

13 July 2010

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 13 JULY, 2010 COMMENCING AT 6.38PM.

T163. OPENING OF MEETING

T163.1 Present

Cr Alex Wilson	Presiding Member
Mayor Alan Ferris	
Cr Cliff Collinson	to 8.37pm
Cr Barry de Jong	
Cr Rob Lilleyman	
Cr Dean Nardi	
Ms Gemma Basley	Acting Town Planner
Mrs Peta Cooper	Minute Secretary

T164. WELCOME TO GALLERY

There were 12 members of the public in the gallery at the commencement of the meeting.

T165. APOLOGIES

Cr Siân Martin
Cr Maria Rico

T166. CONFIRMATION OF MINUTES

T166.1 Town Planning & Building Committee (Private Domain) – 8 June 2010

Cr Nardi - Cr de Jong
That the Town Planning & Building Committee (Private Domain) minutes dated 8 June 2010 as adopted at the Council meeting held on 15 June 2010 be confirmed.
CARRIED

T167. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil.

T168. REPORTS OF COMMITTEES

T168.1 Town Planning Advisory Panel – 22 June 2010

Cr de Jong – Cr Collinson
That the minutes of the Town Planning Advisory Panel meeting held on 22 June 2010 be received and each item considered when the relevant development application is being discussed.
CARRIED

T169. REPORTS OF OFFICERS

T169.1 Receipt of Reports

Cr Lilleyman – Cr Collinson
That the Reports of Officers be received.
CARRIED

13 July 2010

MINUTES

T169.2 Order of Business

Cr Lilleyman – Cr Collinson

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

T169.3 Fortescue Street No. 14 (Lot 177)

Applicant: Harry Monaghan - Architect

Owner: Kathryn Johnson

Application No. P79/2010

By Gemma Basley, Acting Town Planner on 30 June 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for a belowground swimming pool and pool bar and a proposed new studio containing an underground cellar at No. 14 Fortescue Street, East Fremantle.

Description of Site

The subject site is:

- a 1012m² block
- zoned Residential R12.5
- developed with a dwelling on-site
- located in the Woodside Precinct

Statutory Considerations

Town Planning Scheme No. 3

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)

Local Planning Policy No. 145 : Neighbourhood Consultation (LPP 145)

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : No impact

Documentation

Plans and relevant forms date stamp received on 27 April 2010 and 18 June 2010.

Date Application Received

27 April 2010

18 June 2010 – Revised Plans received

No. of Days Elapsed between Lodgement & Meeting Date

77 days

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

17 October 1994 The Council at its meeting resolved to approve a planning application for the construction of a carport within the front setback area and pool pavilion incorporating a boundary wall to the south.

22 April 1997 The Council at its meeting resolved to approve a planning application for alterations and a second-storey addition to the existing single-storey dwelling.

13 July 2010

MINUTES

Advertising

The subject application was advertised to adjoining landowners for the standard 2 week period from the 12 May 2010 to the 26 May 2010. There were no comments received during this neighbour consultation period.

CONSULTATION

Principal Building Surveyor's Comment

A preliminary assessment conducted by the Principal Building Surveyor advised the main building line of the adjacent property located on the northern elevation is to be a minimum of 3.0 metres from the proposed studio and cellar in order to meet BCA requirements.

The existing setback of No. 12 Fortescue was subsequently assessed and found to be located 20.23 metres from the rear lot boundary. This equates to a 12.1 metre setback between the proposed studio and cellar and the rear building line of the adjacent property; satisfying the BCA requirement.

The relevant conditions to ensure compliance with the building requirements are listed in the Recommendation.

Other Agency/Authority

Not applicable.

REPORT

Comment

An Application for Planning Approval for the removal of the existing pool and the construction of a new below ground swimming pool and pool bar and a proposed new studio containing an underground cellar at No. 14 Fortescue Street, East Fremantle.

More specifically a new belowground swimming pool which is 2.6 metre – 4.5 metre wide and 5.1 metre long is proposed to replace the existing pool.

The proposed studio is to be located at the rear north-east corner of the subject site and to have a wall height above NGL of 3.258 metres and an overall height of 4.258 metres. It is proposed to construct two boundary walls on the northern and eastern boundaries, respectively. The boundary wall is proposed to have a maximum height of 5.7metres with the majority of this being below ground. The height of the boundary wall above NGL will be 2.4 metres. The boundary wall is proposed to have a maximum length of approximately 9.7 metres.

The proposed cellar is positioned to sit 2.9 below the NGL and requires a section of below ground boundary wall.

In a residential zoning of R12.5 such as this, a boundary wall is only permitted *'where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions'*. The application proposes two boundary walls and as such the application is being referred to Council and the subsequent non-compliance with clause 6.3.2 of the Residential Design Codes relating to building on boundaries.

Compliance

The proposal meets the quantitative provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

Requirement	Proposed	Planning Officer Comments
R-Codes: <u>Building Setbacks</u> <i>North</i> 2.5 metres	Nil	Supported - The proposed setback

13 July 2010

MINUTES

Requirement	Proposed	Planning Officer Comments
<p><i>East</i> 1.0 metres</p>	<p>Nil</p>	<p>variation of the proposed boundary wall abuts an existing shed located 0.55 metres from the northern boundary. The adjacent shed is of a similar height and length to that of the proposed studio and is considered the reduced setback will have no undue impact on the adjoining neighbour, particularly with this being a boundary wall.</p> <p>Supported - The proposed setback variation of the proposed boundary wall is not considered to have an adverse impact on the adjoining property. This section of wall only extends for 3.96 metres with a height of approximately 2.4 and will not result in additional overshadowing. Additionally, no objections were received from the adjoining landowner.</p>
<p><u>Building on Boundaries</u> R12.5 – Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions</p>	<p>Two Boundary walls proposed. The eastern boundary wall does not abut a constructed wall of similar dimensions.</p>	<p>Supported - The proposed northern boundary wall abuts a boundary wall on the adjoining No. 12 Fortescue Street. More specifically, a shed is set back only 0.55 metres from the boundary of 14 Fortescue Street and is assessed as being Acceptable Development under the R-Codes.</p> <p>The proposed eastern boundary wall, which does not adjoin an existing boundary wall, is considered to be small in scale having a length of only 3.96 metres and a height above NGL of 3.96 metres. This second boundary wall meets the performance Criteria of the Codes and will not impact on access to sunlight or ventilation for the adjoining lot or have an adverse impact.</p>

Given the proposal meets the majority of the quantitative requirements of the Residential Design Codes and the Town's Local Planning Policies, the application can be supported and is recommended for Approval.

RECOMMENDATION

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

- variation to setback requirements to allow a nil setback to the northern and eastern boundaries in lieu of the 2.5 metres and 1.0 metres required under Residential Design Codes 2008; and
 - variation to building on boundary requirements to allow two boundary walls;
- for the construction of a pool and studio/cellar at No. 14 (Lot 177) Fortescue Street, East Fremantle in accordance with the plans date stamp received on 27 April 2010 and 18 June 2010, subject to the following conditions:

13 July 2010

MINUTES

1. The works are 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed alterations and additions 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.
5. All stormwater is 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 introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. All parapet walls are 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.
8. 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).*

Mr Harry Monaghan (architect) and Mr Michael Johnson (owner) addressed the meeting in support of the officer's recommendation.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Lilleyman

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

- **variation to setback requirements to allow a nil setback to the northern and eastern boundaries in lieu of the 2.5 metres and 1.0 metres required under Residential Design Codes 2008; and**
 - **variation to building on boundary requirements to allow two boundary walls;**
- for the construction of a pool and studio/cellar at No. 14 (Lot 177) Fortescue Street, East Fremantle in accordance with the plans date stamp received on 27 April 2010 and 18 June 2010, subject to the following conditions:**

13 July 2010

MINUTES

1. The works are 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed alterations and additions 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.
5. All stormwater is 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 introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. All parapet walls are 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.
8. Mature trees located in the central and rear portion of the subject lot as shown on submitted plans to be retained.
9. 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) *variations in relation to boundary setbacks were granted on the basis of the retention of the mature trees as referred to in Condition (8) above. CARRIED*

13 July 2010

MINUTES

T169.4 Gill Street No. 4 (Lot 306)
Applicant: Steven Radalj
Owner: Marty Westvelt
Application No. P96/2010
By Gemma Basley Acting Town Planner on 7 July 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house at 4 Gill Street comprising a double garage, which is accessed from Gill Street and a 3 bedroom, 2 bathroom, guest bedroom and alfresco area, is the subject of this report.

