



*Application for Rezoning:
Portion 17 of Farm Bly No. 180,
Paarl*

November 2017

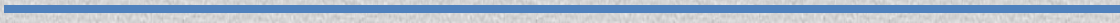
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1. INTRODUCTION

1.1 The Application

Hereby formal application is made for the following:

- (i) In terms of **Section 15(2)(a)** of the Drakenstein Municipality: Municipal Land Use Planning By-Law, 2015 for the **Rezoning** of a portion of Portion 17 of the Farm Bly No. 180 Paarl from **Agriculture zone I to Business zone II** to combine with the existing Business zone II portion on the subject property.

1.2 The Report

The purpose of this report is:

- (i) To collate all the relevant information with regard to proposed rezoning into one document;
- (ii) To present the relevant information with regard to the natural and manmade environment; and
- (iii) To motivate the desirability of the proposed applications as contemplated in Section 65(1)(c) of the **Drakenstein Municipality: Municipal Land Use Planning By-Law, 2015**.

The contents of this memorandum will also serve as a broad framework upon which more detail plans will be based.



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2. THE PROPERTY INFORMATION

2.1 Owner/Applicant

CALLIE HAVEMANN as Trustee and duly authorized by **HAVEMANN BUSINESS TRUST** as registered owners of Portion 17 of the farm Bly No. 180 Paarl appointed this firm *P-J Le Roux Town Planners*, to prepare a formal application for rezoning of a portion of the subject property in order to enable the applicant to utilize the entire property for business purposes and to submit it to the relevant authorities for formal approval (*Letter of Appointment and Trust Resolution attached*).

2.2 Description

The subject property is described as **Portion 17 (a portion of Portion 9) of the Farm Bly No. 180 Paarl** which is an existing business erf located within the Windmeul Hamlet inside the area of jurisdiction of the Drakenstein Municipality, Paarl Division, Western Cape Province and measures **4842m²** in extent.

2.3 Title Deed

The subject property is currently held by **HAVEMANN BUSINESS TRUST** vide Title deed No. **T45772/2017**.

The title deed contains no restrictive condition which will prevent the proposed land use on the subject property (*copy of title deed attached*).

2.4 Location

The property under discussion is situated within the centre of the Windmeul hamlet approximately 10km northeast of Paarl along Main Road 281 (Mooikelder Road).



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The subject property is located at the intersection with MR281 and R44 which links Wellington to the east with Klapmuts and the N1 freeway to the west. The fact that the subject property is situated at the intersection makes it highly visible from the existing routes and easily accessible from all directions.



The subject property is situated opposite the satellite police station and Slot van die Paarl Primary school and within walking distance from the existing church and other residential properties along MR281. The subject property



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forms part of the existing business properties within Windmeul Hamlet and the proposed rezoning of the remainder of the property will not only strengthen the business activities on the subject property but also within Windmeul.

Although the subject property is highly visible from the R44 route, access to the subject property is taken directly from MR281 via an existing erf entrance. A second entrance providing access to the existing dwelling is located along the eastern boundary of the subject property. This entrance will be retained as entrance to the proposed yard and delivery area. Since the property currently accommodates a shop, this erf entrance is wide to provide access to the parking bays in front of the shop. No changes to this existing erf entrance are proposed and this existing entrance will provide access to the proposed future onsite parking bays in front and along the side of the existing and future buildings.

2.5 Existing zoning and land uses

2.5.1 Existing zoning and land use rights

The property which is the subject of this application is located within the Section 8 Scheme Regulation and it has been confirmed by Drakenstein Municipality that the subject property has the following split zoning:

- Business zone II ($\pm 1000\text{m}^2$)
- Agriculture zone I ($\pm 3842\text{m}^2$ -balance)

In terms of the Section 8 Zoning Scheme regulations “shop” is the primary land use under Business zone II zoning and is defined as follows:



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“shop means a site or building or structure utilized for the purpose of carrying on a retail concern and includes a nursery, restaurant, laundrette, dry-cleanette, or retail concern where goods which are sold in such concern are manufactured or repaired; provided that the floor space relating to such manufacture or repair shall not compromise more than one third of the floor space of the shop; “shop” does not include an industry or public garage, service station, bottle store or supermarket”

In terms of the new Regulations that was promulgated in terms of Section 9(2) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) and which were published in the Provincial Gazette (P.N. 359/2009) dated 2 October 2009 the definition of Agriculture as primary land use under Agricultural Zone zoning, can be defined as follows:

