

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 9 OCTOBER 2007, COMMENCING AT 6.35 PM.

T95. OPENING OF MEETING

T95.1 Present

T96. WELCOME TO GALLERY

T97. APOLOGIES

T98. PRESENTATIONS/DEPUTATIONS/PETITIONS

T99. PUBLIC QUESTION TIME

T100. CONFIRMATION OF MINUTES

T100.1 Town Planning & Building Committee (Private Domain) – 11 September 2007

T101. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T102. REPORTS OF COMMITTEES

T102.1 Town Planning Advisory Panel – 25 September 2007

T103. REPORTS OF OFFICERS

T103.1 Receipt of Reports

T103.2 Order of Business

*T103.3 Swan Yacht Club (Reserve 27376)
Applicant: Swan Yacht Club*

*T103.4 Hubble Street No. 44 (Lot 3)
Applicant: Robin Egerton-Warburton*

*T103.5 Petra Street No. 27B (Lot 9)
Applicant: Nash & Ghersinich Architects*

*T103.6 Windsor Road No. 48 (Lot 11)
Applicant & Owner: Eddy Giangiordano*

*T103.7 Habgood Street No. 10 (Lot 5014)
Applicant: Brooking Design*

*T103.8 Preston Point Road No. 162 (Lot 4)
Applicant: Dolphin Design*

T104. EN BLOC RECOMMENDATION TO COUNCIL

*T104.1 King Street Pt. Lot 423
Applicant: Main Roads WA*

*T104.2 Silas Street Lot 17
Applicant: Guidice Surveys*

*T104.3 Clayton Street No. 39 (Lot 119)
Applicant: Patio Living*

T104.4 *Sewell Street No. 9 (Lot 222)*
Applicant & Owner: Robin Taylor

T104.5 *Sewell Street No 38 (Lot 531)*
Applicant & Owner: Bruce Beattie

T105. REPORT'S OF OFFICERS (Cont)

T105.1 *Petra Street No. 67 (Lot 365)*
Applicant & Owner: A Lomma

T105.2 *Gill Street No. 22 (Lot 301)*
Applicant & Owner: Todd Grierson

T106. REFERRED BUSINESS (NOT INCLUDED ELSEWHERE)

T107. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T108. CLOSURE OF MEETING

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 9 OCTOBER 2007, COMMENCING AT 6.35 PM.

PART I

T95. OPENING OF MEETING

T95.1 Present

Cr Alan Ferris	Presiding Member
Cr Jennifer Harrington	from 6.48pm
Cr David Martin	
Cr Richard Olson	
Cr Alex Wilson	
Mr Chris Warrener	Town Planner
Mrs Peta Cooper	Minute Secretary

T96. WELCOME TO GALLERY

There were 18 members of the public in the gallery at the commencement of the meeting.

T97. APOLOGIES

An apology was submitted on behalf of Mayor James O'Neill and Cr Stefanie Dobro.

T98. PRESENTATIONS/DEPUTATIONS/PETITIONS

Nil.

T99. PUBLIC QUESTION TIME

Nil.

T100. CONFIRMATION OF MINUTES

T100.1 *Town Planning & Building Committee (Private Domain) – 11 September 2007*

Cr Martin – Cr Wilson

That the Town Planning & Building Committee (Private Domain) minutes dated 11 September 2007 as adopted at the Council meeting held on 18 September 2007 be confirmed. CARRIED

T101. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil

T102. REPORTS OF COMMITTEES

T102.1 *Town Planning Advisory Panel – 25 September 2007*

Cr Wilson – Cr Martin

That the minutes of the Town Planning Advisory Panel meeting held on 25 September 2007 be received and each item considered when the relevant development application is being discussed. CARRIED

T103. REPORTS OF OFFICERS

T103.1 *Receipt of Reports*

Cr Wilson – Cr Martin

That the Reports of Officers be received. CARRIED

T103.2 *Order of Business*

Cr Wilson – Cr Martin

The order of business be altered to allow members of the public to speak to relevant agenda items. CARRIED

T103.3

Swan Yacht Club (Reserve 27376)

Applicant: Swan Yacht Club

Owner: Swan River Trust as custodian of the Swan River Trust Management Area

By Chris Warrener, Town Planner on 26 September 2007

BACKGROUND

Description of Proposal

A referral for comment from the Swan River Trust of an application by the Swan Yacht Club for development approval for maintenance dredging.

