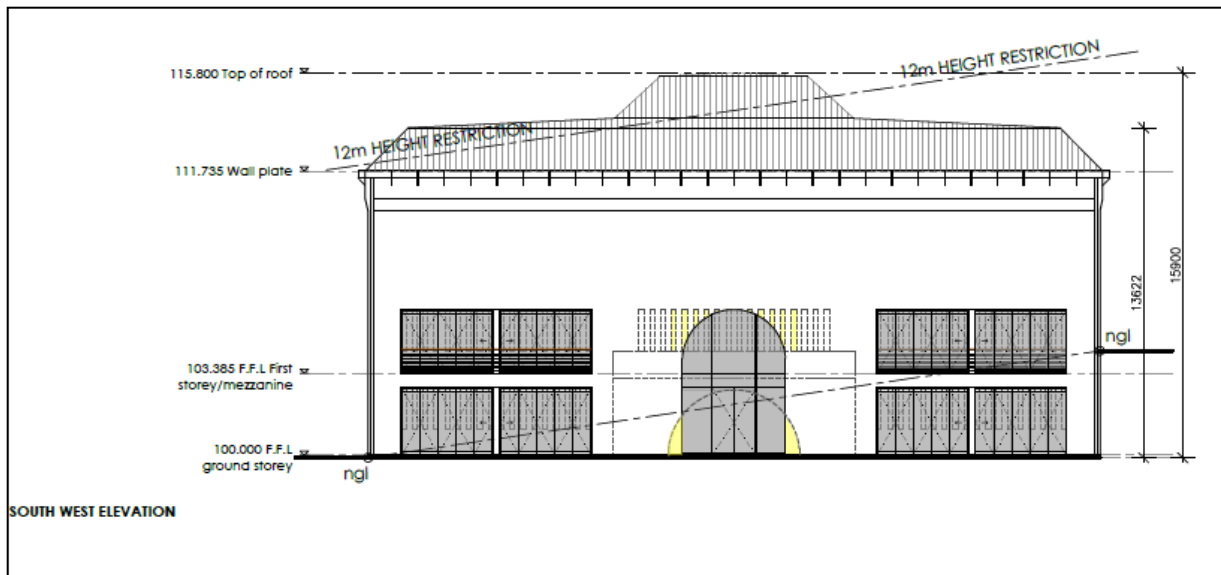
## ERF 7395

The existing dwelling and outbuilding/garage on this property have been erected 0m to the common boundary.

### Height

According to Item 109(d) of the DMS, agricultural buildings, other than dwelling houses, shall not exceed 12m, measured from existing ground level, to the top of roof.

The existing production cellar on Erf 10861 is largely used for wine production and storage; however, there are wine tasting, wine tours and sales which take place in the building too. The agricultural building is therefore permitted to a height of 12m; however, this existing building has a total height of 16.2m.



*Production Cellar Building*

### Parking Provision

The property is situated within a standard area which means that in terms of Item 137 of the DMS. This means that parking should be provided as per the below table:

PARKING	Standard Area Requirement	No REQUIRED	Bays	No PROVIDED	Bays
Erf 1064	Dwelling House x2 bays/dwelling Home Occupation x2 bays Offices @ 4/100m2 GLA Wine Tasting @ 6/100m2 GLA	48 bays		69 bays	
Consolidated Erven 10861 & 10862	Dwelling House x2 bays/dwelling Wine Tasting @ 6/100m2 GLA Restaurant @ 6/100m2 GLA Museum @ 2/100m2 GLA Workers cottages- 0 bays	190 bays		254 bays	
Erf 2755	Dwelling House x2 bays/dwelling Second Dwelling 1 bay	3 bays		7 bays	
Erf 7395	Dwelling House x2 bays/dwelling	2 bays		3 bays	
<b>TOTAL</b>		<b>242 bays</b>		<b>333 bays</b>	

There is a surplus of parking available on the site to accommodate the various activities. The proposal is therefore **compliant** in this regard.

#### Access & Parking Arrangements

Access to the wine estate will continue to take access from Groot Constantia Road.

Access to the offices and cottage on Erf 1064 will take place from Schoenstatt Avenue and parking for the offices will be provided behind the cottage.

The various on-site parking bays conform to the minimum standards of 5m x 2.5m for standard bays and 5m x 3.7m for disabled parking bays. A total of 333 bays are provided on site in accordance with regulation standards.

