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Queries: Beverley Crouts-Knipe at bcrouts@sahra.org.za

Date: 29 September 2006

Boschendal Limited and Anglo American Farms
c/o Nicolas Bauman & Sarah Winter Heritage Consultants
PO Box 281
MUIZENBERG 7950

ATTENTION: Sarah & Nicolas

Fax 788-2871 & 423-5713

RECORD OF DECISION

APPLICATION FOR THE SUBDIVISION OF ERVEN 1674/2, 1674/5 1674/8 and 1674/9, BOSCHENDAL (IN TERMS OF SECTION 29 OF THE NATIONAL HERITAGE RESOURCES ACT, 25 OF 1999) OF FOUNDERS ESTATES, BOSCHENDAL, DWARS RIVIER VALLEY: STELLENBOSCH MAGISTERIAL DISTRICT

The above mentioned application for the **subdivision** of the above-mentioned erven, which comprise a portion of the Dwarsrivier Valley landscape situated within the Cape Winelands Cultural Landscape, has been reviewed by the SAHRA *ad hoc* Permit Committee (PCM) for the second time at a meeting held on 15 September 2006 at the SAHRA WC, Bo-Kaap office.

The following was noted by the PCM:

1. The previous PCM decision was not a final decision, because SAHRA had requested additional information; and had regarded it as a 'provisional decision'.

2. The HIA has been reviewed and considered by SAHRA and decisions as reflected below have been taken after a lengthy consultation process and the applicant's re-assurance in complying with the conditions and recommendations indicated by SAHRA. Additional limitations and conditions are also indicated below and in the letter dated 15 March 2006.
3. In the absence of a planning framework which does not adequately deal with heritage layering, SAHRA must exercise its discretion, guided by the relevant empowering provisions and principles in the National Heritage Resources Act;
4. The proposed subdivision and ensuing development would provide for development to take place in an informed and regulated manner;
5. Long term incremental damage to the landscape would be minimized by approving limited development upfront, and effectively "freezing" future development of the landscape.
6. The intangible heritage relating to the slave descendant community landscape which will be a significant consideration in the application for World Heritage Site Status would not be significantly affected by the development.
7. The concerns raised regarding inappropriateness of the development proposals due to their impact on the integrity of the rural landscape (and implications for possible world heritage status) and the lack of an accepted overall development framework are not without merit. However, on balance, considering all the relevant factors, including heritage the socio-economic factors, and the pre-existing rights of landowners to erect farm buildings if the application is rejected, the proposal was considered acceptable subject to conditions imposed.

8. Best practice should be observed in the drafting of the Conservation Management Plan and Heritage Agreement in order to ensure protection of the landscape while taking into account factors such as ownership, sustainability and socio economic development;
9. It is believed that a responsible management approach of the landscape would be in allowing a limited amount of development to take place as proposed by the subdivision approach instead of allowing current development rights to be executed, which in the opinion of the committee would have a severe impact on the cultural landscape, in so far as the increased scope presented by the current development rights is concerned.

COMMITTEE DECISION:

Taking into account all information presented by both the applicant and other interested and affected parties and all other documentation submitted; the committee decided as follows:

It was decided to **approve the proposed subdivision subject to the following conditions:**

1. A Heritage Agreement acceptable to SAHRA must be concluded between Boschendal and SAHRA in terms of section 42 of the Act before any subdivision takes place.
2. a 99-year Farm Management Lease Agreement, to the satisfaction of SAHRA, must be entered into by Boschendal;
3. Development and Design Imperatives or Requirements must be drafted as an addendum to the Heritage Agreement. These must reflect the recommendations of the HIA as indicated in the letter of 15 March 2006 as well as the additional requirements indicated in the same letter.

4. A basic site development plan must be drawn up and approved by SAHRA before the sale of a sub-divisional unit takes place. Such a basic site development plan must address issues of position, coverage, height, form and materials. In some cases a visual impact assessment may be required by SAHRA. Such plans are subject to amendment and to being superseded by detailed site development plans prepared at a later stage in the approval process.
5. Full site development plans and architectural plans must be submitted for approval by SAHRA before development takes place. In some cases SAHRA may require a Visual Impact Assessment.
6. The deed of sale of the subdivided land must indicate to the new owners the heritage implications and restrictions placed on development.
7. No further subdivision may take place.
8. Boschendal must have the relevant conservation studies and other necessary documents prepared at its cost for National Heritage Site Status for the entire Founder's Estate.
9. The conditions of ARC (January 2006), as attached with the letter dated 15 March 2006, of the SAHRA APM Unit be adhered to.

