



REPORT TO MUNICIPAL PLANNING TRIBUNAL

MPTNE16/12/19

CASE ID	70478621			
CASE OFFICER	Amber Lewack			
CASE OFFICER PHONE NO	021 444 1045			
DISTRICT	Northern			
REPORT DATE	12 November 2019			
INTERVIEW REQUESTED	APPLICANT	YES	NO	✓
	OBJECTOR(S)			✓

ITEM NO

WARD 21: APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) IN RESPECT OF ERF 3342, EVERSDALE

1 EXECUTIVE SUMMARY

Property description	Erf 3342
Property address	17 Wonderboom Street, Eversdale
Site extent	1414 m ²
Current zoning	Single Residential (SR1)
Current land use	Dwelling house
Overlay zone applicable	No

Submission date	10 October 2019
Subject to PHRA / SAHRA	N/a
Any unauthorised land use / building work?	Illegal 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.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?	1036
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2 DECISION AUTHORITY

For decision by the Municipal Planning Tribunal

3 BACKGROUND / SITE HISTORY

From aerial photo it is clear that the carport was built in 2002. Current owner bought the property in 2013.

4 SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation of the proposed may be summarised as follows (refer to **Annexure C**):

The new owner of Erf 3342 did not construct the illegal carport, it is however the intension of the new owner to rectify this contravention by having building plans approved.

Current owners of the property only purchased the property in 2013, 16 years after the illegal carport was constructed.

5 ASSESSMENT OF APPLICATION

- 5.1 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 municipal valuation of the area that is used unlawfully.

Administrative Penalty: Calculation

5.1.1 Unauthorized building work

$$\text{Value per m}^2 \times \text{Total Unlawful area of Carport (m}^2\text{)} = R$$

$$1330 \text{ m}^2 \times 40.14(\text{m}^2) = R 53\,386.20$$

			1 %	3 %	5 %	10 %	15 %	20 %
Area contravening MPBL	Carport (m ²)	58						
	Value of building work	1330						
Value of the building work as per BDM (unit price) @ R1330.m ²		R53 386.20	R533.80	R1601.50	R2669.30	R5338.60	R8007.90	R10677.20

An amount which is not more than 100% may be imposed as an administrative penalty.

5.2 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

- The building work contravenes the development rules of the base zone. Item 28 (d) from 3.0m to 0.0m.
- The carport was constructed prior to 2002 as is evident from the aerial photo below.

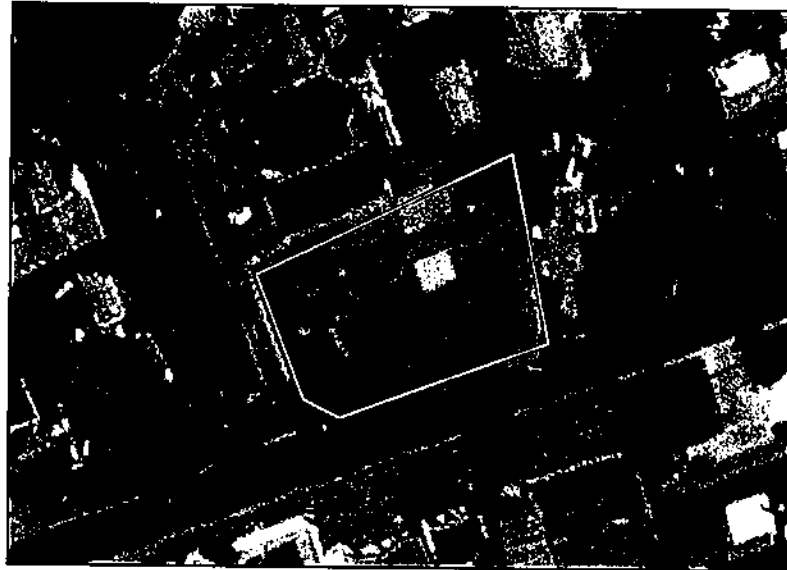


Figure 1: Ariel photograph from the Cape Town viewer from January 2002

- Based on the above aerial photograph, it is evident that the new owner was not the one who was responsible for the contravention.
- There is no concrete evidence confirming if the use pose any negative safety, fire, health or any other hazard.
- The gravity is not significant as the carport is regarded as an ancillary structure to the residential use.
- The extent of the contravention (40.14 m²) is relatively small when considering the size (1414 m²) of the property.