## **8. ADJUDICATION CRITERIA & MOTIVATION**

### **8.1 Criteria for deciding on a DMS application**

Section 99 of the MPBL sets out the adjudication criteria for the proposed rezoning, departures, consolidation and Council's approval submitted to the City.



### Minimum threshold requirements

Section 99(1) of the MPBL states that an application must be refused if it fails to comply with certain minimum threshold requirements. The proposed development should not be refused as it complies with the minimum threshold requirements, as follows:

- The existing agricultural and tourism land uses on the site are consistent with the Agricultural and Heritage significance of the area. All the erven other than Erf 1064 fall within a discouraged growth area, where land use intensification should be discouraged. The proposed rezoning to agriculture and consent use to permit tourism facilities would reinforce the integrity of the agricultural asset; without placing a burden on the asset or bulk infrastructure and is thus **consistent with the principles contained within the municipal spatial development framework**. It is noted that the proposed rezoning of a portion of Erf 1064 for GB1 to permit offices would be subject to available capacity as this portion of the Groot Constantia Estate falls within the consolidated growth area which means that land use intensification can be supported, subject to availability of capacity in infrastructure.
- The approval of the proposal **will not** grant the property the development rules of the next subzone.

### Relevant considerations

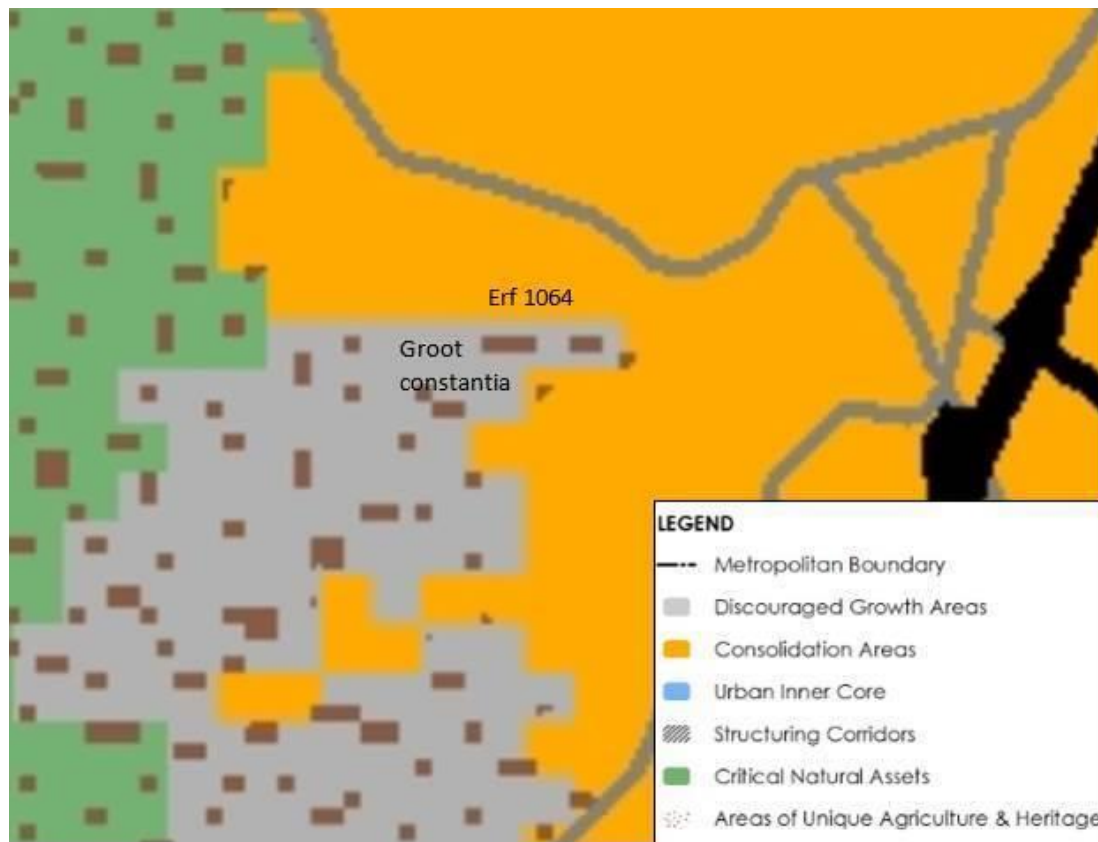
In terms of Section 99(2) of the MPBL, the following must be considered when deciding whether or not to approve an application:

#### **(a) Compliance with applicable spatial development frameworks**

The Cape Town Metropolitan Spatial Development Framework (MSDF 2018) serves to guide and manage urban growth and to guide the proposals contained within the more detailed District Spatial Development Plans. The MSDF appears to earmark the property to be a Unique Agricultural and Heritage, as well as a discouraged growth area. However, Erf 1064 falls into the consolidated growth area and therefore intensification of land uses on this property could be supported, subject to bulk infrastructural capacity.

