NOTICE OF LAND DEVELOPMENT APPLICATION IN THE STELLENBOSCH MUNICIPAL AREA

LAND USE APPROVAL PROCESS FOR THE REZONING OF ERF 3098, KAYAMANDI FROM AGRICULTURE AND RURAL ZONE TO EDUCATION ZONE

Application Address:	**1937 Snake Valley Street, Kayamandi, Stellenbosch, 7615.**
Applicant:	**Sustainable Planning Solutions** **Email: admin@sp-solutions.co.za** **Tel: 021 300 6384**
Owner:	**Dept. of Transport & Public Works- Western Cape**
Application Reference:	**LU/15489 (TP344/2023)**

Description of land development application:

Application made in terms of Section 15(2) (a) of the Stellenbosch Municipality's Land Use Planning By-Law (2015) for the rezoning of erf 3098, Kayamandi from Agriculture and Rural Zone to Education Zone for the regularisation of the existing Education Uses.

Notice is hereby given in terms of the said Bylaw that the above-mentioned application has been submitted to the Stellenbosch Municipality for consideration. The application is available for inspection on the Planning Portal of the Stellenbosch Municipal Website for the duration of the public participation process at the following address: https://www.stellenbosch.gov.za/planning/documents/planning-notices/land-use-applications-advertisements. If the website or documents cannot be accessed, an electronic copy of the application can be requested from the Applicant.

Written comments, which must include the reference to the application, the name, contact details and physical address of the person to submit the comments, the reasons for the comments, and the interest of the person in the application, may be submitted in terms of Section 50 of the said Bylaw to the Applicant by electronic mail as follows: **Sustainable Planning Solutions – email: admin@sp-solutions.co.za**. By lodging an objection, comment or representation, the person doing so acknowledges that information may be made available to the public and to the applicant.

The comments must be submitted within 30 days from the date of this notice to be received on or before the closing date of **04 September 2023.**

For any enquiries on the Application or the above requirements, or if you are unable to write and /or submit your comments as provided for, you may contact the Applicant for assistance at the e-mail address provided or telephonically at **(tel: 021 300 6384)** during normal office hours**.** (8am till 5pm, Monday till Friday)**.**

KENNISGEWING VAN GRONDONTWIKKELINGSAANSOEK IN DIE STELLENBOSCH MUNISIPALE AREA

GRONDGEBRUIK GOEDKEURINGSPROSES VIR DIE HERSONERING VAN ERF 3098, KAYAMANDI VANAF LANDBOU EN LANDELIKE SONE NA ONDERWYSSONE

Adres van eiendom:	**1937 Snake Valley Street, Kayamandi, Stellenbosch, 7615**
Aansoeker:	**Sustainable Planning Solutions** **Epos: admin@sp-solutions.co.za** **Tel: 021 300 6384**
Eienaar:	**Dept. van Vervoer en Openbare Werke- Wes-Kaap**
Aansoek Verwysing: LU/ :	**LU/15489 (TP344/2023)**

Beskrywing van grondontwikkelingsaansoek:

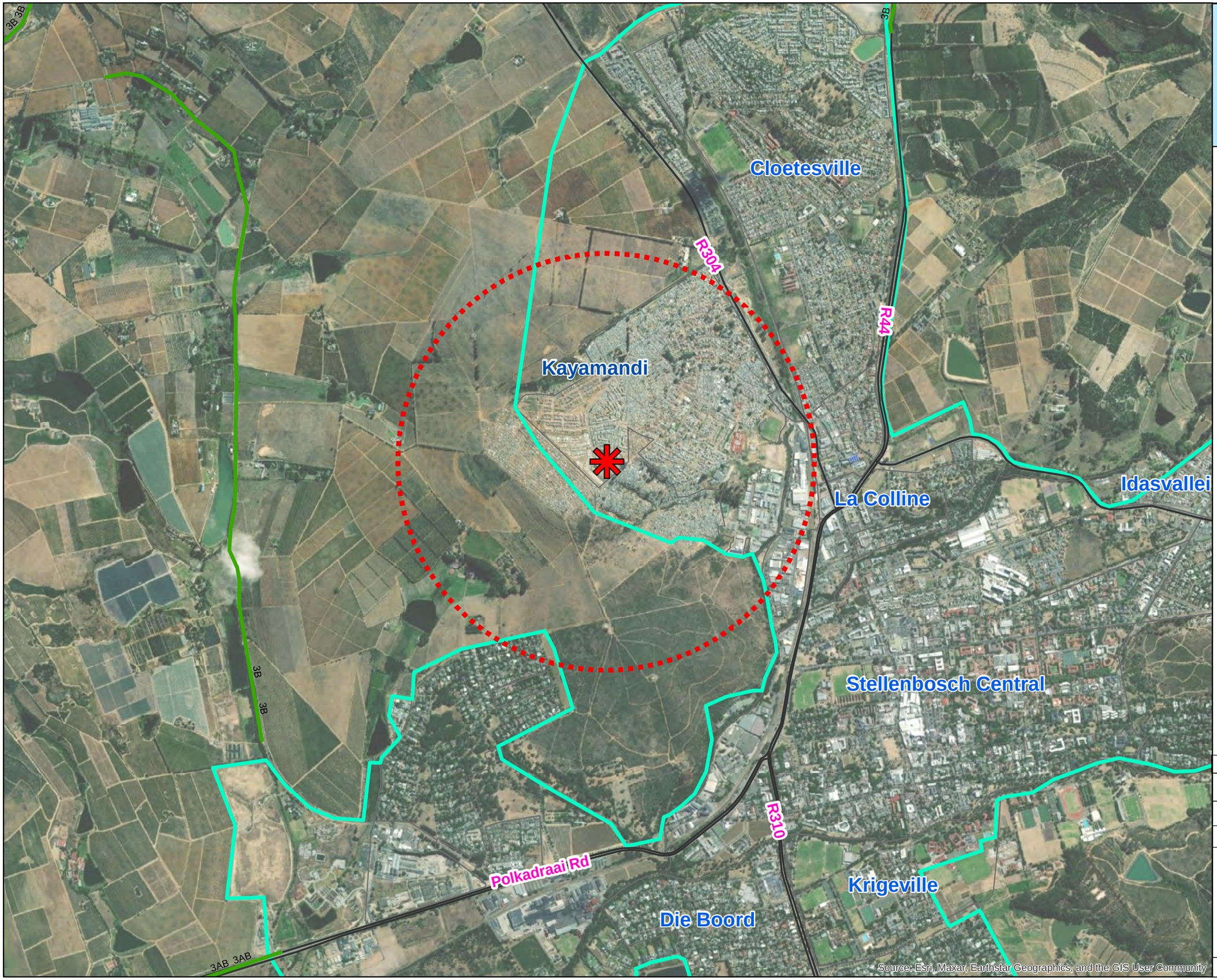
Aansoek gedoen ingevolge Artikel 15(2) (a) van die Stellenbosch Munisipaliteit se Verordening op Grondgebruikbeplanning (2015) vir die hersonering van erf 3098, Kayamandi vanaf Landbou en Landelike Sone na Onderwys Sone vir die regularisering van die bestaande onderwysgebruik.

Kennis word hiermee gegee in terme van die genoemde Verordeninge dat bovermelde aansoek by die Stellenbosch Munisipaliteit ingedien is vir oorweging. Die aansoek is beskikbaar vir insae op die Beplannings Portaal van die Stellenbosch Munisipaliteit se Webtuiste vir die tydsduur van die publieke deelname proses by die volgende adres: https://www.stellenbosch.gov.za/planning/documents/planning-notices/land-use-applications-advertisements. Indien die webtuiste of tersaaklike dokumente nie toeganglik is nie, kan die Aansoeker versoek word om 'n elektroniese kopie beskikbaar te stel.

Skriftelike kommentaar, wat besonderhede ten opsigte van die verwysings nommer van de aansoek, die name, fisiese adres en kontak besonderhede van die persoon wat die kommentaar lewer, die redes vir die kommentaar, en die belang van die persoon wat die kommentaar lewer in die aansoek, kan ingedien word in terme van Artikel 50 van genoemde Verordeninge aan die Aansoeker by wyse van elektroniese pos as volg: : **Sustainable Planning Solutions – epos: admin@sp-solutions.co.za**.. Deur 'n beswaar, kommentaar of vertoë te rig, erken die persoon wat dit doen dat inligting aan die publiek en aan die aansoeker beskikbaar gestel kan word.

Die kommentaar moet binne 30 dae vanaf dies datum van hierdie kennisgewing gestuur word en moet ontvang word voor of op die laaste dag van die sluitings datum van **04 September 2023.**

Indien daar enige navrae op die aansoek of bovermelde vereistes vir die lewer van kommentaar is, of indien dit nie moontlik is om geskrewe kommentaar te lewer of die kommentaar op die wyse te lewer soos voorsienning gemaak is nie, kan die Aansoeker geskakel word vir bystand by die vermelde elektroniese pos adres of telefonies by **(tel: 021 300 6384)** gedurende normale kantoor ure (8vm tot 5nm, Maandag tot Vrydag).