b) The conduct of the person involved in the contravention

The owner of Erf 3342 was not aware that the carport was built illegally, but however wants to comply with regulations, by rectifying the contravention of the previous owner.

c) Whether the unlawful conduct was stopped

Not applicable to illegal building work.

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 or any other law.

- 5.3 Having considered the above mitigating factors vs the minimal aggravating factors, a lower percentage of the penalty may be imposed.

In view of the aforementioned considerations, it is the contention of this department **that 0% of the total value of the unauthorised building work should be imposed**, due to the fact that the illegal carport was constructed by the previous owner of **Erf 3342** and not the current owner.

6 REASONS FOR DECISION

Reasons for the recommended decision may be summarized as follows:

- 6.1 Owner of Erf 3342 was not the person who contravened in terms of the By-Law, but the previous owner.
- 6.2 The extent of the contravention is not regarded to be significant.
- 6.3 The gravity is not significant as the carport is regarded as an ancillary structure to the residential use.
- 6.4 The owner willingly applied to rectify the contravention.


7 RECOMMENDATION

In view of the above, it is recommended that:


- a) That an administrative penalty in the amount of **R0** in respect the unauthorised carport be determined in terms of Section 98 (b) of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 3342, Eversdale in accordance with the plan hereby attached as **Annexure B**.

ANNEXURES

Annexure A Locality Plan
Annexure B Site development plan
Annexure C Applicant's motivation



Section Head : Land Use Management
Name Sean Van Rensburg
Tel no 021 444 1044
Date 18 November 2019



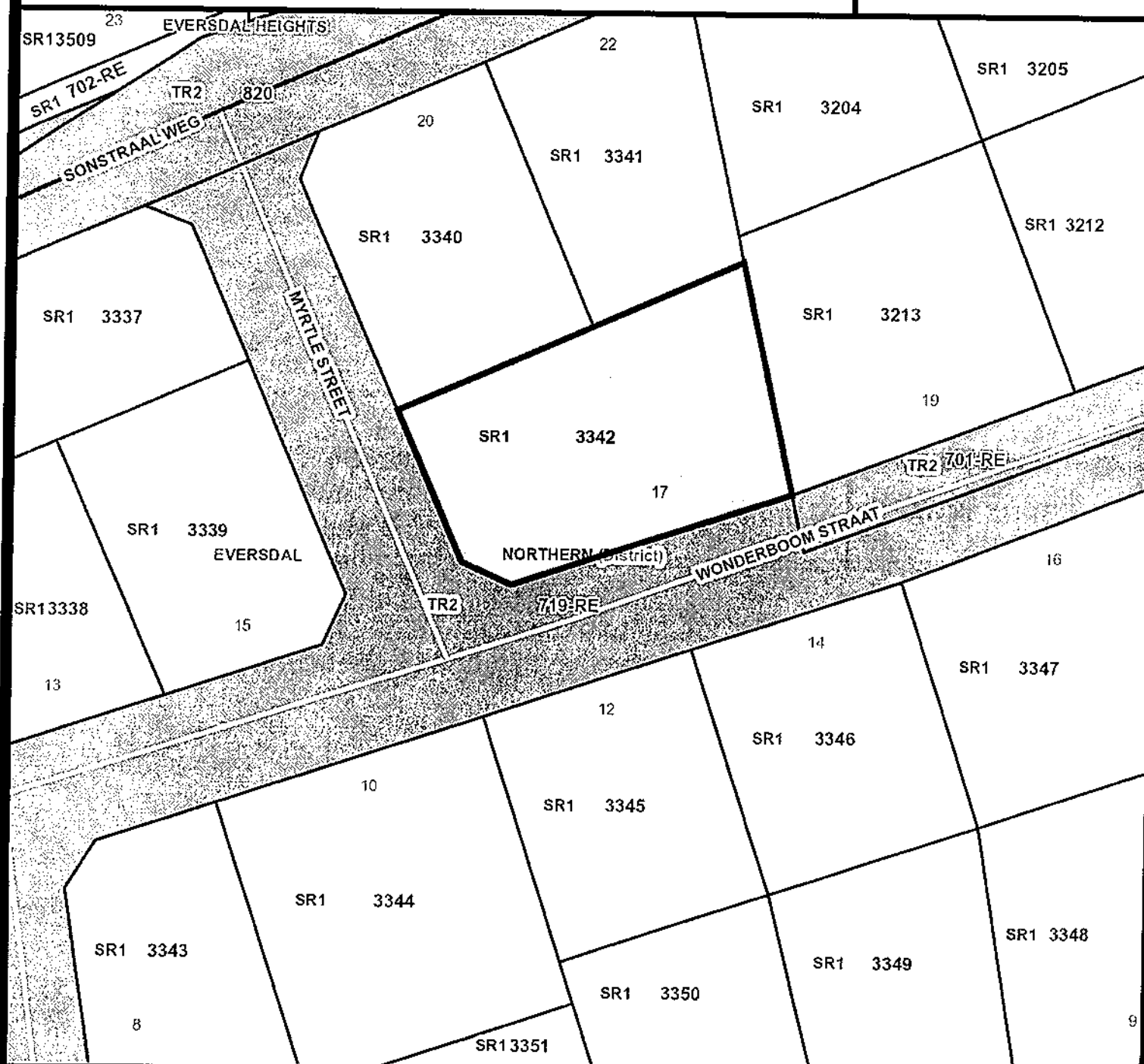
District Manager
Name Susanna Matthysen
Tel no 021 444 1061
Date 20 November 2019