Preamble

The subject application has previously been approved by Council (20 May 2008) however the 2 year approval period has expired without substantial works being undertaken to implement the approval. The applicant has therefore been required to lodge a new application in order to obtain a current approval.

The subject application does not differ in any way to the previous application and there have been no changes to the requirements of Council's TPS No. 3 and/or the R-Codes that would necessitate the application being assessed in a different manner to the earlier application.

Statutory Considerations

Town Planning Scheme No. 3 – Metropolitan Region Scheme Reserve for Primary Regional Roads
Local Planning Strategy - Richmond Precinct (LPS)
Residential Design Codes (RDC)

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 3 June 2010

Date Application Received

3 June 2010

Advertising

This application was advertised to adjoining landowners between 14 June 2010 to 29 June 2010. No submissions were received.

No. of Days Elapsed between Lodgement & Meeting Date

40 days

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

5 March 2002	WAPC conditionally approves the boundary adjustment;
27 November 2002	WAPC endorses Deposited Plan 34146 for the boundary adjustment for final approval;
15 April 2003	Building Licence 178/3405 approved for a sunroom, dressing room, bathroom and garage extension;
11 February 2008	WAPC conditionally approves the subdivision of 6 Gill Street into 2 lots (1 x 403m ² , 1 x 1041m ²);
20 May 2008	Council exercises its discretion in granting approval for a 2 storey residence at the site.

13 July 2010

MINUTES

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel (TPAP) at its meeting held on 22 June 2010 and the following comments were made:

TPAP Comment	Applicant Response
Plans do not reflect the retention of vegetation on Canning Highway elevation.	The site plan identifies the retention of the vegetation. The elevations do not show the vegetation because this would completely screen the elevation, as it does screen the site.
Refer original condition to retain existing trees and/or replacement with mature trees if needed to be replaced or damaged.	The site has already been cleared and earth worked and the trees have been retained through and beyond this. There is no intention or desire to remove these trees at any stage.
Applicant to provide an arborist's report presenting a detailed management plan for the retention of mature trees.	As above, a management plan is an over requirement. The trees have been retained throughout the site works and there is no reason why the proposed residence would result in any damage to these trees. To reiterate, the owner wants to retain these trees.

In response to the Panel comments, the Acting Town Planner has confirmed with the applicant that all of the existing trees adjacent to the Highway are to be retained for visual reasons and also to provide a noise attenuation buffer between the Highway and the proposed house. It is further understood that the existing retaining wall and boundary fence along Canning Highway is to be retained. In addition to this an additional retaining/screen wall is proposed on the northern side of the 5 metre road widening easement. Essentially, the vegetation will be retained between two walls, which will assist their protection.

The Acting Town Planner is satisfied that an arborist's report is not required on the basis that the bulk of site works have been undertaken already and the trees have been retained throughout this. If the Council considers, an arboriculture report is required, this could be included as a condition of the planning approval.

Other Agency/Authority

Department of Planning

In principle the Department of Planning do not support development within reserved land. However, given the type and nature of the proposed development in reserved land being paving and retaining and the retention of the existing vegetation, the Department continues to grant its support subject to the applicant entering into a deed of agreement with the Western Australian Planning Commission (WAPC) that the presence of development on the reserved land shall not be taken into consideration in determining any land acquisition or compensation that may be payable by Council or the WAPC and that the developer agrees to remove the development on reserved land at their own cost at the time the reserved land is required for any upgrading of Canning Highway.

This advice relates to some paving, a retaining wall, and landscaping in the proposed corner truncation.

Site Inspection

By Acting Town Planner on 14 June 2010

REPORT

Assessment

This property is wholly situated within the Metropolitan Region Scheme Primary Regional Roads reserve for Canning Highway; however as with other properties along Canning Highway the zoning under TPS 3 is Residential R12.5/40 and assessment of

13 July 2010

MINUTES

development applications for properties with this particular coding is based on Clause 5.3.2 of TPS No. 3 which is quoted below:

- “5.3.2 *Highway frontage dual coding:* In the case of those sites with frontage on to Canning Highway and which are designated with a dual density coding, development above the lower density coding is subject to the following requirements:
- (a) Sole vehicular access to the site is to be via a street other than Canning Highway;
 - (b) Noise attenuation measures are to be included in all dwellings, which will in the opinion of the local government reduce traffic noise to an acceptable level within all habitable rooms;
 - (c) Development is to be designed to face the frontage to Canning Highway, and any other street to which the site has frontage; and
 - (d) The heritage value of any place included on the heritage list under Clause 7.1 of the Scheme is to be maintained, to the satisfaction of the local government.

The subject application continues to propose vehicular access to the house from Gill Street and does not propose any access onto Canning Highway. The subject application also proposes to front the residence to both Gill Street and Canning Highway. Noise attenuation measures will be recommended as a condition of planning approval. The subject application is considered to meet the requirements of the above Clause and therefore the application will be assessed against the R40 requirements of the R-Codes.

The application is generally compliant with the exception of the following elements, which will be discussed in the next section of this report:

- garage forward of the building line
- reduced front setback (Gill Street)
- reduced setback for upper floor balcony on the eastern and northern boundary
- increased length of northern boundary wall
- increased height of eastern boundary wall

Variations

As discussed above, Council has previously supported numerous variations as part of the previous approval. The variations will be discussed below.

Requirement	Proposed	Acting Town Planner Comment
<u>LPP No. 142</u> Garage to be located at/behind main building line	Garage forward of the building line	Supported - As per previous approval and based on the small area of the lot and access being confined to Gill Street. The adjoining residence “Bonaccord” similarly has a garage in a similar location, making the impact on the streetscape less significant.
<u>Front Setback - Gill Street</u> R20 – 4 metres	Garage Setback - 2m Porch Setback - 2.6m Stairwell Setback - 3.95m	The proposed front setback variations have been incorporated into the design of the development to be consistent with the setback of the adjoining property at 8 Gill Street. This property contains a single storey Federation bungalow “Bonaccord”, which is highly rated

13 July 2010

MINUTES

Requirement	Proposed	Acting Town Planner Comment
		in Council's MI (see attached extract). This house is set back approximately 2.5m from Gill Street. The proposed front setback variations will not have any adverse impact on the streetscape and are supported.
<u>East Side Setback</u> Upper Floor Unscreened Balcony: 7.5 metres	Upper Floor balcony setback 4.4 metres from rear/east boundary	Supported - As per the previous approval and on the basis of the dense vegetation that screens the balcony from adjoining lots.
<u>North Side Setback</u> Upper floor Unscreened Balcony 7.5 metres	Upper floor balcony setback 1.53 metres from side/north boundary	Supported - As per the previous approval and on the basis of the dense vegetation that screens the balcony from adjoining lots.
<u>Boundary Walls</u> LPP 142 states length not to exceed 9 metres and height to not exceed 3 metres.	<i>Northern Boundary Wall</i> 10.5 metres long <i>Eastern Boundary Wall</i> 3.5 metres high	Supported - The increased wall length will not impact on the loss of ventilation or sunlight to the adjoining lot and will not detrimentally impact on the amenity of the adjoining lot or the amenity of the streetscape. Supported - The increased height is offset by the wall only being 4.9 metres in length. The boundary wall will provide increased privacy to both lots, particularly the lot that adjoins to the east, which has a pool in proximity to this wall.

The subject application, which has previously been approved by Council, seeks the same approval as issued previously. There have not been any changes in Council's Planning policies/requirements, the R-Codes or any additional development that has occurred on the site or adjoining lots, which would lead to the application being assessed differently and as such, the conditions imposed on the previous approval have been recommended for the subject application below.

The applicant's have demonstrated that the vegetation along the Highway has been retained through site works and will continue to be retained and enhanced. Should the vegetation be damaged or removed, a condition has been recommended to require the trees to be replaced.

