



REPORT TO MUNICIPAL PLANNING TRIBUNAL

CASE ID	70457998				
CASE OFFICER	QUANITAH SAVAHL				
CASE OFFICER PHONE NO	021 684 4348				
DISTRICT	CAPE FLATS				
REPORT DATE	30 JULY 2019				
INTERVIEW REQUESTED	APPLICANT OBJECTOR(S)	YES		NO	✓
					✓

ITEM NO MPTSW12/08/19

WARD 67: APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) IN RESPECT OF ERF 6121 PELIKAN PARK, 31 ROLLER STREET (NEW HORIZONS)

1 EXECUTIVE SUMMARY

Property description	Erf 6121 Pelikan Park
Property address	31 Roller Street (New Horizons)
Site extent	149,95m ²
Current zoning	Single Residential 1
Current land use	Residential (dwelling house)
Overlay zone applicable	None
Submission date	05 July 2019
Subject to PHRA / SAHRA	No
Any unauthorised land use / building work?	Yes, unauthorised building work – carport
Has owner applied for the determination of an administrative penalty	Yes, the Administrative Penalty must be still be determined.
Has the City Manager applied to the MPT for an order that a person who is contravening the MPBL must pay an administrative penalty in an amount determined by the MPT	No
Has the City issued a demolition directive i.t.o section 128 of the MPBL? If yes, an administrative penalty may not be applied for.	No
Has the City served a notice on the owner or other person in respect of	No

the unlawful land use or building work which required the owner or other person to apply for the determination of an administrative penalty?	255
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2 DECISION AUTHORITY

For decision by the Municipal Planning Tribunal

3 BACKGROUND / SITE HISTORY

The property is zoned Single Residential 1 in terms of the Development Management Scheme (DMS). This property falls part of a large housing development which was approved subject to conditions of which some relate to building lines. The subject property has a rear building line of 1m. A portion of the carport contravenes the rear/common boundary building line.

4 SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation of the proposed is attached as Annexure C and may be summarised as follows:

- Unauthorised carport encroaches 1m rear building line.
- Client was unaware that a carport requires a building plan.

5 ASSESSMENT OF APPLICATION

5.1 As indicated above, the unauthorised building work is in contravention of the Development Rules for New Horizons Residential Development (Gap Housing).

5.2 In terms of section 129(7)(a) of the By-Law, an administrative penalty for a building work contravention may not be more than 100% of the value of the building, construction and engineering work unlawfully carried out.

Administrative Penalty: Calculation

5.2.1 Unauthorised building work

Value per m² (as provided in the spreadsheet) × Total Unlawful area (m²) = R

Value per m ²	=	R1 340,00
Total Unlawful area (carport)	=	3,93m ²
Calculated value (Value x Area)	=	R5 266,20

An amount which is not more than 100% of R5 266,20 may be imposed as administrative penalty.

- 5.3 The following factors need to be considered when determining an appropriate administrative penalty, as contemplated by section 129(8) of the By-Law:

a) The nature, duration, gravity and extent of the contravention

Nature - A portion of the unauthorised carport is constructed within the 1m rear boundary building line.

Duration - The duration is two years as aerial photography from January 2017 shows the carport under construction. The applicant has also indicated that the duration is two years.

Gravity - The contravention does not appear to pose a hazard in terms of safety, fire or health. No vehicular sight lines will be affected as the contravention occurs at the rear of the property.

Extent - The portion of the carport that is in contravention measures approximately 3,93m².

b) The conduct of the person involved in the contravention

The owner carried out the unauthorised building work but according to the motivation, was unaware that a building plan is required for a carport.

c) Whether the unlawful conduct was stopped

The unauthorised building work was constructed prior to the submission of a building plan and exists.

d) Whether a person involved in the contravention has previously contravened this By-Law or any other planning law

As far as can be ascertained, the current owner of the property has not previously contravened this By-Law or any other planning law.

- 5.4 In view of the abovementioned considerations this Department recommends that an administrative penalty to the total value of R200 as indicated below be imposed:

6 REASONS FOR DECISION

- 6.1 A portion of the carport contravenes the rear boundary building line.

- 6.2 The earliest photography available which shows the unauthorised building work is from January 2017 and the contravention is therefore considered to be of medium duration.
- 6.3 The contravention is of a low gravity and a relatively minor extent.
- 6.4 As far as can be ascertained the owner of the property has not previously contravened the Municipal Planning By-Law or any other planning law.

7 RECOMMENDATION

In view of the above, it is recommended that:

- a) That an administrative penalty in the amount of R200 be determined in terms of section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 6121 Pelikan Park.