Legend

- Study Area
- 2.5 km radius
- Scenic Routes
- Major Roads
- Urban Edge

Ref. Stellenbosch Municipality 2020 GIS Data

SCALE at A3 1: 20 000

0 0,15 0,3 0,6 Kilometers

N

Kayamandi Primary School

Fig 2: Local Context

SUSTAINABLE PLANNING SOLUTIONS
Professional Town & Regional Planners

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Email: candice@sp-solutions.co.za Skype: candice.maasdorp.theron
Website: www.sp-solutions.co.za

Project ref #: 14 037

15 March 2023

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Professional Town & Regional Planners

KAYAMANDI PRIMARY SCHOOL

REZONING APPLICATION

MARCH 2023

KAYAMANDI PRIMARY SCHOOL

ERF 3098, KAYAMANDI

APPLICATION FOR THE REZONING IN TERMS OF SECTION 17 OF THE STELLENBOSCH MUNICIPAL PLANNING BY-LAW (2015)

PREPARED BY:

SUSTAINABLE PLANNING SOLUTIONS
Professional Town & Regional Planners

Unit 10, 10 Plein Street, Durbanville
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Contact Persons:

CANDICE MAASDORP Pr. Pln. A1224/2002
Email: candice@sp-solutions.co.za

PREPARED FOR:

AFROTEQ ADVISORY (PTY) LTD

ON BEHALF OF

WESTERN CAPE GOVERNMENT:
DEPARTMENT OF TRANSPORT AND PUBLIC WORKS

afroteq

Western Cape Government

Project Ref. 14.037 **MARCH 2023**

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1. INTRODUCTION

1.1 PROJECT BACKGROUND

Sustainable Planning Solutions has been appointed by the Afroteq Advisory Pty Ltd, on behalf of the Western Cape Government Department of Transport and Public Works (DTPW) to undertake land use approval process for the ***rezoning of erf 3098, Kayamandi from Agriculture and Rural Zone to Education Zone***, which accommodates the Kayamandi Primary School.

See **Annexure 1** for the Power of Attorney and **Annexure 2** for the Land Use Application Form.

This school can be found in Kayamandi, a residential township on the outskirts of Stellenbosch, and is one of four schools located in Kayamandi. Two of these are primary schools whilst the remaining two are secondary schools.

Kayamandi Primary School is located on erf 3098, Kayamandi, on the corners of Winnie Mandela Drive and Luyolo Street.

Ownership of erf 3098, Kayamandi, lies with the Provincial Government of the Western Cape. Refer to **Annexure 3** for the Windeed Report.

The purpose of this motivational report is to apply for the rezoning of erf 3098, Kayamandi, from Agriculture and Rural Zone to Education Zone, in terms of section 17 of the Stellenbosch Municipal Planning By-Law (2015).

1.2 PRE-APPLICATION CONSULTATION

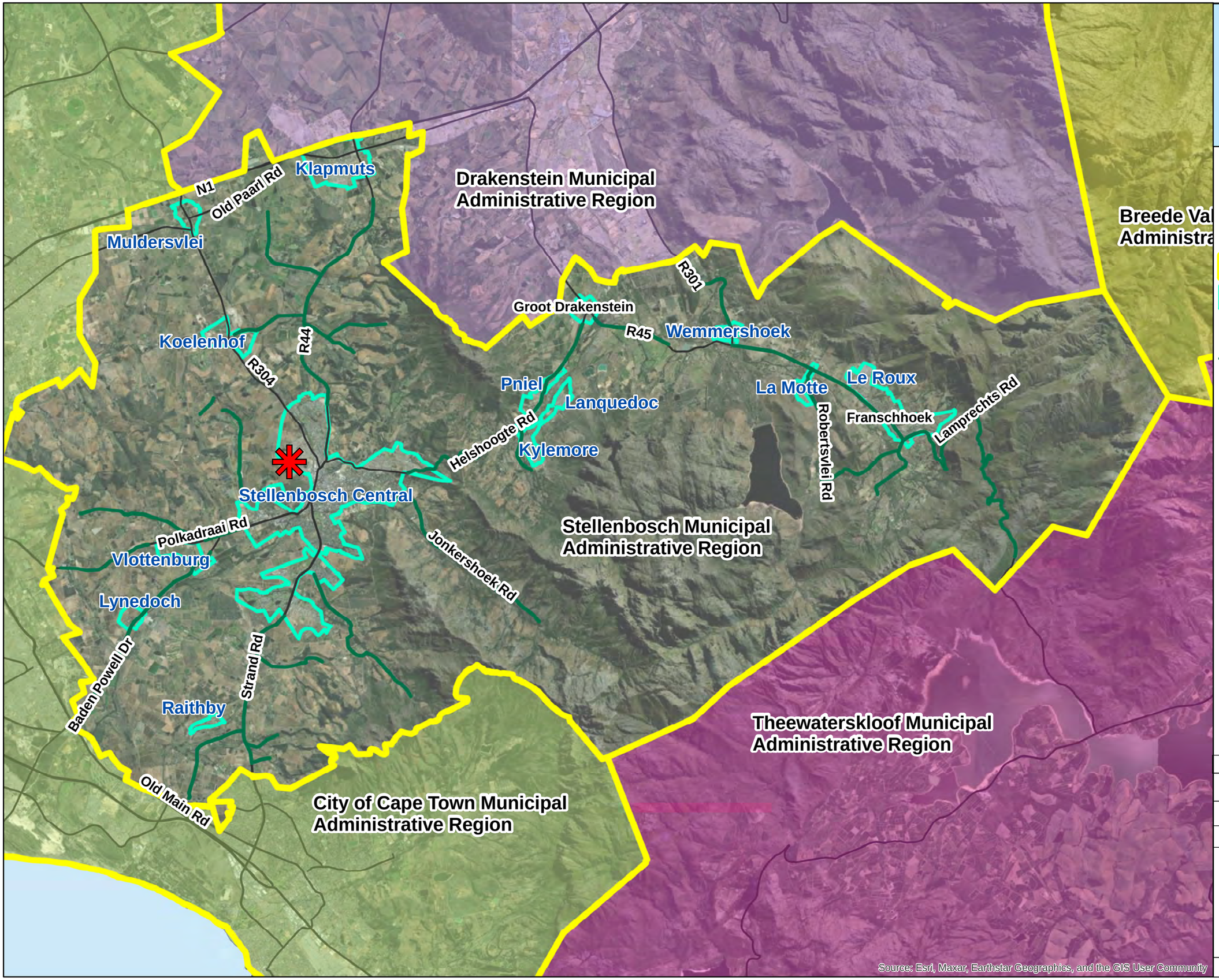
An application for a pre-application consultation meeting was submitted to the Stellenbosch Municipality's Land Use Management Department. In summary, the department (including spatial planning) supports the proposal for the rezoning and have pertinently indicated that an application for the deviation from the SDF **will not be** required (despite it being in conflict with this local policy document). Please refer to **Annexure 4** for this department's detailed response.

1.3 SITE LOCATION

The subject property (Erf 3098) is located in the Stellenbosch Municipal Area. Locally, the Kayamandi Primary School site can be found on the corners of Winnie Mandela Drive and Luyolo Street in Kayamandi.

Please refer to **Figures 1** and **2** for an illustration of the Municipal and Local Context of the site.

Figures 3 and **4** depict the aerial photograph and the Property Concerned plan, respectively.



Legend

- Study Area
- Municipal Boundaries
- Urban Edge
- Sea
- Scenic Routes

Ref. Stellenbosch Municipality 2020 GIS Data

SCALE at A3 1: 150 000

0 1 2 4 Kilometers

N

Kayamandi Primary School

Fig 1: Municipal Context

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Professional Town & Regional Planners

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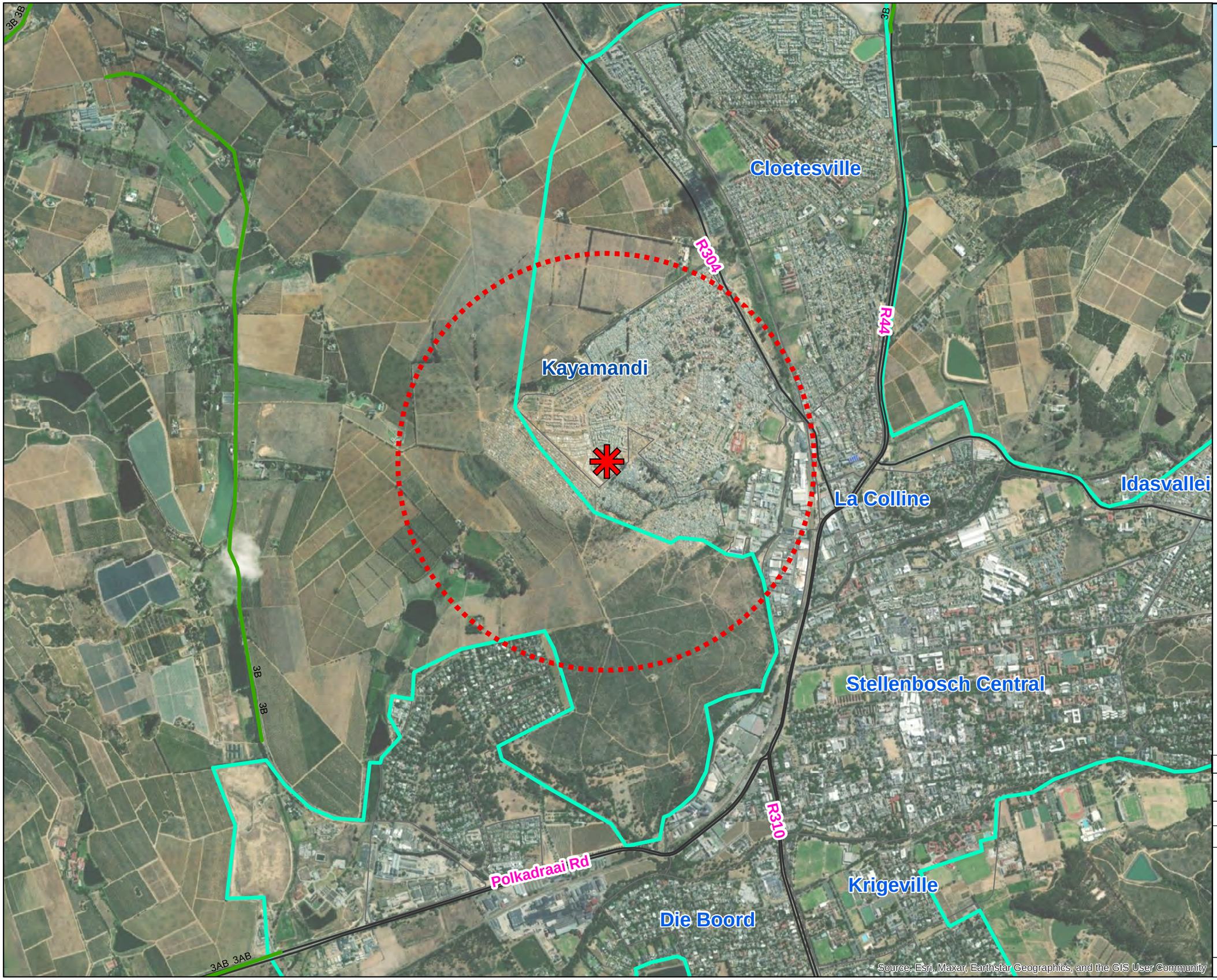
Project ref #: 14 037