As a part of the initial application, the applicant's undertook several redesigns in an effort to address the comments made by the Town Planning Advisory Panel with regard to the appearance of the south elevation of the proposed house. The revised plans, which are the subject of this application, provided additional 'articulation' of the upper floor, and changed and added window openings on the south side. This ensures that should the vegetation along the Highway ever be removed, the house will address and interface with Canning Highway as well as Gill Street.

Given the proposal meets the majority of quantitative provisions of TPS No. 3, the R-Codes and Council Policies and given the subject application and proposed variations

13 July 2010

MINUTES

have previously been approved by Council, the application is considered acceptable and recommended for Council approval.

RECOMMENDATION

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

- (a) variation to the west side (front) boundary setback at ground level for a garage, porch and stairwell pursuant to the Residential Design Codes from 4m to 2.2m, 2.1m and 3.95m respectively;
- (b) variation to the west side (front) boundary setback on the upper floor for a bedroom, balcony and stairwell pursuant to the Residential Design Codes from 4m to 2.75m, 1.5m and 3.95m respectively;
- (c) variation to the east side (rear) setback for an unscreened upper floor balcony pursuant to the Residential Design Codes from 7.5m to 4.4m;
- (d) variation to the length of a parapet wall on the north side boundary for a garage pursuant to Local Planning Policy 142 from 9m to 10.5m;
- (e) variation to the north side boundary setback for an unscreened upper floor balcony pursuant to the Residential Design Codes from 7.5m to 1.53m;
- (f) variation to LPP No. 142 to allow the garage to be forward of the main building line.

for the construction of a 2-storey house at No. 4 (Lot 306) Gill Street, East Fremantle in accordance with the plans date stamp received on 3 June 2010 subject to the following conditions:

1. The vegetation adjacent to Canning Highway is to be retained and maintained for a noise attenuation buffer. Should the vegetation be removed or destroyed, the applicant would be required to replace this vegetation to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. The provision of satisfactory noise attenuation measures to the proposed dwelling in relation to noise from Canning Highway to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
3. The limestone fencing along Canning Highway is to be retained
4. Prior to the issue of the Building Licence the landowner is to enter into a deed of agreement with the WAPC that the presence of the development on the reserved land shall not be taken into consideration in determining any land acquisition cost or compensation that may be payable by Council or the WAPC, and the landowner agrees to remove the development on the reserved land at their own cost at the time the reserved land is required for the upgrading of Canning Highway. This agreement is to be registered as a Caveat on the Certificate of Title, and the applicants are advised to contact the WAPC Land Asset Management Branch of the Department for Planning and Infrastructure should they wish to discuss the formulation of a deed of agreement for the temporary use of the reserved land.
5. 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.
6. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. 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.
8. 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.
9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.

13 July 2010

MINUTES

10. 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.
11. 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.
12. 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.
13. 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.
14. 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 Steven Radalj (designer) addressed the meeting in support of the officer's recommendation.

RECOMMENDATION TO COUNCIL

Cr Lilleyman – Cr Nardi

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

- (a) **variation to the west side (front) boundary setback at ground level for a garage, porch and stairwell pursuant to the Residential Design Codes from 4m to 2.2m, 2.1m and 3.95m respectively;**
- (b) **variation to the west side (front) boundary setback on the upper floor for a bedroom, balcony and stairwell pursuant to the Residential Design Codes from 4m to 2.75m, 1.5m and 3.95m respectively;**
- (c) **variation to the east side (rear) setback for an unscreened upper floor balcony pursuant to the Residential Design Codes from 7.5m to 4.4m;**
- (d) **variation to the length of a parapet wall on the north side boundary for a garage pursuant to Local Planning Policy 142 from 9m to 10.5m;**
- (e) **variation to the north side boundary setback for an unscreened upper floor balcony pursuant to the Residential Design Codes from 7.5m to 1.53m;**

13 July 2010

MINUTES

(f) variation to LPP No. 142 to allow the garage to be forward of the main building line.

for the construction of a 2-storey house at No. 4 (Lot 306) Gill Street, East Fremantle in accordance with the plans date stamp received on 3 June 2010 subject to the following conditions:

1. The vegetation adjacent to Canning Highway is to be retained and maintained for a noise attenuation buffer. Should the vegetation be removed or destroyed, the applicant would be required to replace this vegetation to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. The provision of satisfactory noise attenuation measures to the proposed dwelling in relation to noise from Canning Highway to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
3. The limestone fencing along Canning Highway is to be retained
4. Prior to the issue of the Building Licence the landowner is to enter into a deed of agreement with the WAPC that the presence of the development on the reserved land shall not be taken into consideration in determining any land acquisition cost or compensation that may be payable by Council or the WAPC, and the landowner agrees to remove the development on the reserved land at their own cost at the time the reserved land is required for the upgrading of Canning Highway. This agreement is to be registered as a Caveat on the Certificate of Title, and the applicants are advised to contact the WAPC Land Asset Management Branch of the Department for Planning and Infrastructure should they wish to discuss the formulation of a deed of agreement for the temporary use of the reserved land.
5. 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.
6. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. 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.
8. 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.
9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. 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.
11. 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.
12. 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

13 July 2010

MINUTES

in material and design to comply with Council's Policy on Footpaths & Crossovers.

13. 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.
14. 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

T169.5

Staton Road No. 57 (Lot 2)

Applicant: Willcox & Associates Architects

Owner: W & C Zalewski

Application No. P91/09

By Gemma Basley, Acting Town Planner, on 6 July 2010

BACKGROUND

Description of Subject Site

The subject site is:

- zoned Residential R12.5;
- located in the Richmond Precinct;
- 794m² in area; and
- developed with a brick-and-tile house, which has a second storey extension, which cantilevers forward of the main building. The residence is not included on the Town's Municipal Inventory.

Description of Proposal

An application has been lodged to modify a recent planning approval granted by Council for alterations and additions to 57 Staton Road, East Fremantle. To this end, revised plans have been lodged with the Town of East Fremantle for Council consideration and propose four modifications as listed below:

- the relocation of the garage;
- the relocation of the dwelling eastwards;
- the provision of an additional room (studio room); and
- the demolition of the entire building as opposed to undertaking major additions to the existing house.

13 July 2010

MINUTES

Statutory Considerations

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

Relevant Council Policies

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)
- Local Planning Policy – Rainwater Tanks (LPP144)

Date Application Received

15 April 2010 initial application
27 May 2010 revised plans

Advertising

Adjoining landowners were advised of the subject application and were given a two week period in which to lodge any submissions on the application.

Date Advertised

18 May 2010

Close of Comment Period

1 June 2010

No. of Days Elapsed between Lodgement & Meeting Date

84 days since lodgement
46 Days since revised plans lodged

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

15 December 2009 Council approves a two storey addition and extension to an existing single house.

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Town Planning Advisory Panel

The proposal was considered by the Town Planning Advisory Panel (TPAP) at its meeting of the 25 May 2010. The panel queried the new setback of the additional studio room on the Staton Road frontage.

The panel did not raise any other issues or make any further comments on the application.

Public Submissions

One public submission has been received from an adjoining landowner (refer Attachments).

The adjoining landowner's comments are addressed below with a response provided also by the applicant:

Neighbour Comment	Applicant Response
No support for a reduced front setback to the proposed studio room because of potential impact on visibility for traffic turning into Wolsely Road from Staton Road.	No concession to the R-Codes is requested with regard to the setback of the residence from Staton Road. Reductions to the 7.5m setback are in accordance with Clause 6.2.1 A1.1 of the R-Codes.

13 July 2010

MINUTES

Neighbour Comment	Applicant Response
	The existing and proposed floor levels are up to 1.47 metres below the road level at the intersection, which significantly reduces any visual impact.
Request that reduced window sizes (hi Light windows) or concealing treatments be imposed on the northern side of the proposed dwelling.	The lower windows of the first floor living area are set back a minimum of 6.5 metres from the northern boundary and comply with Clause 6.8.1 (2) of the R-Codes, which requires a minimum setback of 6.0 metres. Internal blinds will also be installed. In accordance with the R-Codes no overlooking will occur from the upper floor deck area as it is setback a minimum of 7.5 metres from the northern boundary and complies with Clause 6.8.1 A1 (3).
Request that a temporary fence be erected at the time of removing the existing fence and rebuilding this.	This has been previously agreed to.
Query filling to a new artificial level.	Ground levels to the rear of the proposed residence will be 1000mm below that of the FFL. This will be higher than the adjoining property (59 Stanton Road) however; this is as a result of the natural contours of the area.

