



3215

REPORT TO MUNICIPAL PLANNING TRIBUNAL

CASE ID	70453699			
CASE OFFICER	D. Smit			
CASE OFFICER PHONE NO	021 684 4342			
DISTRICT	Cape Ra's			
REPORT DATE	24/04/2019			
INTERVIEW REQUESTED	APPLICANT	YES	NO	X
	OBJECTOR(S)			X

ITEM NO MPTSW51/05/19

WARD 49: APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) IN RESPECT OF ERF 131380 CAPE TOWN, 33 ELEVENTH AVENUE HAZENDAL

1 EXECUTIVE SUMMARY

Property description	Erf No 131380, Cape Town
Property address	33 Eleventh Avenue, Hazendal
Site extent	276m <sup>2</sup>
Current zoning	Single Residential 1
Current land use	Dwelling House
Overlay zone applicable	None.

Submission date	14/04/2019
Subject to PHRA / SAHRA	
Any unauthorised land use / building work?	Yes. Unauthorised extensions to the dwelling, verandah and carport.
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.l.o section 128 of the MPBL?	No

If yes, an administrative penalty may not be 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 131380 is zoned Single Residential 1 and unauthorised building work exists in the form of a carport on the street boundary, extensions to the dwelling house and verandahs.
- A portion of the carport contravenes item 22(d) of the Development Management Scheme (DMS) as it is located within the 1.5m street 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 owner wishes to regularize the buildings on the property.

## 5 ASSESSMENT OF APPLICATION

- 5.1 As indicated above, the unauthorized carport 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

$$\text{Value per m}^2 \text{ (R1330.00)} \times \text{Total Unlawful area (6.75m}^2\text{)} = \text{R8978.00}$$

An amount which is not more than 100% of R8978 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 unauthorized carport is erected within the 1.5m street boundary line.

Duration – According to the applicant the unauthorized building work took place 1.5 years ago. Using aerial photography, it can be established that the carport existed in 2012.

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 carport that contravenes the Development Management Scheme measures approximately 7m<sup>2</sup> and this is considered to be of a minor 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 building work was undertaken by the current owner.

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

The unauthorized carport 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 R250.

**6 REASONS FOR DECISION**

Reasons for the recommended decision may be summarised as follows:

- 6.1 A portion of the carport contravenes the Development Management Scheme.
- 6.2 The contravention is of a long duration.
- 6.3 The contravention is of a low gravity and of a minor extent.
- 6.4 As far as can be ascertained, the owner of the property has not previously contravened this By-law or any other planning law.

## 7 RECOMMENDATION

In view of the above, it is recommended that:

That an administrative penalty in the amount of **R250** be determined in terms of section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 131380, Cape Town.