15 March 2023



Legend

- Study Area
- 2.5 km radius
- Scenic Routes
- Major Roads
- Urban Edge

Ref. Stellenbosch Municipality 2020 GIS Data

SCALE at A3 1: 20 000

0 0,15 0,3 0,6 Kilometers

N

Kayamandi Primary School

Fig 2: Local Context

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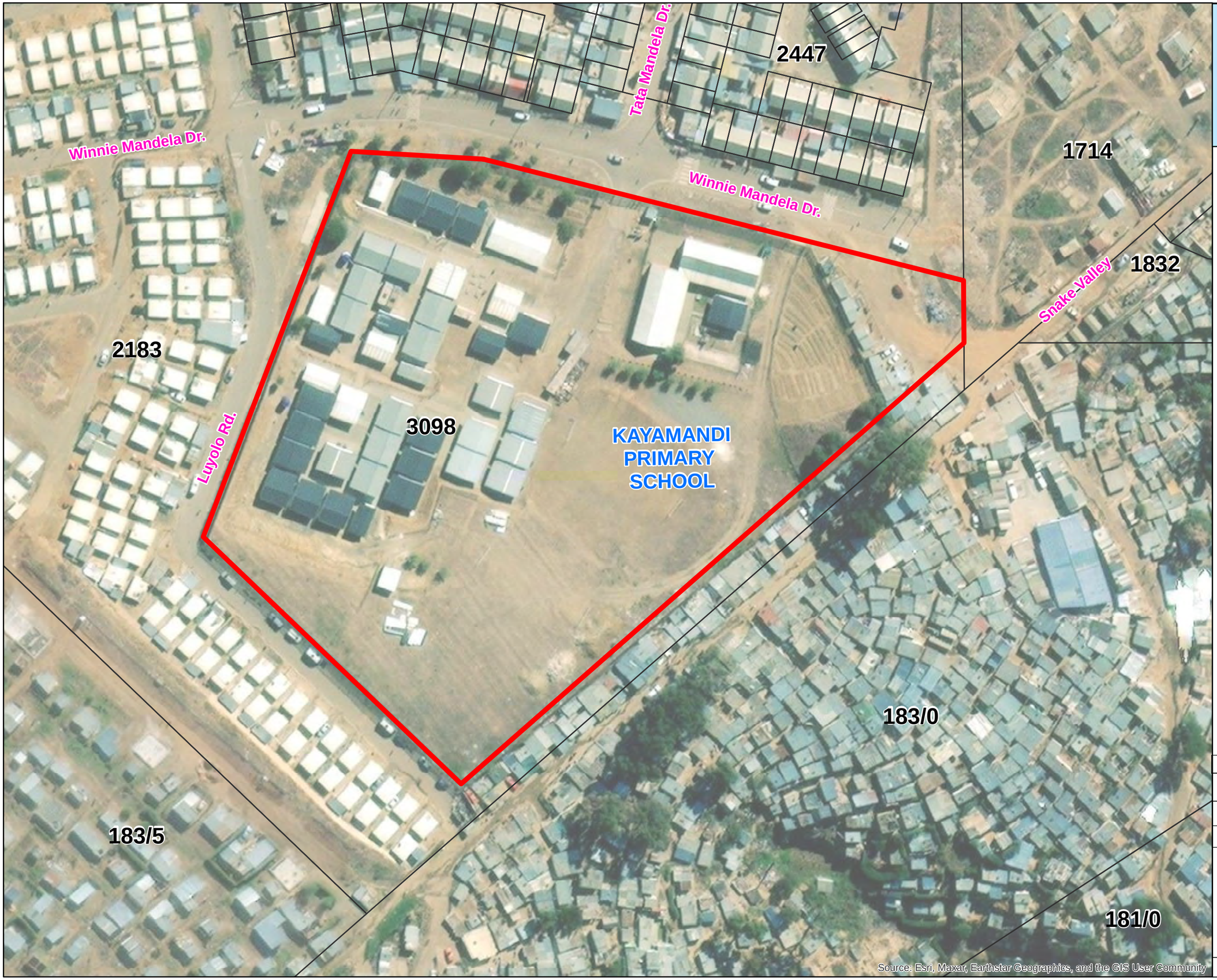

Legend

- Study Area
- Cadastral

Ref. Stellenbosch Municipality 2019 GIS Data

SCALE at A3 1:1000

0 0,0075 0,015 0,03 Kilometers

N

Kayamandi Primary School

Fig 3: Aerial

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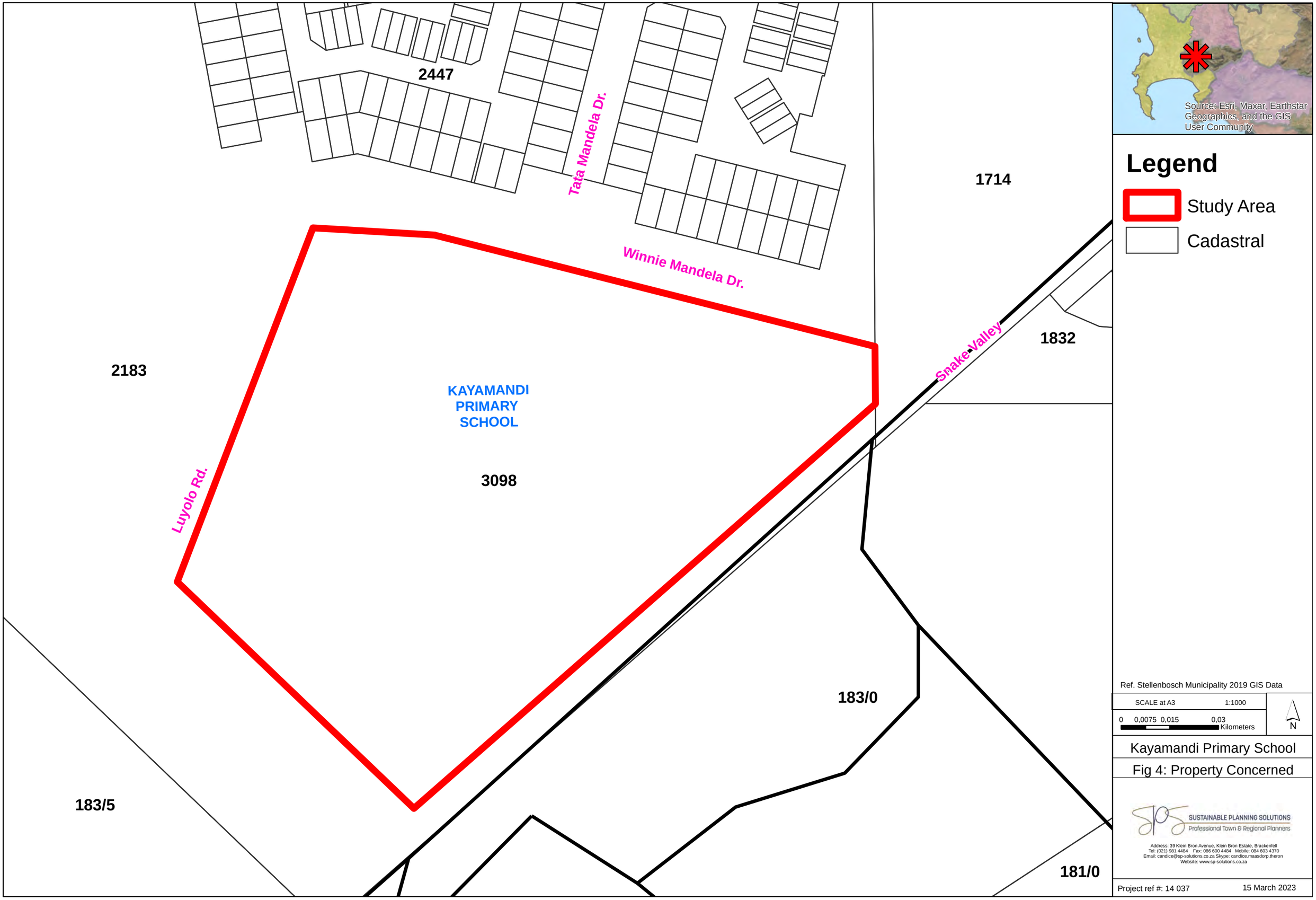

Legend

- Study Area
- Cadastral

Ref. Stellenbosch Municipality 2019 GIS Data

SCALE at A3 1:1000

0 0,0075 0,015 0,03 Kilometers

N

Kayamandi Primary School

Fig 4: Property Concerned

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15 March 2023

1.4 PROPERTY DETAILS

The property is bound by Winnie Mandela Drive (north) and Luyolo Street (west). Please refer to **figure 4** for the Property Concerned plan.