“Agriculture means –

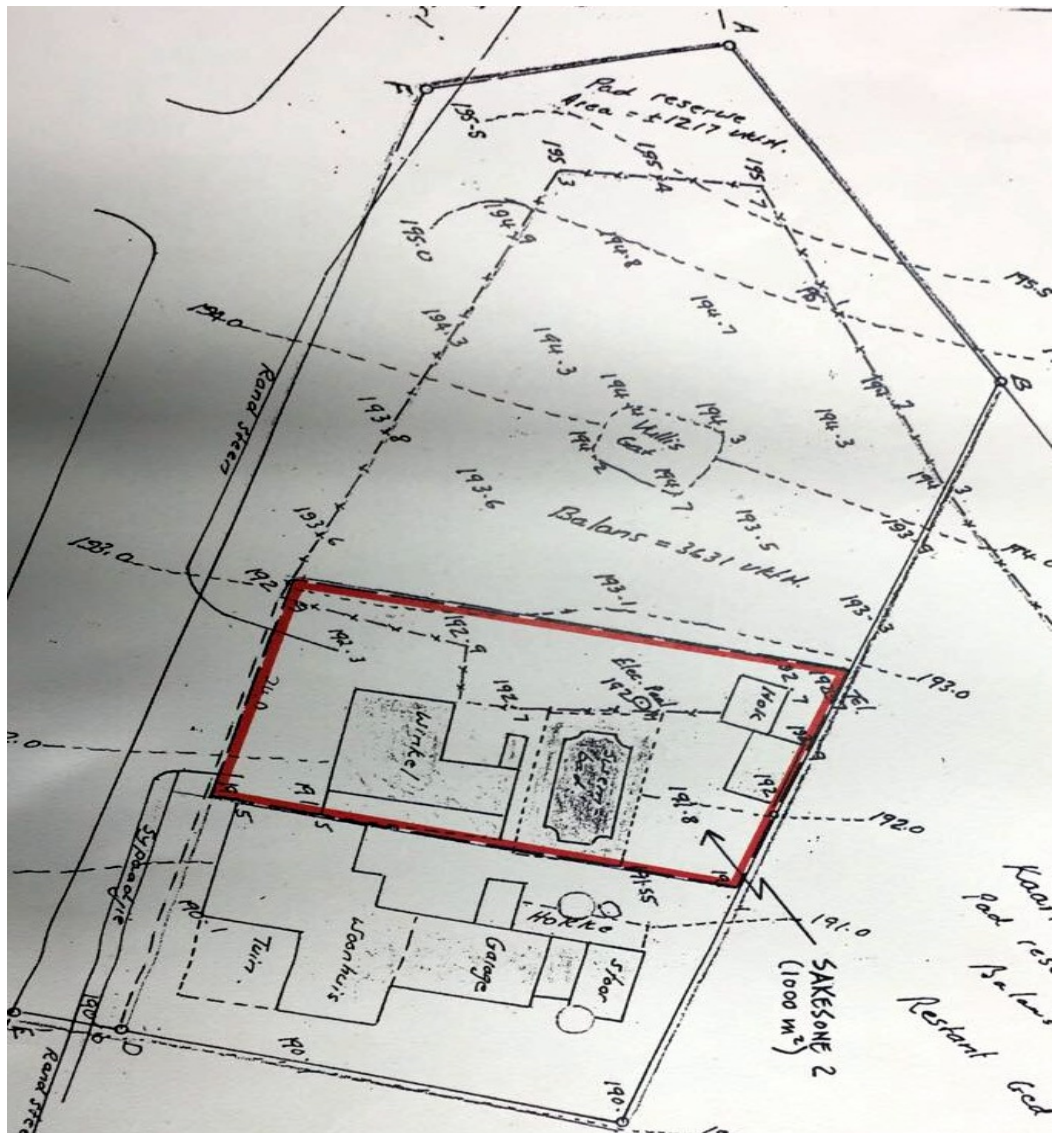
- (a) the cultivation of land for raising crops and other plants, including plantations, or*
- (b) the breeding of animals, including –*
 - (i) any form of farming activity, for example stock, bee or bird farming, or*
 - (ii) any stud farm or farm for the keeping or breeding of animals, or*
 - (iii) a riding school, or*
 - (iv) running a game farm on an extensive basis, or*
- (c) natural veld,*

and comprise only those activities and buildings that directly relate to the main farming activities on the farm, but does not include abattoirs, feedpen farming, aquaculture or other defined consent uses.”