The Acting Town Planner has investigated the above concerns and in particular the impact of development on vehicle sight lines and will discuss this below.

Staton and Wolsely Roads intersect at a controlled intersection. More specifically Staton Road has a Stop Sign where it intersects with Wolsely Road, giving the traffic from Wolsely Road the right of way. Staton Road (from north to south) slopes up toward the intersection and it is not until stopped at the intersection that a vehicle can see clearly in both directions along Wolsely Road. This is because of the topography and also because of the bottlebrush plants in the verge.

It is the assessment of the Acting Town Planner that the encroachment of the proposed studio into the front setback area will not impact on the sight lines of the intersection. The reason for this is that a driver should only be calculating what traffic is travelling along Wolsely Road when at the Stop sign. The studio will not impact on the sight lines because it is setback a minimum of 1.8 metres from the property boundary and a minimum of 10 metres from the kerb and because the site is lower than the road and intersection.

Site Inspection

By Acting Town Planner on 28 May and the 1 July 2010

REPORT

Considerations

As detailed above Council has recently exercised its discretion in granting approval for a two storey addition and extension to an existing single house as well as a rear double garage, pool, and boundary fencing at No. 57 (Lot 2) Staton Road subject to the following variations:

- *the height of the northern wall to the upper floor addition being 6.8m in lieu of the 6.0m wall-height-limit as set out in the Residential Development Policy (LPP142);*
- *roof pitch being between 0° and 6° in lieu of the minimum 28° roof pitch as set out in the Roofing Policy (LPP066);*
- *outbuilding wall height being 2.9m in lieu of the 2.4m height-limit set out in the Acceptable Development provisions of Residential Design Codes of WA; and*
- *water tanks being located adjacent to the northern boundary in lieu of the 1.0m setback as set out in the Rainwater Tanks Policy (LPP144);*

13 July 2010

MINUTES

The current application proposes 4 considerable changes to the above planning proposal and approval. More specifically the application proposes the following:

Location of Garage

Since obtaining the former planning approval, the applicants have investigated the location of the sewer main. The Water Corporation has advised that the sewer main that transects the site is located further in from the boundary than previously known and subsequently has a greater impact on the site and limits development in the north western (rear) area of the lot. More specifically, the sewer main runs from north to south in a south easterly direction up to 5.8 metres into the subject site, making the rear part of the site unable to be developed.

The subject application proposes to setback the garage the same distance from Wolsely Road but to increase the setback to the rear boundary to 5.8 metres.

The positioning of the garage gives rise to three issues:

- (i) Section (i) and (ii) of LPP 142, Part 2 (Streetscape) read as follows:
 - (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/or carports are to be located at or behind the main building line of the house on the property.*

Whilst the Policy is normally applied in relation to the front setback, the wording of the policy is such that it could be argued to also apply to side boundaries.

In that event it is clear the proposed location of the garage is in conflict with the Policy.

- (ii) Clause 10.2 provisions relating to the preservation of amenity of the locality and the likely effect of the appearance of the proposal need to be considered by elected members.
- (iii) Plans show a 5.5m crossover, notwithstanding Council's standard of 3m. Whilst Condition 7 covers this point, it is anticipated the location of the garage, if approved, will give rise to a request for an over width crossover.

On consideration of the above, it is concluded there are no significant issues that will arise from the repositioning of the garage and as such this component of the proposal can be considered for approval and is supported by the Acting Town Planner.

Location of House

In order to achieve the nominated location for the garage and to provide the required offset from the sewer main, it is proposed to move the house (as previously approved) eastwards toward Staton Road. This will result in a reduction of the front setback area from 7.5 metres to 6 metres. As per the R-Codes, development is permissible within the front setback area as long as there is an equal or greater compensating area, behind the street setback line, that is not developed. In accordance with Clause 6.2.1 A1 (1) of the R-Codes, the applicants have demonstrated that the proposed intrusion of the residence into the front setback area will be adequately compensated for by undeveloped land behind the front setback line.

This is acceptable development under the Residential Design Codes. Nevertheless the position of the studio gives rise to two issues:

- (i) Section (i) of LPP 142 Part 2 (Streetscape) reads as follows:
 - (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.*

13 July 2010

MINUTES

Whilst the Policy is normally applied to garages and carports it does refer to all buildings or parts of proposed buildings.

It is clear the proposed location of the studio is not consistent with the Policy with respect to the front setback. There is in fact a very uniform streetscape in this section of Staton Road and the building of the studio at this location will compromise this.

- (ii) Clause 10.2 provisions relating to the preservation of amenity of the locality and the likely effect of the appearance of the proposal need to be considered by elected members.

On consideration of the above, it is concluded this component of the proposal can be considered for approval and is supported by the Acting Town Planner.

Additional Studio Room

The applicant's propose an additional room being a Studio. It is proposed to locate this at the front of the dwelling and within the front setback area but setback a minimum of 4.81 metres from the truncation. As per the R-Codes, development is permissible within the front setback area as long as there is an equal or greater compensating area, behind the street setback line, that is not developed. In accordance with Clause 6.2.1 A1 (1) of the R-Codes, the applicants have demonstrated that the proposed intrusion of the Studio into the front setback area will be adequately compensated for by undeveloped land behind the front setback line.

This is acceptable development under the Residential Design Codes and as such this component of the proposal can be considered for approval and is supported by the Acting Town Planner

Demolition of Existing Residence

The previous approval of Council supported the partial demolition of the existing residence. Further investigation by the builder and structural engineer indicates that full demolition is preferable. In this regard the subject application also seeks to demolish the entire existing residence and build the new residence from start as opposed to an alteration/addition. As such this component of the proposal can be considered for approval and is supported by the Acting Town Planner.

Assessment

It is the assessment of the Acting Town Planner that the proposed modifications to the existing planning approval are acceptable and are in response to a site constraint being the location of the sewer main and easement.

The relocation of the garage eastwards meets the requirements of the R-Codes in terms of setbacks. The repositioning of the residence eastwards, although it intrudes into the front setback area, is compliant with the R-Codes Clause 6.2.1 A1 (1) and the development of a Studio Room is also compliant in terms of setback and site cover. The location of the Studio Room will not impact on traffic safety. The demolition of the entire residence is supported considering it is not included on the Town's Draft Municipal Inventory.

The submissions raised by the adjoining owner, were predominantly addressed as part of the earlier application. The Acting Town Planner is satisfied that the objections do not warrant any changes to the subject application and that the application, being predominantly compliant, can be considered for Approval.

13 July 2010

MINUTES

RECOMMENDATION

Council grants approval for the demolition of the existing residence and the development of a two storey residence, garage, swimming pool and boundary fencing at No. 57 (Lot 2) Staton Road, East Fremantle as shown on plans received 27 May 2010 and subject to the following conditions, which are in addition to the requirements of the Planning Approval dated 26 November 2009:

1. The works are 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed works 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.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
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.
7. Any new crossovers which are constructed under this approval are 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. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *The proposed crossover is not included as part of this approval (it lies outside the subject land). It is intended that correspondence will be forwarded in due course stating that the proposed 5.5m wide crossover upgrade is supported.*
- (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) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

13 July 2010

MINUTES

Mr Anthony & Mrs Sandra Rawnsley (adjoining neighbours to the west at 1A Wolsely Road) addressed the meeting and expressed concerns regarding overlooking from the west facing upper floor terrace and overshadowing from proposed fencing to the western boundary as their lot sits somewhat lower than the subject lot.