The following section provides a detailed summary of the basic land and legal information:

PROPERTY DESCRIPTION	**Erf 3098, Kayamandi**
REGISTERED OWNER	Dept. of Transport & Public Works- Western Cape (Refer to **Annexure 3** for Windeed Property report)
PHYSICAL ADDRESS	**1937 Snake Valley Street, Kayamandi, Stellenbosch, 7615**
TITLE DEED	T16622/2014 (Refer to **Annexure 5** for Title Deed)
TITLE DEED RESTRICTIONS	There is 1 title deed condition impacting the property. Refer to **Annexure 6** for Conveyancing certificate.
EXTENT OF ERF	2,2035ha (See SG diagram – **Annexure 7)**
SG INFORMATION	S.G No. 7323/46 (Refer to **Annexure 7** for SG diagram).
APPLICABLE ZONING SCHEME	Stellenbosch Municipality Zoning Scheme By-Law, 2019
CURRENT ZONING	Agricultural and Rural Zone (AR) Refer to **figure 5** for Zoning map.
CURRENT LAND USE	School buildings with ancillary buildings and uses such as a parking area, sporting facilities (netball courts/tennis courts, kickabout area, etc). Refer to **figure 6** for the Land Use Plan.

1.5 NATURE OF THE APPLICATION

REZONING

Application in terms of Section 17 of the Stellenbosch Municipality's Planning By-Law (2015) for the rezoning of erf 3098, Kayamandi (Stellenbosch) to Education Zone.

2. LEGAL FRAMEWORK

In South Africa, decisions to all planning proposals and land use applications are assessed on their compliance to the relevant statutory and policy framework.

In Stellenbosch, land development is assessed and authorized by the local municipality who base decisions on the applicable legislation that set out the process (to be followed) and criteria (to be applied) for final decision-making.

The following legislation is applicable for development applications in Stellenbosch:

Applicable legislation	
National	• National Heritage Resource Act (Act 25 of 1999) • National Environmental Management Act (NEMA), (Act 107 of 1998)
Municipal	• Stellenbosch Municipal Planning By-Law (2015)

2.1 STELLENBOSCH MUNICIPAL PLANNING BY-LAW (2019)

The STELLENBOSCH Municipal Planning By-Law (2019) aims to regulate the use and development of land within the geographical area of Stellenbosch. This legislation applies to all property owners including the State. This By-law assists the municipality to control and manage planning matters within its area. It also stipulates the legal process which all land use applications are to follow and be dealt with.

To enable the regularisation of Erf 3098, Kayamandi, it is recommended that an application for the rezoning of the property in terms of this By-Law, be undertaken. **The *application for the rezoning of land is made in terms of section 17 of the Stellenbosch Municipal By-Law (2015).***

2.2 NATIONAL HERITAGE RESOURCE ACT (Act 25 of 1999)

This legislation *"aims to promote good management of the national estate, and to enable and encourage communities to nurture and conserve their legacy."*[1]

Section 38 lists a host of development categories which, if pursued, requires that the responsible heritage resources authority, Heritage Western Cape (HWC), be notified.

[1] Source: National Heritage Resource Act (Act 25 of 1999).

Since the extent of this property exceeds 10'000sqm and the proposed land use process is to include a rezoning of the property, Section 38 of this Act will be triggered. This implies that an application for a Notice of Intent to Develop (NID), will be required.

2.3 NATIONAL ENVIRONMENTAL MANAGEMENT ACT (NEMA), (Act 107 of 1998) and ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS

The NEMA EIA Regulations identify certain activities that may be detrimental to the environment.

The proposed rezoning process for the subject property is not identified as a listed activity and since the site has already been developed (the school), the EIA Regulations are not triggered. There is therefore no need for an environmental assessment.[2]

2.4 SUMMARY: LEGAL FRAMEWORK

There is a legal requirement for the management of land development and city growth to promote a diversity of land uses and that each application must be assessed on its own merits. As mentioned above, The By-law sets out the tests for the desirability of land use applications and makes the point that applications can only be refused on the basis of lack of desirability of the contemplated utilization of land.

[2] Source: National Environmental Management Act (Act 107 of 1998).

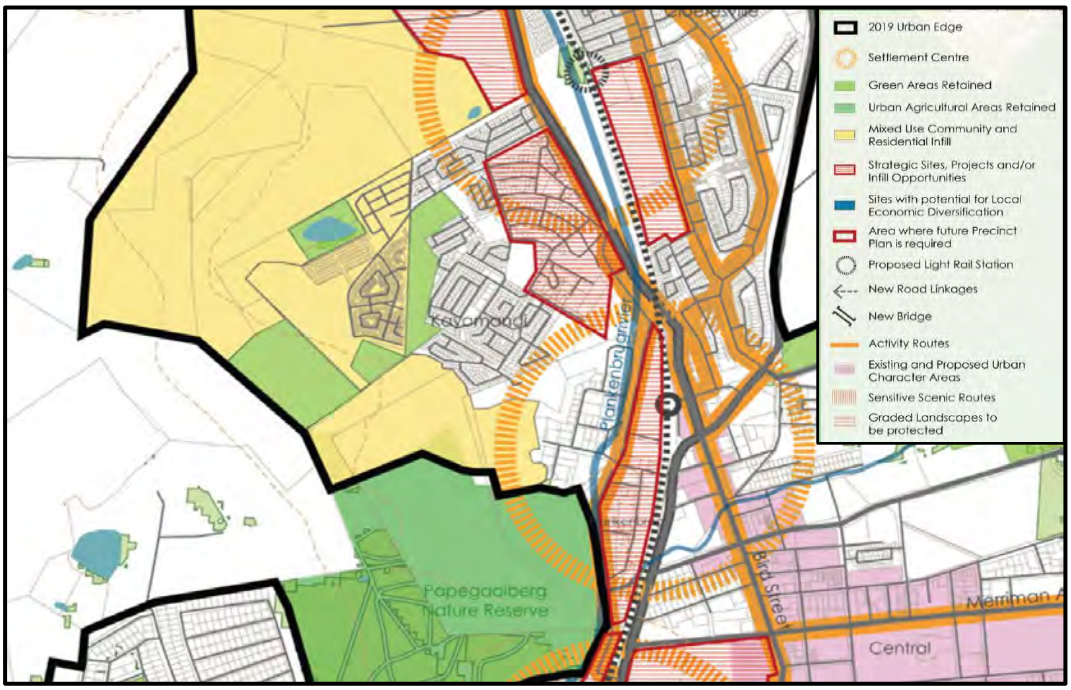
3. POLICY FRAMEWORK

This section identifies the relevant planning policies that must be considered. It also reaffirms the point that should the rezoning be submitted, this would be desirable from a policy perspective and, thus, the land use applications cannot be refused based on desirability and impact on existing use rights.

3.1 STELLENBOSCH MUNICIPALITY SPATIAL DEVELOPMENT FRAMEWORK (2019)

As quoted from the SDF (2019), the Stellenbosch Municipality's Spatial Development Framework aims to:

- enable a vision for the future of the municipal area based on evidence, local distinctiveness, and community derived objectives;
- Translate this vision into a set of policies priorities, programmes and land allocations together with the public sector resources to deliver them.
- Create a framework for private investment and regeneration that promotes economic, environmental and social well-being.
- Coordinate and deliver the public-sector components of this vision for other agencies and processes to ensure implementation.



Extract from Stellenbosch Municipality Spatial Development Framework, 2019

The Stellenbosch SDF (2019) designates the area as ***Green Areas to be retained***. See extract from the SDF below.

3.2 SUMMARY OF POLICY FRAMEWORK

In terms of the Stellenbosch Municipality Spatial Development Framework (2019) the site falls within the urban edge and is designated as "***Green areas to be retained***".

Although the site is already developed for a school (prior to the approval of the SDF), the school site does not find support in the SDF (2019) due to this evident conflict between the approved spatial planning policy and the current use of the site.

However, based on the feedback from the Land Use Management and Spatial Planning Department (following our request for a pre-app consultation meeting), it has been stated in a response email that an application for the deviation of the SDF is NOT REQUIRED. Please refer to Annexure 4.

