

**REPORT TO MUNICIPAL PLANNING TRIBUNAL**

CASE ID		70491941			
CASE OFFICER		Isabel Herold			
CASE OFFICER PHONE NO		021 444 4626			
DISTRICT		Helderberg			
REPORT DATE		April 2020			
INTERVIEW REQUESTED	APPLICANT	YES		NO	✓
	OBJECTOR(S)				✓

**ITEM NO MPT12/05/20****APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) IN RESPECT OF ERF 9833, 13 COMPAGNE CRESCENT, STRAND.****1 EXECUTIVE SUMMARY**

Property description	Erf 9833, Strand
Property address	13 Compagne Crescent
Site extent	605 m <sup>2</sup>
Current zoning	Single residential 1 (SR1)
Current land use	Dwelling house
Overlay zone applicable	None

Submission date	23/03/2020
Subject to PHRA / SAHRA	n/a
Any unauthorised land use / building work?	Yes, erection of a carport encroaching the 1.5 m street building line to 0m and a carport exceeding the prescribed 6.5m width to 8.19m
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 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	No.

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?	
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## 2 DECISION AUTHORITY

For decision by the Municipal Planning Tribunal

## 3 BACKGROUND / SITE HISTORY

Erf 9833, hereafter referred to as the subject property, is located on 13 Compagne Crescent, Strand. The subject property is currently zoned for Single Residential 1 purposes, with an extent of approximately 605 m<sup>2</sup>.

The subject property is in an area with similar zonings with an average property size of 600 m<sup>2</sup> to 800 m<sup>2</sup>. The property is developed with a single-storey dwelling unit, a garage, swimming pool, storage area and carport. The carport was erected illegally.

## 4 SUMMARY OF APPLICANT'S MOTIVATION

- The addition will ensure optimum use of the land.
- The carport is compatible with the surrounding uses.
- No impact is foreseen on the existing services.
- No negative impact is foreseen on the safety and wellbeing of the surrounding community

## 5 ASSESSMENT OF APPLICATION

### 5.1 Proposed Application

An application has been made by the applicant for an administrative penalty to be submitted to the Municipal Planning Tribunal.

The unauthorized building is in contravention of the Development Management Scheme.

A carport encroaching the 1.5m street building line to 0m.  
A carport exceeding the prescribed width of 6.5m to 8.19m

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.

## 5.2 Calculations

- Value of building cost (**Carport**) : R1 330.00 / m<sup>2</sup>
- Area of contravention : 9,75 m<sup>2</sup>
- Calculation : 9,75 x R1 330.00 = **R 12 967.5**
  
- Value of building cost (**Carport width**): R1 330.00 / m<sup>2</sup>
- :
- Area of contravention : 2,4 m<sup>2</sup>
- :
- Calculation : 2,4 m<sup>2</sup> x R1 330.00 = **R 3192**

## 5.3

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

Nature - The nature of the contravention is a carport that stretches to 0m on the street boundary line.

Duration – According to the viewer the subject carport has been in existence since approximately 2016, which is after the current owners acquired the subject property in 2014

Extent - The overall extent of the encroachment of the carport is approximately 12.15 m<sup>2</sup>.

Gravity – The carport is generally associated with a dwelling house and protecting motor vehicles from the elements, it poses no health or safety hazard.

### b) **The conduct of the person involved in the contravention**

The owners initiated the proceedings and have been forthcoming. The current owners are responsible for the contravention.

### c) **Whether the unlawful conduct was stopped**

The structures are utilised by the owner, who wishes to obtain approval to regularise all the unlawful 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 owner has never contravened this by-law or any other planning law.

## 6 REASONS FOR DECISION

1. The owner is responsible for the erection of the unlawful carport.
2. The owners showed good faith by submitting an application for the determination of an administrative penalty.
3. No abutting property owners have never sent in complaints regarding the carport.
4. The gravity of the carport is not significant.

### 6.1 RECOMMENDATION

In view of the above, it is recommended:

- a) That an administrative penalty in the amount of R200.00 to be determined in terms of section 98(b) of the City of Cape Town Municipal Planning By-Law, 2015 for the unlawful carport in respect of Erf 9833, 13 Compagne Crescent in accordance with plan no. HB\STR\9833-JACO, dated 25 January 2020.

