



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

REPORT TO MUNICIPAL PLANNING TRIBUNAL

CASE ID	1500109488				
CASE OFFICER	Ntombi Ngxwashula				
CASE OFFICER PHONE NO	021 444 7515				
DISTRICT	TYGERBERG				
REPORT DATE	20/09/2023				
INTERVIEW REQUESTED	APPLICANT	YES		NO	
	OBJECTOR(S)				

ITEM NO MPTNE301023

APPLICATION FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) IN RESPECT OF ERF 1205 PAROW, 7 RACHEL BLOCH AVENUE, SONNENDAL

1 EXECUTIVE SUMMARY

Property description	1205, PAROW
Property address	7 RACHEL BLOCH AVENUE SONNENDAL
Site extent	998 m ²
Current zoning	Single Residential (SR1)
Current land use	Residential
Overlay zone applicable	None

Submission date	12.09.2023
Subject to PHRA / SAHRA	N/A
Any unauthorised land use / building work?	Yes, the unauthorised addition of a carport that encroach the 5.0m Street building line, in contravention of the Development Management Scheme (DMS).
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	No

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 1205, Parow (hereafter referred to as the subject property) is currently zoned Single Residential 1 (SR1) which permits a dwelling house as a primary land use right. According to the size of the property the developmental parameters are 3.5m Street building line and 3m for the common boundary. However, item 22(f)(iii) of the DMS states that garages and carports shall be setback at 5m from the street.



Figure 1 above shows the zoning of the property and the surrounding zonings.

The application under consideration is for determination of an administrative penalty in terms of section 42(r) of the Municipal Planning By-Law relating to:

- Unauthorised additions of a carport that encroaches the 5.0m Street building line, in contravention of the Development Management Scheme (DMS).

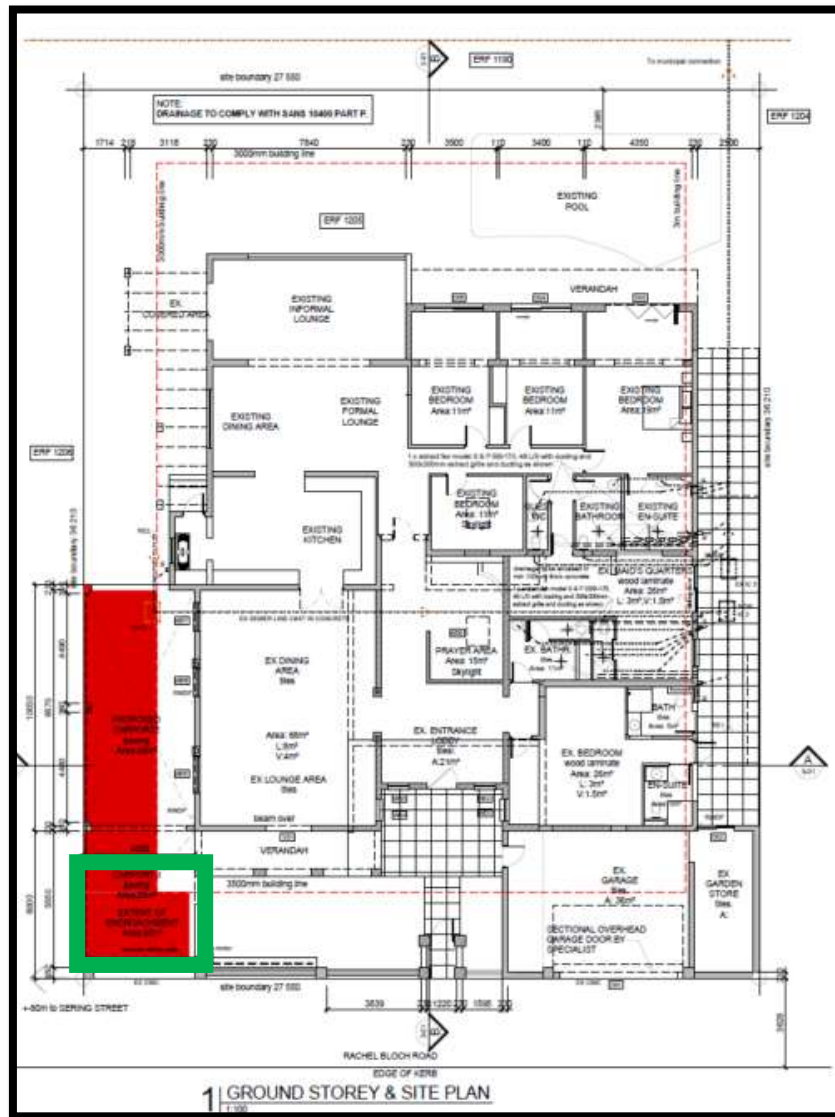


Figure 2: Site Plan showing the portion of the carport encroaching the Street building line

