CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Case ID 1500114635

Erf 766, 86 Southern Cross Drive, Constantia

Development Management

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Our Ref: 3091/07/22 – Rev 2 *Date: 1st July 2026*

MOTIVATIONAL REPORT: APPLICATION FOR REMOVAL OF TITLE DEED RESTRICTIONS, AMENDMENT OF CONDITIONS OF APPROVAL, SITE DEVELOPMENT PLAN, SUBDIVISION, PERMANENT LAND USE DEPARTMENT (MINIMUM ERF SIZE): ERF 766 CONSTANTIA



Figure 1 - LOCALITY MAP

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1. ABSTRACT:

The property, known as Erf 766 Constantia, hereafter referred to as the subject property, measuring 8117m^2 in extent, is situated in Constantia, in the area of jurisdiction of the City of Cape Town, Administrative District of Cape.

The subject property is located at No. 86 Southern Cross Drive, Constantia. The property is owned by the vide Deed of Transfer No.

Erf 766 is zoned for Single Residential Zone 1 (SR1) purposes, in terms of the City of Cape Town Development Management Scheme (DMS). Currently, the subject property contains an existing dwelling, and associated outbuildings (workshop, domestic quarters, and garage).

It is now proposed to subdivide the property into 2 portions, with Portion 1, being 3984m^2 in extent, containing the existing dwelling, and Portion 2, currently vacant, being 4133m^2 in extent.

A pre-application consultation was held with the Case Officer, on the 28th March 2023, detailing the various requirements and supporting documentation, the minutes of which have been ratified by the Case Officer.

As the proposed subdivision involves the removal of certain title deed restrictions, a draft Site Development Plan is required. This has been prepared by Chelsea Pedersen Architecture, dated 5th November 2023, drawing numbers 3008-01-100E, 101D, 102D, and 103B, to illustrate the potential addition of new second and third dwellings on Portion 1, together with the potential provision of a new main dwelling, second dwelling, and third dwelling, on Portion 2. It is to be noted that the approval of the subdivision will not be tied to this SDP, which is for illustration purposes only.

Two professional consultant studies have been undertaken, in order to adequately inform the subdivision and SDP. These comprise a Vegetation Study (GTIMS Arboriculture Consulting (Pty) Ltd, dated 24th April 2023), and a Topographical Plan (prepared by Duncan Bates Professional Land Surveyors, Ref: 3091/07/22 - Topocadastral , dated 4th October 2022).

There are various Title Deed conditions that will require removal, in terms of Section 48 of the CTMPBL, 2015, as amended (application type Section 42(g)), together with Amendment of Conditions of Approval, in terms of Section 42(j).

Further, the property is located within the Constantia – Tokai Local Area Overlay Zone LAO/3, which limits the subdivisional sizes to 8000m^2, and a Departure from the minimum erf size down to around 4000m^2 will be required, in terms of Section 42(b) of the CTMPBL, and Item 177 of the DMS.

The firm of Duncan Bates Professional Land Surveyors has been appointed by the to submit this application, as per the Power of Attorney, and associated Family Trust Resolution, attached.

2. PROPERTY DESCRIPTION:

Erf No.	766 Constantia
General Plan No.	T.P. 703^{A} – Southern Cross Subdivided Estate
Diagram Deed	
Current Owner	
By Deed of Transfer	
Extent	8 117 m^2
Current Zoning	SR1
Proposed Zoning	SR1 (no change)
Zoning Scheme	City of Cape Town Development Management Scheme
Street Address	No. 86 Southern Cross Drive, Constantia

3. STATUTORY FRAMEWORK:

3.1 TITLE DEED CONDITIONS:

As stated above, there are various Title Deed conditions that will require removal. (See the attached Conveyancer's certificate). These conditions will be enumerated in the development proposal below.

3.2 CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015:

3.2.1. Removal of Restrictions:

An application to remove conditions B.5, C.(4)(a), (b), and (c) of D/T No. is required, as per Section 48 of the CTMPBL (submitted as application type 42(g)). Please refer to the Conveyancer's Certificate attached to the application. These conditions read as follows:

B.5 – the said Lot HT shall not be divided or sold in areas of less than 0,4047 hectares in extent, without the consent of the owner for the time being of the present remaining extent of the Farm Bel Ombre'

This condition was imposed in the Deed of Transfer No. , and predates the Townships Ordinance No. 33 of 1934. As such, it does not require removal, but it is advisable to have it removed in any event.

C.(4)(a) – it shall not be subdivided;

C.(4)(b) – it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;

C.(4)(c) – no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 9,45 metres to any boundary of this erf.

These conditions were imposed by the erstwhile Administrator of the Province of the Cape of Good Hope, in terms of the provisions of the Townships Ordinance No. 33 of 1934, when approving the Southern Cross Subdivided Estate, of which Erf 766 is a part.

A Pre-Application Consultation for such a removal is required, in terms of Section 70(2) of the By-Law, and such a consultation has been held, the minutes of which have already been submitted to the City, and have been accepted. A copy of the minutes is submitted herewith for further reference.

During the pre-application consultation, it was confirmed that these conditions need to be removed.

Further to the submission of this application, it has been brought to our attention that the company Constantia Holdings (Pty) Ltd has been re-registered, and condition E.(i) now needs to be included in the application, as it is for the benefit of the company and its successors in title, and is to be removed. The relevant deed is Certificate of Registered Title No. 2437 dated 18th February 1949. The condition to be removed reads:

E.(i) – The said property shall not be subdivided.

3.2.2. Deletion of Conditions of Approval:

Section 142(1) of the CTMPBL states: "*Any approval, designation, determination, consent, right, authorisation, confirmation or instruction issued, granted or in force in terms of a law repealed by the Land Use Planning Act, and in existence immediately before the commencement of the Land Use Planning Act, remains in force and where applicable is regarded to have been issued, granted or occurred in accordance with this By-Law subject to the conditions under which it was issued and is valid for the period for which it was granted under the repealed law.* "

These conditions, i.e., B.5, C.(4)(a), (b), and (c), which form part of a planning approval, are deemed to have been imposed in terms of the By-Law, and hence are required to be removed, in terms of Section 42(j).

3.2.3. Subdivision & Departures:

It is further proposed to subdivide the property into 2 portions, as per the Plan of Subdivision, Ref: 3091/07/22 – Plan of Subdivision, Option 4, such that proposed Portion 1 measures 3984m^2 in extent, and the proposed Remainder measures 4133m^2 in extent. This application is submitted in terms of Section 52 of the By-Law, as application type 42(d).

