

*Application for Rezoning to  
Subdivsional Area (Single  
Residential) – Portion 59 (Ptn  
of Ptn 18) of Farm 1202,  
Paarl situated at Pniel*

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## **Introduction**

### **1.1 Background**

Portion 18 of Farm 1202, Paarl (situated at Pniel) was subdivided during 2008 into 4 portions and the remainder Public Road. This application has bearing on one of the 4 subdivided portions, being Portion 59 (a portion of Portion 18) of Farm No. 1202, Paarl, situated at Pniel.

Neither the original Farm 1202/18 nor the subject property can be classified as functional agricultural land units. The future of this area for residential use is evident and the subdivision approval granted on the adjacent Farm 1202/23, is evidence of this. Albeit that an application for an amendment of the subdivision plan in respect of the mentioned property was recently submitted, residential development rights were allocated a while back already.

### **1.2 Brief and application**

In view of the above, ATLAS Town Planning was requested to prepare an application to obtain the necessary land use rights for the rezoning and subdivision of the subject property to permit the development thereof for Single Residential Use. The necessary power of attorney and bond holder's consent are attached as **Annexures 2 & 3** respectively.

#### **Application is herewith made for:**

- i. The rezoning of Portion 59 (a Portion of Portion 18) of Farm No. 1202, Paarl situated at Pniel from Agriculture Zone I to Subdivisional Area in terms of Section 17 of the Land Use Planning Ordinance and in terms of Section 24 of the same ordinance for the subdivision thereof into 10 Residential Zone I erven and the remainder Public Road, as depicted on the proposed plan of subdivision attached as **Annexure 8** (Farm 1202/59PNIEL/SUB\_NOV2012/1);
- ii. The Department of Agriculture's consent to the subdivision in terms of the provisions of the Subdivision of Agricultural Land Act (Act 70 of 1970).
- iii. The Controlling Authority's consent in terms of Act 21 of 1940 as per title deed.

## **Property Details**

### **2.1 Property Description**

This application has bearing Portion 59 (a portion of Portion 18) of Farm No. 1202, Stellenbosch Municipality, Division Paarl, Western Cape Province. The property is situated at Pniel and the registered area is 1,0769ha. The property is held in Title Deed T20568/09 and is registered in the name of the "*Trustees of the Wingerdstok Trust, Nr. IT 5989/1996*". There aren't any restrictive title deed conditions, but certain uses / actions require the consent of the Controlling Authority in terms of Act Nr. 21 of 1940. A copy of the title deed is attached as **Annexure 4**.

### **2.2 Locality**

The subject property is located at Pniel off the R310 (Helshoogte Road) en-route from Stellenbosch to Franschoek. The locality of the subject property is indicated on the locality plan attached as **Annexure 4**. The property currently gains access via a servitude right of way registered over Portion 60 of Farm 1202, Paarl. This is however a temporary arrangement until such time when formal access is available via the planned development on Farm 1202/23 to the north of the subject property.

### **2.3 Existing land use and zoning**

The property concerned is zoned as Agricultural Zone I in terms of the Scheme Regulations promulgated in terms of Section 8 of the Land Use Planning Ordinance (Nr. 15 Of 1985). The property isn't actively farmed and is basically earmarked for rural living / residential use.

### **2.4 Physical characteristics**

The property slopes from east to west. A residence is in the process of construction on a portion of the property (Portion 1 as per subdivision plan proposed). The position of this residence would not impact on the future building lines etc. for this particular portion. Other than this, a few foundations of earlier structures are noticeable. The remainder of the property is covered with some orchards and natural vegetation. The property is not a viable agricultural unit and therefore not actively farmed.

## **Planning context**

### **3.1 Surrounding land uses**

There are some bona-fide agricultural properties in the area concerned, mostly to the west of the subject property. There are also established residential uses to the north-

east and east of the subject property, whilst development is anticipated on the abutting property to the north, Farm 1202/23. The rezoning and subdivision of this property was approved before and is still valid, but an application to amend the approved subdivision plan, is currently considered. Albeit that the abutting property to the south is still indicated as agricultural use, it is envisaged that the change of character from agricultural use to residential will also spread southwards within the confines of the Urban Edge.