Considering that the proposal is to rezone the site to agriculture, this will help to reinforce the protection of this agricultural asset. It should be noted that the asset is largely

supported by the tourism activities offered on the estate, including, two restaurants, wine tasting and sales, etc. Therefore, it is essential to retain these activities.

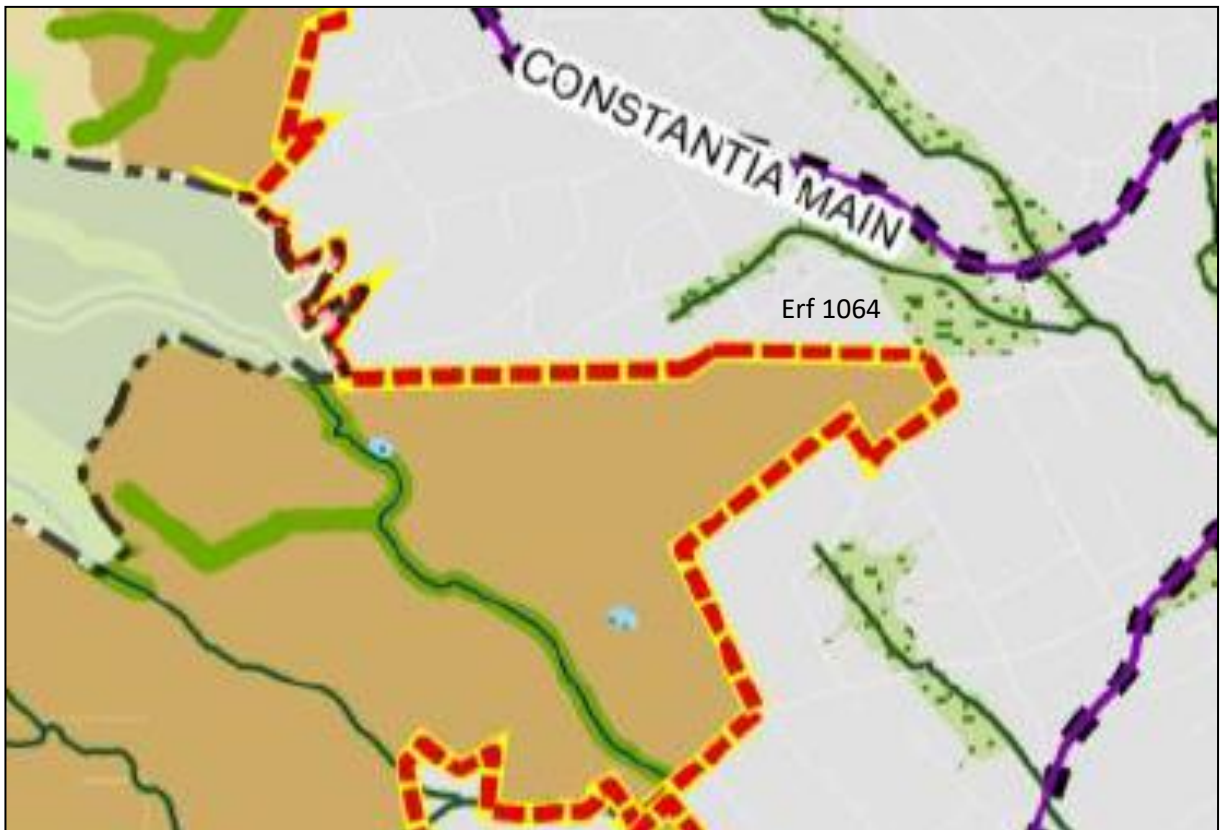


Extract of MSDP

The approved Southern District Plan is a tool to guide development within the area. The site falls within Sub-District 2 which adopts a conservative approach to development of the area. Most of the properties fall outside of the 'urban edge' earmarked in the District Plan. It should be noted that the proposed rezoning will help to reinforce the agricultural and viticulture practises. However, Erf 1064 remains within a designated urban development area.