Further, as the minimum erf size specified in the Constantia – Tokai Local Area Overlay Zone LAO/3 is 8000m^2, both portions will require the approval of a permanent Land Use Departure, in terms of Item 177 of the DMS, submitted as application type Section 42(b) of the CTMPBL.

3.3 LAND USE PLANNING ACT, No. 3 OF 2014:

In terms of Section 39(5) of LUPA, the municipality must, when considering the removal of title deed restrictions, have regard to at least the following:

(a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;

The restrictive conditions B.5, C.(4)(a), (b) and (c) were imposed by the Administrator of the Province of the Cape of Good Hope, in terms of the provisions of the Townships Ordinance No. 33 of 1934, when approving the Southern Cross Subdivided Estate, of which Erf 766 is a part – see General Plan No. T.P. 703^A, dated 10/04/1948. Since then, the planning environment in South Africa has changed and positively evolved, resulting in development rules that are considered to be sufficient to guide future development. The removal of the stated restriction will have no financial impact on any beneficiary of the restriction, as the proposed subdivision and subsequent further development of the two portions, each having their own road access, will enhance values and ensure that existing municipal services are utilised to their optimum.

The building lines applicable to the parent erf and restricted hard surfacing to a maximum area of 30% will ensure that there is no derogation of value or right enjoyed by any owner of a dominant tenement, as there is no further impact than what is currently permitted on the parent erf.

Condition E.(i) is a private condition, imposed by Constantia Holdings (Pty) Ltd. It is held that, in the light of the fact that the applicable rights afforded to the unsubdivided property have been divided across the subdivided portions, with specific regard to the number of dwellings, and floor space, the nett effect of the subdivision will have no negative financial impact on the beneficiaries of the condition preventing subdivision.

(b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;

The benefits which accrue to the holder of the rights (i.e., the City of Cape Town) listed in conditions B.5, C.(4)(a), (b) and (c) are deemed to be inconsequential, and indirectly positive, given that the approval of the removal of the condition will permit the subdivision of the property into 2 portions, for residential purposes and will utilise existing services and road access to its optimum, preventing urban sprawl.

With regard to the holder of the rights listed in condition E. of the deeds (i.e., Constantia Holdings (Pty) Ltd), the personal benefits which accrue to the said

holder are not significant, as the land could have been developed in a similar fashion, even if no subdivision was proposed.

(c) the personal benefits which will accrue to the person seeking the removal, suspension, or amendment of the restrictive condition if it is removed, suspended, or amended;

The removal of conditions B.5, C.(4)(a), (b) and (c) to permit the subdivision will result in a financial advantage to the owner of the property, as the subdivided portion would be capable of transfer to a new owner, and at a market related price. This will also allow new ownership in an upmarket area, without the derogation of anyone's property value.

The removal of condition E. to permit the subdivision will result in a substantial personal benefit to the person seeking the removal, as the subdivided portion would be transferred to a new owner. Please note that, if the condition was not being removed, the same development potential could be achievable under Sectional Title of the 3 dwellings, permitted as of right.

(d) the social benefit of the restrictive condition remaining in place in its existing form;

There would be little social benefit from leaving the conditions in place. It could lead to underutilised developable portion of land that could put the area at risk from a safety point of view. Developing the property will ensure better surveillance or eyes on the two streets which provide access to the parent property.

(e) the social benefit of the removal, suspension, or amendment of the restrictive condition; and

The social benefit of having the condition removed would be considerable, as an additional residential property would be created, providing much needed, albeit low-density, housing stock.

(f) whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.

It is held that the City of Cape Town, and/or the owners of properties in the Township would not be materially affected by the removal of restrictive conditions B.5, C.(4)(a), (b) and (c). The removal of the restrictions will allow the property to be developed to its optimum, without significantly exceeding the current rights permitted in the DMS, restricting the hard surfacing on each portion to 30% and in doing so having a minimal impact on anyone.

It is further held that the beneficiaries of Constantia Holdings (Pty) Ltd would be unaffected by the removal of the no subdivision clause.

3.4 SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, No. 16 OF 2013:

In terms of Section 47(2) of SPLUMA, it is stated that the approval of this removal will not derogate significantly from the rights of anyone affected, nor will the public interest be compromised.

3.5 NATIONAL ENVIRONMENTAL MANAGEMENT ACT (NEMA):

The proposed subdivision would not trigger the need for a NEMA Basic Assessment process.

3.6 NATIONAL HERITAGE RESOURCES ACT (NHRA):

It is not anticipated that a Notification of Intent to Develop, in terms of the provisions of Section 38(8) of the National Heritage Resources Act No. 25 of 1999, is required. The property is not located within any of the City of Cape Town's Heritage Protection Overlay Zones, and has no heritage value recorded on the City's Map Viewer.

3.7 MUNICIPAL SPATIAL DEVELOPMENT FRAMEWORK 2023 (MSDF):

In terms of the MSDF 2023, the property is located in an area designated as Incremental Growth and Consolidation Area. The MSDF states that Incremental intensification (more land use mix), as is the case herein, and densification (more residential units), also applicable herein, in the Incremental Growth and Consolidation area to be supported, subject to engineering services capacity clearance. The property is located well within the Urban Development Edge.

No changes to the MSDF are required.

