



PORTION 2 (A PORTION OF PORTION 1) OF THE FARM NO. 586, HEMEL EN AARDE VALLEY, CALEDON DIVISION: APPLICATION FOR CONSENT USE, DEPARTURES, AMENDMENT OF CONDITIONS IN RESPECT OF AN EXISTING APPROVAL, AMENDMENT OF THE EXISTING APPROVED SITE DEVELOPMENT PLAN AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF THE TRUSTEES AT THE TIME OF VREDE BOERDERY TRUST

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) that an application has been received for the following:

- **Consent use** in terms of Section 16(2)(o) of the By-Law, for intensive animal farming to allow for the existing snail tunnels on the property.
- **Departure** in terms of Section 16(2)(b) of the By-Law to exceed the maximum allowable floor space from 5000m² to 6810m² to accommodate the existing structures, including the greenhouse snail farm tunnels and shade netted areas of 1751m² on the property.
- **Departure** in terms of Section 16(2)(b) of the By-Law to relax the southern 30m building line to 3,94m to accommodate the existing guard house, dispatch building and office building.
- **Departure** in terms of Section 16(2)(b) of the By-Law to relax the northern 30m building line to 7m to accommodate the existing storage and tool sheds, and snail farming tunnels.
- **Amendment of conditions in respect of an existing approval** in terms of Section 16(2)(h) of the By-Law for the amendment of condition 1(a) in approval letter dated 11 March 2015 to accommodate the expansion of the footprint of the existing agricultural industry.
- **Amendment of the existing approved site development plan** in terms of Section 16(2)(l) of the By-Law to accommodate the existing structures on the property and the larger agricultural industry footprint.
- **Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law for the unauthorised land uses and building line encroachments on the property.

Full detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department: Town and Spatial Planning at 16 Paterson Street, Hermanus. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **11 April 2025**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Mr. H Olivier** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town and Spatial Planning Department where a municipal official will assist them in order to formalize their comment.

GEDEELTE 2 ('N GEDEELTE VAN GEDEELTE 1) VAN DIE PLAAS NR. 586, HEMEL EN AARDE VALLEI, AFDELING VAN CALEDON: AANSOEK OM VERGUNNINGSGEBRUIK, AFWYKINGS, WYSIGING TEN OPSIGTE VAN BESTAANDE GOEDKEURINGSVOORWAARDES, WYSIGING VAN BESTAANDE GOEDGEKEURDE TERREINONTWIKKELINGSPLAN EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: INTERACTIVE STADS- EN STREEKBEPANNING OFFICE NAMENS DIE TRUSTEES IN DER TYD VAN VREDE BOERDERY TRUST

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) dat 'n aansoek vir die volgende ontvang is:

- **Vergunningsgebruik** ingevolge Artikel 16(2)(o) van die Verordening, vir intensiewe diereboerdery om voorsiening te maak vir die bestaande slaktonnels op die eiendom.
- **Afwyking** ingevolge Artikel 16(2)(b) van die Verordening om die maksimum toelaatbare vloerruimte vanaf 5000m² na 6810m² te oorskry om die bestaande strukture op die eiendom te akkommodeer, insluitend die kweekhuisslakplaastonnels en skadunetareas van 1751m².
- **Afwyking** ingevolge Artikel 16(2)(b) van die Verordening om die om die suidelike 30m boulyn na 3,94m te verslap om die bestaande waghuis, versendingsgebou, en kantoorgebou te akkommodeer.
- **Afwyking** ingevolge Artikel 16(2)(b) van die Verordening om die noordelike 30m boulyn tot 7m te verslap om die bestaande stoor- en gereedskapskure, en slakboerderytonnels te akkommodeer.
- **Wysiging ten opsigte van bestaande goedkeuringsvoorwaardes** ingevolge Artikel 16(2)(h) van die Verordening vir die wysiging van voorwaarde 1(a) in goedkeuringsbrief gedateer 11 Maart 2015 om die uitbreiding van die bestaande landboubedryf se vloeroppervlak te akkommodeer.
- **Wysiging van die bestaande goedgekeurde terreinontwikkelingsplan** ingevolge Artikel 16(2)(l) van die Verordening om die bestaande strukture op die eiendom te akkommodeer asook die groter landboubedryf- vloeroppervlak.
- **Bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening vir die ongemagtigde grondgebruik en boulynoorskrydings op die eiendom.

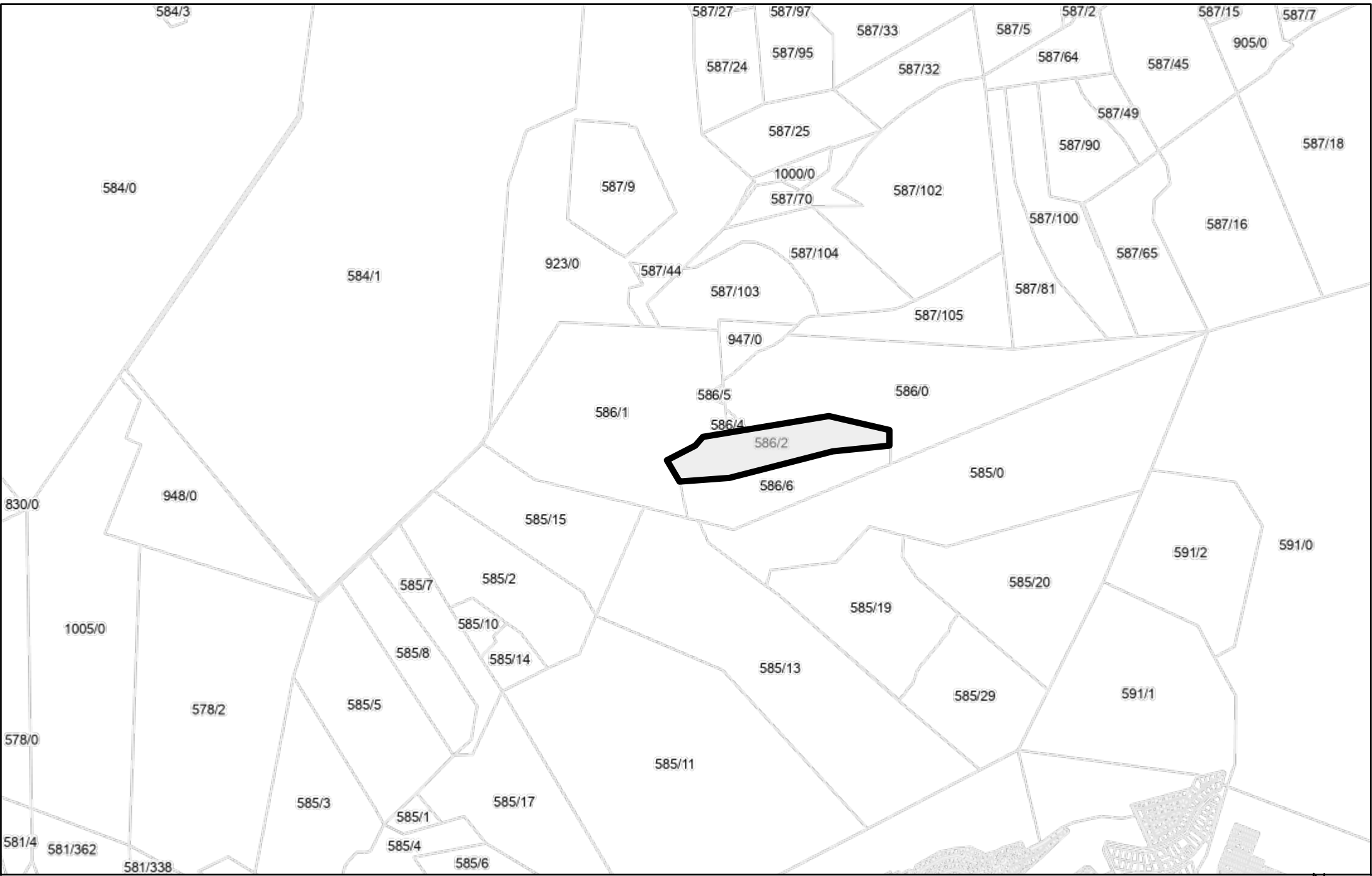
Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende woensdae tussen 08:00 en 16:30 by die Departement: Stads- en Streekbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **11 April 2025**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Mnr. H Olivier** at 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

INXALENYE 2 (INXALENYE YENXALENYE 1) YEFAMA ENOMBOLO 586, HEMEL EN AARDE VALLEY, KWICANDELO LASECALEDON: ISICELO SOKUSEBENZISA, UKUNYENYISWA, UKUTSHINTSHWA KWEMIQATHANGO NGOKUMAYELA NOGUNYAZISO OLUSELE LUKHO, UKUTSHINTSHWA KWESICWANGCISO ESIGUNYAZISIWEYO SOKUPHULISA ISIZA NOKUGQITYWA KWESOHLWAYO: ABAKWA-INTERACTIVE TOWN & REGIONAL PLANNING EGAMENI LEE-TRUSTEE OKWANGOKU EKUTHIWA YI-BOERDERY TRUST

Kukhutshwa isaziso ngokumayela neCandelo 48 loMthetho Otshintshweyo woMasipala waseOverstrand ongokuSetyenziswa koMhlaba kaMasipala, 2020 (uMthetho kaMasipala), ukuba kufunyenwe isicelo sezi zinto zilandelayo:

- **Isicelo sokusebenzisa** ngokumayela neCandelo 16(2)(o) loMthetho kaMasipala ukuzu kufuywe izilwanyana ngobuninzi kuze kuvunyelwe iitoneli zoosinyeke ezikhoyo kwipropathi.
- **Ukunyenyiswa** ngokumayela neCandelo 16(2)(b) loMthetho kaMasipala ukuze kugqithwe kobona bukhulu buvumelekileyo besakhiwo ukusuka ku-5000m² ukuya ku-6810m² ukulungiselela izakhiwo ezikhoyo, kuquka iitoneli zoosinyeke neendawo ezifakwe umnatha owenza umthunzi kwiindawo ezinobukhulu be-1751m² kwipropathi.
- **Ukunyenyisiwa** ngokumayela neCandelo 16(2)(b) loMthetho kaMasipala ukuze kunyenyiswe umgca ongakwicala elisezantsi ukusuka ku-30m ukuya ku-3.94m, ukulungiselela indlu yoonogada ekhoyo, isakhiwo solawulo soonogada nesakhiwo esiyiofisi.
- **Ukunyenyisiwa** ngokumayela neCandelo 16(2)(b) loMthetho kaMasipala ukuze kunyenyiswe umgca ongakwicala elisemntla ukusuka ku-30m ukuya ku-7m, ukulungiselela indlu yokucina izixhobo esele ikho neetoneli zokufya oosinyeke.
- **Ukutshintshwa kwemiqathango ngokumayela nogunyaziso olusele lufunyenwe** ngokumayela neCandelo 16(2)(h) loMthetho kaMasipala ukuze kuhlonyelwe umqathango 1(a) weleta yogunyaziso ebhalwe umhla ka-11 Matshi 2015 ukuvumela ukwanda kwecandelo lezolimo olusele lukhona.
- **Ukutshintshwa kwesicwangciso esigunyazisiweyo sokuphuhlisa isiza** ngokumayela neCandelo 16(2)(l) loMthetho kaMasipala ukulungiselela izindlu ezikhoyo kwipropathi nokwanda kwezolimo.
- **Ukugqitywa kwesohlwayo emasibhatalwe** ngokweCandelo 16(2)(q) loMthetho kaMasipala ngenxa yokusebenzisa umhlaba ngaphandle kwemvume nangokugqitha kumgca wokwakha.