The Acting Town Planner advised that the applicants would be informed of the Rawnsley's concern and requested to consider the provision of some vegetative screening to address overlooking and give consideration to fencing the rear boundary in such a way as to minimise impact on the neighbouring property.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

Council grants approval for the demolition of the existing residence and the development of a two storey residence, garage, swimming pool and boundary fencing at No. 57 (Lot 2) Staton Road, East Fremantle as shown on plans received 27 May 2010 and subject to the following conditions, which are in addition to the requirements of the Planning Approval dated 26 November 2009:

1. The works are 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed works 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.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
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.
7. Any new crossovers which are constructed under this approval are 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. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *The proposed crossover is not included as part of this approval (it lies outside the subject land). It is intended that correspondence will be forwarded in due course stating that the proposed 5.5m wide crossover upgrade is supported.*

13 July 2010

MINUTES

- (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) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T169.6

King Street No. 98 (Lot 348)

Applicant: Scott Park Homes

Owner: Michael & Megan Keep

Application No. P84/2010

By Gemma Basley, Acting Planning Officer on 9 July 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for the construction of a new single storey dwelling at No. 98 King Street East Fremantle is the subject of this report. The new proposal comprises of four bedrooms, two bathrooms, a study, home theatre, kitchen, dining and family room, an alfresco area, pool and double garage.

Description of Site

The subject site is:

- a 508m² block
- zoned Residential R20
- developed with a dwelling on-site
- included in Council's Draft Municipal Inventory (C-^ Management Category)
- located in the Plympton Precinct

Statutory Considerations

Town Planning Scheme No. 3

Local Planning Strategy - Plympton 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)

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : No impact

Documentation

Plans and relevant forms date stamp received on 6 July 2010.

Date Application Received

11 May 2010

6 July 2010 Amended plans received

13 July 2010

MINUTES

No. of Days Elapsed between Lodgement & Meeting Date

63 Days

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

15 June 1999 The Council at its Meeting resolved to approve a planning application submitted for the subject site, for the construction of a two storey residence.

21 May 2007 Demolition Licence DL07/140 issued.

5 June 2008 Demolition Licence 08/125 approved, not issued.

1 September 2009 Council refused the application for a 2-storey house.

Advertising

The subject application was advertised to adjoining landowners for the standard 2 week period from the 27th May 2010 to the 11th June 2010. There were no submissions or objections received during the advertising period. A submission was however received from the owners of 96 King Street which adjoins the northern boundary of the application area, after the advertising period and is summarised below:

Neighbour Comment	Acting Town Planner Response
Request that a setback variation to the northern boundary not being granted and the 1.5 metres setback to be required.	A setback variation to the northern boundary has not been granted. The northern setback is compliant in accordance with Figure 2d of the R-Codes. More specifically because there are two or more portions of a wall without major openings their setbacks shall be determined independently of each other provided they are separated from one another by a minimum of 4 metres.
Concerned that the choice of colours for the external walls if not light and bright, will through reflected light, darken our bedrooms. Request to be informed of the materials and finishes and request consideration to be given to a light render.	A condition is recommended to require the lodgement of a schedule of materials and finishes prior to the issue of a building licence to the satisfaction of the Chief Executive Officer. At this time consideration will be given to requesting the residence to be rendered in a lighter colour finish.

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Town Planning Advisory Panel Comments

The Panel viewed the proposal on 22 June 2010. The Panel's advice is set out and responded to below:

Advisory Panel Comments	Applicant Response
Design is historically based, however a poorly executed pastiche of original styles that are not architecturally correct – should be pursuing a contemporary design that is sympathetic to original architecture.	The landowner has previously applied to build a contemporary/modern house and was rejected by Council because the house was too modern for the area. As such the owner is pursuing a more traditional style. Whilst, the Precinct does have many heritage quality buildings it also has some very modern homes also. The proposed residence is considered to be of more traditional styling than the adjoining residence at 100 King Street.
Streetscape elevation is disproportionate and detrimental to the streetscape.	To address some of the Panel's concerns, the gable lining has been reselected and will consist of timber battens painted classic cream. In addition, the garage sectional door has been confirmed as one that will complement the style of the house and the area.

13 July 2010

MINUTES

Advisory Panel Comments	Applicant Response
	<p>The landowner has selected red brick with cream mortar, Colorbond (manor red) roof with cream gutters, a bull nosed verandah with turned timber posts and braces painted classis cream. A brick build-up is also to be provided to the front verandah, similar to traditional homes.</p> <p>As many streets in the traditional styled areas King Street is a mix of different styles and eras. The elevation of the proposed residence is no less in keeping or detrimental than many of the existing and in some cases new homes among the street.</p>
<p>Garage dominates front elevation and window in store not desirable</p>	<p>Due to the narrow nature of the site and so the garage does not dominate the elevation, the client has sacrificed a double garage and only proposes a single garage, which takes up in the order of 35% of the frontage and is compliant with the R-Codes.</p> <p>The verandah has also been pulled forward of the garage so that this becomes the dominant feature.</p> <p>In comparison to 100 King Street, the garage is not considered to dominate the frontage of the subject site.</p> <p>The window to the store room helps create some balance to the front elevation and once covered with window treatments will appear as any other window to a bedroom or the like and no less desirable than the other windows.</p>
<p>Design does not give consideration to solar orientation.</p>	<p>The northern aspect of the site has been considered and all living areas, indoor and outdoor are on the northern orientation</p>
<p>Query site cover.</p>	<p>The site cover is 50.013%, which is 0.13% or 0.66m² over the requirements of the R-Codes and is in response to a portion of the verandah being enclosed on all 3 side and being included in the site cover. To reduce the site cover will require area to be taken out of the house and due to the brick coursing of the residence will result in some rooms being reduced dramatically.</p>
<p>Total redesign preferred with simplified architectural elements such a deletion of the bull nose verandah. Also gable inappropriate for design.</p>	<p>The proposal is of sound design and character and will present and fit in well with surrounding homes and should not require a total redesign. The gable is now in keeping with other homes in the street.</p>

Whilst the property is included on the Municipal Inventory (Draft) it has previously been approved for demolition and the subject proposal is considered to be more appealing than the existing house.

The applicant's response to the Panel's comments are accepted.

Other Agency/Authority

Not Applicable.

**REPORT
Comment**

Approval is sought for construction of a new single-storey residential dwelling at No. 98 King Street, East Fremantle involving the demolition of the existing house. The proposed new dwelling includes four bedrooms, two bathrooms, a study, home theatre, kitchen, dining and family room, an alfresco area, pool and double garage.

The proposal meets the quantitative provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

13 July 2010

MINUTES

Requirement	Proposed	Planning Officer Comments
<p>R-Codes: <u>Front Setback</u> R20: 6.0 metres</p>	4.913 metres	<p>Supported – The proposed setback is consistent with the adjoining houses and the setbacks along the street and therefore meets the Performance Criteria of the Codes.</p> <p>In addition, the LPS recommend a standard setback in the order of 3 metres and the proposed setback complies with this.</p>
<p><u>Minor Incursions to the Front Setback Area</u> A porch, balcony, verandah, chimney or the equivalent may not project more than 1.0 metre into the front setback area.</p>	Verandah projects approximately 1.4 metres into the front setback area.	Supported – As above
<p><u>Building on Boundaries</u> R20 – walls not higher than 3.0 metres, with an average height of 2.7 metres, up to 9.0 metres in length on one side boundary.</p>	Proposed garage height is 3.2 metres with a length of 7.07 metres.	<p>Supported – The proposed boundary wall is shorter than is permissible and this will assist in offsetting the additional height of the wall.</p> <p>The marginal increase in wall height is not going to restrict sunlight or ventilation to the adjoining lot and will not impact on the amenity of the streetscape and therefore meets the Performance Criteria of the Codes.</p>

Conclusion

As detailed earlier, a contemporary designed house application has previously been refused by Council and as a result the owners have pursued a more traditional style of building.

The LPS states that new development in the Precinct is to be small scale and sympathetic to the character (form, mass and materials) of existing development. The proposed form and mass is not dissimilar to other dwellings in the street. The proposed red face brick and red Colorbond however is not a common material used in this area with a higher occurrence of limestone and rendered brickwork or tuck pointing.