Statutory Considerations

Part 5 of the Swan River Trust Act

Attachments

Location map

Documentation

Documentation date stamp received on 3 September 2007.

No. of Days Elapsed between Lodgement & Meeting Date

36 days

CONSULTATION

Site Inspection

By Town Planner on 26 September 2007.

Meeting on site to discuss the application with Council's Environmental Health Surveyor and Works Supervisor and representatives of the Swan Yacht Club including Commodore Chris Lee, recently retired Commodore Peter Marshall (signatory to application), Rear Commodore Russell Telfer, and Club Manager Geoff Reynolds.

REPORT

Issues

Storage and Transport of Dredged Material

The consultants for the applicant advised:

- Spoil will be removed by truck with a capacity of 16m³ to 18m³.
- A maximum of approximately 116 loads will be required (assuming dredging removes the maximum 1900m³ of spoil and truck with a 16m³ capacity is used).
- The number of loads is likely to be significantly less as it is not anticipated that 1900m³ will be dredged.
- Spoil will be loaded and removed during business hours wherever possible.
- Removal will only occur during weekends where the disposal site stipulates no alternative is possible.
- Weekday removal is the SYC preferred option due to the number of members using the facilities over weekends.
- The spoil is to be remediate on site and will be removed gradually over a period of several months.

Discussion

The Swan Yacht Club's most westerly jetty area has to be dredged because sediment deposited over time has reduced water depth to a point where boats moored in the area are "sitting" on the bottom at low tide.

At first it is proposed to excavate a grassed area located between the concrete foreshore pathway and a sealed car-park at the west side of the club. The clean fill from the excavation will be sold and trucked off-site.

Pipes for transporting the dredged spoil will be installed under the foreshore path to the excavated area.

It is then proposed to dredge the river and pipe the spoil into the excavated area.

This spoil will be wet coming from the river bottom, so dust will initially not be an issue (prevailing winds are from the southwest therefore wind-blown dust will not affect the foreshore path). It will be in the interests of the Swan Yacht Club to eliminate wind-blown dust because it will negatively impact on the immediately adjacent parking area, and hardstand facility for boat maintenance.

The spoil will be tested to measure the presence of any contaminants, and depending on quality will be grassed, and/or sold, or trucked off-site to a suitable land fill location.

The spoil area will be fenced off to prevent public access during dredging.

The site manager for the project proposes to be in regular contact with Council's Works Supervisor, in regard to the off-site transport of spoil material.

The application is accompanied with a Dredging Environmental Management Plan, which comprehensively covers the following issues:

- Marine water quality;
- Marine fauna and flora;
- Surface water quality and erosion;
- Air quality;
- Noise management;
- Terrestrial flora and fauna, and
- Waste management.

The proposal includes an emergency spill procedure, incident report form, and complaints register.

Transport of Spoil Material

The proponent advises that spoil will be removed by truck with a capacity of 16m³ to 18m³

The type of truck used will be a semi-tipper or tip-truck with "dog" trailer.

Riverside Road is not an appropriate travel route for these trucks due to the nature of its geometry including chicanes, and the potential conflict with pedestrian/cyclist users along it.

It is recommended that all trucks entering and leaving the site travel east and use Preston Point Road as the main access route.

Conclusion

The application proposes a dredging process that if implemented in accordance with the "Dredging Environmental Management Plan", July 2007 prepared by 360 environmental will not have any impact on the town's assets or residents of East Fremantle.

RECOMMENDATION

That Council advise the Swan River Trust that it supports the application by the Swan Yacht Club date stamp received on 3 September 2007 to dredge the river bed subject to the following conditions:

1. Compliance with the Dredging Environmental Management Plan July 2007, prepared by 360 environmental management consultants.
2. All vehicle movements associated with the removal of spoil from the site are to be confined to Preston Point Road as the main means of access; access to Riverside Road west of the site for these vehicles is not permitted.