linkcukacha ezipheleleyo mayela nesi sindululo ziyafumaneka ukuze zihlolwe phakathi evekini phakathi ko-08:00 no 16:30 kwiSebe: Town and Spatial Planning, 16 Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe kuMasipala ngokwezibonelelo zeCandelo 51 neCandelo 52 loMthetho kaMasipala ochaziweyo (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ingadlulanga i-**11 Apreli 2025**, ubhale igama lakho, idilesi neenkukacha zoqhagamshelwano, umdla wakho kwisicelo nezizathu zokubhala izimvo zakho. Imibuzo ngefowuni ingabhekiswa **kuMnu. H Olivier** ku 028-313 8900. UMasipala angangavumi ukwamkela amagqabaza okuhlomla afunyenwe emva komhla wokuvula. Nabani na ongakwazi kufunda okanye ukubhala angatyelela iSebe lokuCeba iDolophu apho igosa lakwamasipala liya kumnceda afake amagqabaza akhe okuhlomla.





InterActive Town & Regional Planning

PO Box 980

Hermanus

7200

Reference: Portion 2 of Farm 586, Hemel & Aarde

Date: 18 December 2024

PORTION 2 OF FARM 586, HEMEL & AARDE: CONSENT USE, BUILDING LINE DEPARTURES, AMENDMENT OF A CONDITION OF APPROVAL, AMENDMENT OF THE SITE DEVELOPMENT PLAN AND THE DETERMINATION OF AN ADMINISTRATIVE PENALTY

Application is hereby made for a consent use, building line departures, the amendment of a condition of approval, amendment of the Site Development Plan and the determination of an administrative penalty in terms of the relevant legislation, as described in the accompanying documentation.

In support of the application please find the following attached:

- Proof of Payment of the Application fee
- Motivational Report with Annexures

Please note that the Trust Resolution is outstanding and will be provided as soon as received.

Kind Regards

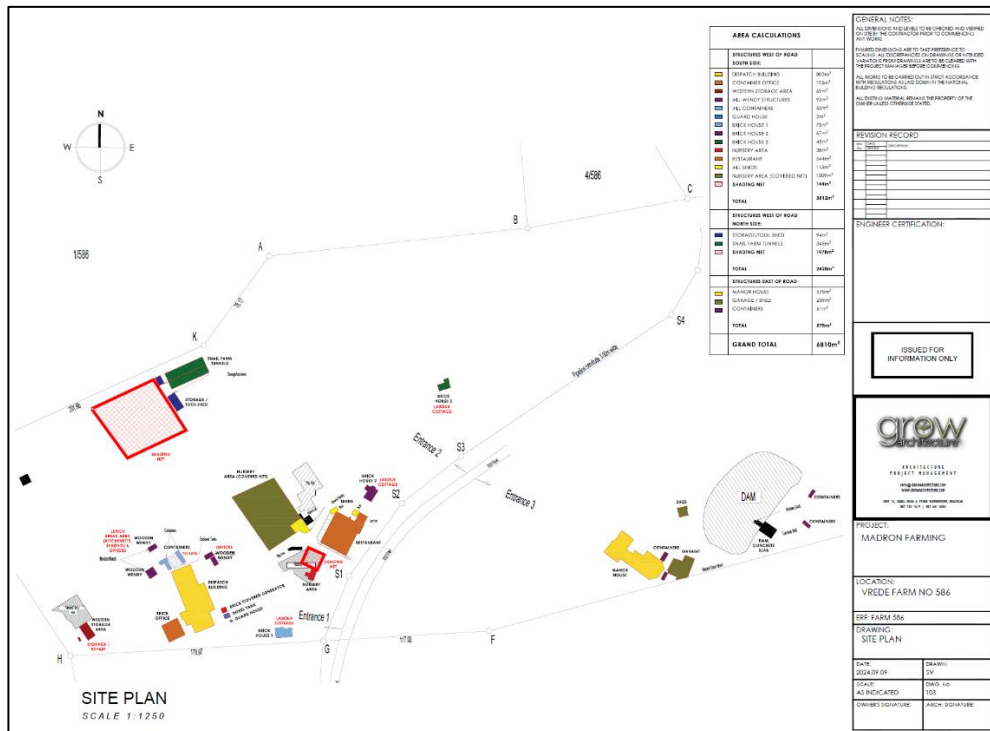
Andre Wiehahn Pr Pln A/927/1996

B Art et Sc (Town and Regional Planning)



PORTION 2 OF FARM 586 HEMEL & AARDE

Application for:
Consent use, building line departures,
amendment of a condition of approval,
amendment of the Site Development Plan &
determination of an administrative penalty



Andre Wiehahn Pr Pln A/927/1996
 B Art et Sc (Town and Regional Planning)
 Cell phone: 082 466 0490
 E-mail: Wiehahn.a@gmail.com

December 2024

Table of Contents

1. Introduction	1
a. Brief	1
b. Background	1
c. Development Objective & Application Proposal	1
2. The Application	2
a. Analysis: Title Deed	2
b. Analysis: Development Criteria:	2
c. Definitions	3
d. Application:.....	4
3. Contextual Site Information.....	5
a. Property Description	5
b. Location:	6
c. Land Use:	7
d. Zoning:.....	7
e. Laws and policies relevant to the consideration of the application and forward planning and land use documents.....	8
i. Overstrand Municipal Spatial Development Framework, 2020	8
ii. Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.....	8
4. Motivation	9
a. Introduction and Background.....	9
b. The proposal.....	11
c. Desirability.....	16
d. Planning Principles.....	17
5. Conclusion.....	18

Figures

Figure 1: Site Development Plan extract	1
Figure 2: Extracts of the Surveyor General Plans of the application site.....	5
Figure 3: Locality Plan – Regional Context.....	6
Figure 4: Locality Plan – Local Context	6
Figure 5: Google Image illustrating the residential land-use activities of the application area and surrounding properties	7
Figure 6: Zoning Plan extract	7
Figure 7: Spatial Development Framework 2020 Spatial Proposals Plan	8
Figure 8: Plan extracts and a list of the structures on the application area	10
Figure 9: 2016 Approved Plan extract	11
Figure 10: Building line illustrations	12
Figure 11: Site Development Plan extract	14

Annexure

Annexure A: Application form	
Annexure B: Power of Attorney & Trust Resolution.....	
Annexure C: Title Deed & Conveyancer Certificate	
Annexure D: SG Diagram	
Annexure E: Locality Plan	
Annexure F: Land Use Plan	
Annexure G: Zoning Map.....	
Annexure H: Site Development Plan	
Annexure I: Previous approval.....	
Annexure J: Building Line Departure Plan	
Annexure K: Administrative Penalty Plan	

Notes

1. Introduction

a. Brief

Refer to **Annexure B** for the Power of Attorney.

Interactive Town and Regional Planning is appointed by the owner of the property, Vrede Boerdery Trust to prepare and submit an application for a consent use, building line departures, the amendment of a condition of approval, amendment of the Site Development Plan and the determination of an administrative penalty for on Portion 2 of Farm 586, Hemel & Aarde in terms of the relevant legislation.

b. Background

A Consent Use for agricultural industry was approved in 2015 which was limited to existing buildings, with the Site Development Plan approved in 2016.

Consent Uses for tourist facilities (restaurant), farm stall and nursery were approved in 2012.

Since the approvals, some structures were enclosed, added to and additional structures were erected.

c. Development Objective & Application Proposal

The development objective is to legalise the existing non-approved structures and land uses on the farm.

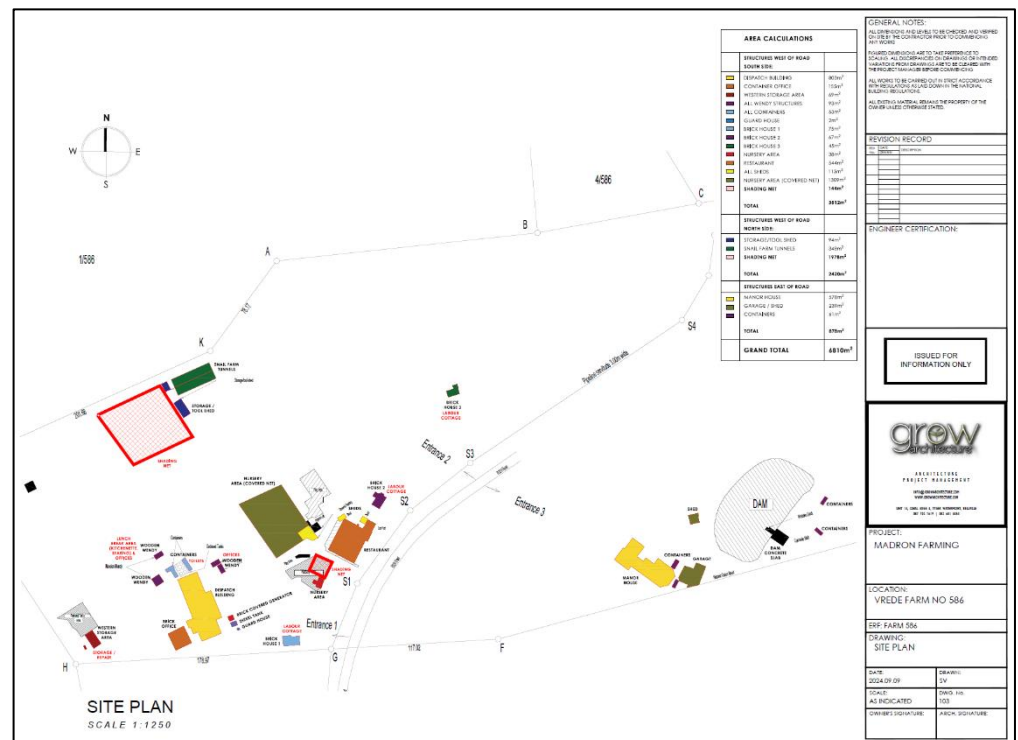


Figure 1: Site Development Plan extract

Subsequently application is made for:

