



REPORT TO MUNICIPAL PLANNING TRIBUNAL

CASE ID		70453642			
CASE OFFICER		D. Sule			
CASE OFFICER PHONE NO		021 6844342			
DISTRICT		Cape Flats			
REPORT DATE		24/04/2019			
INTERVIEW REQUESTED	APPLICANT	YES		NO	X
	OBJECTOR(S)				X

ITEM NO **MPTSW52/05/19**

WARD 67: APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) IN RESPECT OF ERF 284 PELIKAN PARK, 22 FINCH STREET

1 EXECUTIVE SUMMARY

Property description	Erf No 284 Pelikan Park
Property address	22 Finch Street
Site extent	220m ²
Current zoning	Single Residential 1
Current land use	Dwelling House
Overlay zone applicable	None

Submission date	2019-04-25
Subject to PHRA / SAHRA	
Any unauthorised land use / building work?	Yes, Unauthorised verandah
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	No

applied for.	
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 284 is zoned Single Residential 1 and unauthorised building work exists in the form of a covered veranda.
- A portion of the veranda, contravenes item 22(d) of the Development Management Scheme (DMS) as this buildings is located within 3m from the common boundary building line after the 1st 12m from the street boundary and contravenes the permissible 60% linear distance calculation.

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 property has a peculiar shape.
- There is a lack of space in the house.
- The owner accepts that an Administrative Penalty is required.
- The owner wishes to rectify and gain approval for the structure.

5 ASSESSMENT OF APPLICATION

- 5.1 As indicated above, the unauthorised 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

$$\text{Value per m}^2 \text{ (R1020,00)} \times \text{Total Unlawful area (28m}^2\text{)} = \text{R28 560,00}$$

An amount which is not more than 100% of R28 560 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 verandah is located within the 3m common building after the 1st 12m from the street boundary and contravenes the permissible 60% linear distance

Duration According to the applicant the unauthorized building work took place 2 years ago. Using aerial photography, it can be established that the verandah existed in 2016.

Gravity It is unlikely that the unauthorized structures will threaten the health, safety and wellbeing of the community. The gravity is not considered serious.

Extent The portion of the verandah that contravenes the Development Management Scheme measures approximately 28m² and this is considered to be of a moderate extent.

b) The conduct of the person involved in the contravention

The owner has applied for an administrative penalty for the unauthorized building work. The unauthorized structure has been built by the current owner.

c) Whether the unlawful conduct was stopped

The verandah is constructed.

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 of the property has not previously contravened this By-law or any other planning law.

5.4 In view of the above considerations, this Department recommends an administrative penalty of R500.

6 REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

1. A portion of the unauthorized verandah contravenes the Development Management Scheme.
2. The contravention is of a relatively long duration.
3. The contravention is of a low gravity but a moderate extent.
4. As far as can be ascertained, the owner of the property has not previously contravened this By-law or any other planning law.

6 RECOMMENDATION

In view of the above, it is recommended that:

- a) That an administrative penalty in the amount of **R500** be determined in terms of section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 284 Pelikan Park in accordance with plan no AWD020219 dated February 2019, drawn by S Ahmed.

ANNEXURES

Annexure A	Locality Plan
Annexure B	Building plan
Annexure C	Applicant's motivation

A McCann

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**Section Head : Land Use
Management**

