



REPORT TO MUNICIPAL PLANNING TRIBUNAL

CASE ID	70451759			
CASE OFFICER	Liza Volkwyn			
CASE OFFICER PHONE NO	021 684 4387			
DISTRICT	CAPE FLATS			
REPORT DATE	26 June 2019			
INTERVIEW REQUESTED	APPLICANT OBJECTOR(S)	YES		NO

ITEM NO **MPTSW09/07/19**

WARD 65: APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) IN RESPECT OF ERF 10775, GRASSY PARK, 8 BEATRICE CLOSE, LOTUS RIVER

1 EXECUTIVE SUMMARY

Property description	Erf 10775, Grassy Park
Property address	8 Beatrice Close, Lotus River
Site extent	255,73m ²
Current zoning	Single Residential 1
Current land use	Dwelling house
Overlay zone applicable	N/A

Submission date	25 April 2019
Subject to PHRA / SAHRA	N/A
Any unauthorised land use / building work?	Yes – unauthorised carport extension and a veranda erected within the street boundary building lines; unauthorised store room erected within the eastern common boundary building line.
Has owner applied for the determination of an administrative penalty	Yes
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	No

an amount determined by the MPT	
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 the unlawful land use or building work which required the owner or other person to apply for the determination of an administrative penalty?	No

2 DECISION AUTHORITY

For decision by the Municipal Planning Tribunal.

3 BACKGROUND / SITE HISTORY

Erf 10775, Grassy Park ("the property") is zoned Single Residential 1 in terms of the Development Management Scheme ("DMS") and is used for the purpose of 1 dwelling unit. However, unauthorised building work exists on the property in contravention of Item 22 of the DMS as follows:

- Unauthorised carport erected up to 0,0m of the 1,5m street boundary building line (Beatrice Close).
- Unauthorised veranda erected up to 0,0m of the 3,5m street boundary building line (Beatrice Close).
- Unauthorised store room erected up to 0,0m of the eastern 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:

- The carport was erected for security purposes because vehicles on the property have been burgled numerous times.
- The unauthorised veranda on the street side of the property provides protection from the elements.

- The unauthorised building work does not affect adjoining erven and is in keeping with existing development in the area.

5 ASSESSMENT OF APPLICATION

- 5.1 As indicated above, the unauthorized building work is in contravention of the Development Management Scheme.
- 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

Unauthorised carport

Value / m² = R1330

Total unlawful area (m²) = 7,82m²

R = R10400

Unauthorised veranda

Value / m² = R1020

Total unlawful area (m²) = 14,0m²

R = R14280

Unauthorised store room (portion that is in excess of 60% of the remaining linear distance of the common boundaries)

Value / m² = R2280

Total unlawful area (m²) = ±3m²

R = R6840

TOTAL = R31520

An amount which is not more than 100% of R31520 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 an unauthorised carport exceeds the 1,5m street boundary building line (Beatrice Close) up to 0,0m. Additionally, an unauthorised veranda also exceeds the 3,5m street boundary building line up to 0,0m. An unauthorised store room has been erected up to 0,0m of the 3,0m eastern common boundary building line.

Duration: According to the Land Use Management application form, the duration of the contravention is 4 years. The City's aerial photographs show that the unauthorised veranda has existed since November 2009, whereas the unauthorised carport has existed since the year 2016.

Gravity: The boundary building line contraventions are not considered to threaten the health, safety or wellbeing of the surrounding community.

Extent: The total extent of the contraventions is $\pm 24,82\text{m}^2$.

b) The conduct of the person involved in the contravention

The owner has submitted numerous land use applications to rectify the contraventions, but has delayed in submitting the administrative penalty application.

c) Whether the unlawful conduct was stopped

The unauthorised carport and veranda are complete structures.

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

As far as can be ascertained, the property owners have not contravened the MPBL or another planning law in the past.

- 5.4 Given the above factors, it is recommended that an administrative penalty of R500.00 is charged.

6 REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

- 6.1. Portions of an unauthorised carport, veranda and store room contravene the Development Management Scheme.
 - 6.2. The duration of the contraventions is long and the gravity is low.
 - 6.3. The extent of the contraventions is medium.
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- 6.4. As far as can be ascertained, the property owners involved in the contravention have not contravened the Municipal Planning By-law, 2015 or another planning law in the past.