Messrs Chris Lee & Russell Telfer (Swan Yacht Club) addressed the meeting.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Olson

That Council advise the Swan River Trust that it supports the application by the Swan Yacht Club date stamp received on 3 September 2007 to dredge the river bed subject to the following conditions:

1. Compliance with the Dredging Environmental Management Plan July 2007, prepared by 360 environmental management consultants.
2. All vehicle movements associated with the removal of spoil from the site are to be confined to Preston Point Road as the main means of access; access to Riverside Road west of the site for these vehicles is not permitted.

CARRIED

T103.4

Hubble Street No. 44 (Lot 3)

Applicant: Robin Egerton-Warburton

Owner: Tony Jones

Application No. P171/2007

By Chris Warrener, Town Planner on 27 September 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a change of use of the premises at 44 Hubble Street (cnr George Street) from "Buddhist Centre and residential" to "Shop for the purposes of retailing swimwear and gym wear, and residential".

The shop will employ 2 staff.

Statutory Considerations

Town Planning Scheme No. 3 – George Street Mixed Use zone

Local Planning Strategy - Plympton Precinct (LPS)

Residential Design Codes (RDC)

Documentation

Plans and relevant forms date stamp received on 6 September 2007

Date Application Received

6 September 2007

Advertising

Adjoining landowners and sign on site

Date Advertised

12 September 2007

Close of Comment Period

26 September 2007

No. of Days Elapsed between Lodgement & Meeting Date

33 days

Any Relevant Previous Decisions of Council and/or History of an Issue or Site

16 April 1973	Council refuses permission for a fish wholesale business;
18 February 1974	Council declares stables at 44 Hubble Street neglected buildings;
17 November 1975	Council decides to permit the continued occupation of 44 Hubble Street for Office and Storage for Electrical Equipment;
20 August 1984	Council grants approval for a change of use from "Electrical Contractor" to "Florist/Nursery – Gift Lines and Craft Retail";
21 April 1986	Council grants special approval for the erection of 2 additional living units and 2 additional commercial units at 44 Hubble Street (65A & 65B George Street);
28 July 1986	Building Licence 08/1165 issued for two 3-storey units at the rear of 44 Hubble Street;
22 April 1987	Council grants approval for a change of use from "Florist/Nursery – Gift Lines and Craft Retail" to Second-hand shop dealing in bric-a-brac, ceramics, small pieces of furniture, silverware, and local handicrafts for a period of 2 years;
31 March 1988	Council agrees to the existing timber fence remaining providing it is extended to a maximum height of 2100mm, and endorses unauthorised variations consisting of two dormer windows;
3 May 1988	State Planning Commission endorses a Strata Plan for the subdivision of the buildings at 44 Hubble Street into 3 built strata lots;
15 July 1997	Council decides to advise the applicant that the residence at 44 Hubble Street cannot be used for commercial activities – it must be retained for residential purposes, special approval granted for an under verandah sign, and a sandwich board sign;
19 March 2002	Council grants approval for the use of 44 Hubble Street as a Buddhist Centre in conjunction with a residence;
4 November 2005	Building Licence 05/89 issued for verandah;
17 October 2006	Council grants approval for additions at the rear of 44 Hubble Street;
20 March 2007	Building Licence 07/1 issued for additions.

CONSULTATION

Public Submissions

At the close of the comment period no submissions were received.

Site Inspection

By Town Planner on 19 October 2006

REPORT

Issues

Heritage

44 Hubble Street is in the George Street Precinct therefore it is on the Heritage List under TPS 3, and the following relevant provision applies:

"7.4. Heritage assessment

Despite any existing assessment on record, the local government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the Heritage List."

Land Use

44 Hubble Street is in the George Street Mixed Use zone.

On 19 March 2002 Council approved the use of the property as a "Buddhist Centre in conjunction with a residence".

Use of a property remains with the property unless/until Council approves a change of use.

The proposed use of the premises for a shop is an "A" use, which

“means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4.” (TPS 3).