Comment

Name A McCann

Tel no 021 6844341

Date 30 April 2019

Chad Newman

District Manager

Comment

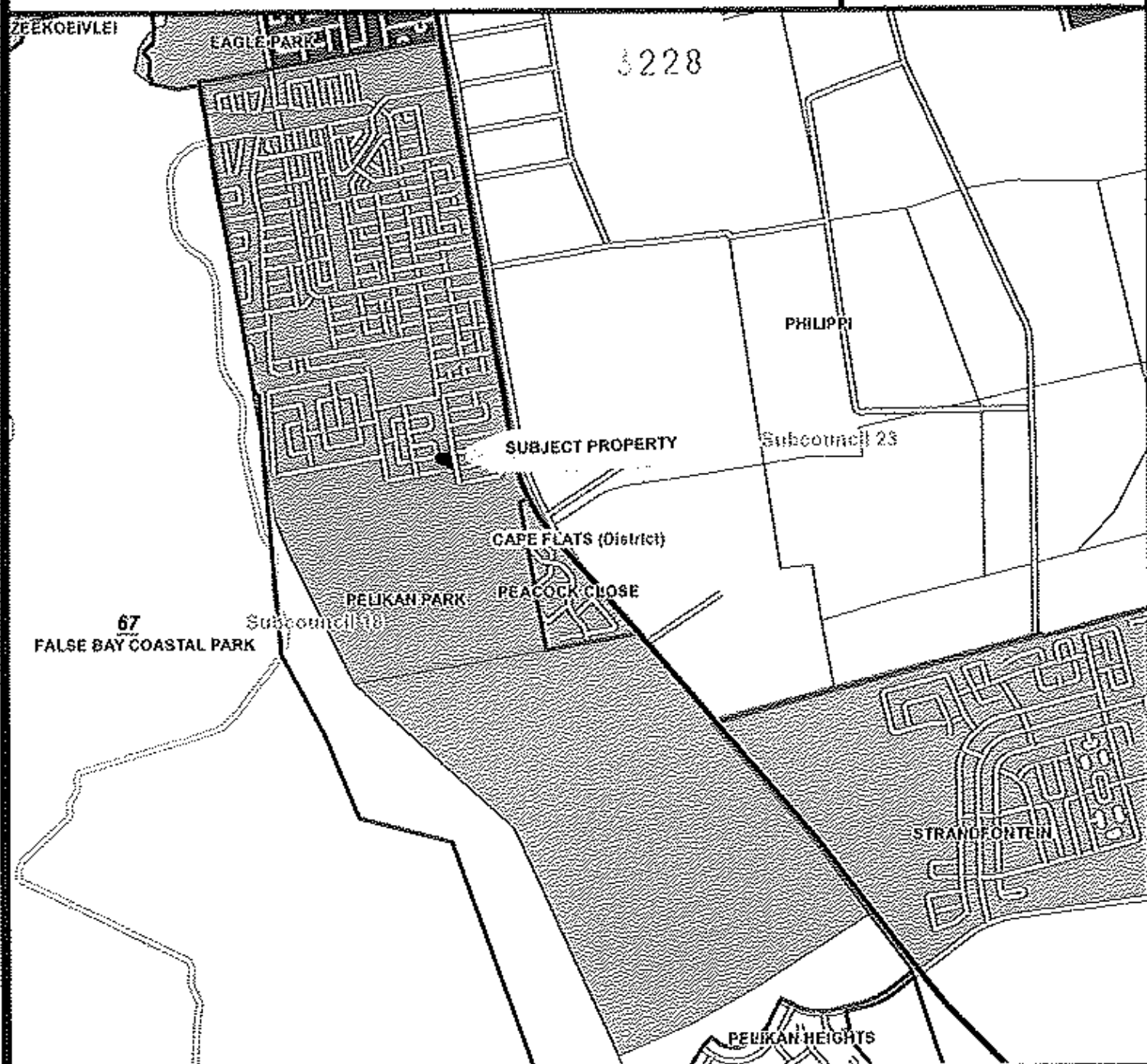
Name Chad Newman

Tel no 021 684 4310

Date 02 May 2019

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP

ANNEXURE :



Overview

Erf. 284

District: CAPE FLATS

Alotment: PELIKAN PARK

Suburb: PELIKAN PARK

Ward: 67

Sub Council: Subcouncil 18



1:19 200

Notices Served



Support
Received



Petition
Signatory



Objections
Received



Generated by:

Date: 24 April 2019

File Reference:



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible together



ANNEXURE : A

^a Making a new variable, *hierarchy*.

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It is the responsibility of the building contractor to check the boundary, plot, and road covering, as well as the existing and proposed building lines, and to ensure that the work is done in accordance with the approved plans. The building contractor is to be held responsible for any error or omission in the plans, and for any damage to the property of the owner or any third party caused by the work.

Foot Note 1

Existing site level to be raised on second storey to 50.75 m above sea level. Existing site level is 50.75 m above sea level. The building contractor is to be held responsible for any error or omission in the plans, and for any damage to the property of the owner or any third party caused by the work.

Foot Note 2

255% clear Polycarbonate longspan rooflights on 50x75 purlins @ 800mm on 35x225 Grade 5 S.A. posts @ 1000mm. Purlins fixed to 50x225 Grade 5 S.A. posts with one end long end rafters fixed with 2x20 M10x55 coach screws & nuts & washers. End supports: beam fixed onto 760 gns post with 2x20 M10x55 bolts & nuts. One post with centrally ribbed ceiling. All to conform to SANS 10400 part 1:2000.