7 RECOMMENDATION

In view of the above, it is recommended that:

- a) That an administrative penalty in the amount of R500.00 be determined in terms of section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 10775, Grassy Park

ANNEXURES

Annexure A Locality maps
 Annexure B Building plan
 Annexure C Applicant's motivation
 Annexure D Aerial photographs

A. McCann

**Section Head : Land Use
 Management**

Name A. McCann
 Tel no 021 684 4341
 Date 2 July 2019

Comment

Chad Newman

District Manager

Name Chad Newman
 Tel no 021 684 4310

Date: 02/07/2019

Comment

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT
LOCALITY MAP

ANNEXURE :



Overview

Erf: 10775

District: CAPE FLATS

Alignment: GRASSY PARK

Suburb: LOTUS RIVER

Ward: 65

Sub Council: Subcouncil 18



1:390

Notices Served



Support
Received



Petition
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Objections
Received



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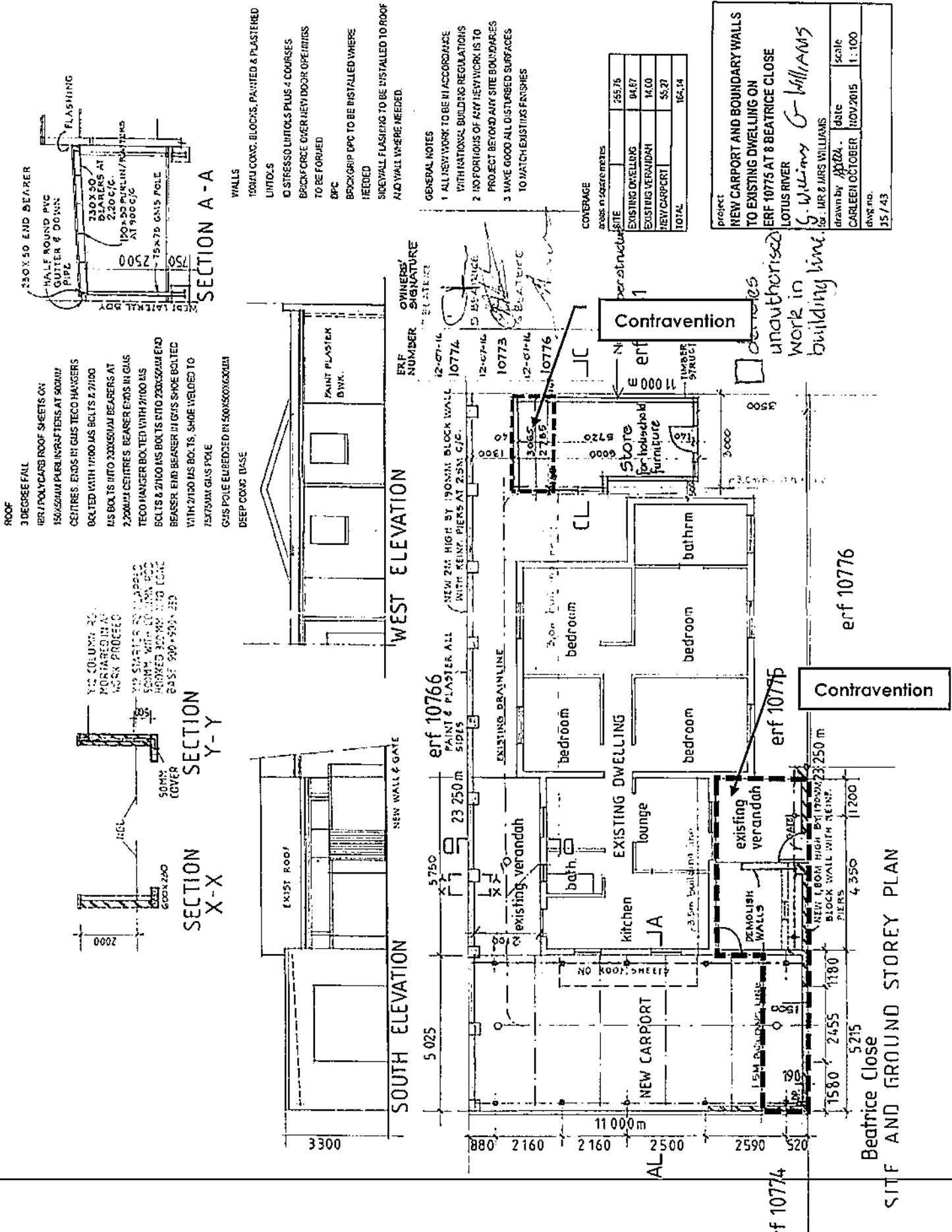
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ANNEXURE B: BUILDING PLAN



ANNEXURE C: APPLICANT'S MOTIVATION

Motivation
Erf 10775,
8 Beatrice Close
Lotus River

The owners hereby request that the Admin Penalty be waived or that minimum amount be applied. The Carport was erected as a security feature. The owners have had several break-ins to their vehicles and was forced to enclose the driveway.

The Verandah to the front and back entrances to the dwelling serves to protect these entrances from the weather. The structures are of roof sheets on timber roof members fixed to the existing walls and supported on gms poles.

The Timber structure was erected to store excess household goods and will be removed in due time. The timber structure is not visible from the street ; it is positioned behind the existing dwelling and screened by the existing boundary walls on 3 sides.

In all instances the structures does not adversely affect neighbouring property owners and is in keeping with surrounding developments.

Trusting the request will be supported by your department.

Carleen October

ANNEXURE D: AERIAL PHOTOGRAPHS