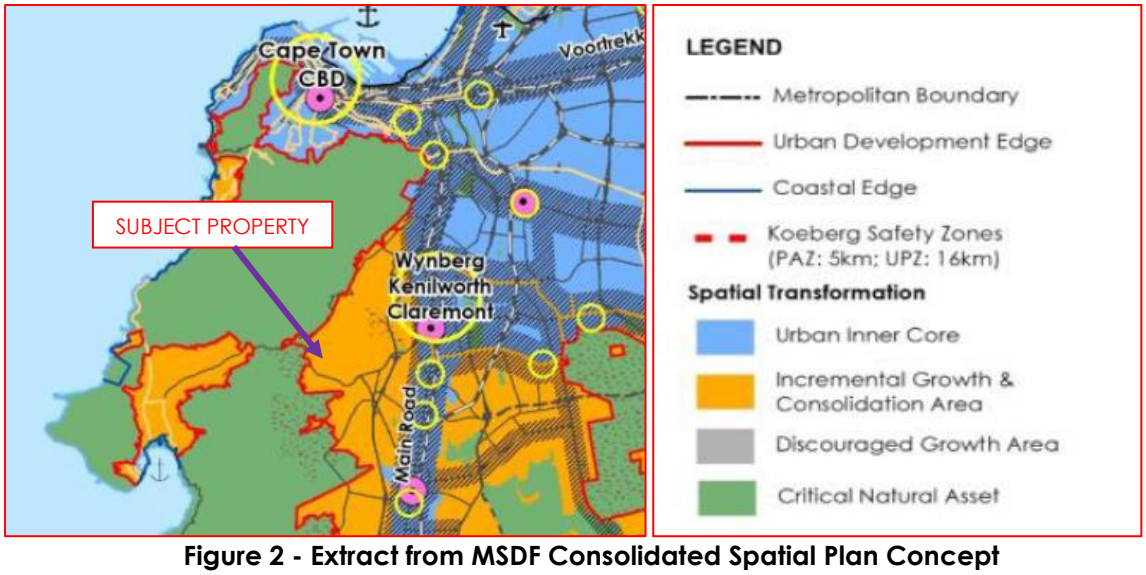


Figure 2 - Extract from MSDF Consolidated Spatial Plan Concept

3.8 SOUTHERN DISTRICT SPATIAL DEVELOPMENT FRAMEWORK 2023 (SDSDF):

The City's Spatial Planning Branch was requested in November 2023 to provide an updated comment (a previous provisional comment had been given,

relating to the previous SDSDF, 2012) regarding the consistency with the SDSDF. It is noted that the proposed subdivision is consistent with the SDSDF, as the trigger criteria, relating to the existing rights being retained (number of dwellings and floor space), and the hard surfacing, will not be infringed.

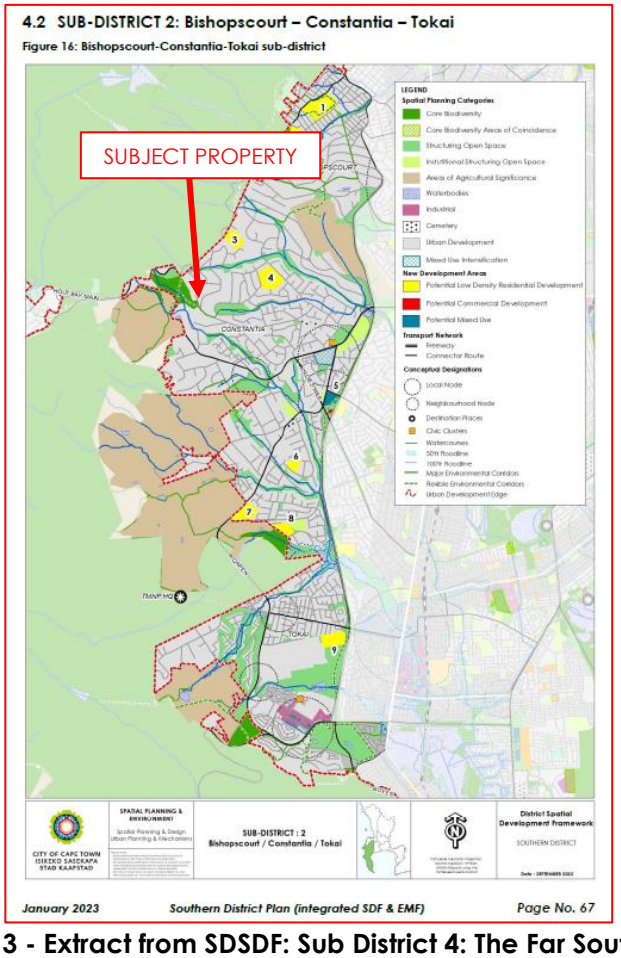


Figure 3 - Extract from SDSDF: Sub District 4: The Far South

The subject erf is located within the area east of Southern Cross Drive, and north-west of Monterey Drive, which recommends that the sizes of subdivisions be limited to the Local Area Overlay Zone LAO/3 (see Figure 4 below). The Overlay Zone refers, in particular, to properties zoned SR1, to be limited to 8000m^2. Attention is drawn to the fact that some of the properties in the area are already less than this size, and some have already been subdivided into less than half of the minimum erf size (e.g., Erf 2852 – 7245m^2, which has been subdivided [and in an area designated for no further subdivision], the portion being Erf 14861 – 3119m^2, and Erf 838 – 4456m^2).

Constantia forms part of Sub-District 2 in the SDSDF, where the following is stated in paragraph 4.2.7:
In order to retain the unique and internationally desirable character areas and landscape qualities in … , Constantia, … , specific additional development-related recommendations should apply to parts thereof.
This includes the following:

i. An overlay zone to be introduced for all heritage farm areas (*that is applicable also to similar areas elsewhere in the city). This should further protect these areas against urban encroachment (e.g. alienation of

portions), inappropriate uses, or nature and scale of inappropriate farm-related farming, recreation or tourism uses.

ii. In general, residential areas further than ± 400m (± 5-minute walking distance) from urban nodes may be subdivided. However, where such subdivision results in a property significantly below the minimum erf size associated with the local area minimum erf size overlay zone, the resultant development of such property should be limited to the permissible rights consistent with the overlay zone restrictions.

iii. Limit maximum hard surfacing (including roofing, paving). This should be 500 m² or 40%, whichever is greater, on erven 1 000 –2 000 m², 750 m² or 30%, whichever is greater, on erven > 2 000 m²).

With specific regard to these guidelines in the SDSDF, reference is made to the hard surfacing being limited to 750m^2 or 30%, whichever is the greater, on erven >2000m2. In this instance, the permitted hard surfacing would be 1195m^2 for the proposed Portion 1, and 1240m2 for the proposed Portion 2. The un-subdivided property would permit 2435m^2 of hard surfacing.

Reference is now made to the SDP, provided with this application for illustration purposes, which shows the hard surfacing for Portion 1 to be 795m^2 (i.e., 20%), and 1011m^2 (i.e., 24%) for Portion 2. These are well below the recommended limits.

The SDSDF requires where a subdivision results in the subdivided portions a property significantly below the minimum erf size associated with the local area minimum erf size overlay zone, that the resultant development of such property should be limited to the permissible rights consistent with the overlay zone restrictions.

The DMS would allow buildings with a maximum floor space of 1500m^2 and three dwellings on each portion.

The SDP has been amended, so as to limit the number of dwellings on both portions to 3, and the total floor space is well below the permitted maximum.

Reference is also made to the retention of the existing tree coverage. A tree plan has been provided for this application, and attention is drawn to the illustrative SDP, wherein it can be seen that the new structures are located in areas on the site where few mature trees exist, i.e., on the lawned areas, and the tennis court.