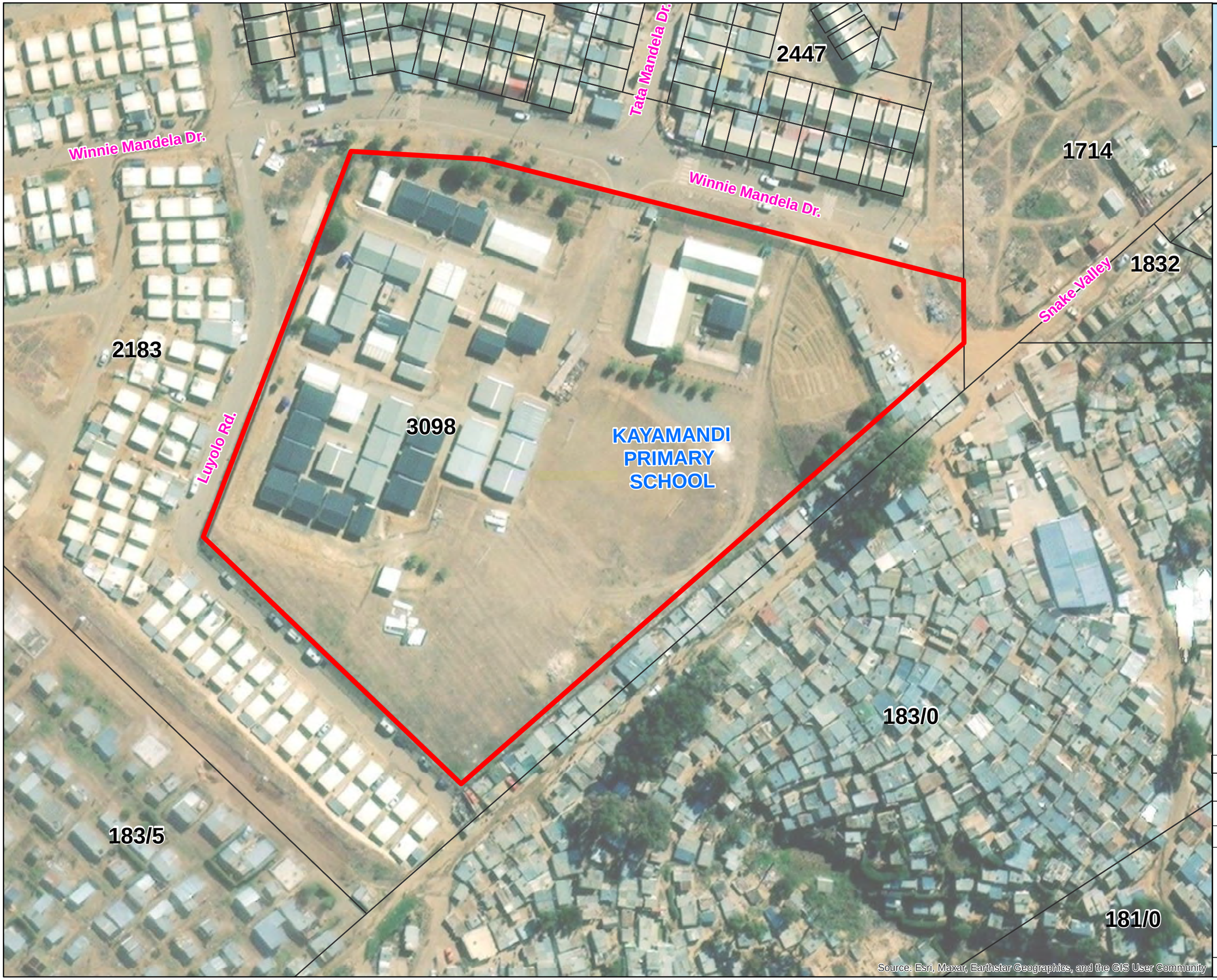
4. SITE CONTEXTUAL ANALYSIS

This section will assess the subject property in relation to the surrounding urban context and highlight the implications of the land use application (rezoning).

4.1 PROPERTY CONCERNED

The table below highlights the erven and extent constituting the Kayamandi Primary school site. Refer to **Figure 3: Aerial Photograph** and **Figure 4: Property concerned.**

ERF NR.	EXTENT (ha)
Erf 3098	2,2035ha
Total	2.2035ha



Legend

- Study Area
- Cadastral

Ref. Stellenbosch Municipality 2019 GIS Data

SCALE at A3 1:1000

0 0,0075 0,015 0,03 Kilometers

N

Kayamandi Primary School

Fig 3: Aerial

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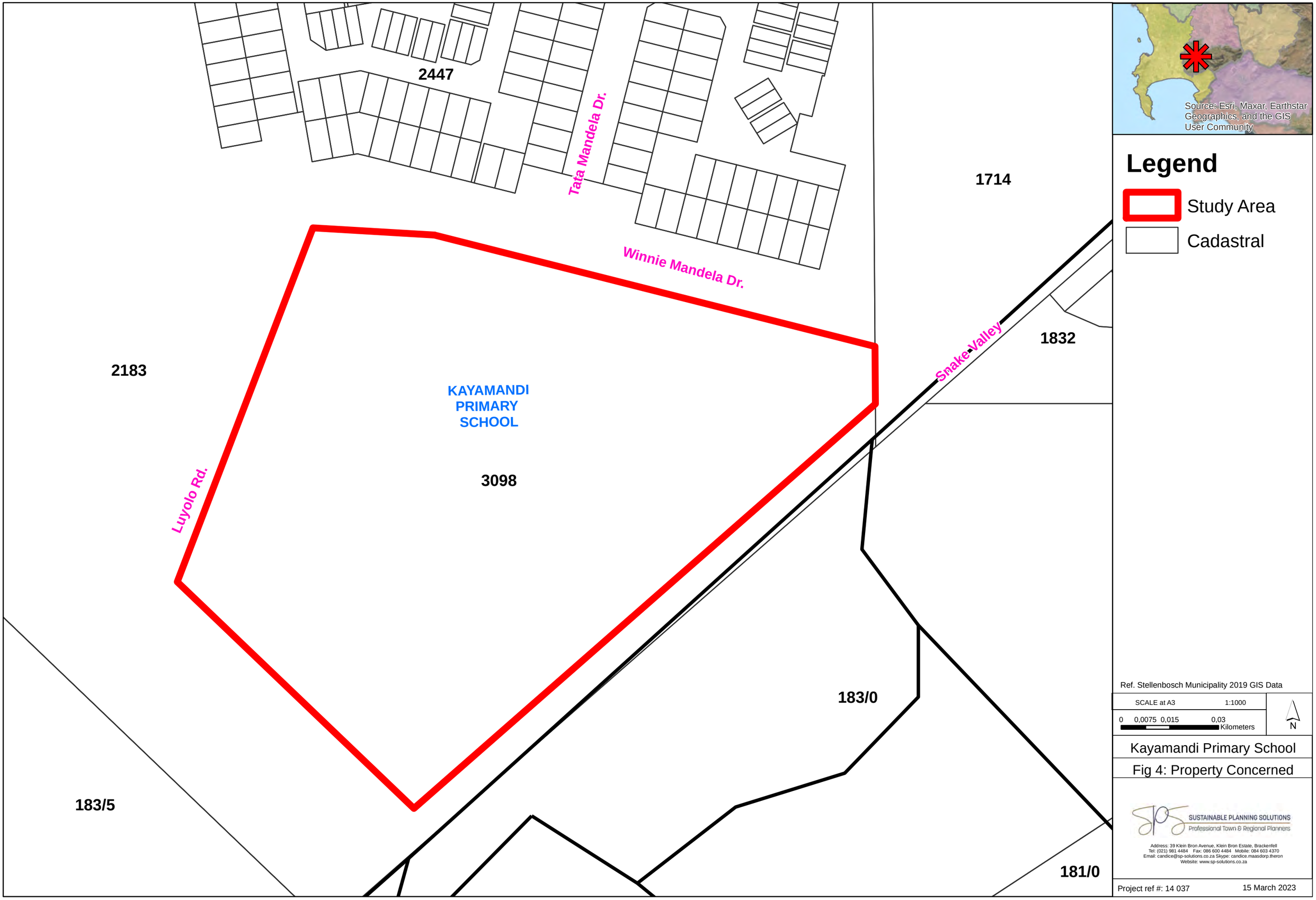

Legend

- Study Area
- Cadastral

Ref. Stellenbosch Municipality 2019 GIS Data

SCALE at A3 1:1000

0 0,0075 0,015 0,03 Kilometers

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Kayamandi Primary School

Fig 4: Property Concerned

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Project ref #: 14 037

15 March 2023

4.2 REGISTERED DESCRIPTION AND OWNERSHIP

4.2.1 OWNERSHIP

Ownership of erf 3098, Kayamandi lies with the Provincial Government of the Western Cape.

Please refer to **Annexure 3** for the Windeed Property Information report.

4.2.2 TITLE DEED INFORMATION

The table below highlights the title deed information and restrictive conditions contained in the title deed. Refer to **Annexure 5** for **title deed**.

ERF NR.	TITLE DEED	EXTENT	RESTRICTIVE CONDITIONS
Erf 3098	T16622/2014	2,2035ha	YES (refer to paragraph 4.2.3)

The **TITLE DEED** describes the subject property as follows:

Erf 3098 (a Portion of Erf 2183) KAYA MANDI

in the Municipality and Division of STELLENBOSCH,

Province of the WESTERN CAPE

IN EXTENT: 2,2035 (TWO COMMA TWO ZERO THREE FIVE) HECTARES

4.2.3 TITLE DEED RESTRICTIVE CONDITIONS

There is one title deed condition, which the conveyancing attorney has found to be restrictive on a particular section of the property. Upon researching the pivot deed T9729/1938, the following condition, in favour of the Municipality of Stellenbosch, was found to be limiting:

"*That a strip of land 20 feet wide along the boundary q.p. of the property hereby transferred, shall not be cultivated by the said Transferee, and shall be kept free from any trees, bushes or any growth, but the said transferee shall, however, have the right to use the strip of land for road purposes*."

Please refer to **Annexure 6** for the conveyancing certificate and **figure 5: Conveyancing Plan**.

Legend

- Study Area
- Area bound by title deed conditions

Ref. Stellenbosch Municipality 2019 GIS Data

SCALE at A3 1:800

0 0,0075 0,015 0,03 Kilometers

N

Kayamandi Primary School

Fig 5: Conveyancing

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Website: www.sp-solutions.co.za

Project ref #: 14 012

1 September 2022

4.3 S.G DESCRIPTION

The description of erf 3098, Kayamandi as per the erf diagram is as follows:

Erf 3098 A portion of Erf 2093 Kaya Mandi
Situate in the Municipality and Administrative District of Stellenbosch
Province of the Western Cape

Refer to **Annexure 7** for the SG Diagrams**.**

4.4 ZONING AND STELLENBOSCH DEVELOPMENT MANAGEMENT SCHEME

4.4.1 ZONING

The subject property is subject to the parameters of the Stellenbosch Municipality's Zoning Scheme By-Law (2019).