4. SUMMARY OF APPLICANT'S MOTIVATION

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

- Carport added to existing house.
- The existing carport in question has been erected 6 months ago.
- The owners wanted to provide a more secure and covered parking area for the mini bus and car used to transport his children to school.

5 ASSESSMENT OF APPLICATION

5.1 As indicated above, the unauthorized building work is in contravention of the Development Management Scheme (DMS).

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

5.3.1 Unauthorised building work

✓ Carport encroachment (Street Building Line) = 22.8m²

❖ Value per m² (R1 306.35) × Total Unlawful area (22.8m²) = R29 719.5

An amount which is not more than 100% of **R29 719.50** may be imposed as administrative penalty

5.5 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 - The contravention relates to the unauthorised additions of a carport over the Street building line in contravention of the Development Management Scheme (DMS).

Duration - According to the applicant the structure has been in existence for a period of 6 months , while City Viewer shows the carport extensions were done before January 2023 and thus the duration can be confirmed to be less than a year as can be seen from the below images. It can thus be concluded that the duration of the contraventions of the carport is short term.

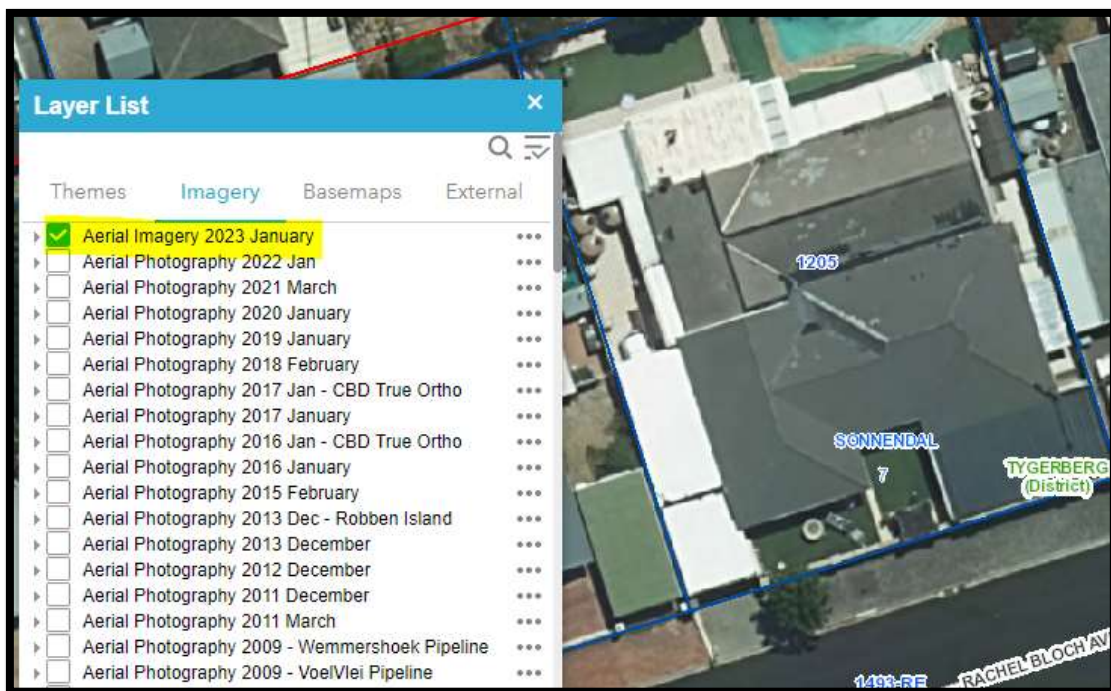


Figure 3 showing the aerial photo from January 2023 showing carport

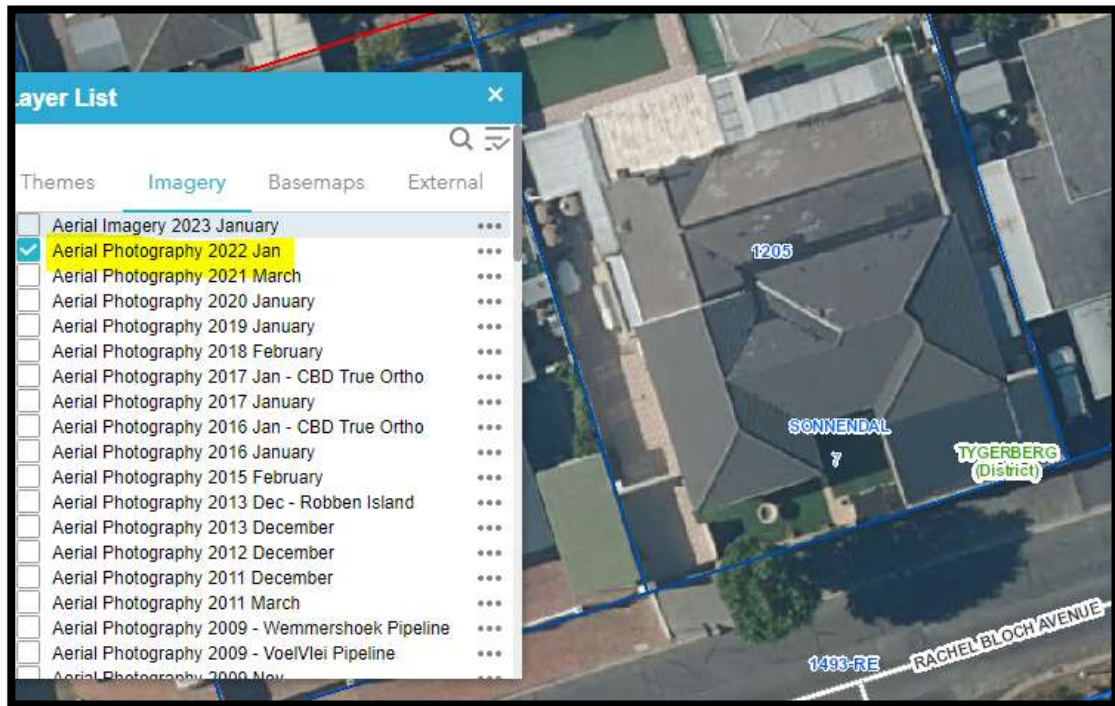


Figure 4 showing the aerial photo from January 2022

Gravity – The unauthorized structure is not of a habitable nature and the extent is regarded to be small scale. The gravity of the contravention is therefore not regarded as serious.

Extent – According to the calculations done by the case officer for the structure encroaching on the DMS development parameters, the total extent thereof is 22.8m². In comparison with the size of the property it can thus be concluded that the extent of the contraventions is small in scale.

b) The conduct of the person involved in the contravention

The applicant voluntarily submitted the admin penalty application, with no enforcement cases against the property currently opened.

c) Whether the unlawful conduct was stopped

The unauthorised structure has been completed.

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

The City's records reflect no previous contraventions by the property owner.

5.4 Considering the minor gravity of the contravention, short term duration and small extent of the contravening structure as well as conduct of the owner / applicant, an administrative penalty to the amount of R600 (2%) is deemed appropriate.

6 REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

- 6.1 The unauthorised structure have been in existence for less than 1 year which is regarded as a short duration.
- 6.2 The extent of the contravention is regarded to be of small size in comparison with the size of the property.
- 6.3 The gravity of the contravention is regarded as minor due to the small scale thereof as well as the fact that it is functionally non-habital.
- 6.4 There is no evidence that the owner has been in contravention of the MPBL or any other planning legislation in the past.
- 6.5 The applicant/owner has been cooperating with City Officials and the application for admin penalty was submitted without an enforcement case being opened.