- Consent uses for intensive animal farming
- Floor space departure
- Building line departures
- Amendment of a condition of approval
- Amendment if the Site Development Plan
- The determination of an administrative penalty

2. The Application

<p>a. Analysis: Title Deed</p> <p>Refer to Annexure D for the Conveyancer Certificate.</p>	<p>The conveyancer Amelia Galvin from Virtual Lawyers provided a conveyancer certificate confirming that no title deed conditions exist which restricts the development proposal.</p>			
<p>b. Analysis: Development Criteria:</p> <p>The development parameters for Portion 2 of Farm 586 Hemel & Aarde as per the Overstrand Municipality Land Use Scheme, 2020 are summarised as follows:</p>	<p>Parameters</p>	<p>Existing Zoning:</p>	<p>Proposal:</p>	<p>Comments</p>
	<p>Zoning</p>	<p>Agriculture Zone 1: Agriculture</p>	<p>Agriculture Zone 1: Agriculture</p>	<p>Consistent</p>
	<p>Primary Use</p>	<p>Agriculture, crèche, dwelling house, guest rooms and home occupation</p>	<p>Agriculture, Dwelling House</p>	<p>Consistent</p>
	<p>Consent Uses</p>	<p>Additional dwelling units, agricultural industry, animal care centre, aquaculture, day care centre, farm shop/stall, fertiliser plant, guest house, hotel, institution, intensive animal farming, intensive horticulture, lodge, mining, place of assembly, place of entertainment, place of instruction, plant nursery, riding stables, service trade, tourist accommodation, tourist facilities, transmission apparatus, utility services, wellness centre and 4x4 trail.</p>	<p>Tourist facilities, agricultural industry (already approved)</p> <p>Intensive animal farming (Snail tunnels)</p>	<p>Application includes a consent use for intensive animal farming</p>
	<p>Floor Space</p>	<p>5000m²</p>	<p>6810m² of which 3779m² (55%) is for shading net and greenhouse tunnels and for agriculture purposes</p>	<p>Application includes a departure</p>
	<p>Height</p>	<p>8m 12m for agricultural buildings</p>	<p><8m <12m for agricultural buildings</p>	<p>Consistent</p>
	<p>Building Lines</p>	<p>30m</p>	<p>Several buildings (refer to SDP)</p>	<p>Application includes departures</p>
	<p>Parking</p>	<p>Dwelling house: 2 bays Restaurant: Four bays per 100m² GLA Industry: 2 bays per 100 m² GLA up to 500 m², thereafter 1 per 100 m² GLA Warehouse/storage: 2 bays per 100 m² GLA up to 500 m², thereafter 1 per 100 m² GLA</p>	<p>Dwelling house: 2 bays Restaurant: Four bays per 100m² GLA Industry: 2 bays per 100 m² GLA up to 500 m², thereafter 1 per 100 m² GLA Warehouse/storage: 2 bays per 100 m² GLA up to 500 m², thereafter 1 per 100 m² GLA</p>	

<p>c. Definitions</p>	<p>“agricultural industry” means an enterprise for the processing of agricultural related products on or close to the land unit where these agricultural products, whether land- or marine-based (such as aquaculture), are grown, harvested and raised where processing in such proximity is necessary due to the nature, perishability and fragility of such agricultural products or promotion of tourism related activities, and includes, inter alia, dairies, wineries, distilleries, olive processing facilities, breweries and other facilities required for the processing of agricultural products where produce packed is not produced on the land unit but does not include service trades;</p> <p>“agriculture” means the cultivation of land for crops and plants, including plantations, the keeping and breeding of animals, beekeeping, bird farming or the operation of a game farm, may comprise natural veld and includes only such activities and buildings as are reasonably connected to the main farming activities such as residential accommodation for the farmer, farm manager and farm labourers and the packing of agricultural produce grown on the property but excludes intensive horticulture, intensive animal farming, agricultural industry, and a farm shop;</p> <p>“dwelling house” means a self-contained, inter-leading group of rooms used for the accommodation and housing of a single family (together with adequate sanitary facilities and a kitchen and such outbuildings as are ordinarily used therewith), provided further that a dwelling house may not have more than two kitchens;</p> <p>“floor space” in relation to any building means the area of the floor which is covered by a slab, roof or projections, provided that:</p> <ul style="list-style-type: none"> (i) any area, including a basement, which is reserved solely for the parking or loading of vehicles shall be excluded; (ii) external entrance steps and landings, any stoep and any area required for external fire escapes shall be excluded; (iii) a projection of eaves and a projection which acts as a sunscreen or an architectural feature which does not exceed 1,0 m beyond the exterior wall or similar support shall be excluded; (iv) any common pedestrian thoroughfare which is covered by a roof and which provides access through a building from a parking, public street or an open space to some other parking, public street or open space and which is accessible to the general public during normal business hours shall be excluded; (v) any covered area outside and immediately adjoining a building at or below the ground floor level, where such paved area is part of a forecourt, yard, external courtyard, pedestrian walkway, parking area or vehicular access and which is permanently open to the elements on at least the front or the side(s) shall be excluded; (vi) subject to clause (vii), any stairs, stairwells and atriums that are covered by a roof shall be included; (vii) in the case of multi-level buildings, any stairwells, lift wells, light wells or other wells and any atrium shall only be counted once; and (viii) floor space shall be measured from the outer face of the exterior walls or similar supports of such building, and where the building consists of more than one level, the total floor space shall be the sum of the floor space of all levels, including that of basements; <p>“intensive animal farming” means breeding, feeding and keeping of animals and birds on an intensive basis and includes feedlots and poultry batteries;</p> <p>“tourist facilities” means amenities for tourists or visitors such as lecture rooms, restaurants, picnic areas, gift shops, cafés, restrooms, recreational facilities, animal parks (domestic or otherwise) but does not include a hotel or overnight facilities;</p>
------------------------------	---

<p>d. Application:</p> <p>The application form is attached as Annexure A.</p>	<p>Application is subsequently made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:</p> <ul style="list-style-type: none"> • Departure to relax the allowed floor space from 5000m² to 6810m² to allow for existing structures in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. • Departure to relax the building line of boundary G-J from 30m to 3.94m to allow for the existing guard house, dispatch building and office building in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. • Departure to relax the building line K-L from 30m to 7m to allow for the existing storage and tool sheds and snail farm tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. • Consent use for intensive animal farming to allow for the existing snail tunnels in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. • Amendment of condition of approval 1.(a) to read <i>“that the approval is only to accommodate the existing operation and building footprint, and not the proposed extensions thereto;”</i> to <i>“that the approval is only to accommodate the existing operations and building footprints dated September 2024 as per Site Development Plan No 103, Dated 2024.09.09”</i> in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. • Amendment of the Site Development Plan in terms of Section 16(2)(l) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020. • Determination of an administrative penalty in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
---	---

3. Contextual Site Information

a. Property Description	Property	Extent	Title Deed	Registered Owner
	Portion 2 of Farm 586 Hemel & Aarde	34.4ha	T88567/2000	Vrede Boerdery Trust

The following Surveyor General Plans reflect the application site:

Refer to Annexure E for the SG Diagrams, Annexure C for the Title Deed of Portion 2 of Farm 586 Hemel & Aarde.

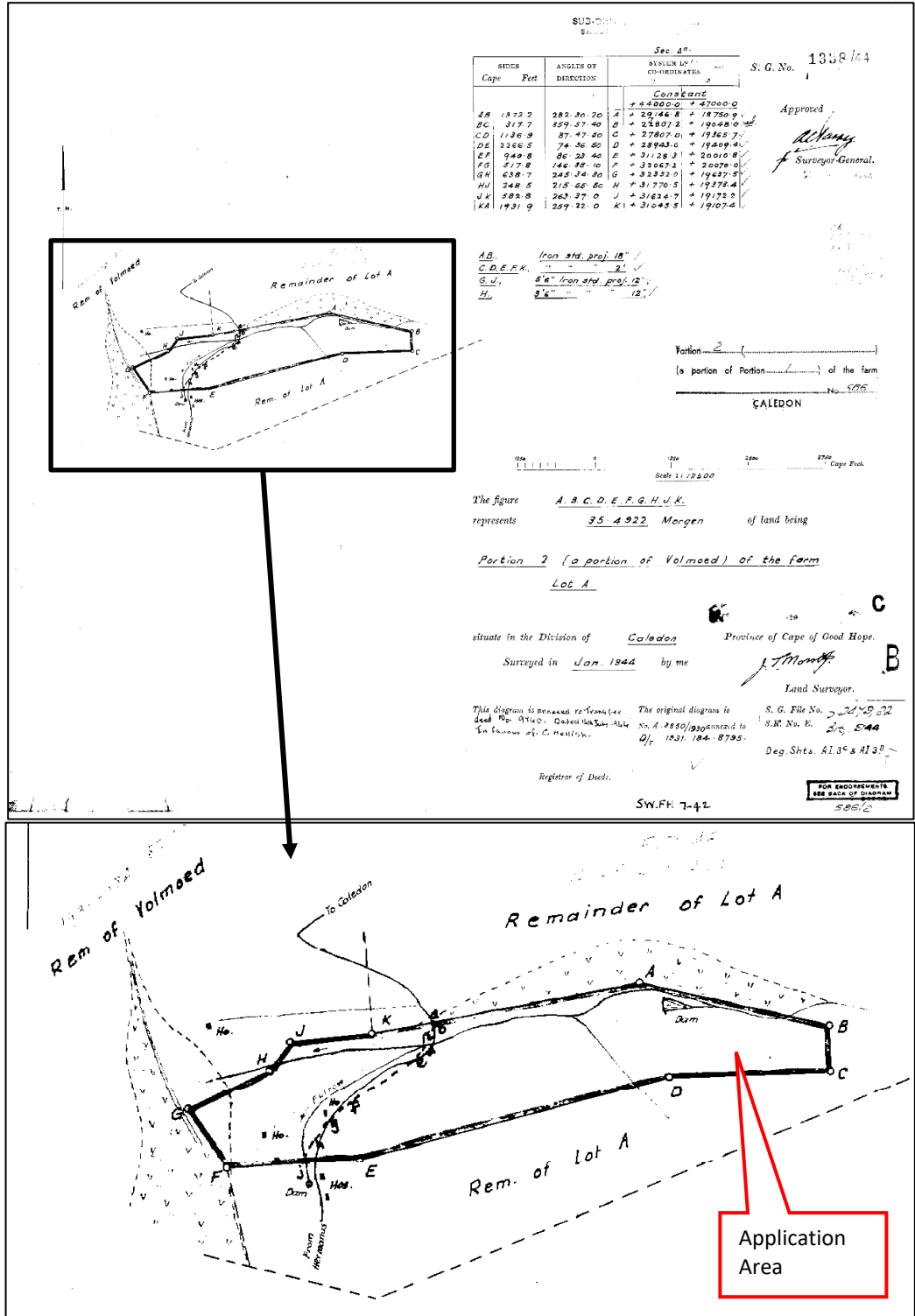


Figure 2: Extracts of the Surveyor General Plans of the application site

b. Location:

For the Locality Plans refer to Annexure F

Regional Context:

Within the regional context, the application is a farm which is located within Hemel and Aarde Valley, North of Hermanus and within the Overstrand municipal area.