Erf 3098, Kayamandi, is zoned as ***Agriculture and Rural Zone (AR)*.**

In terms of the By-Law (2019), the purpose of the Agriculture Rural (AR) zone is as follows:

To make provision for:

(a) The protection and preservation of agricultural land, rural landscapes and biodiversity;
(b) Use of land for purposes of bona fide agricultural production or conservation.
(c) Buildings and structures which may be erected for reasonable and normal agricultural purposes;
(d) A limited range of other ancillary uses which may take place on agricultural land units, either as additional rights or with the consent of the Municipality and which provides for more intensive agricultural use, agricultural industry or tourism which has the objective of creating variety, ensuring suitability and providing diversified income to land owners, without adversely impacting on the primary use of the land unit for agricultural purposes.

The following uses are permitted in this zone:

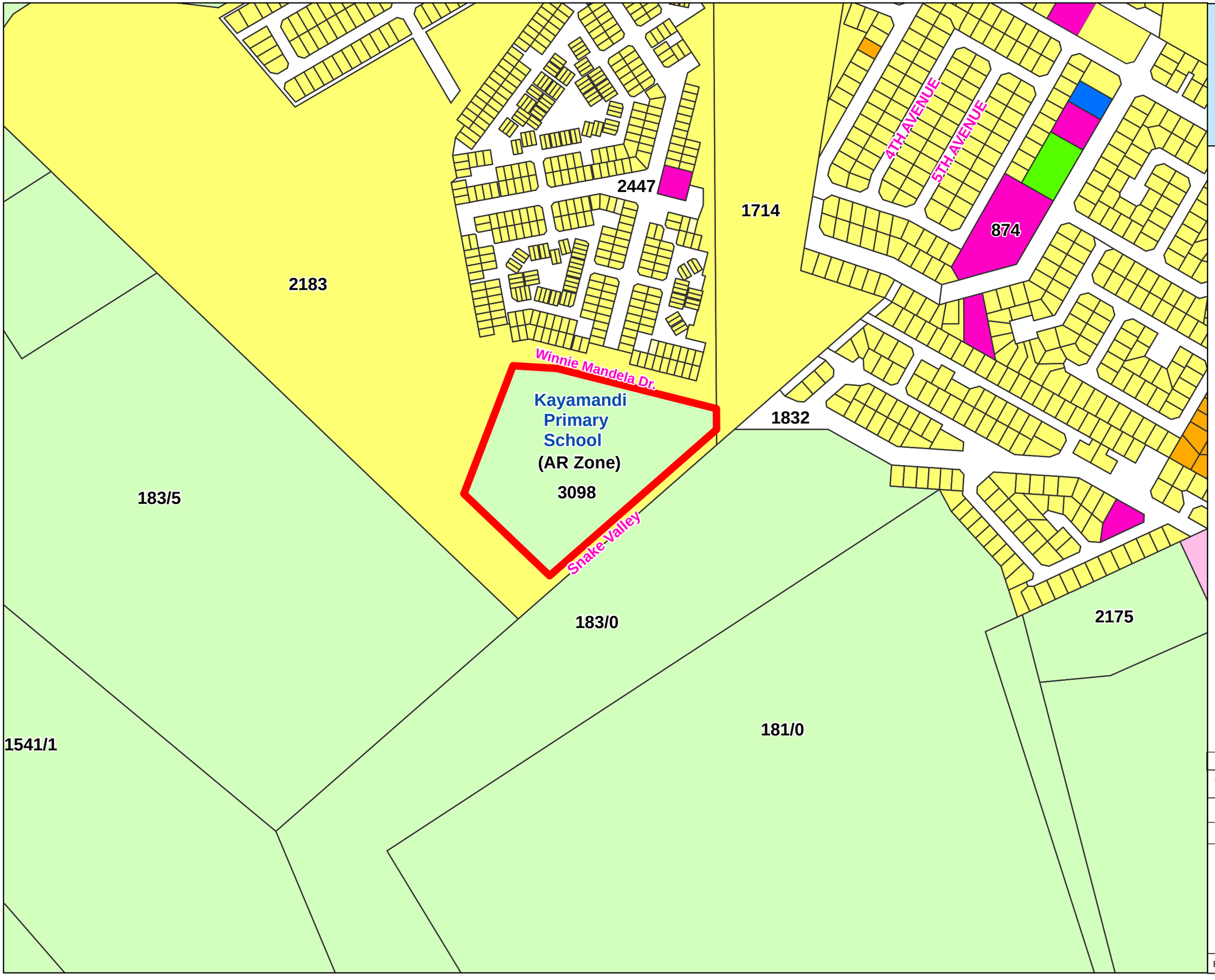
201. Land use within this zone

(1) The following land uses are permitted in this zone:

Primary Uses	Additional Uses (not exceeding threshold in this chapter and subject to technical approval)	Consent Uses (Application required)
• Agricultural building (≤2000m²) • Agriculture • Dwelling house • Forestry • Natural environment • Occasional use (one event/year) • Private road • Polytunnel (≤2000m²) • Second dwelling • Employee housing (one unit)	• Agricultural building (>2000m²) • Agricultural industry (<2000m²) • Bed and breakfast establishment • Employee housing (exceeding one unit) • Guest house • Home day care centre • Home occupation practice • Polytunnel (≥2001m² and ≤5000m²) • Rooftop base telecommunication station • Tourist dwelling units • Tourist facility (existing buildings)	• Abattoir • Additional dwelling units (max 4) • Airfield • Airstrip • Agricultural industry (≥2000m²) • Camping site • Day care centre • Freestanding base telecommunication station • Helicopter landing pad • Intensive feed farming • Kennel • Market • Occasional use (> one event/year) • Plant nursery • Polytunnel (>5000m²) • Renewable energy structure • Service trade • Tourist accommodation establishment • Tourist facility (new buildings or exceeding threshold) • Any additional use exceeding the threshold set out in this chapter

Based on the above information, it is evident that this zoning does not allow for the establishment of schools as a primary right. Refer Figure 6: Zoning Map

A rezoning application is therefore inevitable as part of the compliance process.



Legend

Study Area

Integrated Zoning Scheme

- Conventional Residential Zone
- Less Formal Residential Zone
- Multi-unit Residential Zone
- Community Zone
- Education Zone
- Industrial Zone
- Limited Use Zone
- Local Business Zone
- Mixed Use Zone
- Agriculture and Rural Zone(AR)
- Private Open Space Zone
- Public Open Space Zone
- Public Roads and Parking Zone
- Subdivisional Area
- Transport Facility Zone
- Utility Services Zone
- Natural Environment Zone

Ref. Stellenbosch Municipality 2019 GIS Data

SCALE at A3 1:3000

0 0,025 0,05 0,1 Kilometers

N

Kayamandi Primary School

Fig 6: Zoning

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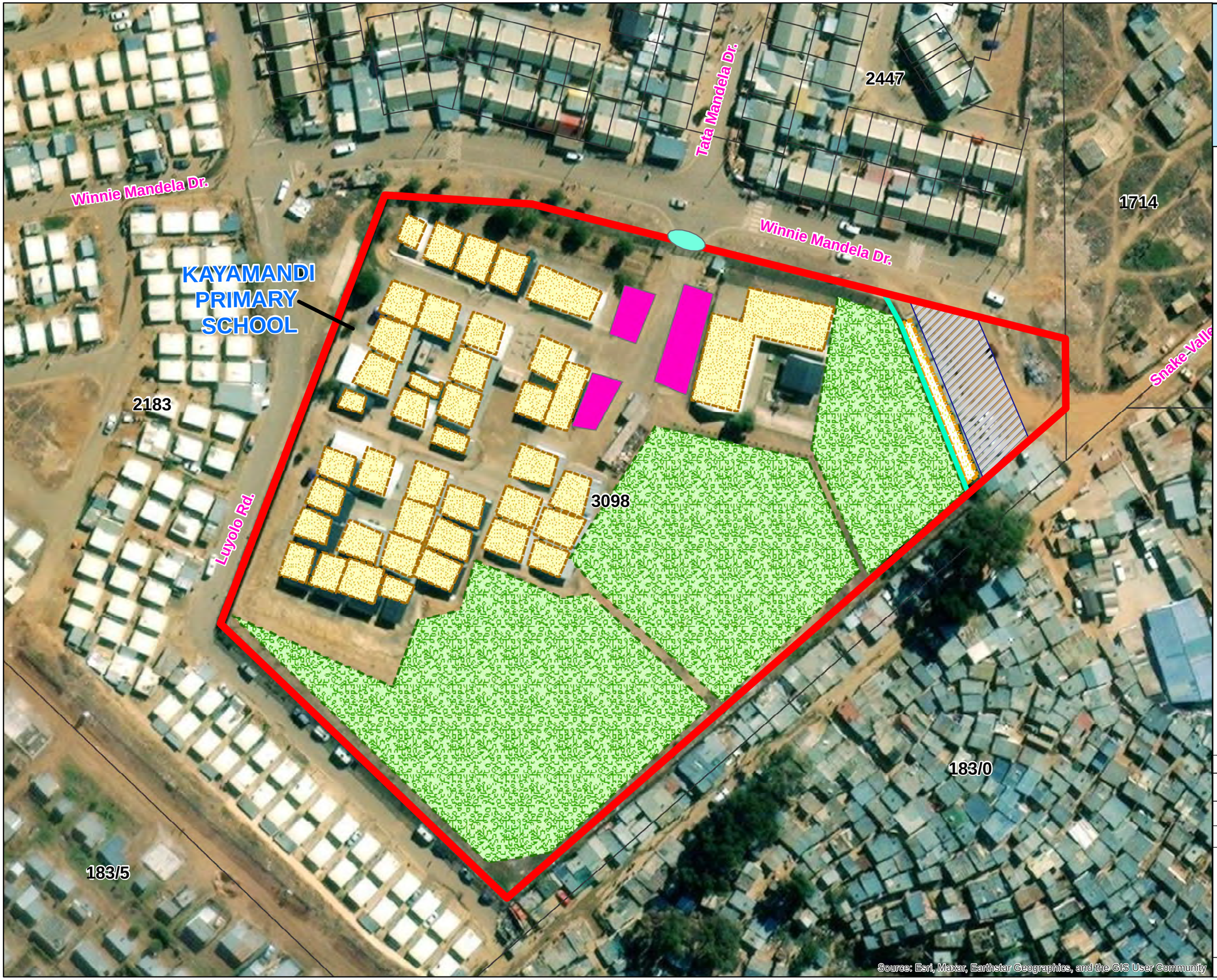
Website: www.sp-solutions.co.za

Project ref #: 14 037 15 March 2023

4.5 LAND USE

The subject property accommodates several of the school's buildings, parking area, sport fields, an undeveloped portion of land which has been noted in the title deed (as a restrictive title deed condition) as a designated no-go area for development.