### ANNEXURES

Annexure A Locality Plan  
 Annexure B Contravention plan  
 Annexure C Motivation report




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#### Section Head : Land Use Management

Name Jeanine Williams

Tel no 021 444 4623

Date 15/5/2020

Comment




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#### District Manager




Name Daan Visser

Tel no 083 652 8186

Date 15/5/2020

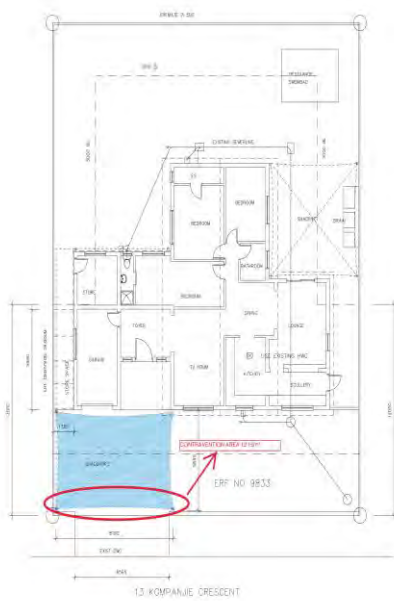
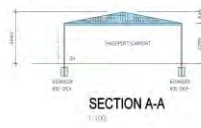
Comment

# ANNEXURE A

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP		ANNEXURE : A	
			
<b>Overview</b>	<div style="display: flex; justify-content: space-between;"> <div> Erf:  Allotment:  Ward: </div> <div> District:  Suburb:  Sub Council: </div> </div>		
<div style="text-align: center;">   1:600 </div>	<div style="display: flex; justify-content: space-between;"> <div> Notices Served  Petition Signatory </div> <div> <input type="checkbox"/>  <input type="checkbox"/> </div> </div>	<div style="display: flex; justify-content: space-between;"> <div> Support Received  Objections Received </div> <div> <input checked="" type="checkbox"/>  <input checked="" type="checkbox"/> </div> </div>	
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	Date:                      Thursday, 14 May 2020		
	File Reference:		

# ANNEXURE B

## ANNEXURE B: CONTRAVENTION PLAN



AREA 100.000 SQM  
AREA 100.000 SQM (100.000 SQM)  
TOTAL AREA 100.000 SQM (100.000 SQM)  
TOTAL AREA 100.000 SQM (100.000 SQM)  
TOTAL AREA 100.000 SQM (100.000 SQM)

PROFESSIONAL DESIGN

DESIGNER: *[Signature]*

**ALTUS NIEUWOUDT  
ARCHITECTURE &  
TECHNICAL SERVICES**

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PROFESSIONAL DESIGN AND TECHNICAL SERVICES  
REGISTRATION NUMBER 123456

AS BUILT: STRUCTURES  
FOR J. V.D. WATT, NO. 13  
KOMPANJIE CRESCENT,  
ERF NO 9853, STRANDVALE,  
STRAND.

ALL GLAZING TO WINDOWS AND DOORS  
TO BE READ IN CONJUNCTION WITH  
THE ATTACHED EX FENESTRATION  
CALCULATIONS



DATE: 20 JANUARY 2017  
DRAWN AND CHECKED: J. V.D. WATT  
PLAN NO: HP/STR/9853-JACD  
VD. WATT-ADMIN. PENALTY:



# ANNEXURE C

## ANNEXURE C: MOTIVATION

J VD WATT  
13 KOMPANJE STREET  
STRAND  
25 January 2020

City of Cape Town  
RE: Erf 9833, STRAND

### CONSIDERATION IN TERMS OF SECTION 99(3) OF THE DESIRABILITY OF THE FOLLOWING CRITERIA:

The application is considered to be desirable for the following reasons;

#### 1. MOTIVATION OF DESIRABILITY

##### 1.1 Economic impact

This application will not negatively impact on the character of the local environment, but will ensure the optimum land use been achieved as permitted in terms of Council Policy promoting residential densification and mix use in the city. The economic impact will be positive as no new erven will be created but the existing properties will be better utilised.