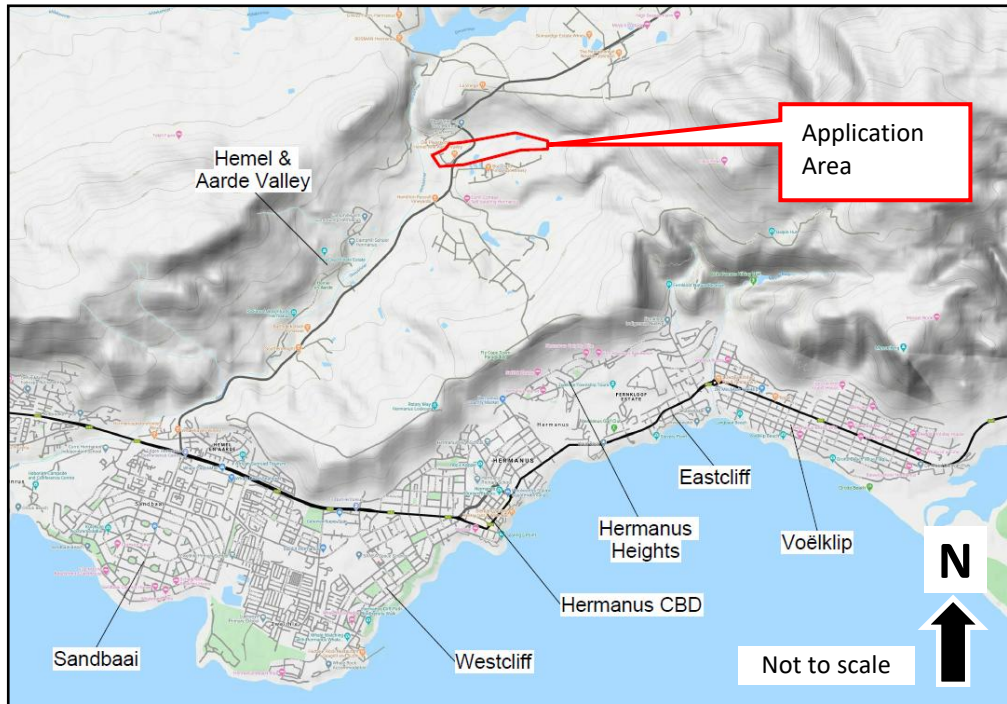


Figure 3: Locality Plan – Regional Context

Local Context:

Within the local context the application area consists of an agricultural and tourism farm on the Hemel en Aarde Road, within the Hemel and Aarde Valley.

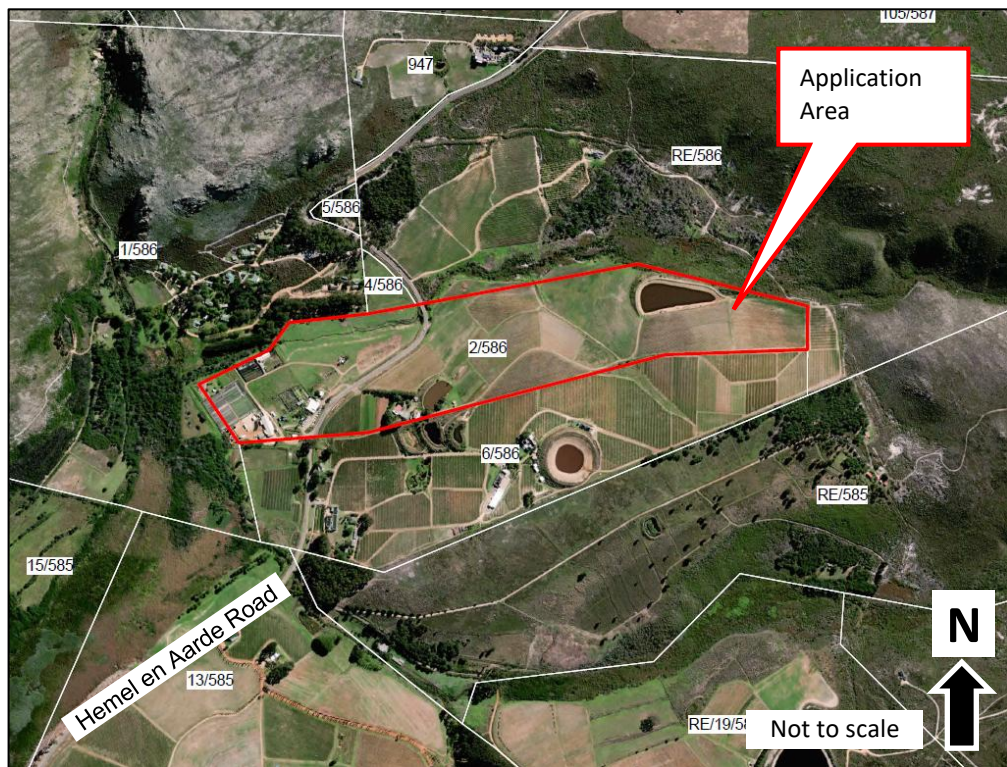


Figure 4: Locality Plan – Local Context

c. Land Use: The application area is used for agriculture and tourism, including a restaurant. The surrounding properties are used for agricultural land uses as well. The application proposal is **consistent** with the land-use of the area.

Refer to the Extract of Hermanus Zoning plan attached as **Annexure G.**

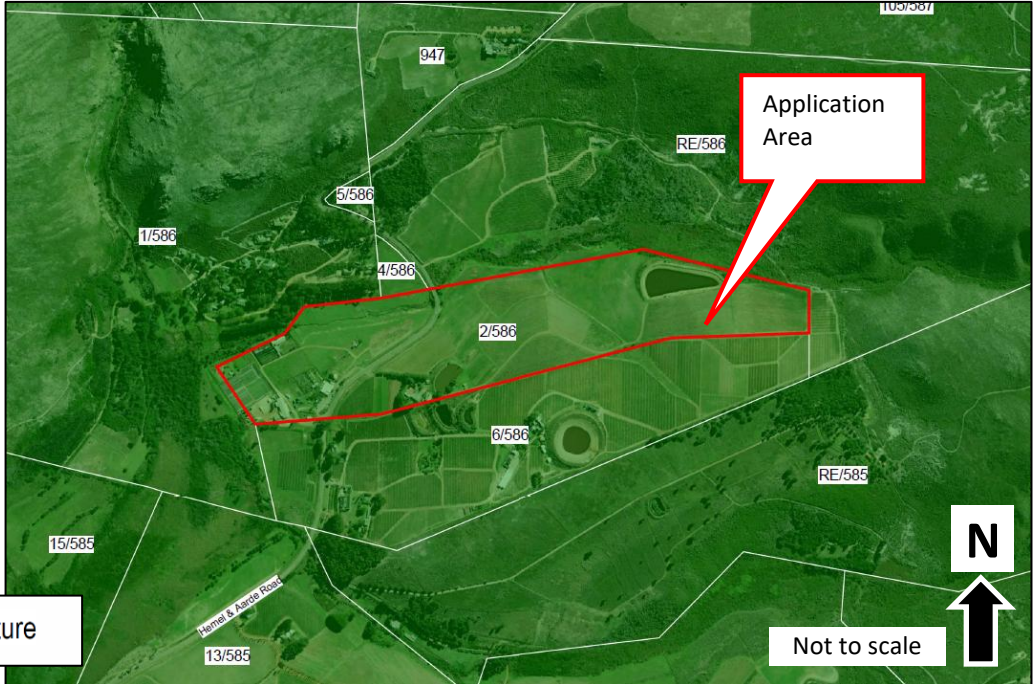


Figure 5: Google Image illustrating the residential land-use activities of the application area and surrounding properties

d. Zoning: The application area, is zoned Agricultural Zone 1: Agriculture. The surrounding farms are zoned Agricultural Zone 1: Agriculture as well. The application proposal is considered **consistent** with the zoning of the area.

Refer to the Extract of Hermanus Zoning plan attached as **Annexure H.**

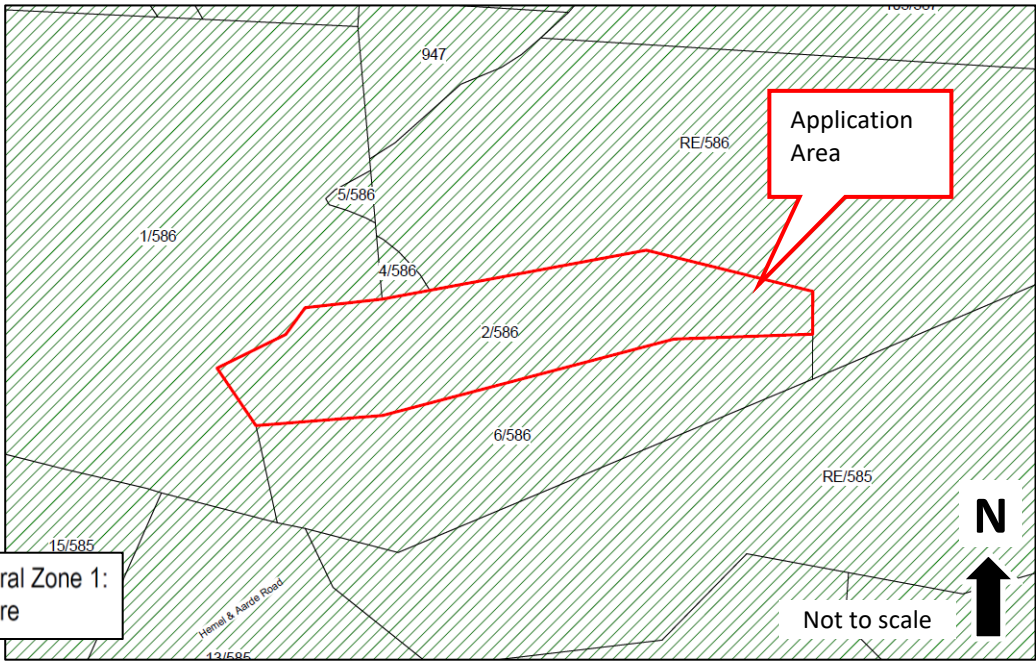


Figure 6: Zoning Plan extract

e. Laws and policies relevant to the consideration of the application and forward planning and land use documents

The following policy is applicable to the application area and the development proposal:

i. Overstrand Municipal Spatial Development Framework, 2020

The SDF is aimed at providing general direction to guide decision making on an ongoing basis, aiming at the creation of integrated, sustainable and habitable regions, cities, towns and residential areas.