Residential use of the property is a “P” use, which:

“means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme.” (TPS 3).

Being in the Mixed Use zone the proposed uses are considered appropriate uses of the property.

Car Parking

There are 2 on-site car parking spaces allocated for the specific use of 44 Hubble Street. These spaces are located in a walled enclosure accessed via George Street, which is jointly used by Units 1 and 2, 65 George Street.

Schedule 11 Car Parking Standards under TPS 3 lists the following parking requirement for a shop use:

Shop	1 space for every 20m ² net lettable area (5 spaces per 100m ² NLA) Minimum 4 spaces
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Under the RDC 1 car parking space is required for the residence at 44 Hubble Street.

A total of 5 on-site parking spaces are required therefore there is a shortfall of 3 spaces.

Discussion

In the past 12 months Council has determined applications for “Hubble’s Yard”, and a Day Spa and Shop in George Street, and Consulting Rooms at 5-7 Silas Street, which all suffered a shortfall of on-site car parking.

Council exercised discretion to approve the applications without the requirement for the requisite car parking.

More recently the applications for the Day Spa and Shop, and the Consulting Rooms attracted a condition requiring the provision of bicycle parking.

This was a consideration in light of TPS 3 clause 10.2 (u), which states:

*“10.2 Matters to be considered by local government
The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application —
(u) whether adequate provision has been made for access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);”*

While purpose built facilities are not presently provided for cyclists at the property this report recommends their provision as a condition of approval.

Again, in this particular case there is a parking shortfall as the application does not provide parking in accordance with Schedule 11 therefore Council’s discretion is required to be exercised to allow the uses.

The following provision under TPS 3 empowers Council to permit a variation to a site or development standard subject to certain conditions:

*“5.6 Variations to site and development standards and requirements
5.6.1. Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-*

compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

5.6.2. *In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to —*

(a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and

(b) have regard to any expressed views prior to making its determination to grant the variation.

5.6.3. *The power conferred by this clause may only be exercised if the local government is satisfied that —*

(a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and

(b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.”

In regard to sub-clauses 5.6.1 and 5.6.2 the identified parking shortfall was considered to potentially primarily impact on the adjoining properties, and the immediate locality, so the adjoining property owners were invited to comment, and a sign was fixed to the building proposed to be leased for the proposed uses.

There are no submissions.

In regard to sub-clause 5.6.3 the further criteria listed under clause 10.2 considered relevant to this application are:

(a) *the aims, objectives and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);*

The property is in the George Street Mixed Use zone and the application is for uses which are permitted in this zone therefore complying with the aims, objectives and provisions of the Scheme.

(j) the compatibility of a use or development with its setting;

The use shop and residence are considered to be compatible land uses permitted in the George Street Mixed Use zone.

(o) the preservation of the amenity of the locality;

The locality is a mixed use area and the uses shop and residence are considered to be compatible with, and will improve the amenity of the area in terms of the choice of retailing available to the local community, and in terms of ensuring that the property is not vacant and is maintained.

(q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;

There is adjacent on street parking available and the application proposes 2 on-site car spaces for the resident, and for the shop proprietor.

(r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;

The shop and residence will not generate any more traffic than would otherwise be generated by uses nearby in George Street.

- (s) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;

The subject property is situated walking distance from the nearest bus stop on Canning Highway.

- (zb) any other planning consideration the local government considers relevant;

See "Options" below.

Options

In lieu of the 3 space parking shortfall it is recommended that Council consider the following options, noting that (a), (c) & (d) (b is a variation of a) are exactly as provided for in the relevant TPS No. 3 provisions.

- (a) Accept the shortfall;

This option could set an undesirable precedent in light of the potential future redevelopment of the George Street mixed use area.

- (b) Accept the shortfall subject to the applicant providing the equivalent bicycle parking (i.e. 3 bike racks);

This option recognises the need for parking to be provided for all vehicle users not just motor vehicles.

- (c) Require that the owner/tenant arrange to Council's satisfaction an off-site parking alternative;

For example there are other properties in the immediate area where arrangements may be made with the owner of that property. In the event such an arrangement (if this was Council's decision) proved impossible to obtain, the matter could be reconsidered.