##### 1.2 Social impact

The social impact on the environment will be positive. More wealth will be generated in the area as a result of the additions on the property. The local residential area is characterized by medium sized properties. The area is however bounded by 2 low order roads, making the area easily accessible but with moderate traffic noise. The proposal will blend in with the surrounding areas as a variety of similar additions were done close to the subject property.

##### 1.3 Scale of the capital investment

The scale of the capital investment will not be significant as a result of the additions on the subject property but a better utilisation of the existing buildings and their uses which will bring the property's standards to a much higher level.

##### 1.4 Compatibility with surrounding uses

The proposed additions will make the property and it's use compatible with the surrounding development as a lot of surrounding properties were upgraded over the past years while the architectural character of the area were sustained.

##### 1.5 Impact on the external engineering services

There is existing dwellings situated on the subject property.  
The site and the surrounding area are fully serviced, and accordingly no problems or limitations are therefore expected as far as the availability of municipal services is concerned.  
In view of the above the existing municipal services ie roads, water and sewerage, will be able to accommodate the proposal and will not be negatively affected.

##### 1.6 Impact on safety, health and wellbeing of the surrounding community

The wellbeing of the community will not be negatively affected or threatened, as we do not believe that the proposal will cause any significant or noticeable effect on the local community. The use of the property as Single Residential together with the permanent on-site presence of the owner will cast a watchful eye over the surrounding area associated with such use and should in fact be a positive impact on safety and wellbeing of the community.

#### 1.7 Impact on heritage

The subject properties is not a "Heritage Area" and therefore no negative impact is foreseen.

#### 1.8 Impact on biophysical environment

The Biophysical Environment will not be negatively affected as the existing use of the buildings on the properties will stay the same.

#### 1.9 Traffic impacts, parking, access and other transport related considerations

There is an existing cwc on Kompanje street which is used to access the property. The roads and sidewalks are generous in width and only serve a limited amount of properties, which ensures that services will not be negatively impacted by the proposal. The existing curbs are all in place, thus there are no roadworks needed for the access to the property.

#### 1.10 The imposition of conditions will not mitigate an adverse impact on the proposal.

The imposition of conditions will not mitigate an adverse impact on the proposal.

#### PROPOSAL and BACKGROUND.

I hereby apply for a permanent departure for the relaxation of the street boundary building line from 3,5m to 0,00m to permit a car shade port as well as the relaxation of the lateral building line from 3.0m to 0.0m to permit a covered store area between the garage and the boundary in terms of Section 42(b) of the City of Cape Town Municipal Planning By-Law of 2015 .

The admin penalty application is for the as build structures namely a shade port for the covered parking of cars and to provide shade as well as a covered store area for garden tools storage. All finishes will match existing finishes on the property and also what was approved in the surrounding area.

Building plans for additions showing all the structures on property were submitted and approved—case id:70463198

The subject property was found to be especially suited for the proposal as:

- \* The property is central within the Northern Metropolitan Area and highly accessible from various shopping centres etc.
- \* The zoning will not have to change as the property is existing and been in operation for many years.
- \* The proposed additions are considerate minor alterations.
- \* The necessary municipal infrastructure is already in place.
- \* None of the surrounding property owners will be negatively affected by the proposal.
- \* The surrounding owners that might be affected by the proposal are all willing to sign the letter of no objection.
- \* The proposal does not trigger title deed conditions.
- \* The proposal is of an acceptable scale.
- \* The proposal is compatible with the surrounding land uses as there are similar structures nearby.

- \* Safe access, on-site manoeuvring and parking is available.
- \* The proposal does not lack desirability for the reasons set out in this report.
- \* The proposed development was assessed against the criteria in Section 99 of the City of Cape Town Municipal Planning By-Law of 2015 and meets the necessary requirements.

**The purpose of this report** is thus to motivate the proposal as per the Single Residential Subzone SR1 in terms of the development rules of the DMS. The report gives a background to the application, an analysis of the subject property and a detailed account of the proposal in order to assist the relevant authorities to make an informed decision in assessing the application for approval.

## 2 CONCLUSION

In light of the above the opinion is held that this proposal for the as build structures as indicated could be considered desirable to be supported in terms of Section 99 of the Municipal Planning By-Law, 2015 and Council's favourable consideration of the application is requested.

I hope that this application will receive your approval.

Yours sincerely

J vd watt