This renders the application to be consistent with the policy guidelines of the SDSDF, and no further action is required herein.

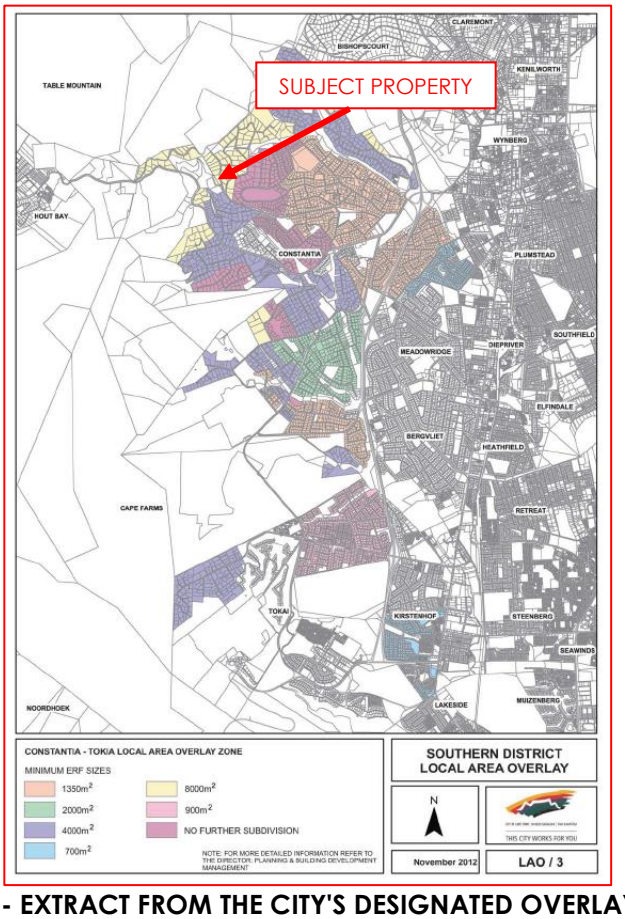


Figure 4 - EXTRACT FROM THE CITY'S DESIGNATED OVERLAY ZONES

3.9 CAPE TOWN DENSIFICATION POLICY 2012 (CTDP):

The City's Densification Policy defines densification as: "*The increased use of space, both horizontally and vertically, within existing areas/properties and new developments, accompanied by an increased number of units and/or population threshold.*" It goes on to denote incremental densification as: "*Small-scale densification that has a relatively low impact on the character of an area, e.g. the subdivision of a residential property or construction of a second dwelling.*" As it is the intention of this application to permit the construction of additional dwellings on each of the proposed subdivided portions, it is stated that the proposed removal of restrictions to permit the subdivision, and the proposed subdivision itself, is compliant with the intent of the Policy.

3.10 TRANSIT ORIENTED DEVELOPMENT STRATEGIC FRAMEWORK 2016 (TOD):

The Introduction to the Transit Oriented Development Strategic Framework states:

Transit Oriented Development (TOD) represents the intricate relationship between "Transit" (the operational/access imperative of an urban environment) and "Development" (the spatial manifestation of those that are within the urban economy). Transit Oriented Development (TOD) is about changing, developing, and stimulating the built form of the city in such a way that the movement patterns of people and goods are optimised to create urban efficiencies and enable social equality and economic development.

In the context of this Strategic Framework TOD is seen as a planning, design, and implementation approach that can be employed to address inefficiencies in the urban form of the city. TOD does not solely belong to one discipline but rather is seen as a key transversal development and management premise to addressing urbanisation, urban growth and service delivery with transport being the catalyst to achieving operational efficiencies in the urban environment for both the city and its citizens. It is an approach that enables a change in the principles of the space economy, forcing long term efficiencies through integrated implementation and service delivery.

Taking the above into account the purpose of the City of Cape Town TOD Strategic Framework is to identify the tools and mechanisms to be employed by various role players who have a collective impact on development to ensure that they move progressively toward a more sustainable, compact, and equitable urban form.

The approval of the subdivision of the property into 2 portions, with the existing access off Southern Cross Drive, and the new access point off Monterey Drive, are of such a low impact, that there will be negligible impact on the TOD.

It is thus held that the proposed development supports the intent of the TOD Strategic Framework at nodal and precinct level.

3.11 CAPE TOWN SOCIAL DEVELOPMENT STRATEGY 2016 (SDS):

The Executive Summary of the SDS states, amongst other things:

> The Social Development Strategy (SDS) articulates the role of the City of Cape Town in promoting and maximising social development. Social development is understood broadly as the overall improvement and enhancement in the quality of life of all people, especially people who are poor or marginalised. At its core is a focus on addressing poverty, inequality and social ills while providing for the participation of people in their own development. The SDS sets out what the City is doing, plans to do and articulates where external stakeholders, such as contracted service providers and organisations receiving City grants, shall contribute to creating an opportunity, safe, caring, inclusive and well-run city that allows people to reach their potential.

The proposed subdivision into 2 portions is in keeping with the urban fabric of the area, and is not intended to directly address poverty, inequality, or social ills issues. It will, however, provide both short term (additional jobs for construction workers during the construction phases) and longer term (additional jobs for domestic and ground staff) benefits to improve the quality of life of these people.

3.12 CAPE TOWN ECONOMIC GROWTH STRATEGY 2013:

The Executive Summary of the EGS states, amongst other things:

The principal objective of the Economic Growth Strategy (EGS) is to grow the economy and create jobs - the overarching objective of the Opportunity City. It presents the City of Cape Town's response to the most fundamental challenges facing Cape Town in the years ahead: too many people are unemployed, too

many people are poor, and the city's lacklustre current and projected growth rates means that this situation is unlikely to change if the organisation follows a 'business as usual' approach. At the same time, demand for city services is increasing every year. This trajectory will be unsustainable in the long-term unless incomes rise, and City revenue from households and businesses increases.

The development will provide employment opportunities (as referred to in paragraph 3.11 above) for people from other communities in the longer term. In the shorter term, various consultants will be employed to feed into the development, as well as for builders and construction workers. The proposed subdivision will attract a development contribution, as well as ongoing rates and taxes. This will go some way to fulfilling the intent of the EGS.

3.13 CAPE TOWN SCENIC ROUTE:

There are no Scenic Drives affecting the property.

4. BASELINE INFORMATION:

The following information is given:

4.1 SURROUNDING ZONINGS AND LAND USES:

The subject property is located in an area predominantly zoned Single Residential Zone 1, with open space zone 2 further to the west. See figure 5 below.

