



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

REPORT TO MUNICIPAL PLANNING TRIBUNAL

CASE ID	70505224
CASE OFFICER	Silulami Kanzi
CASE OFFICER PHONE NO	021 684 4372
DISTRICT	Cape Flats
REPORT DATE	15 June 2020

ITEM NO MPTSW38/09/2020

WARD 66: APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) IN RESPECT OF ERF 8343 GRASSY PARK AT 36 STEVENS ROAD

1. EXECUTIVE SUMMARY

Property description	Erf 8343, Grassy Park
Property address	36 Stevens Road
Site extent	468m ²
Current zoning	Single Residential 1
Current land use	Dwelling house
Overlay zone applicable	None
Submission date	05-06-2020
Subject to PHRA / SAHRA	No
Any unauthorised land use / building work?	Yes – unauthorised building work in the form of a 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 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 8343, Grassy Park is located at 36 Stevens Road. The property is currently zoned Single Residential 1 in terms of the Development Management Scheme ("DMS") and measures 468m² in extent. The unauthorised carport measures 21.3m² in extent and is located within the prescribed building line, therefore this structure contravenes item 22(d) of the DMS.

4. SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation is attached as Annexure C and may be summarised as follows:

- The owner purchased the property in 2017 with the carport existing.
- The owner was not aware of the contravention until he submitted building plans for new additions to the dwelling and a garage.
- The owner has not previously contravened the MPBL.

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.

5.3. Administrative Penalty: Calculation for unauthorised building work

Carport

Value per m² x Total Unlawful Area (m²) = R

R1340 x 5.25m²= R 7035

An amount which is not more than 100% of **R7035** may be imposed as an administrative penalty.

- 5.4. 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 carport is located within the prescribed 1.5m street building line.

Duration – The motivation submitted by the owner states that the owner purchased the property after the unauthorized building work had been completed. The title deed indicates that the current owners acquired the property in 2017. The city's aerial photographs indicate that the structure was built in 2003 which is 17 years ago. The current owners' are therefore not responsible for the unauthorized construction.

Gravity – The contravention does not threaten the health, safety or wellbeing of the surrounding community. The gravity is therefore not considered serious.

Extent – The extent of the contravention is 5.25m².

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

There is no evidence to prove that the owner of the property has previously contravened this By-law or any other planning law.

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

The carport contravening the DMS is complete.

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

As far as it can be ascertained the current owner has not previously contravened this By-Law.

5.5. In view of the abovementioned considerations, this Department recommends that an administrative penalty of **R0** for the unauthorized building work be charged.

6. REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

- 6.1. The owner acquired the property in 2017 with the existing unauthorised carport and has applied to rectify the contravention.
- 6.2. The gravity of the contravention is not serious and the extent is relatively small.
- 6.3. As far as it can be ascertained, the owner of the property has not previously contravened the Municipal Planning By-Law, 2015 or any other planning law.

7. RECOMMENDATION

In view of the above, it is recommended that:

- a) That an administrative penalty in the amount of **R0** for the unauthorised building work in terms of section 129 of the City of Cape Town Municipal Planning By-Law, 2015 on erf 8343 Grassy Park **be approved** in terms of section 98(b) of the City of Cape Town Municipal Planning By-Law, 2015.

ANNEXURES

Annexure A	Locality plan
Annexure B	Site development plan showing contravention
Annexure C	Applicants motivation
Annexure D	Title Deed