An Inter Regional Economic Linkage and Major Road runs across the application area as well as a Non – Perennial River. The application area falls outside the Urban-Rural Development Boundary.

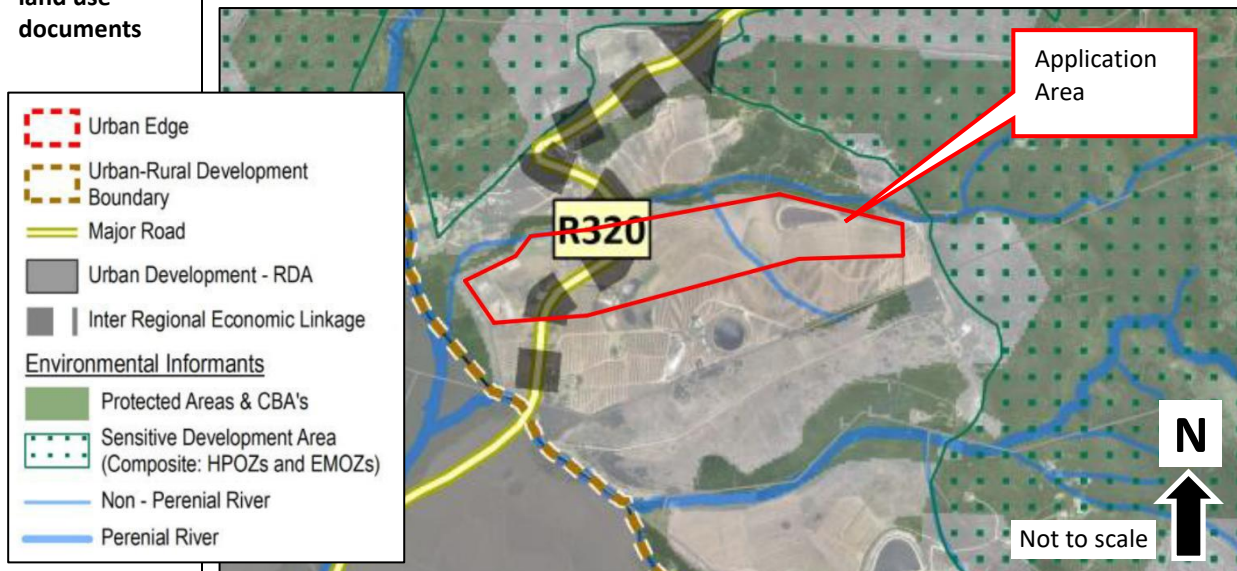


Figure 7: Spatial Development Framework 2020 Spatial Proposals Plan

The application is consistent with the Overstrand Municipal Spatial Development Framework, 2020.

ii. Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020

The Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 prescribes the following criteria for the evaluation of administrative penalties:

“90. Application for administrative penalty

- (1) A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.
- (2) A person making an application contemplated in Subsection (1) must –
 - (a) submit an application;
 - (b) pay the prescribed fee;
 - (c) provide the information contemplated in Subsections (3); and
 - (d) comply with the duties of an applicant in Section 84.
- (3) The applicant must, to the satisfaction of the Municipality, provide the following information such as-
 - (a) the nature, duration, gravity and extent of the contravention;
 - (b) the conduct of the person (allegedly) involved in the contravention;
 - (c) a report by a quantity surveyor in matters of unauthorised building/construction;
 - (d) whether the unlawful conduct was stopped; and
 - (e) whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.”

4. Motivation

Motivation for the application:

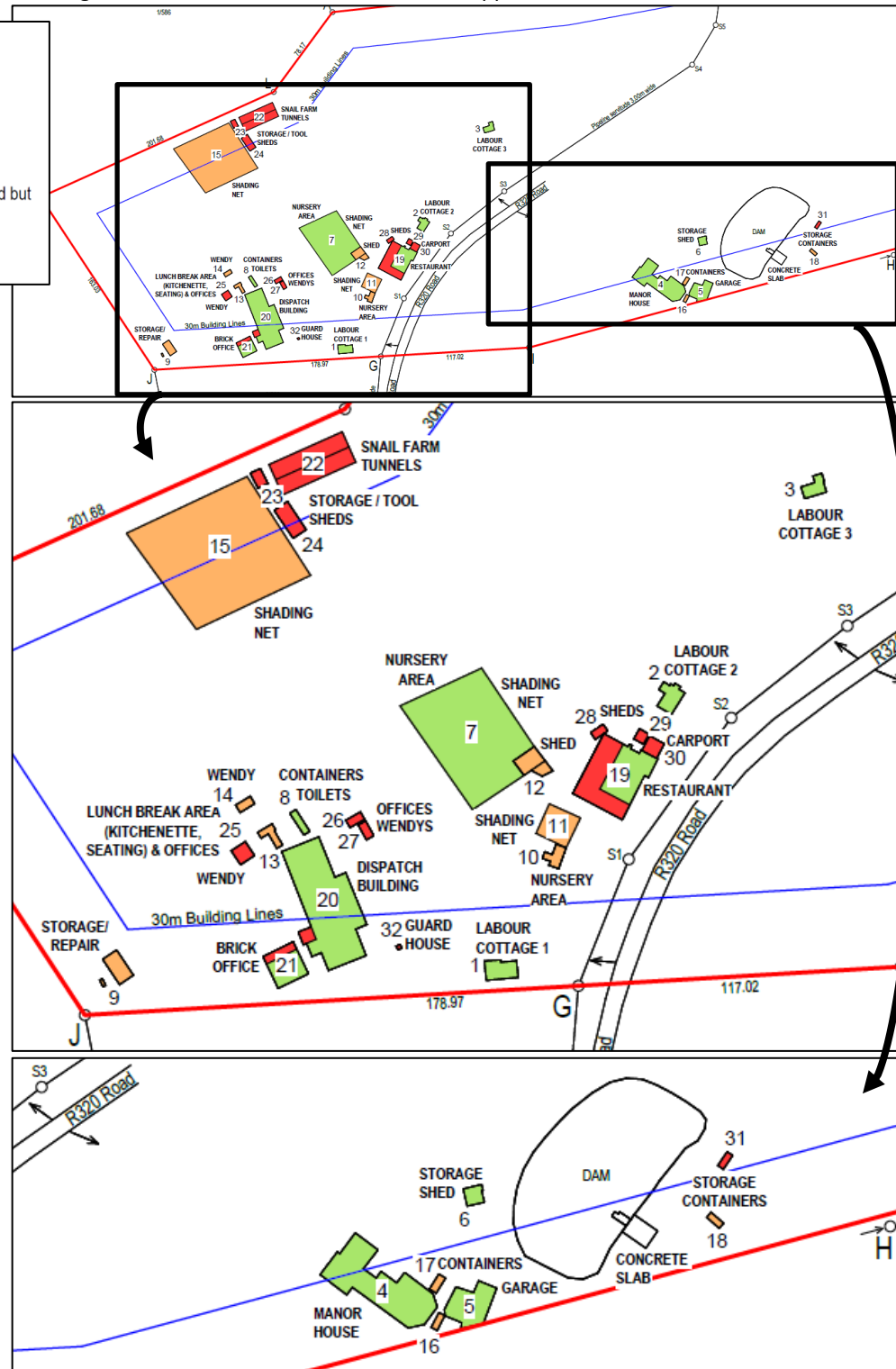
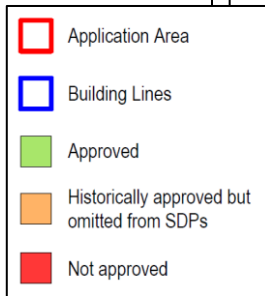
Refer to **Annexure I** for the Building Plan

a. Introduction and Background

The application area consists of Portion 2 of Farm 586 Hemel and Aarde accommodating farming, agricultural industry, intensive animal farming and tourist facility land uses.

Some structures have been amended and erected within the application area without the required approvals.

Here below is plans with plan extracts and a list of the structures on the application area showing inter alia structures that has not been approved:



No	Structures	Land Use	Status	Total Area	Approximate Additional Area	Approximate construction dates
1	Labour Cottage 1	Agriculture	Approved	75m ²	N/A	Pre-2004
2	Labour Cottage 2	Agriculture		67m ²	N/A	Pre-2004
3	Labour Cottage 3	Agriculture		45m ²	N/A	Pre-2004
4	Manor House	Dwelling House		578m ²	N/A	Pre-2004
5	Garage	Dwelling House		197m ²	N/A	Pre-2004
6	Storage Shed	Agriculture		42m ²	N/A	Pre-2009
7	Nursery Shade Netting	Agriculture		1309m ²	N/A	Pre-2010
8	Toilets	Agriculture		24m ²	N/A	Pre-2009
9	Storage & Repair building	Agriculture	Historically approved, but omitted from SDPs	69m ²	N/A	2012-2014
10	Nursery area	Agriculture		38m ²	N/A	2012-2014
11	Shading net (Nursery area)	Agriculture		144m ²	N/A	2011
12	Shed	Agriculture		82m ²	N/A	2012-2014
13	Container	Agriculture		29m ²	N/A	Pre-2009
14	Wendy	Agriculture		19m ²	N/A	Pre-2009
15	Shading net	Agriculture		1978m ²	N/A	Pre-2010
16	Container	Agriculture		14m ²	N/A	Pre-2009
17	Container	Agriculture		18m ²	N/A	Pre-2009
18	Container	Agriculture		14m ²	N/A	2012-2014
Total				4771m²		
19	Restaurant	Tourist Facilities	Veranda enclosed without approval	508m ²	269m ²	2014-2016
20	Dispatch building	Agricultural Industry	Additions without approval	803m ²	25m ²	2014-2016
21	Office building	Agricultural Industry	Veranda enclosed without approval	155m ²	36m ²	2014-2016
22	Snail Farm Tunnels	Intensive animal farming	New structures without approval	348m ²	348m ²	2020-2021
23	Storage/tool shed	Agriculture		24m ²	24m ²	2018-2020
24	Storage/tool shed	Agriculture		70m ²	70m ²	2018-2020
25	Wendy	Agriculture		37m ²	37m ²	2018-2020
26	Wendy Office	Agriculture		18m ²	19m ²	2020-2021
27	Wendy Office	Agriculture		19m ²	19m ²	2020-2021
28	Shed	Agriculture		17m ²	17m ²	2012-2014
29	Shed	Agriculture		17m ²	17m ²	2014-2016
30	Carport	Agriculture		36m ²	36m ²	2017
31	Container	Agriculture		14m ²	14m ²	2021-2023
32	Guard House	Agriculture		2m ²	2m ²	2024
Total				2068m²	932m²	
Grand Total				6810m²		

Figure 8: Plan extracts and a list of the structures on the application area

Consent Uses for tourist facilities (restaurant), farm stall and nursery were approved in 2012.