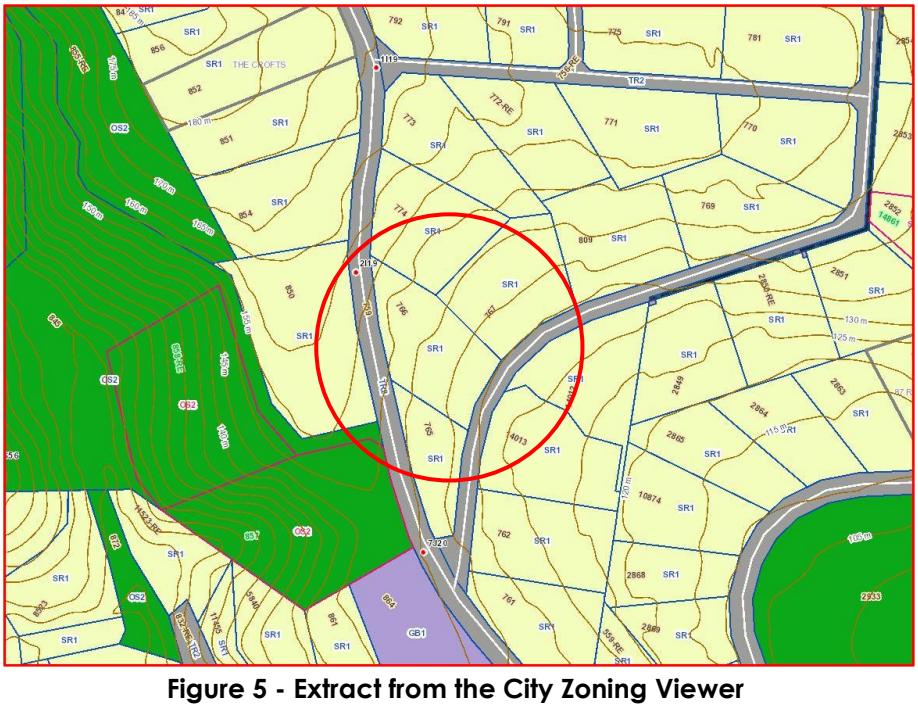


Figure 5 - Extract from the City Zoning Viewer

4.2 SURROUNDING PROPERTY SIZES:

Most of the property sizes in the area are around 8000m^2. The proposed subdivided portions are 3984m^2, and 4133m^2, which are well below the norm. However, attention is drawn to the fact that some of the properties in the area are already less than this size, and some have already been subdivided into less than half of the minimum erf size (e.g., Erf 2852 – 7245m^2, which has been subdivided [and in an area designated for no further subdivision], the portion being Erf 14861 – 3119m^2, and Erf 838 – 4456m^2).

4.3 SLOPES:

The property slopes downwards from the north-west to the south-east by 23m over a distance of 141.66m, rendering the average slope to be 1:6.

4.4 VEGETATION:

A vegetation study has been undertaken by GTIMS Urban Forest Consultants, and the associated report is attached to the application for further reference. Most of the vegetation is exotic, with some indigenous vegetation, and only 2 protected species, viz., silver trees and real yellowwood trees. None of these will, however, be impacted by the proposed subdivision, and the construction of future dwellings/driveways.

4.5 STREETSCAPE:

The streetscape along Southern Cross Drive will not change at all, given that the line of the proposed subdivision runs between Erven 765 and 767, in a south-west to north-east direction, and does not intersect with the Drive. Proposed Portion 1 will continue to enjoy access from the drive. However, proposed Portion 2 will gain access off Monterey Drive, via a proposed new carriageway crossing, shown on the SDP provided with this application, and the streetscape along this street boundary will require a minor change.

4.6 URBAN FABRIC:

The subdivision of the property will result in the potential construction of additional dwelling units. The area is already well developed, and each property already has the potential to add second and third dwellings (if they do not already have them), up to a total of 1500m^2. It is thus held that the integrity of the urban fabric of the area will remain intact.

4.7 SERVICES:

It is anticipated that no change to the services for the existing dwelling, located on proposed Portion 1, will be required. It is anticipated that new services (potable water, electricity, sewerage, and stormwater) will be required for proposed Portion 2. It is not anticipated that any services relating to Portion 1 will need to cross Portion 2.

4.8 ACCESS AND PARKING:

The existing access off Southern Cross Drive will be retained for proposed Portion 1, wherein adequate off-street parking already exists. A new access point off Monterey Drive will be required, and off-street parking will be provided in accordance with Chapter 15 of the DMS. The possible parking for Portion 2 has been shown on the SDP provided with this application for illustration purposes.

5. DEVELOPMENT RULES IN TERMS OF THE DMS:

It is proposed to subdivide the property into 2 portions, with proposed Portion 1, containing the existing dwelling, and associated outbuildings, being 3984m^2 in extent, and proposed Portion 2 being 4133m^2 in extent, currently vacant.

The development rules for the proposed subdivided portions, being in the category >2000m^2, will not change, when compared with the original un-subdivided property.

This permits a maximum floor space of 1500m^2 per portion, permitting primary dwelling houses with a height above existing ground level to wall plate of 9,0m, and to top of roof, 11,0m. Both the street and common boundaries are 6,0m. There are no further implications herein.

Table A: Summary of the zonings and development rules

[Table A substituted by s. 32 of City of Cape Town: Municipal Planning Amendment By-Law, 2016]
[Table A substituted by s. 30 of City of Cape Town: Municipal Planning Amendment By-Law, 2019]