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Approved Business zone II portion 1000m² in extent

2.5.2 Existing land uses

The existing improvements on the subject property comprise the following:

- Dwelling house
- Small building currently used as De Molen Markt which provides in the immediate grocery needs of the community



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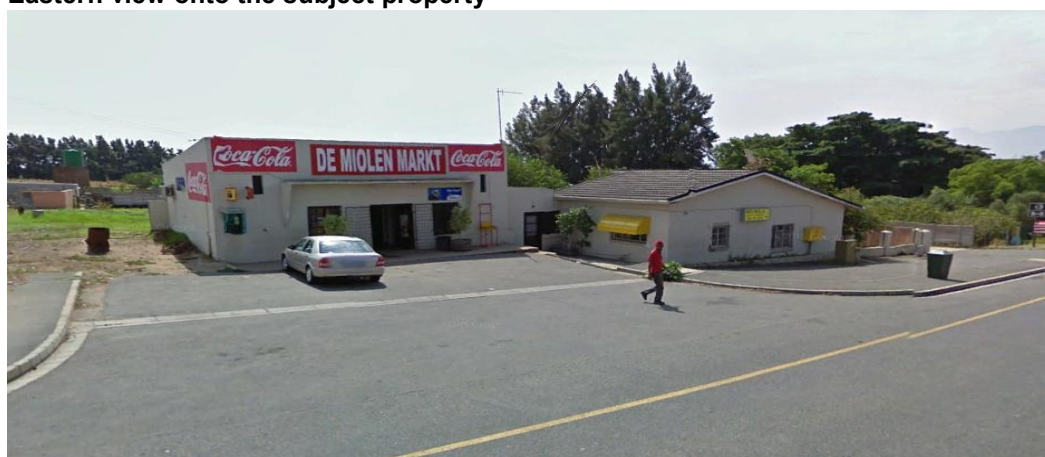
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Both buildings are connected and located on the eastern portion of the subject property near MR281. The larger remainder of the subject property is vacant and covered with grass. An existing low white boundary wall is present along the western boundary of the subject property while a vibacrete wall separates the subject property from the abutting property to the immediate north. The intentions with this application and the ultimate development of the subject property are to retain the existing boundary wall to respect the current aesthetical appearance of the property especially from R44 route.



Eastern view onto the subject property



View onto existing business and dwelling on subject property



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3. PROPOSED REZONING

The intentions of the applicant and the purpose of this report is to optimize the existing property to its fullest potential by increasing the business component of the subject property and to establish a new business on the entire property which will not only benefit the residents of Windmeul and surrounding farming community, but also the passing public.

Since only a portion ($\pm 1000\text{m}^2$) of the subject property is currently zoned for business purposes while the remainder is still zoned for agricultural purposes, in order to optimize the subject property for business purposes it is necessary that the remainder of the subject property also be rezoned for business purposes to coincide with the existing business zoning.

It is the intention of the applicant to redevelop the entire property into a business by introducing new buildings on the subject property. These new buildings will follow the formal building plan process after approval is granted for the rezoning of the remaining portion of the subject property. Although details pertaining to the proposed structures will be forthcoming no departures from the land use parameters as reflected in the Section 8 Zoning scheme regulations pertaining to Business zone II zoning, will be required. All building lines and land use parameters will be respected.



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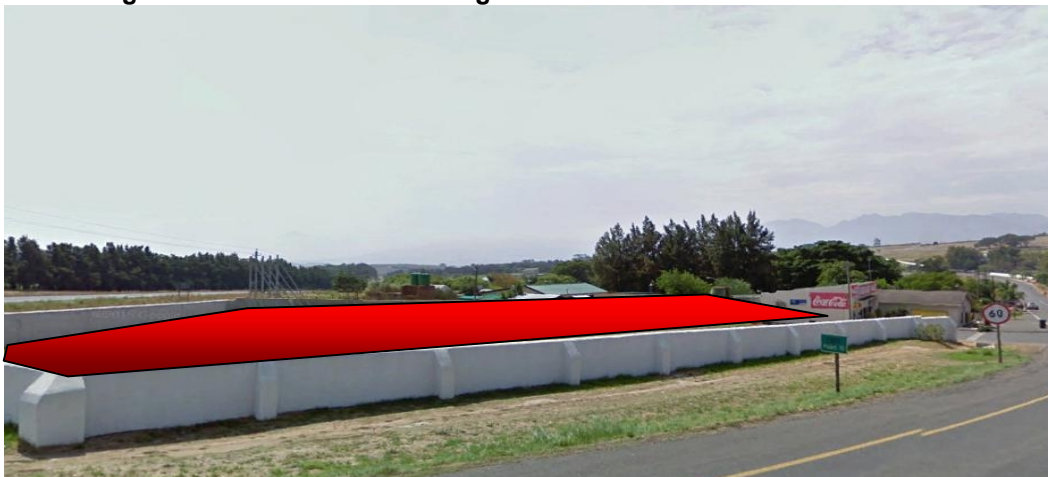
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Remaining areas to be rezoned from agriculture to Business II