**Section Head : Land Use
Management**

Comment

Name A McCann

Tel no 021 6844341

Date 28 August 2020



District Manager

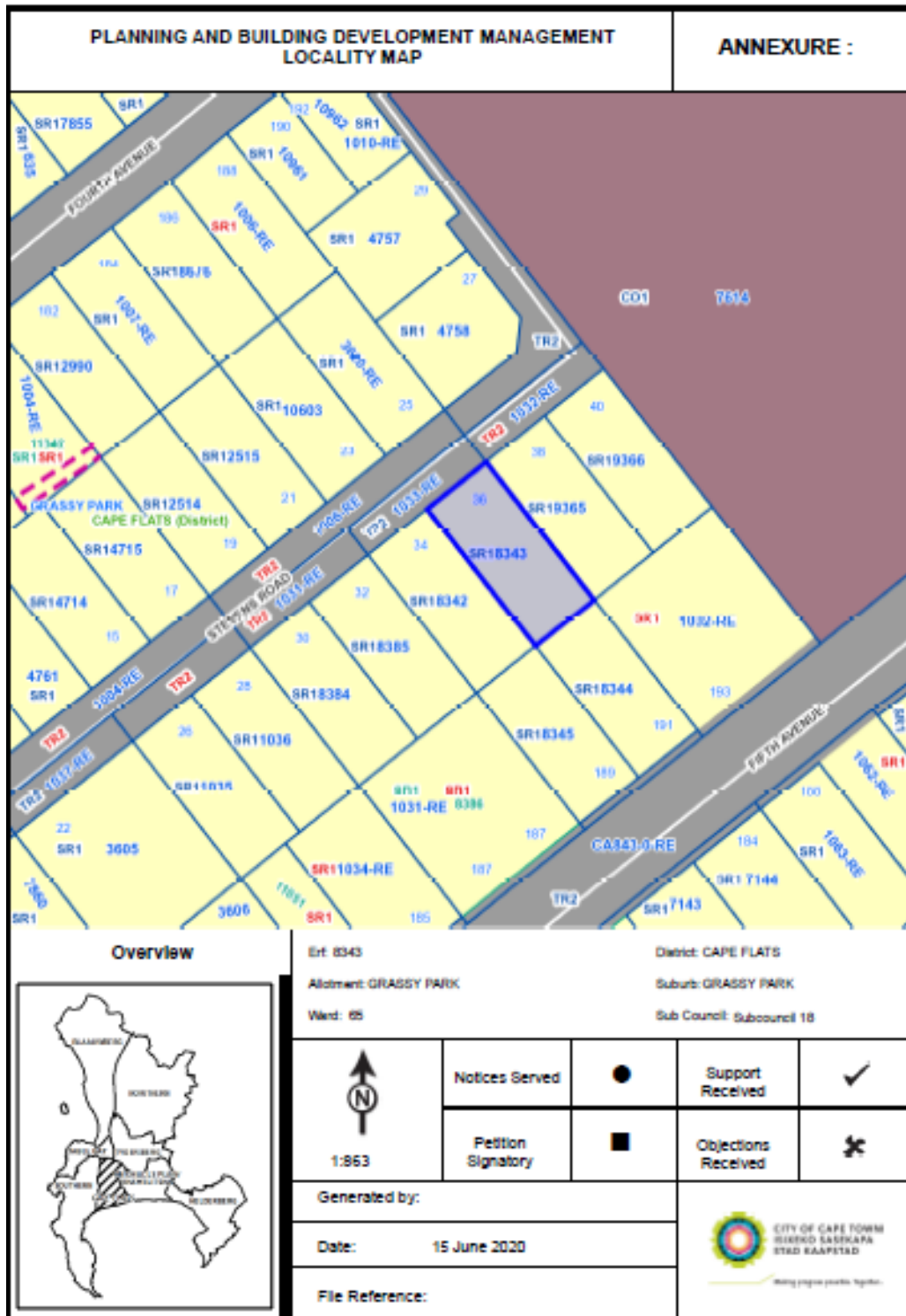
Comment

Name Chad Newman

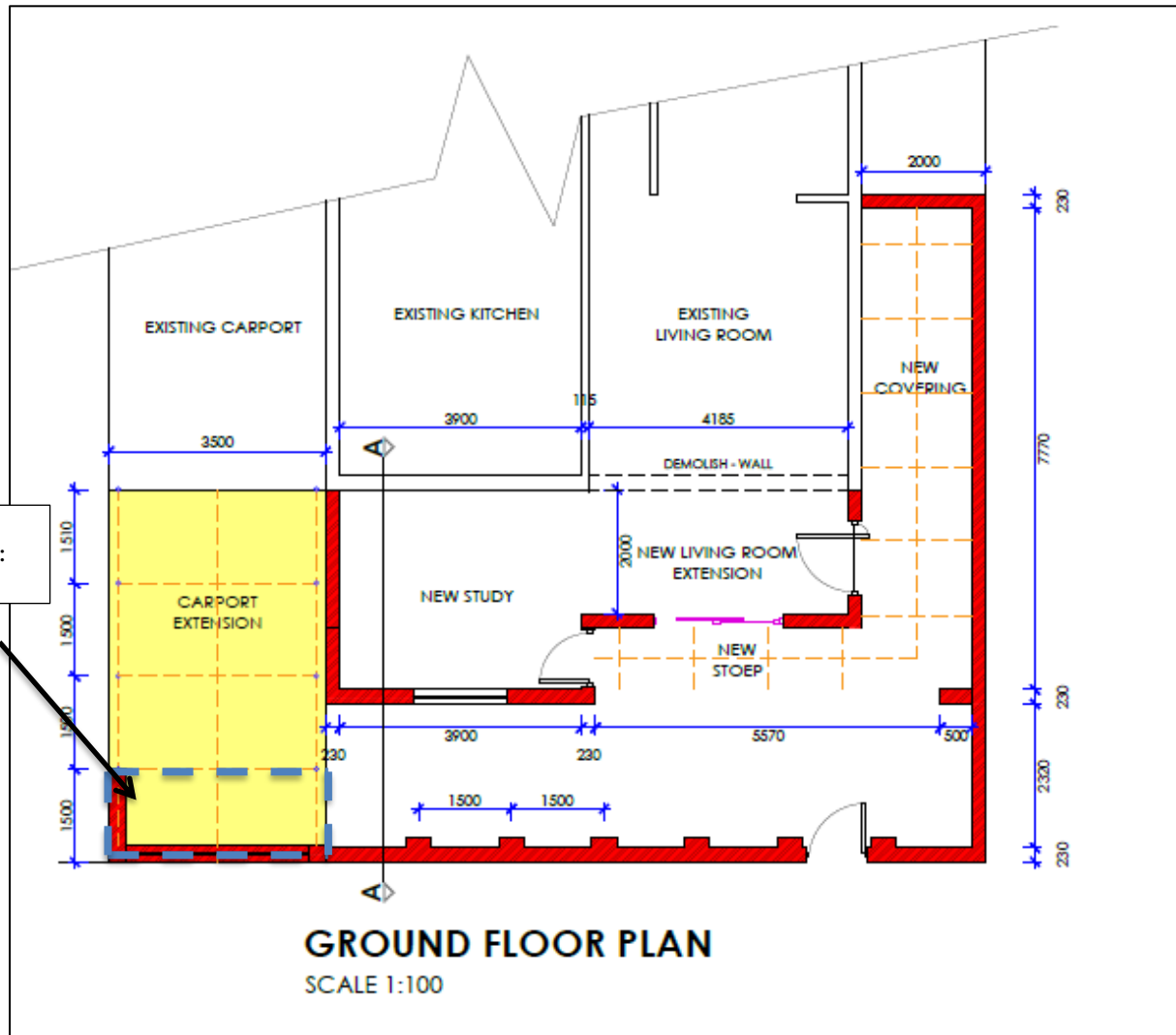
Tel no 021 684 4310

Date 31 August 2020

ANNEXURE A: Locality Map



ANNEXURE B: Site Development Plans showing contraventions



ANNEXURE C: Owner's Motivation

ITHEMBA DRAWINGS



"DESIGN, PLANNING & BUILDING SERVICES"
CC Reg. No.: 2009 / 100889 / 23

Motivation Erf 8343

Date: 02.03.2020

Attention: City of Cape

Erf: 8343

Address: 36 Stevens Close, Grassy Park.

To whom this may concern.

With reference to subjected proposed application and refusal, due to an already erected carport.

The reason for us having included the carport on the plan is that the carport was already erected when we bought the property in 2017. We only discovered in 2019 that upon requisition of Copy of building plans, that there was no plan for the carport, therefore we had to and was advised to include the carport with our planned extensions to the building.

We trust and hope that this letter will be accepted as motivation in order that our plans may be accepted and approved on the basis that we were unaware, and that we have taken the necessary steps in order to consolidate any missing regulations that we needed in order to proceed with our future plans.

We trust that the above will be accepted.

Best regards

Jaudaan Naidoo & Tougeeda Naidoo

Thanking you

Mr W.R Adams

55 7 Gazelle Crescent, Strandfontein Village, Strandfontein, 7785,
 Wayne Adams ☎ 062 883 4017 📠 0866196143, ✉ ithemba.drawings@gmail.com

8003072358101

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A R VAN DER LITH & CO

CLAREMONT

Amount	R 1200 000	R 1050 000
Amount		
Amount		
Amount		

Prepared by me

CONVEYANCER
ANTHONY ROBERT VAN DER LITH

VERBOD MORTGAGED

VR FOR R 1200 000 00

000008372 / 2017

03 APR 2017

00018008 / 2017

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

ANTHONY ROBERT VAN DER LITH

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at Claremont on 5 December 2016 granted to him by

SARAH EILEEN NAIDOO
Identity Number 530509 0080 08 4
Widow

DATA / CAPTURE
06 APR 2017