SINGLE RESIDENTIAL ZONINGS	LAND UNIT AREA (m^2)	FLOOR FACTOR	MAXIMUM FLOOR SPACE	COVERAGE	MAXIMUM HEIGHT ABOVE EXISTING GROUND LEVEL		BUILDING LINES		STREET CENTRELINE SETBACK	OTHER PROVISIONS
					To wallplate	To top of roof	Street boundary	Common boundaries		
SINGLE RESIDENTIAL ZONING 1: CONVENTIONAL HOUSING (SR1)	>2 000	N/a	1 500 m²	N/a	9,0 m	11,0 m	6,0 m	6,0 m	N/a	Window and door placement Garages, carports and outbuildings Parking and access Additional use rights – home occupation, bed and breakfast establishment, second dwelling, third dwelling and home child care
	>1 000 up to 2 000	N/a	1 500 m²	N/a	9,0 m	11,0 m	4,5 m	3,0 m		
PRIMARY USES Dwelling house, private road and additional use rights	>650 up to 1 000	N/a	1 500 m²	N/a	9,0 m	11,0 m	3,5 m	3,0 m		
ADDITIONAL USE RIGHTS Second dwelling; third dwelling; Home occupation or bed and breakfast establishment or home child care	>350 up to 650	1,0	N/a	N/a	8,0 m	10,0 m	3,5 m	0,0 m (12,0 m from street and 60%) and 3,0 m rest		
	>200 up to 350	1,0	N/a	75%	8,0 m	10,0 m	1,5 m	0,0 m		
CONSENT USES Utility services, place of instruction, place of worship, house shop, institution, guest house, minor rooftop base telecommunication station, rooftop base telecommunication station, wind turbine infrastructure, open space, urban agriculture, halfway house and veterinary practice	≤200	1,0	N/a	75%	8,0 m	10,0 m	1,0 m	0,0 m		
		Refer to item 22(a)	Refer to item 22(b)	Refer to item 22(h)	Refer to item 22(c)	Refer to item 22(c)	Refer to item 22(d) & 22(e)	Refer to item 22(d) & 22(e)		

Figure 6 - Extract of DMS for the Single Residential Zone 1 (SR1)

6. DESIRABILITY

Section 99 of the CTMPBL sets out the criteria to be used in the assessment and decision-making process of an application. The application is desirable in terms of Section 99 of the CTMPBL, due to the following, as per the criteria:

(1) Compliance with the following minimum threshold requirements –

(b) The proposed land use for residential purposes, associated with the proposed subdivision, supports the MSDF. The proposed use is consistent with, and complimentary to, the land pattern in the area, and is therefore consistent with the principles of the MSDF, 2023.
(d) An application is not required for a departure to alter the development rules relating to the permitted floor space or height.

(2) Consider all relevant considerations including the following –

(a) The proposal supports the MSDF, 2023, and is consistent with the SDSDF, 2023, as the development rules regarding floor space and number of dwellings per portion would be complied with. The recommendation in the SDSDF that hard surfacing be limited to a maximum of 30% on each portion will also be complied with.
(b) The proposed subdivision requires a departure from the minimum erf of 8000m^2, as the resultant portions are approximately half this size.
(c) The proposal otherwise complies with the relevant criteria contemplated in the DMS.
(d) The proposal does not contravene any policy or strategy, including the Social Development Strategy, and the Economic Growth Strategy.
(e) The proposal is desirable in terms of subsection (3) below.
(f) There is no significant adverse impact on existing rights.
(g) The consolidation of land is not applicable herein.
(h) The proposal does not contradict SPLUMA 2013 or any other considerations prescribed in relevant national or provincial legislation.
(i) The application complies with the requirements of the CTMPBL, 2015, as amended. However, as the proposed subdivisional sizes are below the minimum of 8000m^2, in the LAO/3 area, a permanent land use departure is required herein.

(3) The following considerations are relevant to the assessment under subsections (1)(c) and (2)(d) –

(a) Socio-economic impact: The subdivision of the property will create an additional ownership opportunity, supporting diversity and appropriate densification in the area, that does not have a negative impact on the character and social status of the area. The proposal has a positive socio-economic impact due to an income opportunity for the current owner, and a more affordable property in the area due to a smaller extent.

(d) Compatibility with surrounding uses: The proposed subdivision, with no proposed change in the use, is compatible with the surrounding uses, which are of a rural residential nature.

(e) There will not be a significant additional impact on external engineering services, as services already exist for the property, and the proposal is not a high-impact residential development. Sewerage disposal is off-site.

(f) There will not be a negative impact on the safety, health, and wellbeing of the surrounding community.

(g) Impact on heritage: There will be no impact in terms of heritage.

(h) There will not be a significant impact on the biophysical environment. Proposed Portion 2 already has open areas suitable for the construction of a new dwelling, and second and third dwellings, and proposed Portion 1 can easily accommodate a third dwelling, for which see the SDP submitted with this application.

(i) There will be no significant negative impact on traffic, parking, access, and other transport related considerations. Off-street parking will be provided on both portions.

(j) Whether the imposition of conditions can mitigate an adverse impact of the proposed land use: A restriction limiting hard surfacing to a maximum of 30% on each portion is proposed, which will mitigate against any negative impact.

(4) N/A.

(5) N/A

7. MOTIVATION

- There are title deed conditions preventing the proposed subdivision, which are to be removed. This has been motivated in terms of Section 39(5) of LUPA in paragraph 3.3 above;

- The development proposal is aligned with the higher order legislation, i.e., SPLUMA, LUPA, and the CTMSDF, 2023, the SDSDF, 2023, as well as the Economic Growth Strategy, the Social Development Strategy, and the CoCT TOD Strategic Framework.

- The provisions of NEMA do not trigger the need for a Basic Assessment.

- No Notification of Intent to Develop, in terms of the provisions of Section 38(8) of the National Heritage Resources Act No. 25 of 1999, Heritage Western Cape is required.

- A Vegetation Study (GTIMS Arboriculture Consulting (Pty) Ltd, dated 24th April 2023), has been undertaken, detailing the existing vegetation on the site. No indigenous trees will need to be removed for the proposed construction of any new structures on the subdivided portions, which can be located on the lawned areas, and the tennis court.

- Additional short term employment opportunities will be created during the construction phases of any new dwellings on the subdivided portions, as well as on a more permanent basis, once the properties are being fully utilized for residential purposes (domestic and garden workers).

- The proposed development is considered to be compatible with, and integral to, the surrounding land use pattern, the urban fabric and the built environment.

- The streetscape along Southern Cross Drive will not change at all, and the Monterey Drive street boundary will change slightly, with the addition of a new carriageway crossing.

- No undue strain will be placed on the existing service infrastructure, as only new services for proposed Portion 2 will be required.

- The approval of the proposed Removal of the Title Deed restriction against subdivision, the proposed removal of a condition of approval, the proposed subdivision, and minimum erf size departure, will have a positive socio-economic benefit, without disruptive consequences.

8. CONCLUSION:

It has been demonstrated that the proposed Removal of the Title Deed restriction against the subdivision, the proposed Amendment of Conditions of Approval, the proposed subdivision, and the proposed departure from the minimum erf size, for Erf 766 Constantia, is desirable in terms of section 99 of the CTMPBL, and capable of approval by the City.