To address the concerns raised by the TPAP and the comments received from the neighbours, a condition is included in the recommendation to require a schedule of materials and finishes to be submitted prior to the issue of a building licence to the satisfaction of the Chief Executive Officer and for these to complement the adjoining dwellings and the locality in general. Alternatively, Council could consider imposing a condition to require the brickwork to be rendered or finished to compliment the adjoining dwellings.

The proposal meets the majority of the acceptable development requirements of the R-Codes and the Town's Local Planning Policies and only proposes some minor variations,

13 July 2010

MINUTES

which are considered to be acceptable. The proposal is also considered acceptable in terms of those matters which are the subject of Clause 10.2 of TPS No. 3.

The application is therefore recommended for approval.

RECOMMENDATION

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

- variation to the front setback requirements to allow a 4.913 metre setback in lieu of the 6 metre setback required under the R-Codes;
- variation to the open space requirements to accept 49.987% of the site as open space in lieu of the 50% requirement under the R-Codes; and
- variation to the boundary wall height requirements to allow a maximum height of 3.2 metres in lieu of the 3 metres required under LPP No. 142;

for the construction of alterations and additions at No. 98 (Lot 348) King Street, East Fremantle in accordance with the plans date stamp received on 6 July 2010 subject to the following conditions:

1. The applicant to lodge a schedule of materials and finishes that demonstrates the proposed house is sympathetic to the adjoining dwellings and complements and enhances the streetscape prior to the issue of a Building Licence and to the satisfaction of the Chief Executive Officer;
2. The works are 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.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed alterations and additions 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.
6. All stormwater is 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.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. All parapet walls are 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.
9. 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.
10. Any new crossovers which are constructed under this approval are 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.
11. 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.

13 July 2010

MINUTES

12. 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).*

Mr Paul Hope (builder's representative) and Ms Megan Keep (owner) addressed the meeting in support of the officer's recommendation.

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Lilleyman

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

- **variation to the front setback requirements to allow a 4.913 metre setback in lieu of the 6 metre setback required under the R-Codes;**
- **variation to the open space requirements to accept 49.987% of the site as open space in lieu of the 50% requirement under the R-Codes; and**
- **variation to the boundary wall height requirements to allow a maximum height of 3.2 metres in lieu of the 3 metres required under LPP No. 142;**

for the construction of alterations and additions at No. 98 (Lot 348) King Street, East Fremantle in accordance with the plans date stamp received on 6 July 2010 subject to the following conditions:

- 1. The applicant to lodge a schedule of materials and finishes that demonstrates the proposed house is sympathetic to the adjoining dwellings and complements and enhances the streetscape prior to the issue of a Building Licence and to the satisfaction of the Chief Executive Officer;**
- 2. The works are 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.**
- 4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 5. The proposed alterations and additions 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.**
- 6. All stormwater is 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.**

13 July 2010

MINUTES

7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. All parapet walls are 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.
9. 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.
10. Any new crossovers which are constructed under this approval are 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.
11. 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.
12. 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).*

CARRIED

T169.7 **Pier Street No. 13A (Lot 1911)**
Owner & Applicant: John Monger & Cristina Martinon
Application No. P89/2010
By Clare Roszak, Acting Planning Officer on 9 July 2010

BACKGROUND

Description of Site

The subject site is:

- a 465m² block
- zoned Residential R12.5
- located in the Richmond Hill Precinct
- the subject lot currently is developed with a dwelling on site.

13 July 2010

MINUTES

Description of Proposal

An Application for Planning Approval to erect a patio and pergola towards the eastern elevation at the rear of the property of No. 13A Pier Street, East Fremantle is the subject of this report. The application is being referred to Council due to a setback variation.

Statutory Considerations

Town Planning Scheme No. 3
Local Planning Strategy - Woodside Precinct (LPS)
Residential Design Codes (RDC)

Relevant Council Policies

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

Impact on Public Domain

Tree in Verge : No impact
Light Pole : No impact
Crossover : No impact
Footpath : No impact

Date Application Received

Plans and relevant forms date stamped received on 24 May 2010

Advertising

The subject application was advertised to adjoining landowners and a sign was placed on site between 15 June 2010 and 30 June 2001. No comments or objections were received during the consultation period.

No. of Days Elapsed between Lodgement & Meeting Date

51 Days

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

Nil.

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Town Planning Advisory Panel

This application was not referred to the Advisory Panel as it did not propose any changes to the site that would impact on the amenity of the streetscape.

REPORT

Comment

Approval is sought to erect a patio and adjoining pergola on the eastern elevation towards the rear of the property at No. 13A Pier Street, East Fremantle. The patio and pergola have been assessed independently of the main dwelling due to the existing boundary wall which separates the two structures. The application proposes a setback variation to the side eastern boundary however, meets all other requirements of the codes and will provide a compliant outdoor living area space.

The adjoining property owners of No. 13B Pier Street have provided a letter of consent stating no objection to the proposed structure and setback variation. Based on the above, the proposed setback variation is supported.

13 July 2010

MINUTES

Below details the variation to the R-Codes that forms part of the proposal:

Requirement	Proposed	Planning Officer Comments
R-Codes: <u>Building Setbacks</u> East 1.0 metres	0.5 metres	Supported – The reduced setback is not considered to have an undue impact on the adjoining property the variation is minor, and the affected property owner has provided a letter of consent stating no objection to the proposed.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the building setback on the eastern elevation being 0.5 metres in lieu of the required 1.0 metres required under the R-Codes 2008 for the construction of alterations and additions at No. 13A (Lot 1911) Pier Street, East Fremantle in accordance with the plans date stamp received on 24 May 2010 subject to the following conditions:

1. The works are 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council;
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention;
4. the patio structure is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers; and
5. 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) *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); and*
- (d) *the patio may not be enclosed without the prior written consent of Council.*

Mr John Monger (owner) addressed the meeting in support of the officer's report.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

That Council exercise its discretion in granting approval for a variation to the building setback on the eastern elevation being 0.5 metres in lieu of the required 1.0 metres required under the R-Codes 2008 for the construction of alterations and additions at No. 13A (Lot 1911) Pier Street, East Fremantle in accordance with the plans date stamp received on 24 May 2010 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than

13 July 2010

MINUTES

- 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council;
 3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention;
 4. the patio structure is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers; and
 5. 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) *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); and*
- (d) *the patio may not be enclosed without the prior written consent of Council.*

CARRIED

T169.8 ***Preston Point Road No. 58 (Lot 800)***
Owner & Applicant: Bart & Jennie Raffaele
Application No. P68/2010
By Gemma Basley, Acting Town Planner on July 2010

BACKGROUND

Description of Site

The subject site is:

- a 549m² block
- zoned Residential R12.5
- located in the Richmond Hill Precinct
- the subject lot currently is vacant land.

Description of Proposal

The subject planning application is for a proposed two-storey residence on the corner of Fraser Street and Preston Point Road. The application is for a substantially sized residence, which addresses both street frontages.

Statutory Considerations

- Town Planning Scheme No. 3 (TPS3) in particular Clause 5.3.1 of the R-Codes 'Density'
- TPS No.3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

Relevant Council Policies

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)

13 July 2010

MINUTES

Date Application Received

16 April 2010
17 June 2010 Revised Plans received

Advertising

The subject application was advertised to adjoining landowners and a sign was placed on site between 21 April 2010 and 10 May 2011. No comments or objections were received during the consultation period.

No. of Days Elapsed between Lodgement & Meeting Date

97 Days (Applicant agreed to defer consideration of the item for 30 days)

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

19 June 2001	Council considered an application for the subdivision of 58 Preston Point Road into two lots subject to increasing the rear setback of the existing dwelling to 3.5m.
24 January 2002	Under Delegated authority Council supports the clearance of the subdivision of 58 Preston Point Road to create Lots 800 and 801.
8 January 2008	Demolition Licence issued for the single storey house.
17 June 2008	Council approved 6 new multiple dwellings for the site.