A Consent Use for agricultural industry on the application area was approved in 2015 which was limited to existing building footprint and operations, being for a pack shed. The associated SDP was thereafter approved in 2016.

Here below is an extract of the Site Development Plan approved in 2016.



Figure 9: 2016 Approved Plan extract

b. The proposal

The objective of the application is to legalise the existing structures on site.

Subsequently application is made for:

- Consent uses for intensive animal farming
- Floor space departure
- Building line departures
- Amendment of a condition of approval
- Amendment if the Site Development Plan
- The determination of an administrative penalty

Consent Use for Intensive Animal Farming

The application includes a consent use for the existing snail farming in accordance with the definition of intensive animal farming (refer to paragraph 2c).

Vegetable waste from the packaging plant is fed to the snails which are farmed within 348m² snail tunnels. These waste create additional employment and income and thereby promoting circular farming.

The snail farming is contained within greenhouse tunnels and does not impact on the surrounding farms or environment

Floor area departure

Application includes a departure to relax the total allowable floor space of all buildings on the land unit from 5000m² to 6810m² to allow for all existing structures.

Of the total of 6810m² floor area, 4501m² is used for direct agriculture purposes, 187m² for labourers' cottages, 775m² for the manor house and garage, 803m² for agricultural industry and 544m² for the restaurant including carport.

Of the 4501m² agricultural floor area; 1403m² is used for shade netting to protect plants from harsh sun and 348m² for snail farm tunnels. The shade netting is visually and physically permeable and the snail farm tunnels are visually permeable. The remainder of the floor space without the shade netting and snail farm tunnels amounts to 5059m².

Over 65% of the floor area is used for direct agriculture purposes and the remainder of the floor area for housing, agricultural industry and tourism which are related to the agricultural land uses.

The coverage of the application area, which is closely related to floor space has increased from 1.26% to 1.98% and the structures are widely apart and distributed, thus not having a significant impact on the rural character of the area of the Hemel and Aarde Valley activities.

Building line departures

Application includes building line departures for existing structures and are as follows:

Boundary G-J:

- The guard house, 16.84m from the farm boundary.
- Dispatch building, 10.9m from the farm boundary with an alternative shape to the 2016 approved SDP.
- The office building 5.51m from the farm boundary (a different position and size as the 2016 approved SDP).

Boundary K-L:

- Storage and tool sheds 7.04m & 21.9m from the farm boundary.
- Snail tunnels 7m from the farm boundary. Plastic tunnels were used at that location prior to the 2016 SDP approval, however such detail was not included on the approved 2016 SDP.

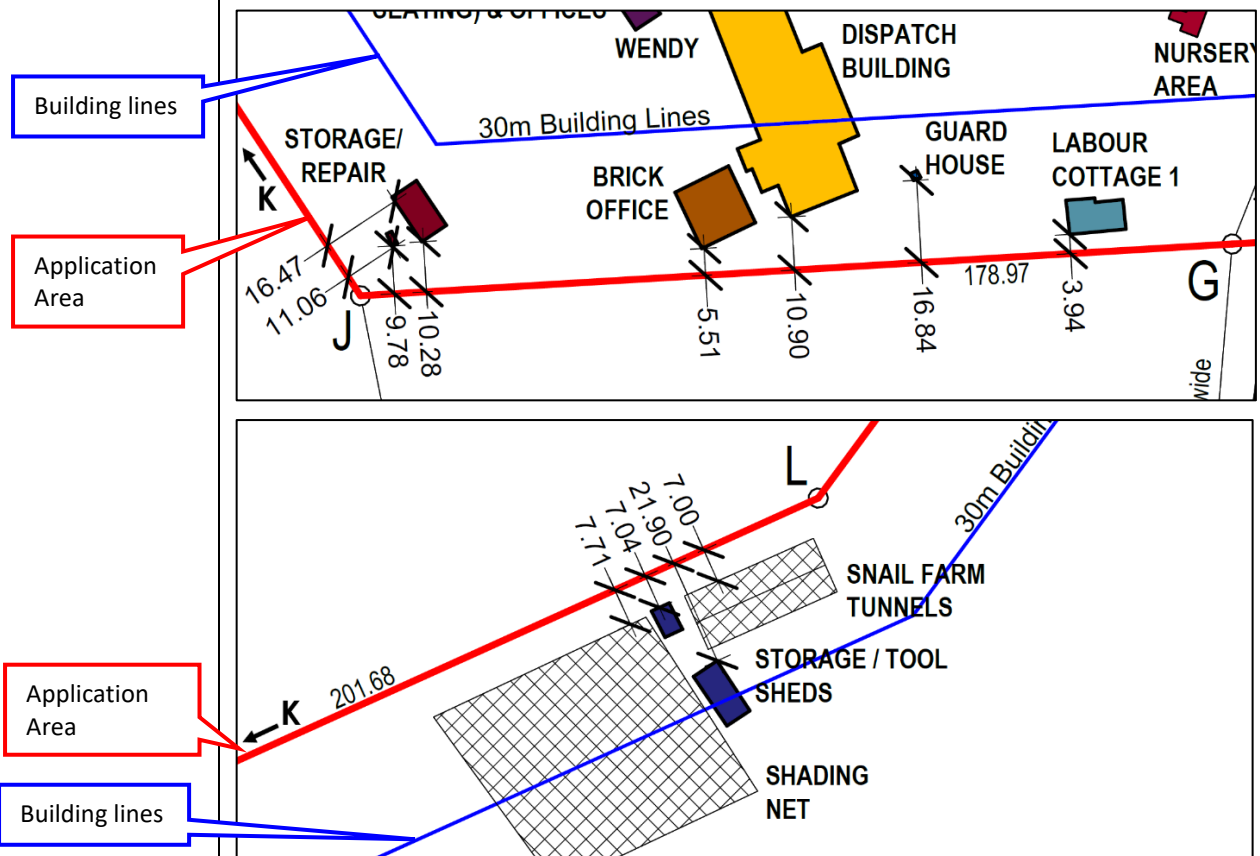


Figure 10: Building line illustrations

The structures exceeding building lines are not opposite or close to structures of neighbouring properties. These structures are also only single storey, thus not negatively affecting the privacy, light or views of neighbouring properties.

Due to the significant distributed spacing of buildings of neighbouring properties as well as visually permeable fences, it is not visually clear that the structures exceed building lines and thus the structures exceeding the building lines do not negatively impact on the character of the area.

Sufficient space is still available around the properties for access for services and emergency services.

Amendment of conditions of an approval

The application includes the amendment of condition of approval 1.(a).

Decision Letter: 11 March 2015

"PORTION 2 OF THE FARM HEMEL & AARDE NO. 586, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSENT USE AND DEPARTURE: VREDE BOERDERY TRUST

With reference to your application regarding the above dated 8 April 2014 it is hereby confirmed that the matter was considered by the Mayoral Committee during a meeting held on 26 February 2015, and that it was resolved as follows:

RESOLVED:

*"1. that, in terms of Section 2.2 of the Overstrand Municipality Zoning Scheme Regulations promulgated in accordance with Section 9 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for Consent Use on Portion 2 of the Farm Hemel & Aarde No. 586 in order to operate an agricultural industry on a portion of the property, **be approved**, subject to the following conditions:*

(a) that the approval is only to accommodate the existing operation and building footprint, and not the proposed extensions thereto;"

(b)"...

Proposed amendments from decision dated 11 March 2015:

The existing agricultural industry building has expanded by approximately 25m² and associated office by approximately 36m².

Further additional structures include the enclosure of the restaurant building and office building veranda, an addition to the dispatch building as well as a new guard house, 3 wendy houses, 4 sheds, a container and a carport.

The existing structures also includes an additional land use of intensive animal farming in the form of snail tunnels calculated at 348m² representing approximately 55% of the total additional covered area.

The total additional covered area is approximately 628m².

In order to allow for existing structures and land use, it is proposed that condition (a) be amended from *"that the approval is only to accommodate the existing operation and building footprint, and not the proposed extensions thereto;"* to *"that the approval is only to accommodate the existing operations and building footprints dated September 2024 as per Site Development Plan No 103, Dated 2024.09.09"*.

The coverage of the application area has increased from 1.26% to 1.98% and the structures are spread out, thus not having a significant impact on the rural character of the area. The majority of additional covered area is for the restaurant as well as storage for agricultural purposes, with only relatively minor amendments to the agricultural industry. All existing structures and land uses are consistent with rural character of the area.

The existing structures contribute to the viability of the farm and employment creation. This contributes to the ability absorb economic and environmental shocks as well as secure agricultural production capacity. The existing restaurant also contributes to the tourism industry, which is encouraged within the Overstrand municipal area.

Amendment of the Site Development Plan

Application includes the amendment of the Site Development Plan.