- (d) Require cash-in-lieu

Conclusion

The parking shortfall in this case is not considered significant.

In an effort to promote sustainable transport alternatives in the George Street Mixed Use zone it is considered reasonable to allow the shortfall however to require the provision of bike parking in lieu of the car parking shortfall, and in light of TPS 3 sub-clause 10.2 (u).

The recommended facility is the "U" rail. The cost of a stainless steel "U" rail is \$342.00 plus GST, plus \$150.00 installation (prices obtained from Forpark). The rails are cemented into the ground.

RECOMMENDATION

That Council exercise its discretion in granting approval for a change of use of the premises at No. 44 Hubble Street (cnr George Street) from "Buddhist Centre and residential" to "Shop for the purposes of retailing swimwear and gym wear, and residential" in accordance with the application date stamp received on 6 September 2007 subject to the following conditions:

1. in lieu of the shortfall for 3 car parking spaces the applicant is to pay the cost of purchase and installation of 3 stainless steel "U-rail" bicycle parking racks in front of the premises;
2. hours of operation are limited to:
 - Monday to Friday - 9:00am to 5:00pm
 - Saturday - 9:00am to 1:00pm
3. the proposed shop and residence are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

Footnote:

The following is not a condition but a note of advice to the applicant/owner:

This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.

Ms Robin Egerton-Warburton & Mr Nathan Nixey (applicants) addressed the meeting.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Wilson

That Council exercise its discretion in granting approval for a change of use of the premises at No. 44 Hubble Street (cnr George Street) from “Buddhist Centre and residential” to “Shop for the purposes of retailing swimwear and gym wear, and residential” in accordance with the application date stamp received on 6 September 2007 subject to the following conditions:

- 1. in lieu of the shortfall for 3 car parking spaces the applicant is to pay the cost of purchase and installation of 6 stainless steel “U-rail” bicycle parking racks in front of the premises;**
- 2. hours of operation are limited to:**
 - Monday to Friday - 9:00am to 5:00pm**
 - Saturday - 9:00am to 1:00pm**
- 3. the proposed shop and residence are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**

Footnote:

The following is not a condition but a note of advice to the applicant/owner:

This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.

CARRIED

T103.5

Petra Street No. 27B (Lot 9)

Applicant: Nash & Gherinich Architects

Owner: D Deloub & K Williams

Application No. P161/07

By Chris Warrener, Town Planner on 27 September 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house at 27B Petra Street comprising a double carport in the front setback, a single garage, ground floor living, dining, kitchen, family, bedroom 3, laundry & bathroom, and swimming pool, and upper floor bedrooms 1 & 2, en-suite & study.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Woodside Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 066 – Roofing (LPP 066)

Local Planning Policy No. 142 – Residential Development (LPP 142)

Council Policy No. 023 – Use of Reflective Metal Roofing Material (CP 023)

Documentation

Plans and relevant forms date stamp received on 24 August 2007

Date Application Received

24 August 2007

Advertising

Adjoining land owners only

Date Advertised

3 September 2007

Close of Comment Period

18 September 2007

No. of Days Elapsed between Lodgement & Meeting Date

46 days

Any Relevant Previous Decisions of Council and/or History of an Issue or Site

17 February 2004 Council decides to advise the WAPC that it conditionally supports the subdivision of 27 Petra Street into 2 lots;

8 March 2004 WAPC grants conditional approval to subdivide 27 Petra Street into 2 lots;

1 June 2004 Demolition Licence issued for the single storey house at 27 Petra Street;

19 July 2005 Council conditionally approves a 2-storey house on reduced setbacks subject to garage being behind main building line;

CONSULTATION**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 25 September 2007:

- contemporary design quite interesting
- carport should be removed
- possible redesign to bring design closer to the street
- no overlooking

Public Submissions

At the close of the comment period 1 submission was received.

29 Petra Street Pool and entertaining area on north side potentially impacts on privacy of a second bedroom

Site Inspection

By Town Planner on 24 September 2007.