### **3.2 Existing forward planning and policy frameworks**

The relevant forward planning document for the area is the Stellenbosch Spatial Development Framework which is currently in draft form, but expected to be approved by Council in the near future. This document recognises the lack of coherent urban design and amongst others recommends an Urban Edge to prevent urban sprawl. The subject property forms part of the areas identified for new development and the development proposal for Farm 1202/18 is therefore in keeping with the forward planning objectives for the area.

### **3.3 Legal aspects**

Land Use applications are dealt with in accordance with the Land Use Planning Ordinance (No. 15 of 1985). Application is being made in terms of Sections 17 and 24 of the said ordinance. Other sections of the ordinance which are of particular importance to this application include Sections 36, 42 and 44 which deal with principle of desirability of applications, the stipulation of conditions and the right for both the applicant and potential objectors to appeal to the Premier of the Western Cape Province. The Municipal Systems Act (No. 32 of 2000), in particular Section 62 which deals with appeals, also has relevance to the application at hand.

The proposed change of land use also requires the following consents / authorizations:

- The Controlling Authority's consent in terms of Act 21 of 1940 as per title deed.
- The Department of Agriculture's consent in terms of the provisions of the Subdivision of Agricultural Land Act (Act 70 of 1970).

- Heritage Western Cape must authorise the development of the property exceeding 5000m<sup>2</sup> in terms of the National Heritage Resources Act (Act 25 of 1999). The necessary Notice of Intend to Develop application was prepared and the Record of Decision will be furnished once received.

The application does not appear to trigger any of the listed activities as per the amended National Environmental Management Act (Act 107 of 1999) EIA Amended regulations of 2010. The applicant is currently engaging with the department to obtain clarity. The Department's response will be conveyed once received and if an application is deemed necessary; such application will run parallel to the LUPO application.

### **Development Proposal**

#### **4.1 Consistency w.r.t surrounding land uses**

The subject property is located directly south of Farm 1202/23, a property with approved residential development rights. As mentioned earlier in this report, an application to amend the approved subdivision plan was recently submitted. Both the originally approved layout and the amended subdivision plan provides for the continuation of the street network across the subject property. This conforms to the road network plan drafted for the area and all of the above is testimony that the area is earmarked for residential development.

It is the intention to develop Farm 1202/59 for single residential purposes. The narrow shape of the property as well as the function and positioning of the overall road network have a significant impact i.r.o the subdivision layout. It is the intention to develop 10 single residential erven, ranging in size from +/-500m<sup>2</sup> to +/-1500m<sup>2</sup>. The smaller erven is compatible with the typical erf size of the development envisaged on Farm 1202/23. The developer further intends to provide for a few larger erven, which will be accessed by means of 5m wide pan-handles. Due to the sizes of these erven, the development potential of the erven will not be affected by these pan-handles. The SDF encourages this mixture of erf sizes and the proposal is therefore in line with the objectives of this forward planning document. The shapes and sizes of the proposed erven are adequate to develop new residential units on each of the individual erven without having to apply for any departures or consents.

As mentioned, the narrow shape of the property impacts on the development possibilities and consequently the subdivision proposal. In view of this and the fact

that only 10 erven will be created through this subdivision, the provision of a practical open space area was not deemed desirable.

#### **4.2 Traffic and Parking**

As mentioned, an overall road network plan was recently compiled for the municipality. The subdivision proposal for the subject property conforms to the objectives of this plan. The development density is fairly low, partly because of the narrow shape of the property but also due to the developer wishing to establish a few larger residential erven. It is therefore not envisaged that the development will have a significant impact on traffic. The minimum erf size resulting from the subdivision further exceeds 500m<sup>2</sup> and it will most definitely be possible to develop these stands with sufficient on-site parking.

#### **4.3 Impact on Services**

The property will link up with the municipal services network and indications are that ample capacity is available in this particular area. No problems are therefore foreseen in this respect.

#### **5. Conclusion**

The SDF earmarks the area concerned for residential development. The development proposal conforms to the objectives of this forward planning document and is also compatible with similar development proposals for this particular area. Approval of this application will not result in valuable agricultural land being lost as the subject property is not a viable agricultural unit and further located within the Urban Edge. The opinion is therefore held that approval of this application for subdivision will not impact negatively on any member of the public nor the natural or built environment. It is therefore trusted that the application will be supported.