Additional decisions of the permit committee (not being conditions of approval):

- (i) SAHRA must address the issue of a spatial development framework with the Stellenbosch Municipality.
- (ii) The Franschhoek Conservation Trust should be encouraged to meet with BIF to work out any differences.

(iii) The retention of historical farm labourer's cottages to reflect the development of the landscape must be encouraged.

It should be noted that in the event of an appeal being made against the SAHRA decision the provisions of section 49 and regulation 7, Chapter VI of the SAHRA regulations will apply. Also note, appeal process starts from the issuing of this ROD. Please see below the appeal process that is to be followed as set out in the above mentioned regulation:

Appeal process

7. (1) Persons and bodies with a bona fide interest in, or who are affected by, a decision of a committee or other delegated representative of the South African Heritage Resources Agency may appeal to SAHRA Council against such decision.
- (2) Such appeal must be made in writing within 14 days of the issuing of the minutes recording the decision and must include a motivation.
- (3) The Council must consider an appeal within 21 days.
- (4) On receipt of an appeal against a decision to grant an application for a permit, SAHRA shall notify the applicant, whereupon such permit shall be suspended and no action may be taken under authority of such permit until the appeal has been considered and a decision has been made to confirm or withdraw the permit.
- (5) The Council may appoint a committee of experts, which must include at least three of its members who were not present when the original decision was made, to consider the appeal. The decision of such committee is final.
- (6) In considering an appeal, the Council must have due regard to
 - (a) the cultural significance of the heritage resource in question;
 - (b) the principles set out in section 5 and prescribed under section 6 (1.1) of the Act;
 - (c) any other relevant factor which is brought to its attention by the appellant, any other person directly affected by the decision, or the delegated representative of SAHRA.

In conclusion

The *ad hoc* permit committee believes that in providing approval for the subdivision proposal and therewith imposing a strict set of conditions, within the current local –national legislative framework, that it is acting in the best interest of the heritage resource, the beneficiary community and the community at large. Detailed attention has been given to protect the world heritage and national values of the entire cultural landscape.

The principle of the committee decision is to allow limited managed development to stop *ad hoc* erosion in the future. In complying with the conditions of SAHRA the applicant with the assistance of SAHRA would enhance both the status and potential attractiveness and value of the site to current and future land-owners and its surrounding communities.

The *ad hoc* permit committee concluded that an appropriately controlled development would set the standard for maintaining the authenticity and integrity of the overall site, and recommended that a close working relationship be established between SAHRA and the current and future owners of the property, as well as the local community.

We trust that the applicants and other stakeholders will find the committee's decision to be balanced and fair. Further, that they will identify the conditions imposed on the proposed subdivision and change in land use as adequately addressing most of their major concerns.

Should you have any additional comments or concerns relating to the above; you are welcome to contact our offices at bcrouts@sahra.org.za or call Shaun October at 021 424 5026.

In the event of an appeal please submit all appeal applications in writing to the permit committee secretary, Shaun October, **at 212 Buitengracht Street, Bo-Kaap, Cape Town, 8001, P.O. BOX 2771, Cape Town 8000 within 14 days counted from the date this letter is issued, ie 29 September 2006.**

Yours Sincerely

Beverley Crouts-Knipe (Provincial Manager, SAHRA Western Cape)
for

SAHRA *ad hoc* PERMIT COMMITTEE

cc ICOMOS SA
SA World Heritage Convention Committee
DEAT
DAC
Heritage SA
Cape Institute of Architecture
Cape Heritage Trust
DEA & DP
Department of Agriculture
Heritage Western Cape
Land Claims Commission
Office of the Mayor of Stellenbosch
Stellenbosch Municipality

Pniel Municipality
Franschhoek Conservation Trust
Drakenstein Heritage Foundation
Pniel Rate Payers Association
Kylemore Rate Payers Association
Boschendal Community Development Forum
Lanquedoc Housing Association
Drakenstein Landowners Association
Paarl 300
Stellenbosch Interest Group
Stellenbosch Museum
Vernacular Society of South Africa
Heritage SA
Stellenbosch Heritage Committee
Franschhoek Aesthetics Committee
etc.