STATISTICS	Required	Proposed
Land Area		494m ² Existing
Open Space	55%	63% Acceptable
Zoning		R12.5

Setbacks:

Front (east)			
<i>Ground</i>	<i>Carport</i>	7.50	4.50
			Discretion Required
<i>Upper</i>	<i>Bedroom (1)</i>	7.50	25.00
			Acceptable
	<i>Study</i>	6.00	19.70
			Acceptable
Rear (west)			
<i>Ground</i>	<i>Family Room & Bedroom (3)</i>	6.00	8.70
			Acceptable
<i>Upper</i>	<i>Bedroom (2)</i>	6.00	8.70
			Acceptable
Side (north)			
<i>Ground</i>	<i>Carport</i>	1.00	4.00
			Acceptable
	<i>Garage</i>	1.00	6.00
			Acceptable
	<i>Living & Dining</i>	1.50	4.00

			Acceptable
	<i>Kitchen & Bathroom</i>	1.50	4.60
	<i>Family Room</i>	1.50	Acceptable
			2.40
<i>Upper</i>	<i>Bedroom (1)</i>	1.20	Acceptable
			3.80
	<i>Bedroom (2)</i>	1.20	Acceptable
			1.50
			Acceptable
<i>Side (south)</i>			
<i>Ground</i>	<i>Bedroom (3)</i>	Nil	<i>Policy 142</i> Nil
			Acceptable
	<i>Kitchen</i>	1.50	1.50
			Acceptable
	<i>Living</i>	1.00	1.50
			Acceptable
	<i>Garage</i>	1.00	Nil
			Discretion Required
	<i>Carport</i>	1.00	1.00
			Acceptable
<i>Upper</i>	<i>Bedroom (2)</i>	1.20	3.80
			Acceptable
	<i>Bedroom (1)</i>	1.20	1.50
			Acceptable
<u>Height:</u>			
	Wall	6.50	6.50
			Acceptable
	Parapet Wall Height	3.00	3.50
			Discretion Required
<u>Overshadowing:</u>		24.66%	
<u>Privacy/Overlooking:</u>		No overlooking from subject property	
<u>Note:</u>		The carport and garage are forward of the main building. The carport is set 4.50m from the front boundary.	

REPORT

Issues

Boundary Setbacks

Front (east side) Boundary

The application proposes a double carport set back 4.5m from the front boundary.

Pursuant to LPP 142 and the RDC the recommended setback is 7.5m.

Streetscape

The application proposes a carport and a garage which are forward of the 'main building line'.

LPP 142 states:

"Part 2 – Streetscape

- (i) Buildings are to be set back such a distance as is generally consistent with the building set back on adjoining land and in the immediate locality.*
- (ii) Notwithstanding (i) above, garages and carports located at or behind the main building line for primary and secondary streets and in accordance with Table 1 – Minimum Setbacks of the Residential Design Codes."*

Boundary Wall Height The application proposes a single garage with a 7.2m long X 3.5m high wall along the south side boundary.

LPP 142 states:

A wall may be situated closer to an adjoining residential boundary than the standards prescribed in Tables 1, 2a or 2b of the Residential Design Codes where the following are observed:

(a) Walls are not higher than 3m and up to 9m in length up to one side boundary;

Roof Pitch The application proposes a 2-storey house with a zincalume skillion roof pitched at 12°, and a carport in the front setback with a zincalume roof pitched at 30°.

The carport will be the first visible element from the street and it therefore might be considered to be the dominant element therefore complying with LPP 066, which states:

“dominant elements to be greater than 28°.”

Submission It is apparent that the author of the submission misunderstood the applicant's plans, and in fact there will be no overlooking.

Discussion

Boundary Setbacks

The predominant street setback along Petra Street is 6m or less, which is the setback prescribed under TPS 2 for property in the locality (referred to as "Area 3").

The applicant states in response to the submission, and comments made by the author of this report in regard to the setback variation for the carport:

"Whilst it is true that the carport is setback from the front boundary 4.5 metres, the average setback as permitted by the R Codes, is 10.25 metres. Also as previously pointed out, LPP 142 Part 2(ii) is not at all imperative about the setback (the word "shall" is not used) and refers the applicant to Table 1 of the R Codes, which calls for a setback of 7.5 metres, but permits averaging to occur as explained above."