Annexure A

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP

1040

ANNEXURE :



Overview

Erf:

Allotment:

Ward:

District:

Suburb:

Sub Council:



1:783

Notices Served



Support
Received



Petition
Signatory



Objections
Received



Generated by:

Date: 15 November 2019

File Reference:



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.



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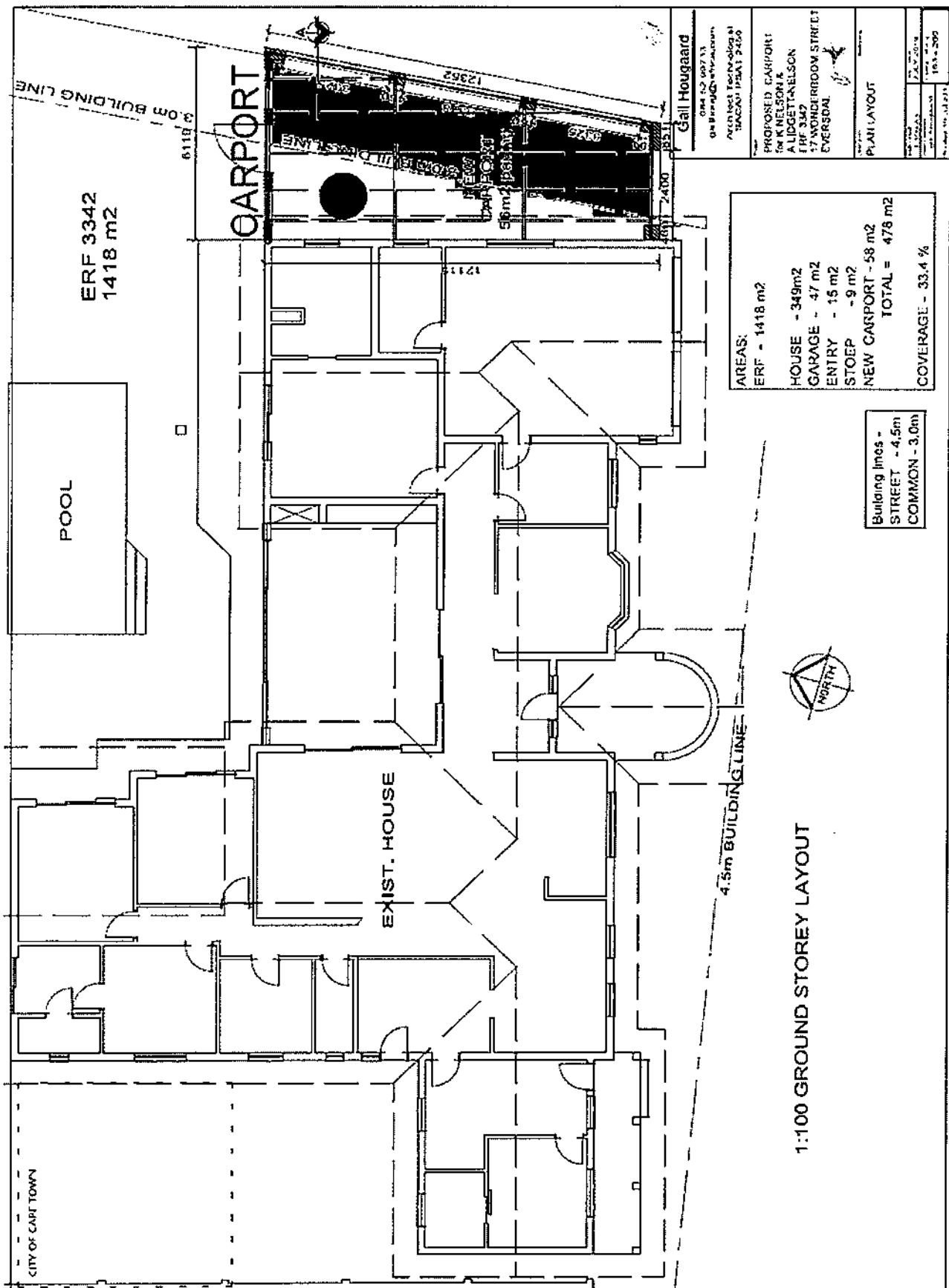