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Town Planning Advisory Panel

The Panel viewed the proposal on 27 April 2010. The Panel's advice is set out and responded to below:

Panel Comments	Applicant Response
Acceptable design for the area	Noted
Support different materials of the facade	Noted
Request schedule of materials and finishes prior to the issue of a building licence	Applicant will accept a condition on the Planning Approval to require a schedule of materials and finishes to be submitted prior to the issue of a building licence
Design should address both the primary and secondary streets	Applicant advises that the design addresses both the primary and the secondary streets. The plans propose a retaining wall on the Preston Point Road Frontage, which may be mistaken for a solid wall. A 1.0m balustrade is to be installed over the retaining wall facing Preston Point Road as per the BCA requirements for a retaining wall greater in height than 0.5m.

REPORT

Considerations

The subject application has been assessed against the R20 provisions of the R-Codes in accordance with Clause 5.3.1 of Council TPS No. 3. Clause 5.3.1 allows for corner lots in the R12.5 coded areas to be developed to the R20 density, where the dwellings are designed to face the two street frontages and where there will be an improvement in the overall amenity of the streets as a result of the development. The subject application demonstrates that the proposed residence will address both streets through the use of extensive windows, an alfresco area and balconies that interface with the street.

The subject application is for a substantially sized two-storey residence that covers in the order of 278m² or 49% of the site. The applicant has designed the residence in such a

13 July 2010

MINUTES

way that the Alfresco area is not required to be included in the site cover calculations and this is because the alfresco area is open on two sides and is no more than 0.5 metres above NGL (as per the R-Codes).

The subject application proposes development forward of the front setback line being the cabana and WC. This is permitted under the R-Codes

Variations

The proposal meets the majority of the quantitative provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of building height, site works and retaining and the location of the primary entry from the secondary street. A description of these variations is accompanied by a justification from the applicant below and will be summarised with the Acting Town Planner's comments in a Table that will follow.

Building Height

A small portion of the proposed residence toward the Preston Road frontage (south western portion of the site) exceeds the 6.5m height limitations of LPP No. 142 and extends to a height of 6.796 metres.

The applicant has justified the increased height based on this being the lowest point of the site and also the lowest point of the adjoining site, which is vacant. It is the applicant's belief that when the adjoining lot is developed it will be pursued in a similar way to the subject application being to raise and retain the front of the site and therefore the proposed height of the residence will not impact on the adjoining property.

Site Work Requirements

The subject site has a fall of approximately 3.5 metres from east to west. The applicant proposes to retain and fill the front of the site and the area near the truncation. To provide a useable front setback area, the applicants propose to retain and fill this area up to a maximum height of 1.4 metres. The average retraining wall height is in the order of 0.75 metres.

The applicant has justified the increased retaining and fill on the basis of following the streetscape of existing properties on Preston Point Road, in which retaining and fill of a similar scale has been constructed. The applicant further considers that the adjoining vacant property will be retained similarly and there will therefore be no adverse impact. Finally, the applicant considers that the application has stepped the residence as much as possible to accommodate for the fall in the site.

Primary Entry from the Secondary Street

The subject site is a corner lot and as such has a primary street frontage and a secondary street frontage. The application is based on Preston Point Road being the primary street frontage and Fraser Street being the secondary street frontage. The R-Codes require primary access to the dwelling to occur from the primary frontage however the application proposes to locate the porch and entry on the Fraser Street frontage (secondary).

The applicant has justified this on the basis of the difficulties with the fall of the site near the Preston Road frontage, which has directed the design of the house to have access from Fraser Street.

13 July 2010

MINUTES

The table below summarises the variations that are being sought and provides a comment from the Acting Town Planner.

Requirement	Proposed	Planning Officer Comments
<p>LPP 142 Residential Development <u>Building Height:</u> Maximum height of 6.5m to the top of an external wall (concealed roof)</p> <p>LPP 066 Roofing Dominant elements to be greater than 28°</p>	<p>Maximum height of 7.075m from NGL (concealed roof) on the southern/side elevation</p> <p>The proposed roof pitch is in the order of 2° because it is of a skillion design.</p>	<p>Supported - The variation of 1 metre to the maximum building height is considered acceptable because it will only extend for a minimal length (approximately 3m). The wall is setback in accordance with the requirements of the R-Codes. The roof is a concealed roof and as such the overall height of the building has been reduced to well below the 8.1m permitted for the top of a pitched roof. Furthermore no objections were received from the surrounding landowners.</p> <p>Supported - The use of skillion and concealed roofs in this locality is supported because of the reduced impacts on adjoining and surrounding neighbour's views. The contemporary design of the skillion roofing is also supported in this precinct.</p>
<p>R-Codes <u>Excavation and Fill</u> Excavation and filling between the street alignment and the building or within 3 m of the street alignment, whichever is the lesser, not exceeding 0.5m, except where necessary to provide access for pedestrians, vehicles or for natural light.</p> <p><u>Primary Entry from Secondary Street Frontage</u> Primary entry is required to occur from the primary setback</p>	<p>Fill in portions of the site exceeds 0.5m</p> <p>Retaining walls higher than 0.5m</p> <p>Entry via the porch is proposed from Fraser Street</p>	<p>Supported - The increased retaining and fill is consistent with development along this side of Preston Point Road and is in keeping with the streetscape.</p> <p>Supported - The fall of the site and the location at the intersection of two road makes it logical to obtain access from Fraser Street however to treat this as the primary frontage and require a 6m setback would render nearly a quarter of the site as unusable.</p>

Based on the above discussions, the application is considered to be generally compliant and to be of a design that is in keeping with the area and particularly the streetscape. On this basis, the application can be supported and is recommended for approval.

RECOMMENDATION

Council exercise its discretion in granting approval for:

- an increase in the building height to a maximum of 7.4 metres in lieu of the 6.5 metres required under LPP No. 142;
- a roof pitch in the order of 2° in lieu of the 28° required under LPP No. 66;

13 July 2010

MINUTES

- an increase in the retaining and fill up to a height of 1.4m in lieu of the 0.5 metres required under the R-Codes;
- 'primary entry' to be obtained from the secondary street in lieu of the primary street; for a two storey residence at No. 58 (Lot 800) Preston Point Road, East Fremantle as shown on plans received 17 June 2010 and subject to the following conditions:
 1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
 2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
 3. Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
 4. The works are 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.
 5. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 7. 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.
 8. All stormwater is 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.
 9. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 10. 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. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 11. Any new crossovers which are constructed under this approval are 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.
 12. 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.
 13. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *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.*

13 July 2010

MINUTES

- (b) *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.*
- (c) *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).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Bart Raffaele (owner) addressed the meeting in support of the officer's report.

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr de Jong

Council exercise its discretion in granting approval for:

- **an increase in the building height to a maximum of 7.4 metres in lieu of the 6.5 metres required under LPP No. 142;**
- **a roof pitch in the order of 2° in lieu of the 28° required under LPP No. 66;**
- **an increase in the retaining and fill up to a height of 1.4m in lieu of the 0.5 metres required under the R-Codes;**
- **'primary entry' to be obtained from the secondary street in lieu of the primary street;**

for a two storey residence at No. 58 (Lot 800) Preston Point Road, East Fremantle as shown on plans received 17 June 2010 and subject to the following conditions:

- 1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.**
- 2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.**
- 3. Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.**
- 4. The works are 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.**
- 5. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 7. 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.**
- 8. All stormwater is 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.**
- 9. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the**

13 July 2010

MINUTES

natural angle of repose and/or another method as approved by the Town of East Fremantle.

10. 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. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
11. Any new crossovers which are constructed under this approval are 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.
12. 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.
13. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *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.*
- (b) *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.*
- (c) *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).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T169.9 Fletcher Street No. 14 (Lot 6)
Applicant & Owner: Stephen & Julie Dark
Application No. P90/2010

By Gemma Basley Acting Town Planner and Stuart Wearne Chief Executive Officer on 12 July 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 1.8 metre high front fence located at No. 14 Fletcher Street, East Fremantle is the subject of this report.

More specifically the application proposes to replace the existing front fence partially with a solid fence to 1.8 metres and partially with a visually permeable fence above 1.2 metres. The application also proposes to add caps to each pier, which will result in the piers being higher than 1.8 metres.

Description of Site

The subject site is:

- a 490m² block
- zoned Residential R12.5
- developed with a single storey residence

13 July 2010

MINUTES

- located in the Woodside Precinct

Statutory Considerations

Town Planning Scheme No. 3
Local Planning Strategy – Woodside Precinct (LPS)
Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy No. 143 : Fencing (LPP 143)
Local Planning Policy No. 142 : Residential Development

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : No impact

Documentation

Plans and relevant forms date stamp received on 25 May 2010 and 2 July 2010.