Streetscape

The applicant sites other examples of carports in the front setback along Petra Street.

These may be found on both sides of Petra Street however on the west/East Fremantle side are at no's 15, 17, 23, 35, 119, 135, 147, 165, and 167. None of these are considered particularly attractive and nor are they considered to contribute to streetscape amenity. However to be fair the proposed carport is considered a more attractive structure than the others in the street.

The TPAP considered that the carport should be removed, and the design of the front of the house modified to reduce the dominance of cars parked at the front.

Next door at 27B Petra Street is presently being developed with a single storey house, and does not provide any on site formalised parking area such as a carport or garage. It is likely that this will result in a rather disorderly manner of parking to the detriment of the local streetscape.

The carport is considered to provide an "architectural foil" for the single garage.

Boundary Wall Height

The boundary wall for the proposed garage is proposed to abut a boundary wall built as an integral component of the house at 27A Petra Street, and therefore will have no impact on property amenity or the streetscape. This variation is considered minor and is supported.

Conclusion

In the opinion of the author the application proposes a single house based on a unique, contemporary design, and built amongst houses which are considered to be rather "ordinary" and uninteresting in appearance.

Between Marmion Street and Canning Highway front setbacks along Petra Street are generally less than recommended under the present density code.

This application presents an opportunity to build what is considered to be an attractive and functional, environmentally positive structure that might serve as a good example of the type of house to be encouraged where there is an already vacant site comprising a narrow lot.

RECOMMENDATION

That Council exercise its discretion in granting approval for the following:

- (a) variation to the east side boundary setback pursuant to Local Planning Policy 142 for a double carport from 7.5m to 4.5m;

(b) variation to the height of a boundary wall along the south side boundary pursuant to Local Planning Policy 142 from 3m to 3.5m;

for the construction of a 2-storey house at No. 27B (Lot 9) Petra Street, East Fremantle with a single garage, ground floor living, dining, kitchen, family, bedroom 3, laundry & bathroom, and swimming pool, and upper floor bedrooms 1 & 2, en-suite & study in accordance with the plans date stamp received on 24 August 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
9. that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*

- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

Mr Derek Nash (architect) and Ms Karali Williams (owner) addressed the meeting.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Harrington

That Council exercise its discretion in granting approval for a variation to the height of a boundary wall along the south side boundary pursuant to Local Planning Policy 142 from 3m to 3.5m for the construction of a 2-storey house at No. 27B (Lot 9) Petra Street, East Fremantle with a single garage, ground floor living, dining, kitchen, family, bedroom 3, laundry & bathroom, and swimming pool, and upper floor bedrooms 1 & 2, en-suite & study in accordance with the plans date stamp received on 24 August 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
9. that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record*

of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.

- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

CARRIED

T103.6

Windsor Road No. 48 (Lot 11)

Applicant & Owner: Eddy Giangiordano

Application No. P174/07

By Chris Warrener, Town Planner on 4 October 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a single storey house at 48 Windsor Road with 2 double garages, 4 bedrooms, 2 bathrooms, kitchen, dining & family room, cinema, games room, activity room, and outdoor alfresco.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Local Planning Strategy - Richmond Precinct (LPS)
Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 066 – Roofing (LPP 066)
Local Planning Policy No. 142 – Residential Development (LPP 142)

Documentation

Plans and relevant forms date stamp received on 10 September 2007

Date Application Received

10 September 2007

Advertising

Adjoining land owners only

Date Advertised

20 September 2007

Close of Comment Period

3 October 2007

No. of Days Elapsed between Lodgement & Meeting Date

29 days

Any Relevant Previous Decisions of Council and/or History of an Issue or Site

14 February 1977	Building Licence issued for a timber-framed asbestos clad family room addition;
19 December 1978	Building Licence 103/856 issued for a patio;
2 April 2005	WAPC refuses an application to subdivide 48 Windsor Road into 2 lots (1 X 350m ² , 1 X 463m ²);

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 25 September 2007 and the following comments were made:

- 'garage' at rear is a free standing activities room
- acceptable

Public Submissions

At the close of the comment period no submissions were received.