D.H. BATES
PROFESSIONAL LAND SURVEYOR

9. SUMMARY OF APPROVALS REQUIRED – ERF 766 Constantia:

9.1 Removal of Restrictions:

An application to remove conditions B.5, C.(4)(a), (b), (c) and E.(i) of D/T No. is required, as per Section 48 of the CTMPBL (submitted as application type 42(g)).

These conditions read as follows:

B.5 – the said Lot HT shall not be divided or sold in areas of less than 0,4047 hectares in extent, without the consent of the owner for the time being of the present remaining extent of the Farm Bel Ombre;

C.(4)(a) – it shall not be subdivided;

C.(4)(b) – it shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith;

C.(4)(c) – no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 9,45 metres to any boundary of this erf.

E.(i) – The said property shall not be subdivided.

9.2 Deletion of a Condition of Approval:

An application for the removal of conditions of approval, that (a) the property may not be subdivided, (b) only one dwelling may be erected on the property, and (c) a building line restriction of 9,45m, which forms part of a planning approval, deemed to have been imposed in terms of the By-Law, is required to be approved, in terms of Section 42(j) of the CTMPBL.

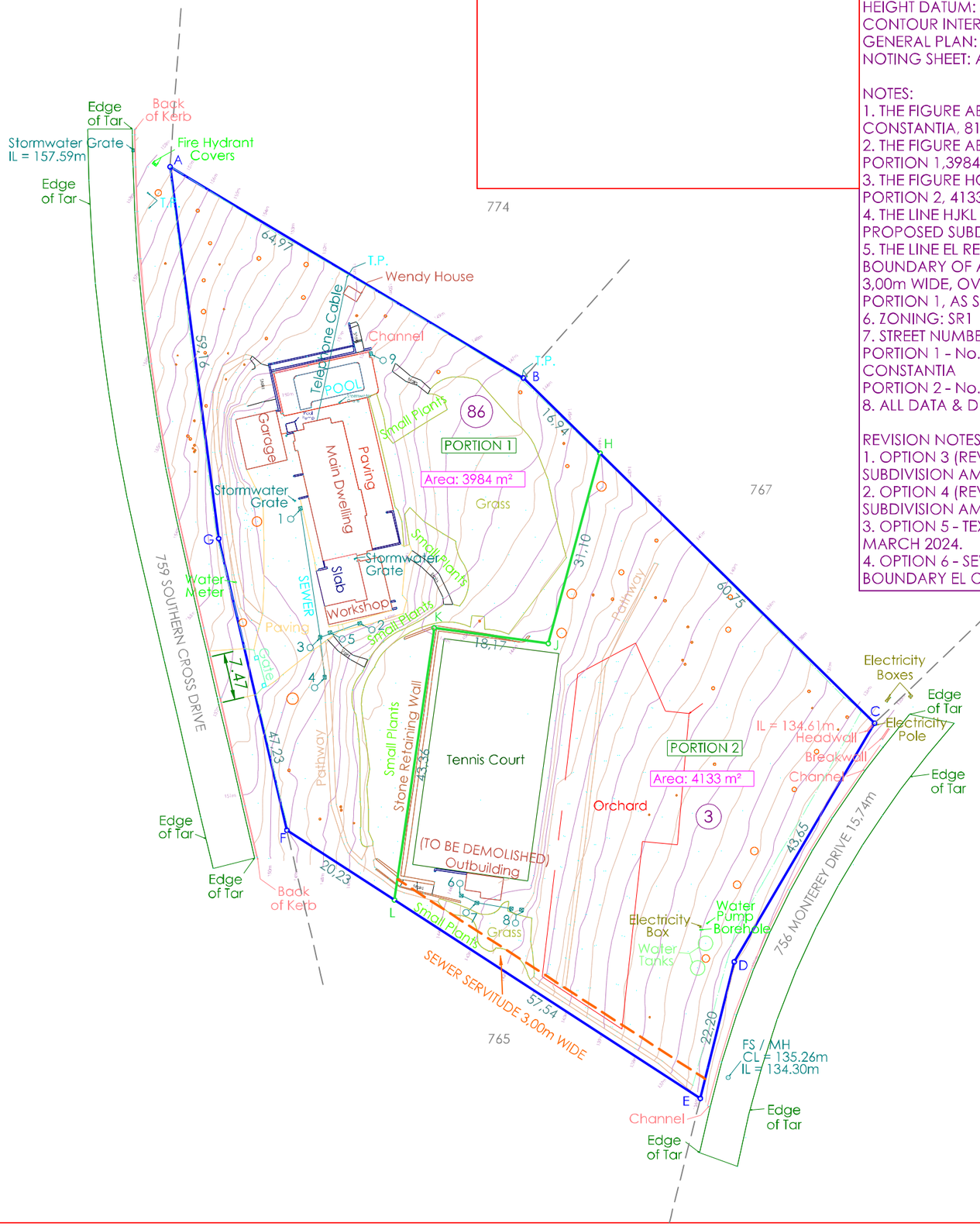
9.3 Subdivision:

An application to subdivide the property into 2 portions, as per the Plan of Subdivision, Ref: 3091/07/22 – Plan of Subdivision, Option 4, such that proposed Portion 1 measures 3984m^2 in extent, and proposed Portion 2 measures 4133m^2 in extent. This application is submitted in terms of Section 52 of the By-Law, as application type 42(d).

9.4 Departure from Minimum Erf Size:

A permanent Land Use Departure, in terms of Item 177 of the DMS, submitted as application type Section 42(b) of the CTMPBL, is required to depart from the 8000m^2 minimum to 3984m^2 for Portion 1, and 4133m^2 for the Remainder.

COUNCIL STAMP OF APPROVAL



LEGEND:
SCALE: 1/750
SYSTEM: WG19
HEIGHTS: METRES
HEIGHT DATUM: MSL
CONTOUR INTERVAL: 0,5m
GENERAL PLAN: No. T.P. 703A
NOTING SHEET: AHNC-1151 (M2285)

NOTES:
1. THE FIGURE ABCDEFG REPRESENTS ERF 766 CONSTANTIA, 8117 sqm IN EXTENT;
2. THE FIGURE ABHJKLFG REPRESENTS PROPOSED PORTION 1,3984 sqm IN EXTENT;
3. THE FIGURE HCDELKJ REPRESENTS PROPOSED PORTION 2, 4133 sqm IN EXTENT;
4. THE LINE HJKL REPRESENTS THE LINE OF PROPOSED SUBDIVISION;
5. THE LINE EL REPRESENTS THE SOUTH-WESTERN BOUNDARY OF A PROPOSED SEWER SERVITUDE 3,00m WIDE, OVER PORTION 2 IN FAVOUR OF PORTION 1, AS SHOWN.
6. ZONING: SR1
7. STREET NUMBERING:
PORTION 1 - No. 86 SOUTHERN CROSS DRIVE, CONSTANTIA
PORTION 2 - No. 3 MONTEREY DRIVE, CONSTANTIA
8. ALL DATA & DIMENSIONS APPROXIMATE.