The proposal is consistent with the District Plan in the following aspects;

- The proposed rezoning from Utility Zone to Agriculture will reinforce the existing agricultural activities on the site, as well as permit supporting tourism opportunities as additional income revenue to improve the financial viability of the existing vineyard and heritage resource.
- The existing tourism facilities will be regularised by means of consent uses to ensure that there is no fragmentation of the farm land.



*Extract of the Southern District Plan*

- This rezoning and the regularisation of the existing land uses will not impact on the unique sense of place and character of the Constantia Wine Valley.
- There are existing office operations in the Bertrams Building which are proposed to be reduced in scale and to be limited to the Schoenstatt house building (193m<sup>2</sup> of GLA). No extensions would be permitted to this building to ensure that the existing residential appearance remains in-tact.
- These existing offices are minor in nature and do not impact on the character of the area, as they will remain within the existing Schoenstatt House (which resembles a dwelling house). In-fact, these office functions are extremely low-key and have never received complaints from the surrounding community.
- It is however noted the existing business function would not be consistent with some of the forward planning principles contained in the District Plan, namely;

*5. No expansion in the extent of existing commercial areas should be permitted and no further regional shopping centres should be permitted.*

- However, considering that there is no intention to introduce a large-scale commercial or shopping centre, the proposed use of the existing Schoenstatt House for offices would be a very minor business function.

- Furthermore, considering that the character of this urban area will not change nor the streetscape, the GB1 zoning could be supported as it would improve the viability of estate maintenance in the long term.

**(b) Compliance with the DMS**

- The application generally **complies** with the requirements of the MPBL and will be processed in accordance with the requirements of the MPBL.
- Although a number of departures are required, these have been demonstrated to be technical in nature as they are existing buildings which do not currently have a prescribed building line in the current Utility zoning.

**(c) Applicable policy or strategy**

As demonstrated above, the proposal is compliant with forward planning legislation such as the MSDP & the Southern District Plan.

The City's Social Development Strategy (SDS) & Economic Growth Strategy (EGS) have been established to address some of the major socio-economic ills affecting growth and development within Cape Town. The aim of these strategies are to generate suitable income opportunities for excluded groups whilst encouraging economic growth and development required to establish a competitive city. The Estate presently provides approximately 65 permanent members of staff of various skills levels, including service staff, administrative staff, and management staff. A further 12 seasonal jobs are generally created during peak periods.

The proposed development is consistent with these strategies for the following reasons;

- The regularization of the farming activities will provide more job security as the various land uses would then be lawful, thus, it will contribute to increased opportunity for economic activities at various skill levels.
- It will positively contribute to the economic growth of the area.
- The estate already accommodates a total of 22 staff families on the premises. Part of the purpose of this application is to obtain approval to establish a place of instruction for the workers children residing on the estate. The application therefore directly improves the social development of the staff.

It can thus be recognized that the proposed development is **compliant with Section 99(2)(c) of the MPBL** as it adopts the development principles of the MSDF, the District Plan, The Social Development & Economic Growth Strategy, as well as encourages a number of socio-economic opportunities which would otherwise not be possible without the proposed development.

**(e) Impact on existing rights**

As a rezoning is required from the provisions of the DMS, it is recognized that impacts on existing rights may exist. However, it should be noted that the various uses are already existing on the site.

- The agricultural uses of this estate pre-dates the surrounding residential area and therefore the agricultural activities on the properties cannot be regarded to impact on the surrounding area, despite the rezoning required.
- The tourism facilities, including the wine tasting, sales, restaurant, gift shops and museums already operate on the estate. The uses within a number of the buildings have a documented history and approved plans are available for all the buildings, despite the utility zoning of the premises. The tourism related uses, although a consent use in the proposed agricultural zoning, are a core feature of the estate and generate the required revenue to maintain this heritage resource. Therefore, the consent use application is unlikely to impact on the surrounding area.
- The place of instruction will have no impact on the traffic or surrounding community as it will exclusively be used by those in Groot Constantia's employ and will contribute to social upliftment of these families.
- The proposed rezoning of a portion of Erf 1064 for offices is minor in nature as the offices will be restricted to the existing dwelling house building. It is proposed that the offices be restricted to this existing building and that no extensions or alterations to the building exterior be permitted in order to maintain the residential character.