With reference to the proposed amendment of conditions of an approval to allow for existing additional structures, a Site Development Plan showing all the existing structures on the application area is shown here-below:

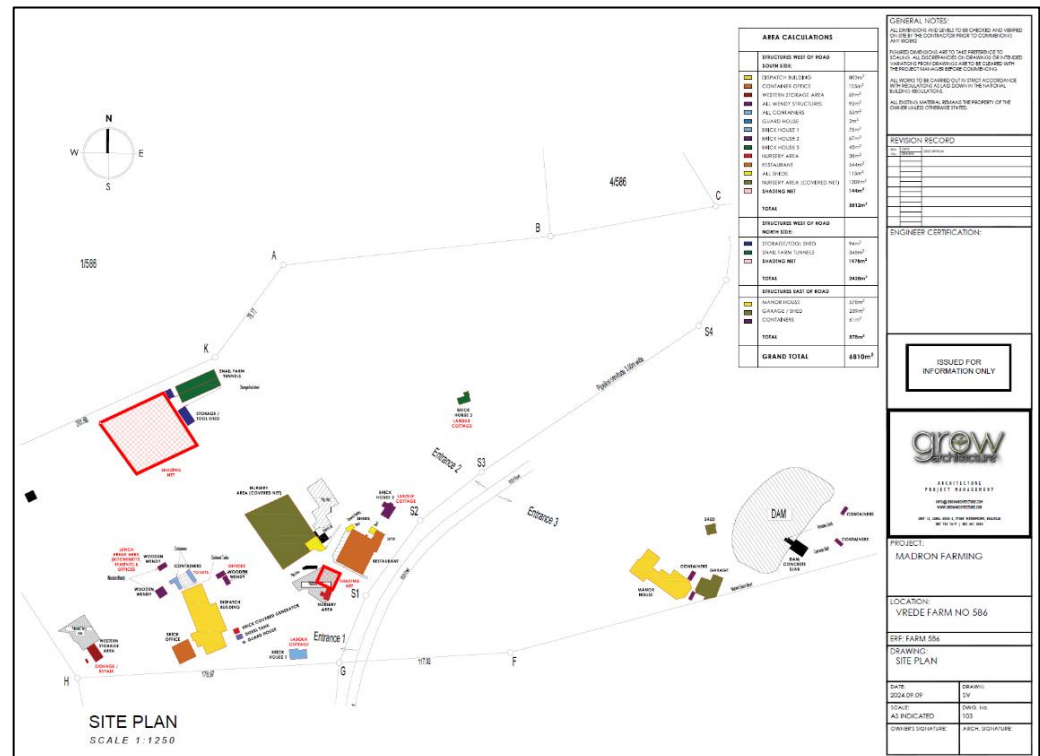


Figure 11: Site Development Plan extract

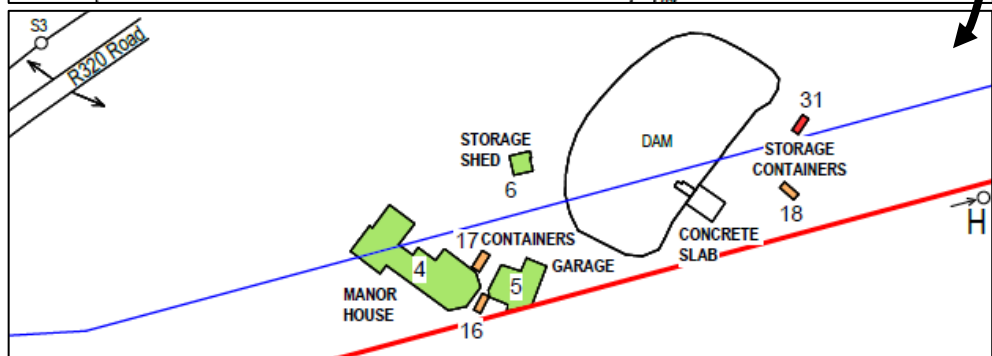
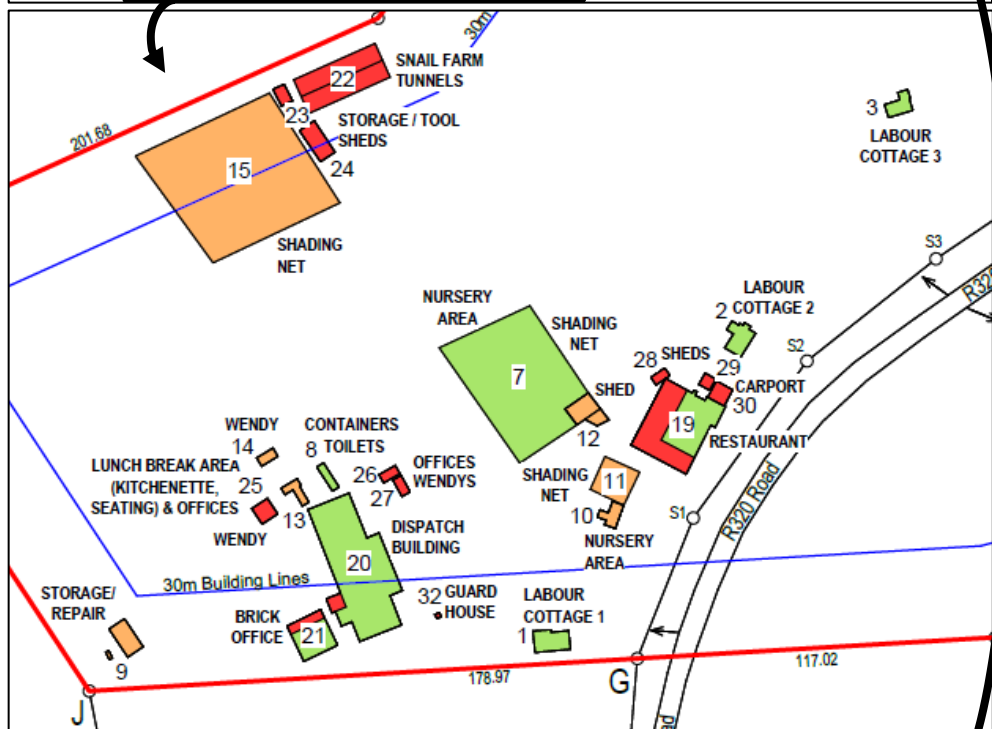
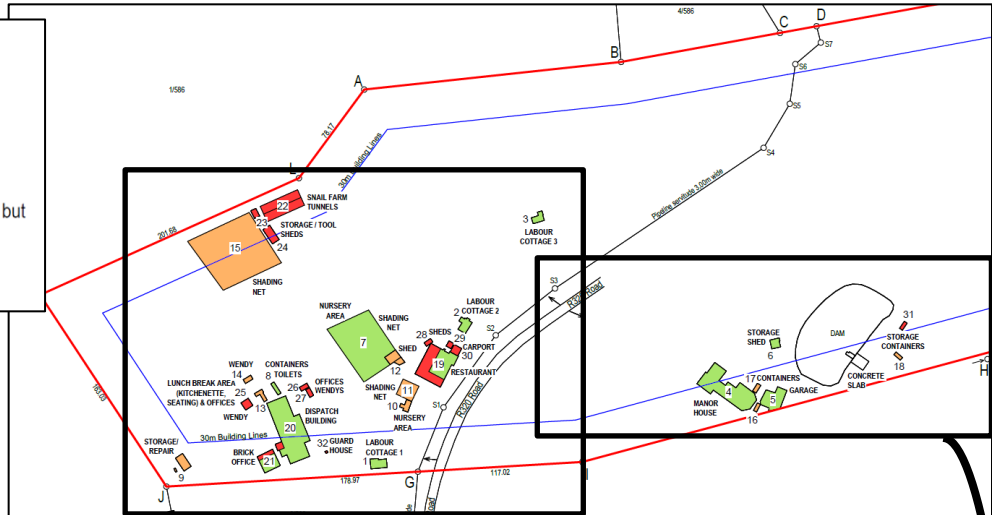
Determination of an administrative penalty

Application includes the determination of an administrative penalty for the existing land use.

- The nature, duration, gravity and extent of the contravention;

Structures that were constructed without the required approvals are shown on the plan with a supporting descriptive table, here-below:

Application Area
 Building Lines
 Approved
 Historically approved but omitted from SDPs
 Not approved



No	Structures	Land Use	Status	Total Area	Approximate Additional Area	Approximate construction dates
19	Restaurant	Tourist Facilities	Veranda enclosed without approval	508m ²	269m ²	2014-2016
20	Dispatch building	Agricultural Industry	Addition without approval	803m ²	25m ²	2014-2016
21	Office building	Agricultural Industry	Veranda enclosed without approval	155m ²	36m ²	2014-2016
22	Snail Farm Tunnels	Intensive animal farming	New structures without approval	348m ²	348m ²	2020-2021
23	Storage/tool shed	Agriculture		24m ²	24m ²	2018-2020
24	Storage/tool shed	Agriculture		70m ²	70m ²	2018-2020
25	Wendy	Agriculture		37m ²	37m ²	2018-2020
26	Wendy Office	Agriculture		18m ²	19m ²	2020-2021
27	Wendy Office	Agriculture		19m ²	19m ²	2020-2021
28	Shed	Agriculture		17m ²	17m ²	2012-2014
29	Shed	Agriculture		17m ²	17m ²	2014-2016
30	Carport	Agriculture		36m ²	36m ²	2017
31	Container	Agriculture		14m ²	14m ²	2021-2023
32	Guard House	Agriculture		2m ²	2m ²	2024
Total				2068m²	932m²	

The following existing land use has not been approved:

No	Structures	Land Use	Total Area	Approximate date
22	Snail Farm Tunnels	Intensive animal farming	348m ²	2020-2021

- The conduct of the person (allegedly) involved in the contravention;
The owner of the application area has erected several structures and did intensive animal farming in the sense of snail farming without required approvals.
- Report by a quantity surveyor in matters of unauthorised building/construction;
A report from a quantity surveyor has not been obtained and will be provided upon request.
- Whether the unlawful conduct was stopped; and
Since application is to legalise the existing structures and land uses and the structures and land uses provides accommodation and employment, the structures and land uses remain.
- Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.
In addition to the items listed above, we are not aware of previous contraventions in terms of this by-law.

c. Desirability

The application proposal is considered **desirable** for the following reasons:

- The application proposal for the legalisation of existing structures and land uses secures jobs and income generating activities.
- The application proposal allows for farm activity diversification, optimising land use and making the farm as a whole more viable, enhancing agricultural production security and resilience.
- Agriculture remains the dominant land use on the property.
- The existing tourist facilities contributes to the tourism industry of the Overstrand.
- The existing land uses are consistent with the character of the farming area.
- The scale and number of the existing structures do not significantly impact the character of the area.
- The application proposal is consistent with the relevant forward planning policies and plans.

As motivated above, the proposal is considered desirable and is compatible with the character of the surrounding area.

d. Planning Principles

In terms of Chapter VI of the Spatial Planning and Land Use Management Act, 2013 the following Planning Principles have been applied to the application site:

- 1) **Spatial Justice** which refers to the need for redressing the past apartheid spatial development imbalances and aims for equity in the provision of access opportunities, facilities, services and land.

Possible results of the development

The approval of the existing structures will retain jobs. Furthermore, the application proposal does not impact on spatial justice.

The application proposal is **consistent** with the principle of **spatial justice**.

- 2) **Spatial Sustainability** which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.

Possible results of the development

The application includes the approval of existing structures for the use for agricultural purposes. This application therefore maximises the use of valuable agricultural land.

The application proposal is consistent with the principle of **spatial sustainability**.

- 3) **Efficiency** which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.

Possible results of the development

The application proposal is for the development of a farm and does not relate to settlement design.

The application proposal is **consistent** with the **efficiency principle**.

- 4) **Spatial Resilience** which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.

Possible results of the development

Diversifying income activities on a farm such as per the application proposal improves the ability to absorb and overcome environmental and economic shocks.

The application proposal is **consistent** with the principle of **spatial resilience**.

- 5) **Good Administration** which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued.

Possible results of the development

Consultive practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.