7 RECOMMENDATION

In view of the above, it is recommended that:

- a) That an administrative penalty in the amount of **R600.00** be determined in terms of section 129 of the City of Cape Town Municipal Planning By-Law, 2015, in respect of Erf 1205, Parow in accordance with the plan attached as Annexure B.

ANNEXURES

Annexure A	Locality Plan
Annexure B	Site Development Plan
Annexure C	Previously Approved Plan
Annexure D	Applicant's motivation



Case Officer : Senior Professional Officer

Comment

Name Ntomboxolo Ngxwashula

Tel no 021 444 7515

Date 20/09/2023



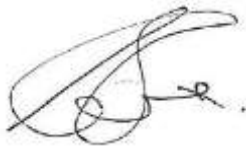
**Section Head : Land Use
Management**

Comment

Name Tess Kotze

Tel no 021 444 7506

Date 21 September 2023



District Manager

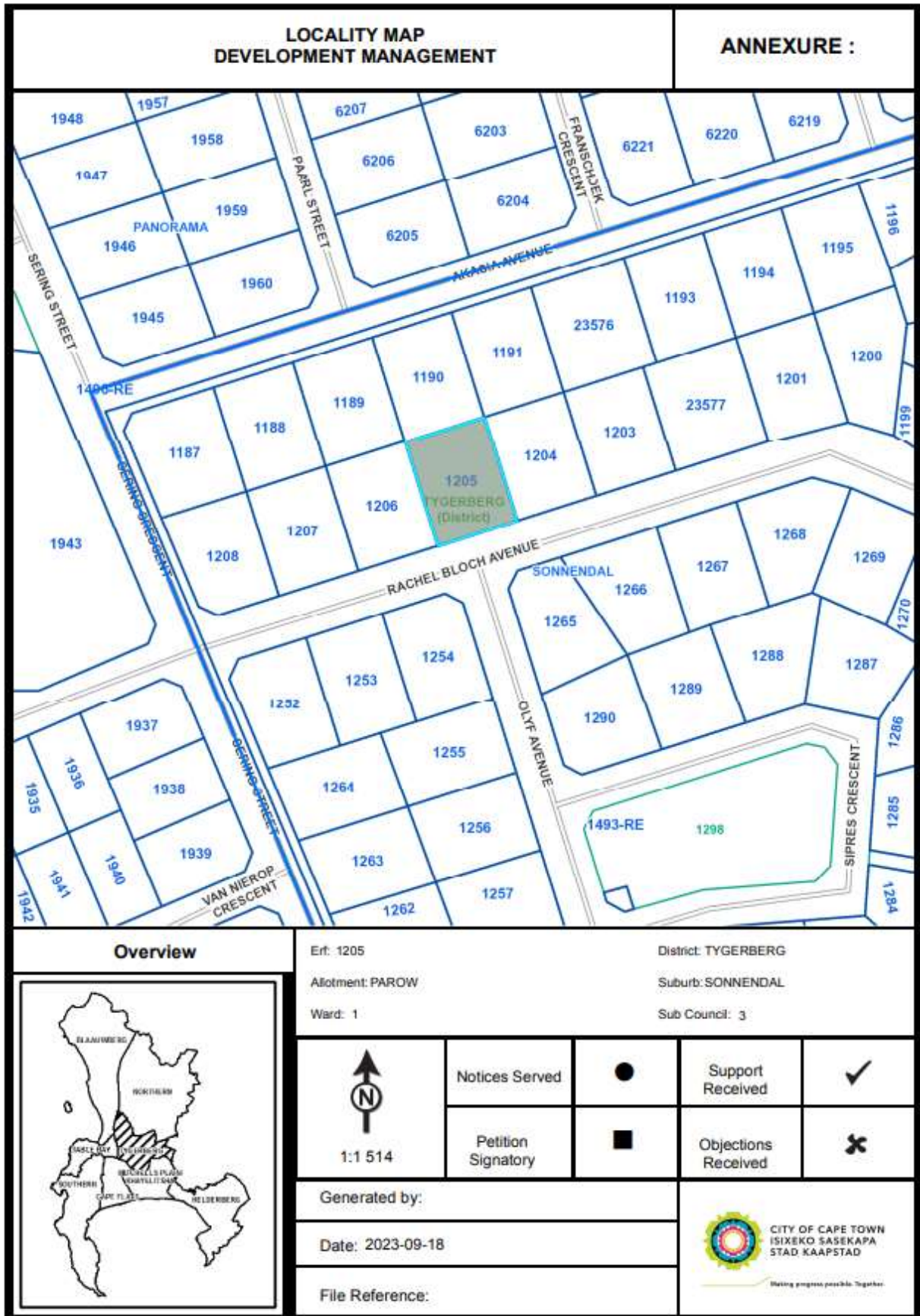
Name Dewaldt Smit

Comment

Tel no 021 444 7840

Date 21 September 2023

ANNEXURE A



ANNEXURE D

1. BACKGROUND

1.1 NATURE OF DEVELOPMENT:

Carport added to existing house.

1.2 DURATION:

The existing carport in question has been erected 6 months ago.

1.3 EXTENT OF THE ENCROACHMENT:

1.4 EXISTING LAND USE:

The land is currently zoned Single Residential 1 as per the Cape Town Zoning Scheme.

1.5 PROPOSED LAND USE:

The owners wanted to provide a more secure and covered parking area for the mini bus and car used to transport his children to school.

1.6 LOCAL AUTHORITY:

This property falls under the jurisdiction of the Tygerberg District Municipality.

1.7 OWNERSHIP:

The current owner are Azra Ameen and Maajida Ameen.

1.8 LEGAL ASPECTS:

There are no restrictive conditions registered in the Title Deed against the property that could be prohibiting the proposed departure application.

DEVELOPMENT PROPOSAL

2.1. LOCALITY AND SURROUNDING LAND USES

The property, erf 1205 is situated within a residential road in the Sonnendal suburb of Cape Town, a mainly residential area. All the surrounding properties are currently utilized for residential purposes. The proposed property will be accessed via Rachel Bloch Avenue.

We are applying for permanent departures for:

- Application for permanent departure ito Section 42(b); to permit proposed carport to be 0m in lieu of 3m western boundary setback.
- Application for permanent departure ito Section 42(b); to permit proposed entrance portico to be 0m in lieu of 2,14m street boundary setback.