*Street view of proposed offices from Schoenstatt Avenue*

**(f) Consolidation on the land units**

Section 99(2) of the MPBL requires the decision maker to consider all relevant considerations, including;

- The scale and design of the development
- The impact of the massing
- The impact on surrounding properties.

In response to these considerations, the following is highlighted;

- The intention of the consolidation is to regularize the existing farm workers cottages which straddle the cadastral boundaries of erven 10861 & 10862. The consolidation of the site does not impact on the potential built form of these properties and it is merely an internal building configuration that this consolidation will resolve.
- There will be no additional massing as a result of the consolidation of the Estate.
- No further development is being proposed which may impact on surrounding properties.

**(g) Other considerations prescribed in relevant national and provincial legislation**

- **Principle of spatial justice:** Indirectly. The estate provides housing for a number of its employees, who could otherwise not afford to reside in this area. Therefore, by rezoning the property from Utility, they are regularizing the existing situation and ensuring that the workers housing is authorized and approved.

- **Principle of spatial sustainability:** It is noted that by rezoning the estate to agricultural, the agricultural activities will be protected in perpetuity and therefore no further urban sprawl will be encouraged into productive agricultural lands.
- **Principle of efficiency:** Use of low water and energy consumption technology will be incorporated into any new development.
- **Principle of spatial resilience:** Partially aligned. The regularization of the Groot Constantia Wine Farm is critical to the continued functioning of the estate. The various tourism related activities on the farm help to increase the economic potential of the agricultural land whilst having a minimal impact on the agricultural resource itself. These tourism related activities therefore increase the economic resilience of this land use.
- **Principle of good administration:** This proposal has been processed in accordance with all relevant legislation.

### Desirability

Section 99(3) of the MPBL requires that the proposed land use be assessed in terms of the following desirability criteria;

- **Socio-economic impact:** The rezoning to Agriculture and consent use to permit the tourism activities will ensure that the Groot Constantia Estate can remain a viable tourism and heritage asset in perpetuity. Considering that this estate is over 300 years old, it has a rich history and many preserved heritage resources. In order to preserve this heritage asset, the farm relies on its tourism and sales. This Estate accommodates a large number of tourists each month and is one of the core estates in the Constantia Winelands. In-fact, there are currently 437ha of land currently under vine in the Constantia Winelands and Groot Constantia Estate produces up 90ha of that (20% of all vines in the Valley). This is a significant contributor to the local wine tourism industry. The farm is financially self-sustaining and any surplus goes back into the maintenance of this asset. It is also re-iterated that the farm currently employs 65 staff and provides accommodations for 22 labourers. Therefore, the positive socio-economic benefit of regularizing the operations of Groot Constantia are enormous. The proposed community zoning to enable the development of a place of instruction is pivotal to the proposal as it will hugely improve the educational opportunities available to the farm workers families.

- The site is surrounded by other commercial and tourism generating activities, such as restaurants (LaParada), other wine estates and popular tourism attractions/resources (Kirstenbosch) and thus the proposed rezoning, relaxation of title deed restrictions, consent and departures to permit the tourism facilities would be **compatible and compliments the surrounding uses**. Although the proposal is also to rezone a portion of Erf 1064 for offices, there will be no impact on the surrounding residential and agricultural character as this would be contained within a building resembling a dwelling house. Similarly, there are other business zonings further along the Groot Constantia Road which accommodate a variety of retail and business opportunities. Therefore, this spot GB1 zoning would be consistent with the area. The proposal will therefore not impact on the surrounding character or streetscape.
- There will be **no impact on the external engineering services**. The application for rezoning to agriculture and community will not add any additional demand on the existing bulk infrastructural services.
  - The purpose of this application is made to regularize the current agricultural and tourism activities on Groot Constantia Estate.
  - Considering that the properties were allocated the incorrect zoning (Utility) due to their historical State ownership, it would be incorrect to assume that the tourism facilities are new land uses as a result of this application.
  - Similarly, there are a number of approved building plans which identify these tourism facilities.

It is not anticipated that any Development Contribution Levies will be applicable to the agricultural and tourism activities; however, it is anticipated that the business-related functions (including the home occupation) on Erf 1064 would be subject to the payment of such levies. The application will therefore be circulated to the relevant services departments for comment.