Balanced area of existing property to be rezoned



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4. SPATIAL PLANNING PRINCIPLES

In terms of National, Provincial and Local spatial planning legislation certain development principles were adopted to apply to spatial planning, land development and land use management.

The development principles on National level is in terms of Section 7 of the **Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)**, while the land use planning principles on Provincial level is in terms of Section 59 of the **Western Cape Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA)**. These development principles were all adopted and included into the subsequent **Land Use Planning By-Laws** promulgated for each Local Municipality.

The proposed development will be evaluated as follows against the five development principles:

(a) Principle of spatial justice

Since a portion of the subject property is already zoned for business activities and is included into the approved spatial planning policies for urban development (business) and therefore complies with it, this principle is **not applicable** to this application

(b) Principle of spatial sustainability

The proposed development will not result in the loss of any cultivated agricultural land but utilize an existing vacant portion of the property for business purposes. This proposed business zoning is directly in line with what is already present in the area and what is spatially recommended for the subject property..



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(c) **Principle of efficiency**

By converting the existing vacant portion of the property to business as recommended in the spatial planning documentation will ultimately benefit the entire community and add to the local economy of the area.

(d) **Principle of spatial resilience**

This principle is not applicable since the subject property forms part of an existing urban settlement where it is the only property earmarked for business purposes

(e) **Principle of good administration**

The formal application will be submitted to the local authority and relevant statutory authorities for approval and will be administered in accordance with the procedures contemplated in the relevant Municipality's Land Use Planning By-Law.



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5. DESIRABILITY OF THE APPLICATION

In terms of **Section 65(1)(c)** of the Drakenstein Municipality: Municipal Land Use Planning By-Law, 2015, the proposed utilization of the land must be desirable.

The concept of “*desirability*” in a land use planning context and as contemplated in Section 65(1)(c) of the Drakenstein Municipality: Municipal Land Use Planning By-Laws can be described as the

“degree of acceptability” of the specific land use(s) on a said property within an existing natural or manmade environment and the guideline proposals included in the relevant spatial development framework plans and policies, and municipal engineering services in so far as it relates to desirability, or on the basis of its effect on existing rights and the biophysical environment concerned.

The desirability of this application for rezoning of Portion 17 of the Farm Bly No. 180 Paarl (Windmeul) will be discussed with regard to the following aspects.

- Physical characteristics of the properties
- Character of the area
- Location and Accessibility
- Spatial Planning
- Provision of services



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5.1 Physical characteristics of the properties

5.1.1 Topography

The subject property is located within the urban settlement of Windmeul Hamlet at the MR281 and R44 intersection. Although there are already existing structures on the subject property most of the property is still vacant and overgrown with grass. The subject property has a gentle slope which runs from west to east across the subject property away from the R44 route. The topography of the subject property however is more than suitable to accommodate any building and can therefore be used for business purposes without any limitations. There are no physical features or any topographical constraints present on the subject property which will prevent or restrict the utilization of the entire property for business purposes.

5.1.2 Climate

The subject property is located in the Drakenstein Valley and forms part of the Mediterranean climate system of the Western Cape. The area is known for its cold and wet winters and dry warm summers. The wind is predominantly north westerly during the winter months and strong south easterly in the summer time. .

Since the subject property is located within the existing urban settlement of Windmeul and is abutted by existing urban activities, no changes to the micro climate of the area is expected as a result of the development of the subject property.



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5.1.3 Ecological characteristics

The subject property is included into the existing urban area of windmeul despite the fact that a large portion thereof is still zoned for agricultural purposes. The property has been disturbed in the past by urban related activities and is currently covered with grass. There is no conservation worthy vegetation or any ecological habitats present which will prevent or restrict the proposed use of the property for business purposes.