REVISION NOTES:
1. OPTION 3 (REVISED FROM OPTION 2) - LINE OF SUBDIVISION AMENDED - 12th NOVEMBER 2022.
2. OPTION 4 (REVISED FROM OPTION 3) - LINE OF SUBDIVISION AMENDED - 16th NOVEMBER 2022.
3. OPTION 5 - TEXT SIZE & LINEWORK AENDED - 4th MARCH 2024.
4. OPTION 6 - SEWER SERVITUDE ALONG BOUNDARY EL OF PORTION 2 - 30th AUGUST 2025

Duncan Bates
Professional Land Surveyors

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OCTOBER 2022
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PLATEAU ROAD
CAPE POINT
P.O. BOX 22320
FISH HOEK
7974

CAD Drawing: D H BATES

Date : 4 OCTOBER 2022

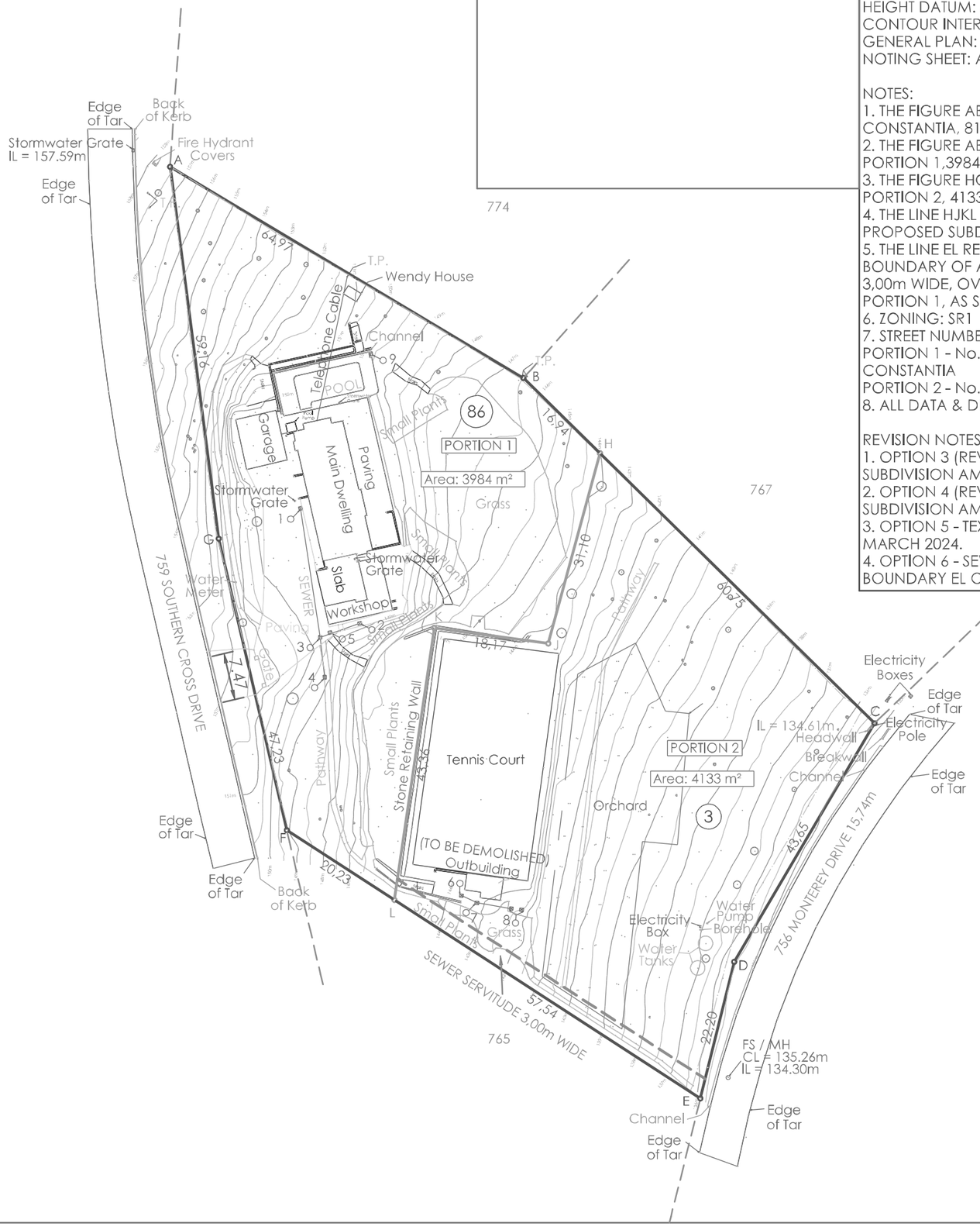
PLAN OF SUBDIVISION: ERF 766 CONSTANTIA, SITUATE IN SOUTHERN CROSS SUBDIVIDED ESTATE, IN THE CITY OF CAPE TOWN, ADMINISTRATIVE DISTRICT OF THE CAPE, PROVINCE OF WESTERN CAPE

Ref : 3091/07/22 - PLAN OF SUBDIVISION

Drawing No

Option No. 6

COUNCIL STAMP OF APPROVAL



LEGEND:
SCALE: 1/750
SYSTEM: WG19
HEIGHTS: METRES
HEIGHT DATUM: MSL
CONTOUR INTERVAL: 0,5m
GENERAL PLAN: No. T.P. 703A
NOTING SHEET: AHNC-1151 (M2285)

NOTES:
1. THE FIGURE ABCDEFG REPRESENTS ERF 766 CONSTANTIA, 8117 sqm IN EXTENT;
2. THE FIGURE ABHJKLFG REPRESENTS PROPOSED PORTION 1,3984 sqm IN EXTENT;
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2. OPTION 4 (REVISED FROM OPTION 3) - LINE OF SUBDIVISION AMENDED - 16th NOVEMBER 2022.
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Date : 4 OCTOBER 2022

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Ref : 3091/07/22 - PLAN OF SUBDIVISION

Drawing No

Option No. 6