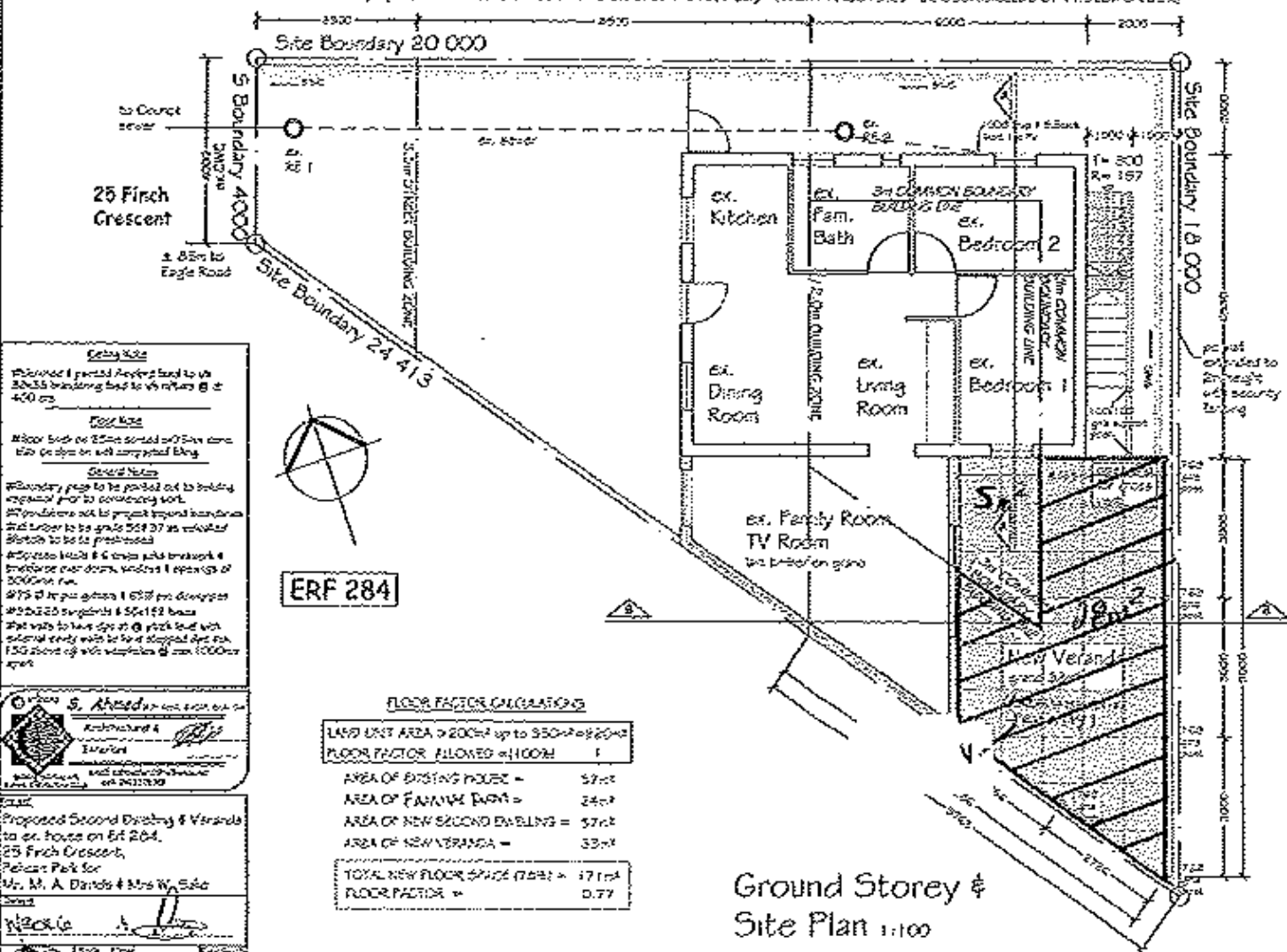
SFO Concrete

1. ...
2. ...
3. Advertising by the Coast

First Storey
1:100**COMMON BOUNDARY CALCULATIONS**

60% of total linear distance for On building line = $8.01M + 16.01M + 9.77M = 33.79M \times 60\% = 20.27M$

Proposed total linear distance within 0.3m of common boundary = $8.01M + 17.53M + 9.25M = 34.79M \times 60\% = 20.87M$ OR 3.2%

Ground Storey &
Site Plan 1:100

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ADMIN. APPLICATION PENALTY MOTIVATION

*Land Use Management
Building Survey Department
City of Cape Town*

*M.A. Davids & W. Salie
25 Finch Crescent
Pelican Park
Erf 28*

12/04/2019

Re: Veranda

Attention: To whom it may concern

We hereby submit the attached motivation regarding the attached Administrative Penalty Application to the City of Cape Town- Athlone District Office. Reference is only made to Veranda as indicated on plan AWD020219 for this application.

The veranda is located at the rear of this peculiar shaped property and not visible to the streetscape. The lack of space in the small house required a safe and secure area to store the family bicycles and other household equipment as well as hanging the laundry in a secure area while we are at work during the day. The rear was closed off with burglar bars to allow security as the property is adjacent to an open field but still allowing ventilation to the area. We accept that the AFP application is required to allow us to formalize the structure. We therefore thank you in anticipation of your positive response for understanding and accepting our sincere attempts to rectify and gain approval of the structure as a prerequisite and part of a further development on the property. The second application which is the Land Use Application will therefore be followed after this application is cleared.

Your Sincerely

M.A. Davids & W. Salie