5.2 Character of the area

The subject property is located within the existing urban area of Windmeul and is surrounded by other urban related activities including a satellite police station, primary school, church, residential buildings, wine cellars and smaller farming units further to the south. It suffices to say that the subject property is located within an area with a typical urban character despite the surrounding agricultural land units in the area.

The rezoning of the remaining portion of the subject property for business purposes will not only fit in with the rest of the subject property, but will also strengthen the business node which is located within the immediate vicinity of the subject property along MR281. The proposed rezoning will therefore not change the character of the immediate surrounds even if it leads to a much larger business building on the subject property.

5.3 Location and Accessibility

The subject property is located within the urban settlement of Windmeul at the MR281 and R44 intersection.



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Due to the high visibility and easy access that the subject property enjoys, it is ideally located to be used for business purposes. Access to the subject property is taken directly from MR281 via an existing erf entrance. This entrance will remain the main entrance to the new collective business site and future onsite parking bays. The second entrance located along the eastern boundary of the subject property will remain to serve as access to the future yard and delivery area.

It is evident that the subject property is strategically located to serve as primary business property within Windmeul.

5.4 Spatial Planning

The Drakenstein Municipality Spatial Development Framework (DMSDF) was prepared in terms of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), and in particular Chapter 5. The purpose of the SDF is to improve the spatial structure of Drakenstein Municipality and at the same time improve access to opportunities in both urban as well as rural areas of the municipality. The recently revised DMSDF dated 2015-2035 (2016/2017 revision) was formally adopted by Council in May 2017 and thereby replacing the previous version approved by Council on 28 October 2015. According to the recently approved document the subject property is earmarked for future “*business/commercial*”. The land use implications for this property as reflected in the final draft SDF, refers to “*Typology 7: Mixed Use*” purposes which is exactly what is proposed by this development application.



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The fact that the subject property is identified as the major business site within the proposed business ode inside Windmeul, confirms the proposed rezoning and future business ventures on the larger property.

Since the subject property is included in the urban edge for Drakenstein (Windmeul) which was prepared and approved in terms of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000), the proposed rezoning makes the development proposal sensible and logic.

The subject property come within the jurisdiction of the standard Zoning Scheme Regulations which was promulgated in terms of Section 8 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985). This planning document manages the land use rights as well as stipulating the land use parameters pertaining to that specific land use. Since application is made for the rezoning of the larger portion of the subject property from Agriculture zone I to Business zone II, the land use parameters pertaining to the Business zone II zoning will be applicable. No departures from these land use parameters are requested.

5.5 Provision of services

Messrs Nortje & de Villiers Engineering Consultants have been appointed to investigate and report on the engineering services to facilitate the proposed rezoning of the remainder of the subject property. Attached herewith please find a copy of the **Service Report for Engineering Services** dated 20 November 2017 of which the contents has been communicated with the officials at the Drakenstein Municipality Engineering Department. The details with regard to the provision and availability of services are discussed in the attached report.



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6. CONCLUSION

In light of the above it is clear that the proposed application for rezoning of a portion of Portion 17 of the Farm Bly No. 180 Paarl from Agriculture zone I to Business zone II in order to coincide with the existing business zoning on the property, is regarded as being desirable as contemplated in Section 65(1)(c) of the **Drakenstein Municipality: Municipal Land Use Planning By-Law, 2015**.

Although there are two existing structures on the subject property, both these structures will be demolished and replaced by a larger business building. There are no topographical features or any conservation worthy vegetation present on the property which will prevent the entire property to be used for business purposes. According to the approved spatial planning documentation for Drakenstein Municipal area the subject property is not only located within the approved urban edge of Windmeul, but is also earmarked as a business node. The rezoning of the remaining portion of the subject property to a business zoning is directly in line with these spatial planning documentation and can therefore be regarded as desirable. With the lack of commercial and business activities within the Windmeul hamlet, the introduction of a larger business area will benefit all the residents of Windmeul.

In light of the aforementioned I trust therefore that the application for Rezoning of a portion of Portion 17 of the Farm Bly No. 180 Paarl from Agriculture zone I to Business zone II in order to utilize the entire property for business purposes, will be in our favour and be approved.

PIERRE-JEAN LE ROUX
Pr. Pln. A./803/1995



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