- The offices are 158m<sup>2</sup> of GLA, taking into account that this is already an approved dwelling house which is being converted into office space.
  - The home occupation is 49m<sup>2</sup> of GLA.
- Groot Constantia Estate currently employs security to monitor and regulate access to the estate. This improves the security of the visitors to the site. It is also noted that locals are permitted to stroll through the vineyards with their pets. This is an enormous benefit to the surrounding community as they can enjoy the wide-



open space and a safe space to walk their pets. Therefore, by regularizing the activities on this estate, the **wellbeing of the surrounding community will be improved**. If this application was not approved, then the longevity of the estate would be of grave concern to the wellbeing of the surrounding community and the heritage resource. It should also be noted that the application is also made to rezone a portion of the site to community zone 1 to permit a place of instruction for farm laborers. This will significantly improve the wellbeing of the farm workers living on site as they will have access to educational facilities for their families on-site.

- Considering that the application is made to rezone this heritage resource from Utility zone to Agriculture, and to retain the existing tourism facilities, this application will have a **positive impact on the protection of the heritage resource** as its agricultural zoning would ensure that it would be protected in perpetuity. Any further development which is not a primary use right under the agricultural zoning and which deviates from the development rules of this zoning would trigger a new application process and therefore be subject to new scrutiny from heritage authorities. Similarly, development on a Provincial Heritage resource would require approval from SAHRA. It is noted that a portion of Erf 1064 will be rezoned for business. However, this building and portion of property do not form part of the greater heritage significance of the estate and therefore will not compromise the heritage resource. Furthermore, considering that no alterations are proposed to the existing building to accommodate the offices, the GB1 zoning would not impact on the existing character of this street. The application will have an overall positive impact on this Heritage resource.

The proposed extensions to the Bertrams building are minor in nature as they will be undertaken on the rear of the building only. This side of the building is used for the agricultural activities such as equipment storage and crate storage. Extensions to this building have previously been made to

- Considering that there is no current intention to develop the properties further, other than minor extensions and a new farm shed, there will be **no impact on the natural environment** as a result of this application.

- 333 **Parking** bays are provided on site which is regarded to be more than sufficient for the various uses. In-fact only 244 bays are required in accordance with Item 137 of the DMS.
- It is anticipated that **conditions of approval** will be necessary to mitigate potential impacts of the proposal. In this regard, the following conditions of approval could be considered:
  - The payment of a development contribution is payable for the office & home occupation only. No DC is payable for the tourism and agricultural related uses.
  - The offices and home occupation may not be extended and no further exterior alteration would be permitted.

## 9. SUMMARY

The motivation report has demonstrated that the proposed rezoning of the subject site will not impact on abutting landowners and it will protect this historical resource in perpetuity. The following aspects of the submission are reiterated:

- The proposal is to rezone the properties to agriculture will help to reinforce and protect this heritage and cultural resource in perpetuity.
- The proposal to rezone a portion of the property to CO1 will be a huge social benefit to the farm workers families who reside on the estate.
- The proposal to rezone a portion of Erf 1064 to GB1 will not alter the character of the area or the streetscape but will provide an important economic supplement to the estate for upkeep and maintenance.
- The proposal to consolidate Erven 10861 & 10862 will resolve the current issue of a building straddling these two cadastral boundaries.
- The building line departures are generally technical in nature as they relate to existing buildings, other than Erf 7395, which proposes to have extensions to the dwelling house which fall into the building line setback area.
- The proposed consent use to permit tourism related activities is essential to the viability of this estate. Furthermore, this wine estate forms part of the core of the Constantia Winelands, which is an essential tourism asset to Cape Town.
- The relaxation of the restrictive title deed conditions is essential to permit the tourism activities on Erf 1064, as well as the offices and home occupation. This property cannot remain for agricultural and dwelling purposes only.

- There will be no impact on the heritage resource (deemed HPOZ) as a result of this application.
- Any future development on the properties will be regulated by means of the primary use rights and development rules applicable to the zoning of the properties (other than the GB1 portion of Erf 1064, which will be restricted to the existing buildings thereon).

## **10. CONCLUSION**

It is demonstrated above that the application is compliant with the various forward planning policies that govern land use in the Cape Town Region as well as complying with the desirability criteria in terms of S99(3) of the MPBL, and thus should be supported by the City and **recommended for approval.**

**TOMMY BRUMMER TOWN PLANNERS**