Refer to **figure 7: land use**, which captures all the existing structures and uses on the subject property.



Legend

- Study Area
- Entrance
- Area used for road purposes
- Parking areas
- Open Space/ Vacant
- Informal Settlements
- Existing buildings
- School boundary

Ref. Stellenbosch Municipality 2019 GIS Data

SCALE at A3 1:900

0 0,005 0,01 0,02 Kilometers

N

Kayamandi Primary School

Fig 6: Land-use Plan

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5. DEVELOPMENT INTENT

5.1 DESCRIPTION OF DEVELOPMENT INTENT

At present, the immediate plans are to ensure that the zoning and use right of erf 3098, Kayamandi, is consistent with each other.

There are no confirmed plans to upgrade or refurbish or expand on the existing building footprint, for the Kayamandi Primary School. However, in order to consider any of these processes a land use application to ensure legal compliance of the property, is critical. No new building plans will be considered until the correct zoning is in place for erf 3098, Kayamandi. Refer to Figure 8 for the Proposed rezoning Plan.

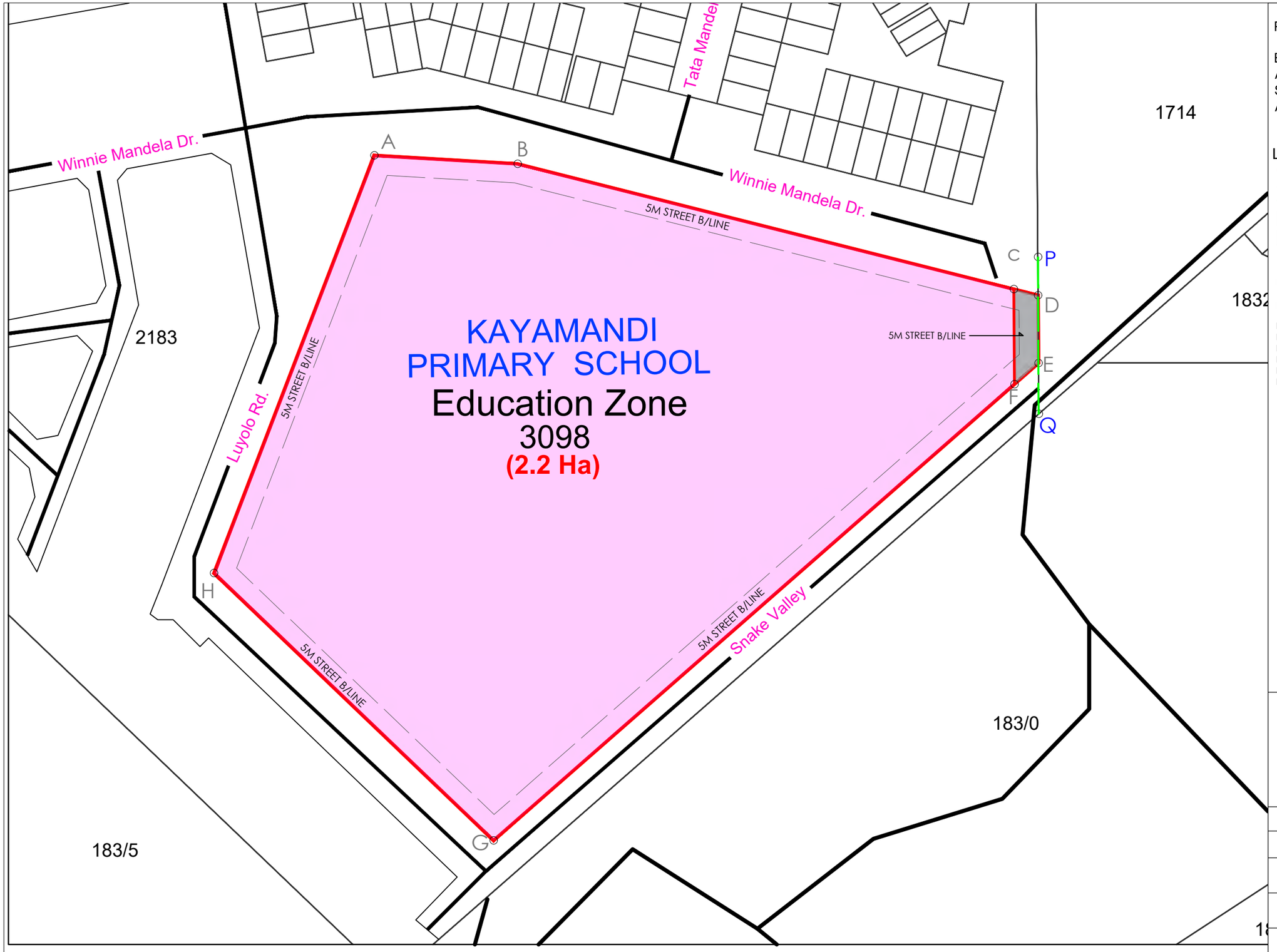
5.2 PROPOSED ZONING

This land use application proposes the change of the zoning, from "***Agriculture and Rural Zone***", to ***Education Zone***. Education zoning is the most appropriate zone to accommodate the school, and can ensure that any future plans for the expansion of the current footprint of the school, is not subject to any delays due to additional land use approval requirements.

As quoted from the Zoning Scheme By-law (2019), the purpose of this zone is described below:

(a) Buildings which are used for all levels of education as defined in this Scheme including tertiary educational institutions such as colleges and universities;
(b) Permitted uses include ancillary uses such as lecture halls and rooms, administrative offices, residential uses, libraries, laboratories, hostels, recreational and sports facilities and any other uses and buildings which may be ordinarily associated with an educational facility and its activities as a diverse multi-faceted learning and research institution.

The envisaged change in zoning shall be accompanied by the following new development parameters that will benefit the Kayamandi Primary School immensely:



Property Detail:

Erf: 3098
Allotment: Stellenbosch
Suburb: Kayamandi
Address: 1937 Snake Valley st.

Legend:
- STUDY AREA
- Cadastral line
- Boundary P.Q.
- Education Zone
- For Road purposes only(6.29m from PQ)

Figure ABCDEF represents the rezoning of erf 3098.

KAYAMANDI PRIMARY SCHOOL.

Line AB = 37.41 m
Line BC= 139.88 m
Line CD= 17.66 m
Line DE= 188.76 m
Line EF= 100.77 m
Line FA= 116.55 m

EDUCATION ZONE		
NEWLY REZONED PORTION		
SITE AREA (2.2 Ha)		**PERMITTED**
COVERAGE (%)		50%
COVERAGE (Ha)		1.1Ha
HEIGHT		3 Storeys
BUILDING LINES	STREET	5M
	COMMON	5M

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Scale: A3 at 1: 1000

0 10 20 30 Meters

Title: PROPOSED REZONING PLAN FIGURE 8

Project: KAYAMANDI PRIMARY SCHOOL

Client: AFROTEQ ADVISORY PTY LTD

Project Nr.	Drawing Nr.	Date:
14.037	14.037_01	15 MARCH 2023

6. FINDINGS AND RECOMMENDATION

6.1 FINDINGS

6.1.1. LEGAL FRAMEWORK

The Stellenbosch Municipality Zoning Scheme By-Law (2019) sets out the development parameters for the proposed zoning.

The Stellenbosch Municipality Planning By-Law (2015) describes the process to be followed for all land use applications.

To ensure legal compliance of the property, the land use application that will achieve this shall include rezoning of the site. Additional statutory processes may include an application for a Notice of Intent to Develop (NID), to Heritage Western Cape.

6.1.2. POLICY FRAMEWORK

The rezoning application (from Agriculture and Rural Zone to Education Zone) does NOT find support in the Stellenbosch Municipality's Spatial Development Framework (2019) as the site is earmarked for "Green areas to be retained".

Notwithstanding the obvious conflict the departments of Spatial Planning and Land Use Management, have agreed to amend the SDF to include the school as part of the urban development footprint without having to pursue a statutory process for the deviation of the SDF; suffice to say that the establishment of the school pre-dates the approval of the SDF.

6.1.3. CONVEYANCING

There is one restrictive condition mentioned in the conveyancing certificate. Please refer to **Annexure 6** for the conveyancing certificate. However. The restrictive title deed condition will not limit any future expansion on the school site. For this reason, the removal of this title deed condition is not necessary. Please refer to figure 5: Conveyancing Plan.