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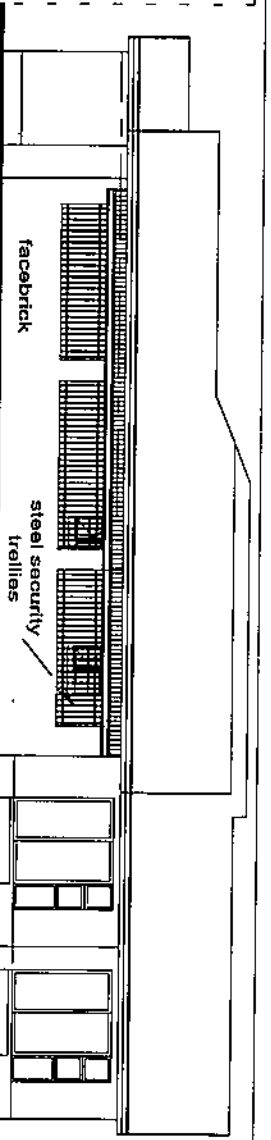


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Making progress possible. Together.

Annexure B

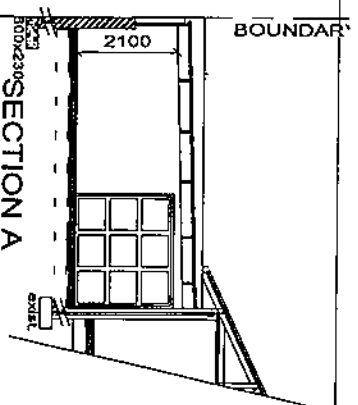




EAST ELEVATION

FOUNDATIONS:
 All foundation min. 600mm deep below NGL. All foundations mu REGULATIONS SABS 10400. NO foundation or part of foundation to project over BOUNDARY LINE.

SECTION A



SOUTH ELEVATION

NEW GARAGE
 door replace
 timber gate.