KATLEN

DATA / VERIFY
11 APR 2017
NGOMWANA PENELE

GhostConvey 15.9.3.7

And the appearer declared that his said principal had, on 30 November 2016, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

JAUDAAN NAIDOO
Identity Number 850306 5119 08 8
and
TOUGEEDA NAIDOO
Identity Number 830330 0256 08 8
Married in community of property to each other

their Heirs, Executors, Administrators or Assigns, in full and free property

**ERF 8343 GRASSY PARK, SITUATE IN THE CITY OF CAPE TOWN,
 DIVISION OF CAPE TOWN, PROVINCE OF THE WESTERN CAPE**

IN EXTENT 468 (FOUR HUNDRED AND SIXTY EIGHT) Square metres

FIRST TRANSFERRED by Deed of Transfer Number T17202/1982 with Diagram Number 9431/77 annexed thereto and HELD by Deed of Transfer Number T34309/2009.

- A. **SUBJECT** to the said conditions as are referred to in Deed of Transfer Number 2870 dated 30 April 1917.
- B. **SUBJECT FURTHER** to the following conditions contained in Deed of Transfer Number T17202/1982 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Section 9 of Ordinance Number 33 of 1934, when approving the subdivision of Erf 1033 Grassy Park:
 - 1. The owner of this erf shall without compensation, be obliged to allow electricity, telephone and television cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or erven to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, removing or inspecting any works connected with the above.
 - 2. The owner of this erf shall be obliged, without compensation, to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street, and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.

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WHEREFORE the said Appearer, renouncing all rights and title which the said

SARAH EILEEN NAIDOO, Widow

heretofore had to the premises, did in consequence also acknowledge her to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

JAUDAAN NAIDOO and TOUGEEEDA NAIDOO, Married as aforesaid

their Heirs, Executors, Administrators or Assigns, now are and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 200 000,00 (ONE MILLION TWO HUNDRED THOUSAND RAND).

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 3 APRIL 2017

q.q.

In my presence

REGISTRAR OF DEEDS