6.1.4. ACCESS AND MOVEMENT

Access to the school site is possible through Winnie Mandela Drive and Luyolo Streets. No access points to and from the Kayamandi Primary school will be negatively affected by proposed land use approval process.

6.1.5. CONFIRMATION OF EXISTING APPROVED DEVELOPMENT RIGHTS

The existing zoning, Agricultural and Rural Zone (AR), is confirmed by virtue of the zoning certificate issued recently. However, the zoning certificate does not indicate whether the existing school is a permissible use on site, nor is there any indication that there is a legal agreement for this property to be used for education purposes.

6.1.6. IMPACT ON EXISTING MUNICIPAL SERVICES AND ENGINEERING SERVICES

Since the school is already operational, there are existing engineering infrastructure sustaining the school. For this reason, it can be assumed that the envisaged land use application (rezoning) will have no negative impact on existing municipal and engineering services.

6.1.7. ENVIRONMENTAL:

Since there is no immediate development intent, this land use approval process does not trigger any of the Listed Activities mentioned.

6.1.8. HERITAGE

Since the property lies in excess of 10'000sqm and the development intent is for rezoning, Section 38 of the Heritage Resources Act (25/1999) is triggered. An Application to HWC will be submitted.

6.2 APPLICABILITY AND COMPLIANCE

The process of consolidating the properties will follow due process in terms of the Stellenbosch Municipal Planning By-Law (2015).

From a ***policy perspective***, the proposed rezoning ***does not support*** in the following spatial planning policies:

In terms of the Stellenbosch Municipality Spatial Development Framework (2019) the site falls within the urban edge and is designated as "Green areas to be retained".

Although the site is already developed for a school (prior to the approval of the SDF), the school site does not find support in the SDF (2019) due to this evident conflict between the approved spatial planning policy and the current use of the site.

However, based on the feedback from the Land Use Management and Spatial Planning Department (following our request for a pre-app consultation

meeting), it has been stated in a response email that an application for the deviation of the SDF is NOT REQUIRED

6.3 DESIRABILITY

The application will be assessed based on the following criteria: the socio-economic impact, compatibility with surrounding land uses, impact on the external engineering services, impact on safety, health and wellbeing of the community, impact on heritage, impact on the biophysical environment, traffic impacts, parking, access, and other transport related conditions.

6.3.1. SOCIO-ECONOMIC IMPACT

The proposed rezoning will not have a negative socio-economic impact. No new work or change in land use is proposed. The existing primary school will remain as is and will continue to provide the services it currently provides.

6.3.2. COMPATIBILITY

The land use will continue to be for educational purposes' as it has always been. This application will merely rezone the property. The proposed rezoning is considered compatible with the existing character of the area. No new work or floor space is proposed as yet.

6.3.3. SAFETY AND WELL-BEING OF THE COMMUNITY

The proposed rezoning will ensure that the existing school continues to operate as it currently does. It will also ensure that any future plans to expand can be accommodated and can be considered appropriately. The proposed rezoning will not negatively affect the health, well-being, and safety of the surrounding community.

6.3.4. TRAFFIC IMPACT

No additional floor space is proposed with the rezoning application and as such, no transport studies are triggered. No parking bays will be demolished. The existing entrances to the primary school will remain. The application will merely change the zoning and ensure compliance with appropriate development parameters.

6.3.5. IMPACT ON BIOPHYSICAL ENVIRONMENT

No additional floor space is proposed. No new construction works are being proposed and as such, the proposed rezoning will not have a negative impact on the biophysical environment.

6.3.6. IMPACT ON EXISTING RIGHTS

No negative impact on the existing rights of surrounding properties is anticipated. No new uses or floor space is proposed. The rezoning application will assist in ensuring that the land use complies with an appropriate zoning (Education Zone).

6.3.7. VEHICULAR AND PEDESTRIAN ACCESS

The school site currently obtains vehicular access via Winnie Mandela Way. The existing vehicular and pedestrian access will remain. No new access points are proposed. The proposed rezoning will not have a negative impact on the existing vehicular and pedestrian access.

6.3.8. ENGINEERING SERVICES

The proposed rezoning will not have a negative impact on the existing engineering services. No new construction works, or floor space have been proposed yet. Engineering services capacity studies are therefore not triggered.

6.3.9. NEED FOR MITIGATING CONDITIONS

The proposed rezoning will not negatively impact the rights of nearby landowners. No land uses or construction work is proposed. The existing school will continue to provide the service it currently provides.

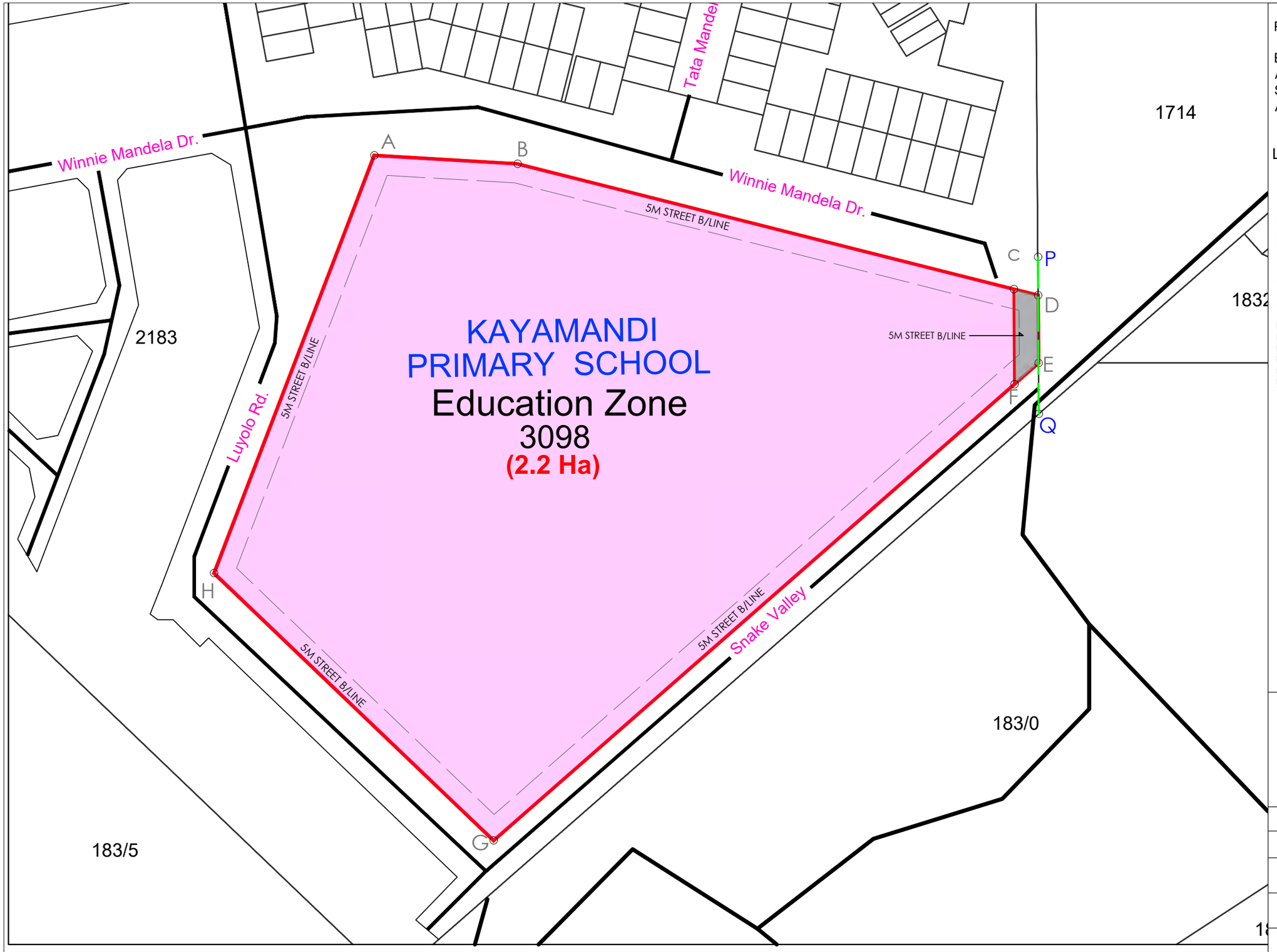
The conditions of the land use approval will be the result of the due process and all the necessary requirements in terms of other legislative processes will be adhered to as required by the process. The application merely aims to rezone the erf from which Kayamandi Primary School operates from.

6.4 RECOMMENDATION AND CONCLUSION

The following statutory process are necessary to accommodate the operations of Kayamandi Primary school. In terms of Section 17 of the Stellenbosch Municipality's Municipal Planning By-law (2015), we respectfully request your office's favourable consideration of this application for the proposed rezoning of erf 3098, Kayamandi.

7. REFERENCES

1. Stellenbosch Municipality, 2015. Stellenbosch Municipality, Land Use Planning By-law ,Cape Town: Provincial Gazette.
2. Stellenbosch Municipality, 2019. Stellenbosch Municipality, Zoning Scheme By-Law, Cape Town Provincial Gazette
3. Stellenbosch Municipality, 2019. Stellenbosch Municipality Spatial Development Framework (2019), Stellenbosch: Stellenbosch Municipality.
4. Republic of South Africa, 1999. *National Environmental Management Act 107 of 1998,* Cape Town: Government Gazette.
5. Republic of South Africa, 1999. *National Heritage Resources Act (Act 25 of 1999),* Cape Town: Government Gazatte.



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