NORTH ELEVATION

steel security
 trellises/gate

NEW CARPORT - ROOF

- 1BR long span single length galvanized sheeting @1.5 deg. on
- 228x 50mm/treated SAP timber purlins
- GR7 rafters @ 1040c/c
- fixed to 228x50mm bearer beams supported on - Brick wall / columns
- 250x600x600mm concrete bases, structure anchored to wall with mild steel brackets &
- 2 x 10mm rawl bolts.
- With flashing & timber fascia with 75x75mm gutter with 100mm RWDP connected to rainwater gully with 110 dia. underground storm water disposal pipe to street.

WEST ELEVATION

Gail Hougaard

084 52 98733
 Balthouga@afrika.com
 Architect Technologist
 SADCAP P&AT 2458

PROPOSED CARPORT
 for K NELSON &
 ALIDGEIT-NELSON
 ERF 3342
 17 WONDERBOOM STREET
 EVERDAL

SITE LAYOUT

Scale: 1:100 A3
 JULY 2010
 Gail Hougaard
 163 - 300

Annexure C

Application for Permanent Departure in Terms of Item 42(b):**29 Aug 2019****ERF 3342, 17 Wonderboom street, Evesdal.****To permit the proposed carport & existing garage to exceed double façade, to be located 0.0m in lieu of 3m from the common boundary.****1. INTRODUCTION**

On behalf of my client, Angela Lidgett- Nelson & Kirk Nelson I would like to apply for permanent departure of the side building line to permit the proposed carport.

2. PROPERTY DESCRIPTION, SIZE AND OWNERSHIP

Title Deed Number:	T 5689/2013
Description:	Erf 3342, in the Municipality of City of Cape Town, Bellville.
Property Owner:	Angela Lidgett- Nelson & Kirk Nelson
Property Size:	1414 m ²
Title Deed Restrictions:	None
Bond:	No
Zoning:	Zoned as "Single Residential"
Current Land use:	Residential

3. SITE CHARACTERISTICS**3.1 LOCALITY (See Diagram 1: Locality Plan)**

The property is situated in 17 Wonderboom street, Eversdal.

3.2 TOPOGRAPHY AND VEGETATION The house positioned as far back as possible because it is a corner plot and there is not many option for extensions. The proposed carport is setback 8.8m from the street.

3.3 PROPOSAL. The proposed carport is setback 8.8m from the street between the existing house & common boundary.

4. PROPOSAL

The proposed carport is situated to the side of the house as the existing garage .

This is one of the few properties not fenced in and the house their fore got n very nice kerb appeal.

5. MOTIVATION**A. ECONOMIC IMPACT**

This extension would increase the property value in the long term. This will provide more secure parking for the owner.

B. SOCIAL IMPACT

The impact socially is very positive because it would allow the more parking not visible from the street and would also not be visible.

C. SCALE OF CAPITOL INVESTMENT

This is a very good capital investment because it will increase the value of your house.

D. COMPATIBILITY WITH SURROUNDING USES

This proposal will provide more secure parking and because this is a corner plot there would be less vehicle standing in the road.

E. IMPACT ON THE EXTERNAL ENGINEERING SERVICES

This proposal has impact on the engineering's services.

F. IMPACT ON SAFETY, HEALTH & WELLBEING OF THE SURROUNDING COMMUNITY

This would have a positive impact on the community because there it will allow for safer parking.

G. IMPACT ON HERITAGE

This property has no heritage value.

H. IMPACT ON THE BIOPHYSICAL ENVIRONMENT

This proposal would have no effect on the environment as there is still enough garden left.

I. TRAFFIC IMPACTS, PARKING, ACCESS & OTHERS

This will have positive impact on the parking because the vehicle would not be parked in the street.

J. ADVERSE IMPACT ON THE LAND USE

It is a dwelling and used as single family home and the usage has not change and would have no impact on the land use.

6. CONCLUSION

This proposal would have positive impact on the surrounding community and also on my client family life. My clients got 2 grown-up kids that all have their own transport so safe parking, and off-street parking is very important.

GM Hougaard
SACAP PSAT – 2459