Site Inspection

By Town Planner on 25 September 2007.

STATISTICS	Required	Proposed
Land Area		911m ² Existing
Open Space	55%	53.2% Discretion Required
Zoning		R12.5
Setbacks:		
Front (west)		
<i>Study</i>	7.50	5.70 Discretion Required
<i>Portico</i>	7.50	5.15 Discretion Required
<i>Cinema</i>	7.50	7.60 Acceptable
<i>Garage</i>	7.50	8.10 Acceptable
Rear (east)		
<i>Garage</i>	6.00	2.00 Discretion Required
<i>Games</i>	1.50	10.30 Acceptable
<i>Activity & Bedroom (4)</i>	6.00	7.50 Acceptable
Side (north)		
<i>Bedrooms (2), (3) & (4) & Laundry</i>	1.50	1.50 Acceptable
<i>Bedroom (1) & Study</i>	1.50	2.10 Acceptable
Side (south)		
<i>Garage</i>	1.00	1.50 Acceptable
<i>Kitchen & Alfresco</i>	1.50	4.65 Acceptable
<i>Games</i>	1.50	10.00 Discretion Required
<i>Garage</i>	0.00	<i>LPP 142</i> 0.00 Acceptable
Height:		
Wall	6.00	3.00 Acceptable
Building	9.00	6.20 Acceptable

REPORT

Issues

Front (west) Boundary A portico is set back 5.15m and a study is set back 5.7m from the front boundary.

The RDC recommend a 7.5m setback for R12.5 coded property.

Rear (east) Boundary Common with 41 Gill Street
The application proposes a double garage at the rear set back 2m from the boundary.

The RDC recommend a 6m rear setback for R12.5 coded property.

Open Space The application proposes development of the subject land which will result in there being 53.2% open space.

The RDC recommend 55% open space for the development of R12.5 coded property.

Discussion

Boundary Setbacks

The applicant responded to the front setback issue stating:
"It should be noted that the neighbouring property on the northern side has a front setback of approx 4600mm to its entire building width and the neighbouring property on the southern side has a setback of 6000mm to 73% of its overall building width."

This variation is considered acceptable because the proposed development will 'fit in' with adjoining development setbacks.

In regard to the rear setback variation to the garage the applicant states: *"we will increase the rear boundary setback to 3000mm"*.

The potentially affected adjoining property owner has not objected to this variation, which is not considered to have a negative impact on property amenity, and has no impact on property appearance.

Open Space A contributing factor to the open space reduction is that the application proposes 2 double garages.

The applicant submits that it is proposed to reduce the size of the garage at the rear to increase the amount of open space on site to comply with the RDC.

RECOMMENDATION

That Council exercise its discretion in granting approval for the following:

- (a) variation to the west side (front) boundary setback pursuant to the Residential Design Codes from 7.5m to 5.15m for a portico, and 5.7m for a study;
- (b) variation to the east side (rear) boundary setback pursuant to the Residential Design Codes from 6m to 3m for a garage;

for the construction of single storey house at No. 48 (Lot 11) Windsor Road, East Fremantle with 2 double garages, 4 bedrooms, 2 bathrooms, kitchen, dining & family room, cinema, games room, activity room, and outdoor alfresco in accordance with the plans date stamp received on 10 September 2007 subject to the following conditions:

1. prior to the issue of a building licence the applicant is to submit amended plans to increase the setback of the garage at the rear from 2m to 3m, and reduce the width of this garage by 1m;
2. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.

5. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
8. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
9. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
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- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

Mr Eddy Giangjordano (applicant) addressed the meeting.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Harrington

That Council exercise its discretion in granting approval for the following:

- (a) **variation to the west side (front) boundary setback pursuant to the Residential Design Codes from 7.5m to 5.15m for a portico, and 5.7m for a study;**
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- (f) ***with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.***

CARRIED