The application proposal is **consistent** with the principle of **good administration**.

5. Conclusion

The application as motivated in this report is regarded **desirable** within its local context and well-integrated within the existing community land-use activities.

It is therefore recommended that the application **be approved** for the following:

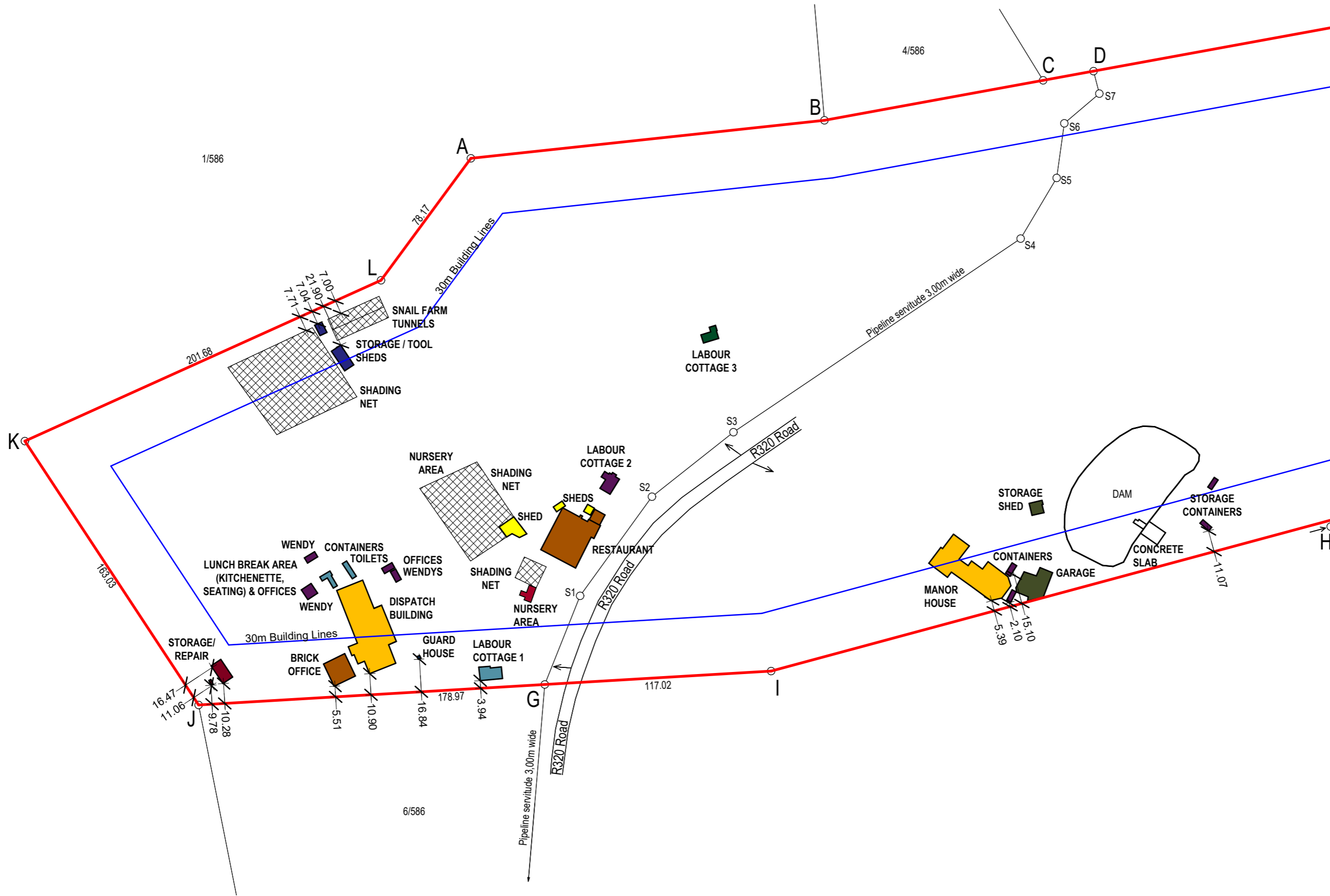
- Departure to relax the allowed floor space from 5000m² to 6810m² to allow for existing structures including the greenhouse snail farm tunnels and shade netted areas of 1751m² in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Departure to relax the building line of boundary G-J from 30m to 3.94m to allow for the existing guard house, dispatch building and office building in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Departure to relax the building line K-L from 30m to 7m to allow for the existing storage and tool sheds and snail farm tunnels in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Consent use for intensive animal farming to allow for the existing snail tunnels in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Amendment of condition of approval 1.(a) to read *“that the approval is only to accommodate the existing operation and building footprint, and not the proposed extensions thereto;”* to *“that the approval is only to accommodate the existing operations and building footprints dated September 2024 as per Site Development Plan No 103, Dated 2024.09.09”* in terms of Section 16(2)(h) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Amendment of the Site Development Plan in terms of Section 16(2)(l) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- Determination of an administrative penalty in terms of Section 16(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Building Line Departure Plan
A3 Scale 1 : 2000

PROJECT
Portion 2 of Farm 586
Hemel & Aarde

TITLE
Building Line
Departure Plan

- Application Area
- Building Lines



INDEMNITY
INTERACTIVE TOWN & REGIONAL PLANNING MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND SHALL NOT BE LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS DATA. THE DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR THE PURPOSES OF A PROJECT WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT.

CLIENT

DRAWN BY Author	CHECKED BY Checker	DATE 2024/08/08
SCALE (@ A3) As indicated	PROJECT NUMBER 0001	
DRAWING NUMBER A101		

InterActive Town & Regional Planning
Andre Wiehahn Pr Pln A/927/1996
B Art et Sc (Town and Regional Planning)
Telephone 028 312 1688
Cell phone: 082 466 0490
E-Mail: wiehahn.a@gmail.com

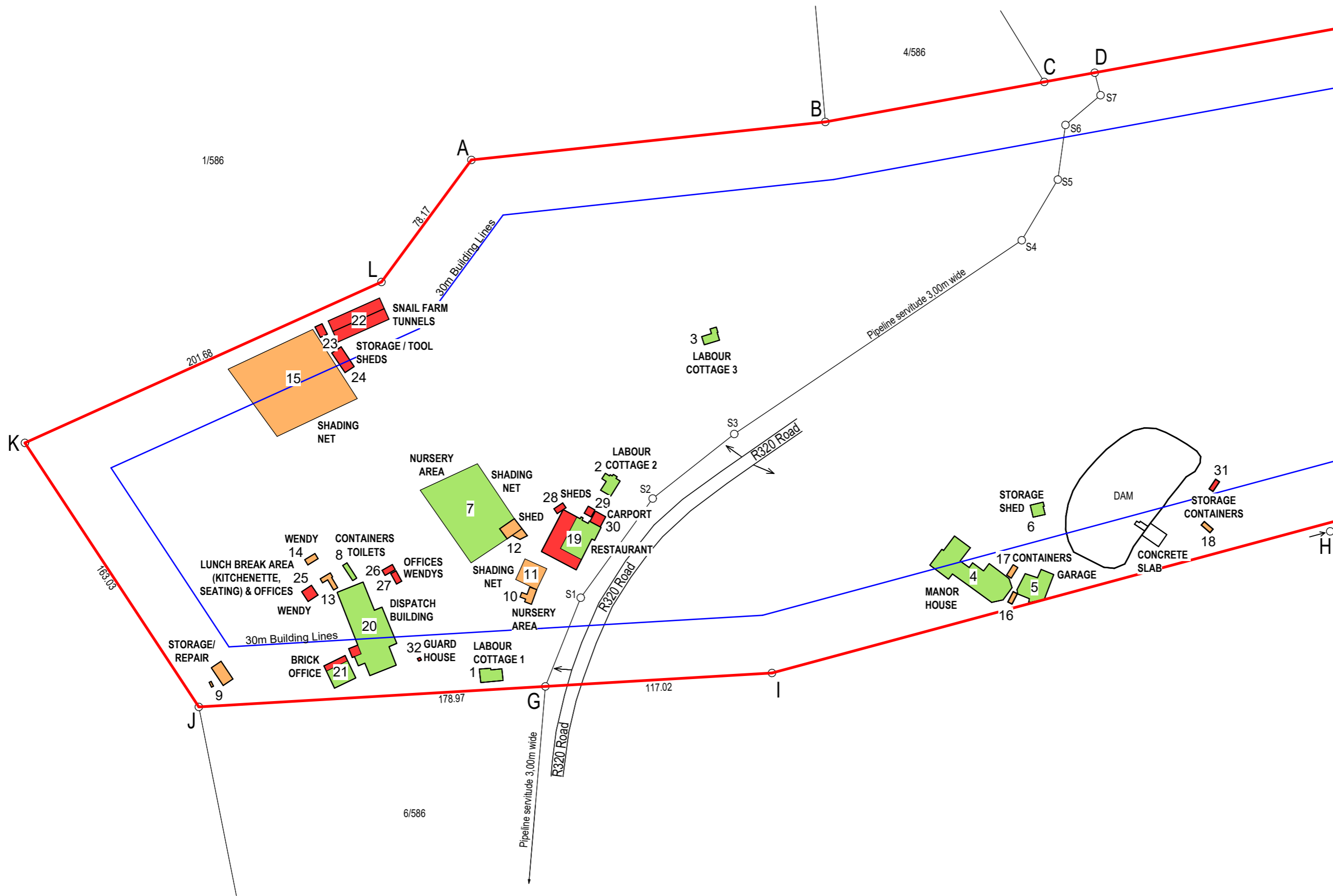


Admin Penalty Plan
A3 Scale 1 : 2000

PROJECT
Portion 2 of Farm 586
Hemel & Aarde

TITLE
Administrative Penalty
Plan

- Application Area
- Building Lines
- Approved
- Historically approved but omitted from SDPs
- Not approved



INDEMNITY
INTERACTIVE TOWN & REGIONAL PLANNING MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, WITH REGARD TO THE DATA AND SHALL NOT BE LIABLE IN ANY EVENT FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS DATA. THE DATA REMAINS THE SOLE PROPERTY OF THE CLIENT AND MAY ONLY BE USED FOR THE PURPOSES OF A PROJECT WITH THE PRIOR WRITTEN APPROVAL OF THE CLIENT.

CLIENT

DRAWN BY Author	CHECKED BY Checker	DATE 2024/12/17
SCALE (@ A3) As indicated	PROJECT NUMBER 0001	
DRAWING NUMBER Rev2		

InterActive Town & Regional Planning
Andre Wiehahn Pr Pln A/927/1996
B Art et Sc (Town and Regional Planning)
Telephone 028 312 1688
Cell phone: 082 466 0490
E-Mail: wiehahn.a@gmail.com