## ANNEXURES

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

*A McCann*

### Section Head : Land Use Management

Name A McCann

Tel no 021 6844341

Date 30 April 2019

Comment

*Chad Newman*

### District Manager

Name Chad Newman

Tel no 021 684 4310

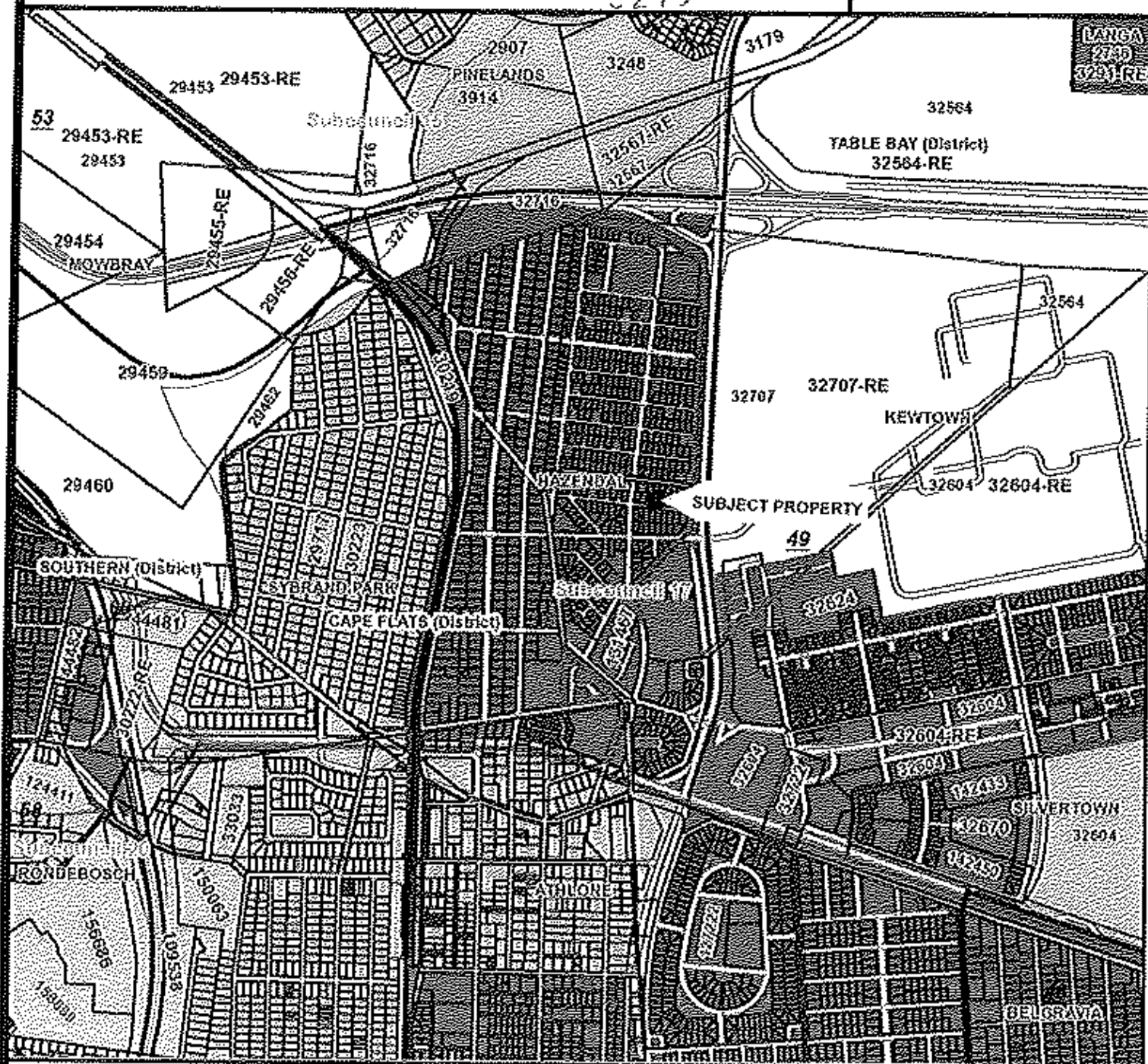
Date 02 May 2019

Comment

# PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP

ANNEXURE : A

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## Overview

Erf: 131350

District: CAPE FLATS

Allocation: CAPE TOWN

Suburb: HAZENDAL

Ward: 49

Sub Council: Subcouncil 17



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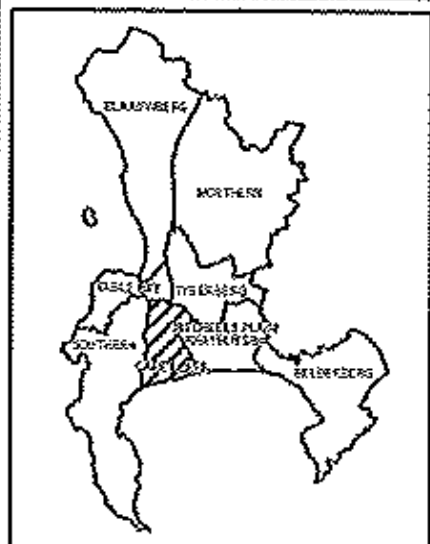
Date: 24 April 2019

File Reference:



CITY OF CAPE TOWN  
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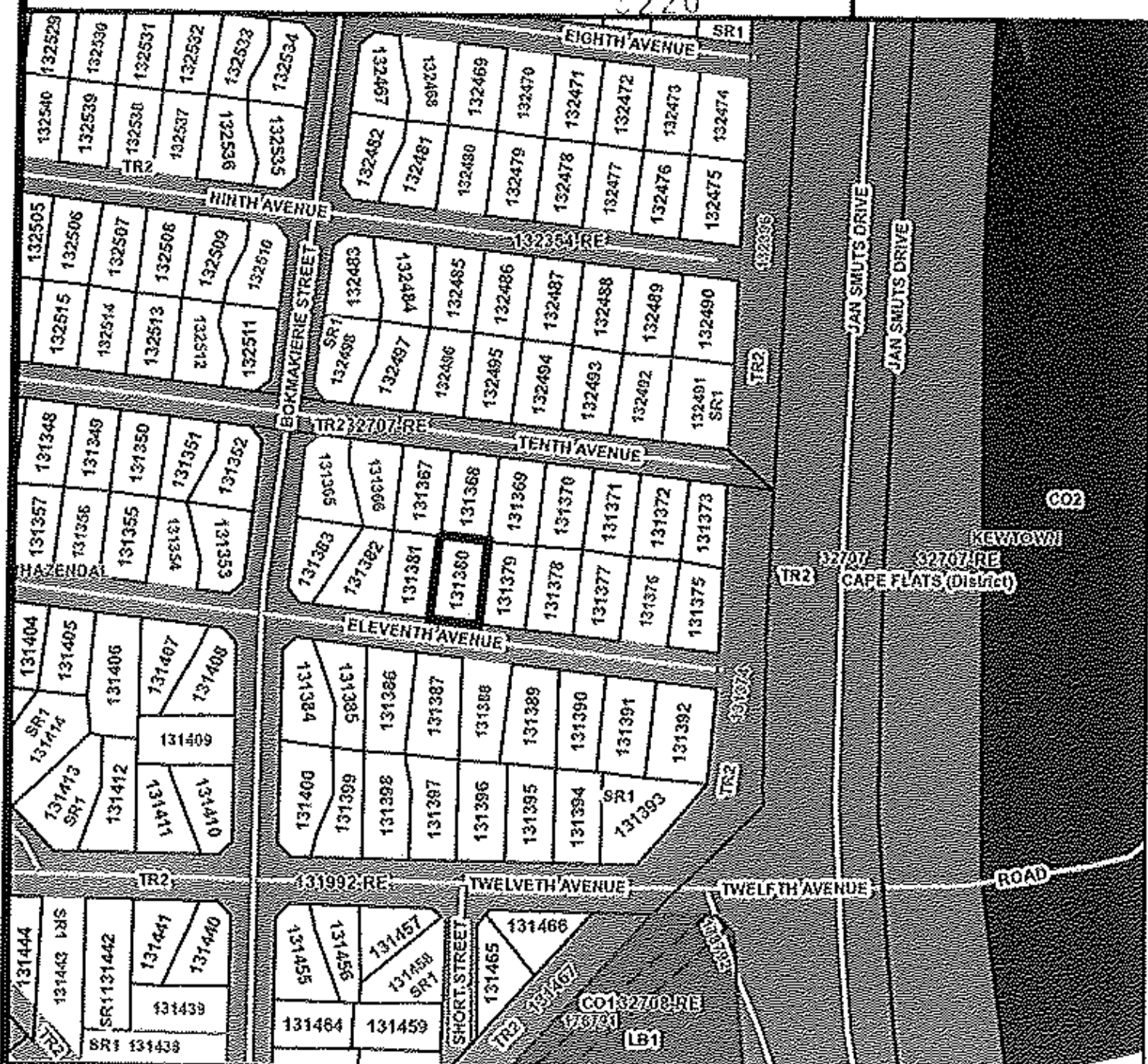
Building programme 2016-2019



# PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP

ANNEXURE : A

3220



## Overview

Erf: 131360

District: CAPE FLATS

Allocation: CAPE TOWN

Suburb: HAZENDAL

Ward: 49

Sub Council: Subcouncil 17



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Notices Served



Support Received



Petition Signatory



Objections Received



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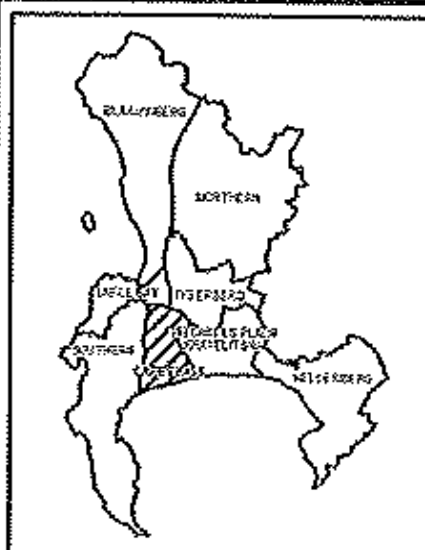
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CITY OF CAPE TOWN  
ISIREKO SASEKAPA  
STAD KAAPSTAD

Making progress possible together







3222

## Motivation Report

Owners: Nolan Eldridge Pienaar and Litecia Millicent Pienaar.

33 Eleventh Avenue

Hazenda

Athlone

7764

Erf 131380

We the above owners would like to submit building plans for unauthorised work that we have done.

1. we added carport, covered verandahs, 1m high wall and also converted the garage into 2 bedrooms and 1 bathroom.

we would like to rectify the illegal structures on site, by submitting building plans.

hope this letter will be given further consideration. thank you.

Regards

Nolan Eldridge Pienaar

Litecia Millicent Pienaar



12-4-2019