2.2. DESIRABILITY OF THE APPLICATION

This development in general promotes the integration of the social, economic, institutional and physical aspects of the land.

This application will integrate all the aspects mentioned above by the new owner.

2.3. ECONOMIC AND SOCIAL IMPACT AND SCALE OF THE CAPTIAL INVESTMENT AND THE COMPATIBILITY WITH SURROUNDING USES

It is the intention of the owner to live in the house with his wife and family. It can be argued that the proposed will be advantageous to all parties concerned, due to the fact that there are similar developments in the area in general. The proposed single residential 1 use is in keeping with that of the surrounding erven which are all zoned single residential 1.

The architectural language is sympathetic to the surrounding architecture. Natural materials such as timber and stone pay homage to the nature of the area. The modernised aesthetic will enhance its own property value as well as the value of the surrounding neighbours.

2.4. IMPACT ON THE EXTERNAL ENGINEERING SERVICES AND IMPACT ON SAFETY, HEALTH AND WELLBEING OF THE SURROUNDING COMMUNITY

There will be minimal impact on the existing external engineering services. A second and third dwelling is allowed as a use of right on all properties zoned single residential 1. This application will optimize the use of existing resources, bulk infrastructure, roads, transportation and social facilities.

2.5. IMPACT ON HERITAGE AND ON THE BIOPHYSICAL ENVIRONMENT

There is no impact on Heritage, the Heritage Western Cape permit attached to the case refers. The existing biophysical environment is promoted with existing trees on site retained, as well as soft landscaping indicated along the verge and a carefully laid landscaping design for the individual erven in place as indicated on the drawings.

2.6. TRAFFIC IMPACTS, PARKING, ACCESS AND OTHER TRANSPORT RELATED CONSIDERATIONS.

The existing land, road and services will be fully optimized. The minimum required parking provisions as stipulated by the DMS has been provided; parking for 2 vehicles on site as shown on the plans.

2.7. PURPOSE OF THE APPLICATION

The purpose of the application is to maximize the value of the property for the owner. The modernised aesthetic will enhance its own property value as well as the value of the surrounding neighbours.

Yours faithfully



Hassan Mowzer