ANNEXURES

Annexure A- A1 Regional and Locality Plans
 Annexure B Plan of Contravention
 Annexure C Applicant's Motivation



Section Head : Land Use Management

Name A McCann

Tel no 021 6844341

Date 2nd August 2019

Comment



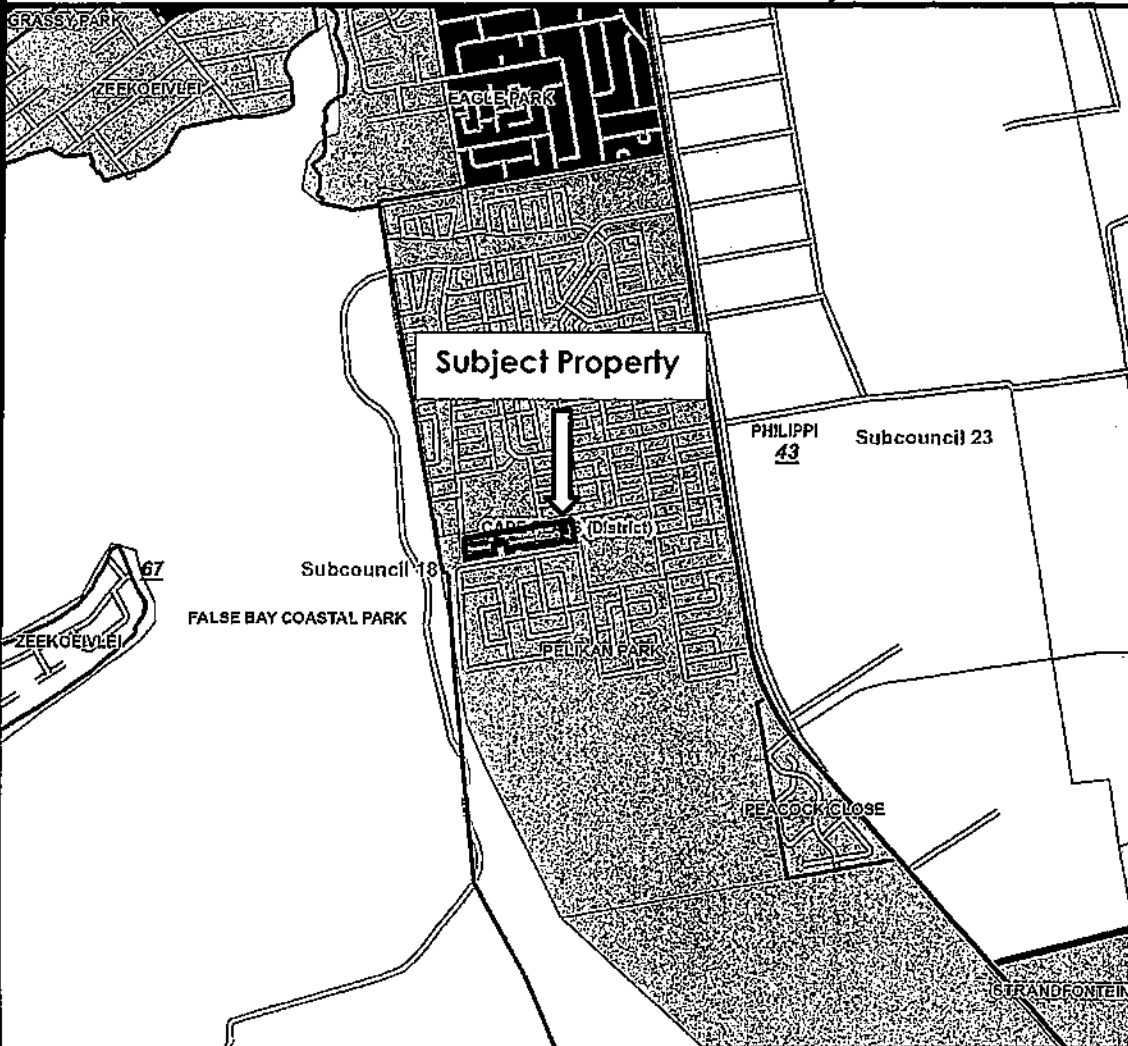


District Manager

Name Chad Newman

Tel no 021 684 4310

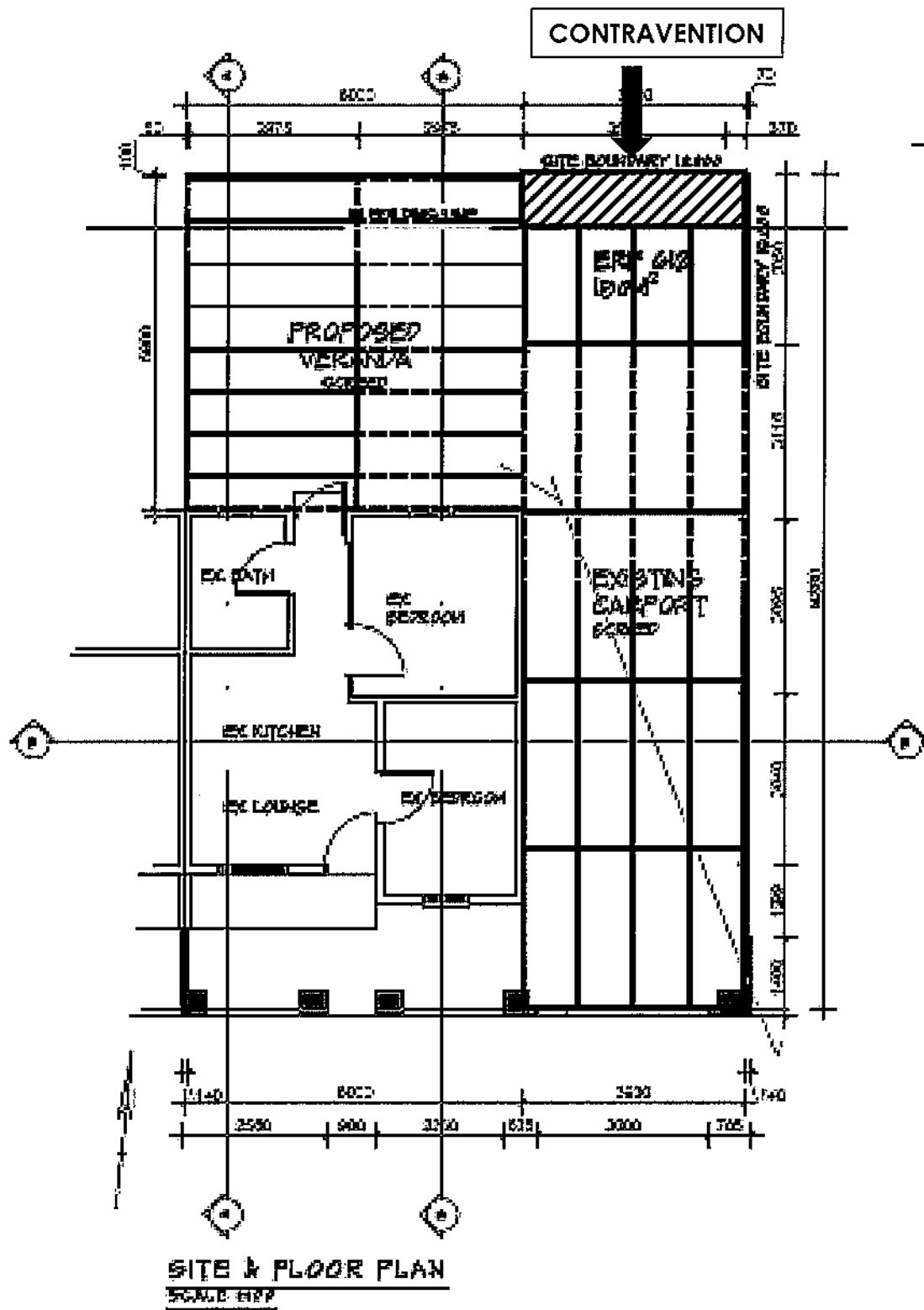
Date 5 August 2019

Comment

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP		ANNEXURE : A		
				
Overview	Erf: 2724-RE.6121 Allotment: PELIKAN PARK Ward: 67			District: CAPE FLATS Suburb: PELIKAN PARK Sub Council: Subcouncil 18
	 1:16 000	Notices Served <input checked="" type="checkbox"/>	Support Received <input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
		Petition Signatory <input type="checkbox"/>	Objections Received <input type="checkbox"/>	<input type="checkbox"/>
	Generated by: Q Savahl			 CITY OF CAPE TOWN ISIXEKO SASAKA STAD KAAPSTAD <small>Building progress, people's, together.</small>
	Date:			
File Reference: 70457998				

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP		ANNEXURE : A1		
Overview	Erf: 2724-RE.8121			
	Allotment: PELIKAN PARK			
	Ward: 67			
	District: CAPE FLATS			
	Suburb: PELIKAN PARK			
Sub Council: Subcouncil 18		CO1 226		
 1:1 200	Notices Served		Support Received	
Petition Signatory		Objections Received		
Generated by: Q Savahl		 CITY OF CAPE TOWN ISIXEKO SASEKAPA STAD KAAPSTAD <small>Making good people proud.</small>		
Date:				
File Reference: 70457998				

ANNEXURE B PLAN OF CONTRAVENTION



Motivation Report

Erf 6121

31 Roller Street,

Pelikan Park

This application serves to rectify a land use contravention carried out on the above mentioned property.
Please refer to drawing no. 170131-01(DKM)

A carport structure has been erected without an approved building plan & has thus been erected in such a way that it encroaches the 1m building line on the rear boundary (North common boundary).

The reason for the carport being erected without an approved building plan is due to the fact that my client, among many previous clients, was unaware that it was necessary for a building plan to be submitted for carport structures.

The carport has been constructed in this way in order to provide cover for the owner's private vehicle as well as his larger work vehicle which he sometimes has to bring home.

The carport has not caused any visual obstruction to street users and has been constructed well, thus not obstructing any sunlight nor does it create a bad visual impact.

The owner intends to develop the property in such a way that it does not allow any more break-ins as such an incident has occurred recently and this is a phase in the development of securing his property.

Best regards,

Zakaria Davis

Davis Designs

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