Date Application Received

25 May 2010

No. of Days Elapsed between Lodgement & Meeting Date

52 days

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

18 February 2002 Council grants relaxations of standards to front, rear and eastern setbacks allow erection of single storey residence on subdivided lot.

1 July 2004 Property sold to new owners.

25 February 2008 Approval granted under delegated approval for patio to the front of the residence.

5 February 2010 Property sold to current owners.

Advertising

The subject application was advertised to adjoining landowners for the standard 2 week period from the 9/6/2010 to the 24/6/2010. There were no comments received during the advertising period.

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Town Planning Advisory Panel Comments

The Panel viewed the proposal on 22 June 2010. The Panel's advice is set out and responded to below:

Advisory Panel Comments	Applicant Response
Solid infill fence not supported existing compliant fence preferred.	A revised plan has been submitted which proposes to only have every second section of fence (between 2 piers) visually permeable above 1.2 metres. The fencing is only proposed to address privacy and security concerns that arise from the site's outdoor

13 July 2010

MINUTES

Advisory Panel Comments	Applicant Response
	<p>living area being in the front setback area.</p> <p>The existing compliant fence does not appropriately screen the outdoor living area of the site, which is in the front setback area and with no opportunities to locate this anywhere else. With two children and fronting a busy street our safety is being compromised.</p> <p>Light spill from cars shines directly into the kitchen and dining area despite the existing and dense screening vegetation inside the lot boundary.</p> <p>In addition our view of Fletcher Street is a solid 1.8 metre high super 66 fence which extends between Oakover and Irwin Streets. There are numerous other lots in the street and the immediate locality that have solid front fencing to 1.8 metres high.</p>
<p>Consider denser plantings.</p>	<p>Vegetation screening already exists and does not provide sufficient security or privacy.</p>

REPORT

The application requests approval for a 1.8 metre high limestone block front fence (with a capped finish on top). In an effort to increase the privacy and safety of the site and to address the concerns raised by the TPAP, revised plans which propose a fence with both solid sections to 1.8 metres and with visually permeable sections extending from 1.2 metres to 1.8 metres were subsequently lodged.

Application

The subject application seeks a variation to LLP 143, which requires visually permeable front fencing above 1.2 metres. The policy does allow for variations to the Policy where the following applies:

- “4.1 a higher fence/wall is required for noise attenuation.
- 4.2 a less visually permeable fence would aid in reducing headlight glare from motor vehicles. This would apply more particularly where the subject property is opposite or adjacent to an intersection which could lead to intrusion of light into windows of habitable rooms.
- 4.3 where the contours of the ground or the difference in levels between one side of the fence and the other side warrant consideration of a higher fence.
- 4.4 where the applicant can demonstrate to Council that there is a need to provide visual screening to an outdoor living area. This may apply in situations where there is no alternative private living space other than in the front of the residence or for part of the secondary side boundary of a corner lot.”

With reference to the above, the applicant has provided the following reasons for the application:

The only entertaining area for the house faces onto Fletcher Street

Officer's response

Assuming the applicant is referring to an outdoor living area, whilst this is correct, it was also correct at the time the applicant purchased the property on 5 February 2010.

In other words the applicant made a conscious choice to purchase a property knowing this was the situation.

The house was designed and approved by Council to have the outdoor living area at the front of the house.

13 July 2010

MINUTES

Previous owners have not raised any of the concerns being raised by the applicant.

In fact the previous owner had a patio built in this area, for outdoor entertaining purposes.

In short, it is not considered a particularly valid argument to seek a variation to the policy based on site arrangements which the applicant was aware of at the time of purchase.

Nevertheless it is noted this aspect does arguably provide grounds for a variation to the policy pursuant to clause 4.4 above.

There is a speed hump central to our outdoor area

As most cars slow down for speed humps they look directly into our house!

Fletcher Street is a relatively busy road and lights from the cars shine directly into entertaining area. In addition if inside with curtains open the lights shine into kitchen/dining area.

Officer's response

These arguments are questionable. The drivers of cars slowing down for a speed hump are likely, if anything, to be looking straight ahead. There is no intersection involved and lights shine up the street, not to either side, except for minor spill. It is thus not considered clause 4.2 of the abovementioned policy applies. If it were genuinely an issue the curtains could be pulled. Fletcher Street is not a particularly busy street. Traffic counts indicate that an average of 34.74 vehicles/hour (in both directions) travel the street at this location between 7pm and midnight and between midnight and 6am the figure drops to an average of 2.6 vehicles/hour.

No previous owner or any other resident of Fletcher Street has raised these issues.

We have already had one break-in where an intruder was in our house. This was reported to Fremantle detectives who attended the scene

Safety for our young family playing in only available grassed area without being in full view of passing traffic and pedestrians

We have recently bought a pure breed puppy and are concerned that it will get stolen due to the openness of the yard

We had another incident of Monday 14 June at approximately 8.30pm due to the "fish bowl" nature of our property. I was putting our puppy outside and a man from across the road was shouting obscenities for reasons only known to him. These were, I believe, directed at me after he saw me put our dog outside. I walked to the front gate to see what the problem was and the man walked off continuing his expletives. I also reported this incident to the police who sent a car to investigate

On Friday 11 June, whilst my wife and I were sitting out the front some youths walking up Fletcher Street towards Petra decided to kick the lamp post directly out the front from our garage. I approached them and they dispersed saying that they wanted to walk around in darkness??

On Monday 21 June I noticed a white van parked on the north side of Fletcher, just before Oakover Street. The occupant, a man was looking into his mirror. I am not sure what he was doing but after I parked in our driveway, and we went inside, I came out to see if he was still there as I thought it odd. When I approached his van he started it up and drove off. This could have been nothing but given that my young children only have the front yard to play in and how visible they are to passing traffic (both cars and foot traffic) I do not feel comfortable with them being outside by themselves.

We now do not put our outside lights on at night if sitting in our entertainment area!

13 July 2010

MINUTES

Officer's response

All of these reports involve the issue of whether high walls tend to reduce or increase crime.

Whilst contrary to much public belief, it has been known for many years, based on extensive research, the latter is generally the case. High walls not only give a false sense of security. They are in fact *favoured* by criminals because they provide a structure to hide behind and reduce the chances of their detection. Victims can also be trapped or ambushed behind high walls.

Accordingly, current "Designing Out Crime" principles which are supported by the police and W.A. planning authorities, include design elements that foster clear sightlines and natural surveillance through:

- low walls or 'see-through' fencing with walkable streets that encourage activity and social interaction.
- fences and walls which support safety through walls and hedges lower than 1.2m or, if above, provide 'see through' fences to allow views and provide clear sightlines.
- elimination of entrapment spots
- active frontages
- effective lighting.
- appropriate landscaping
- designing buildings to support natural surveillance of adjacent public areas

In short, from a personal safety viewpoint, the existing fence is considered to have more merit than the proposal in question.

Numerous other homes nearby have walls constructed that are as high or higher. We have also enclosed photos of some of these walls which are located at the following addresses: 8 Fletcher Street, 7 Fletcher Street, 9 Fletcher Street, 12 Fletcher Street, 27 Irvine Street, 43A Millenden Street

Please note that between Oakover Road (sic) and Irwin Road (sic) we look onto high super 66 or asbestos fencing

Officer's response

It is not a good argument to cite exceptions to Council's policy, as a form of precedent, without knowing, for example:

- if the walls were constructed prior to the policy being adopted.
- if special circumstances were considered to apply
- if Council has in fact approved the walls in question
- whether the walls being referred to are secondary street walls or fences.

A primary purpose of the fencing policy is to promote Council's values on boundary fences and walls and bring some consistency into Council's decision making. In the first regard, Council encourages a sense of social and visual interaction between the residents of private properties and passing pedestrians and cars. It does not support the "gated community ethos" of residents living behind high walls. In terms of the second issue, if the application at issue was approved there it would further serve as a precedent for others to wish to vary the policy.

Fletcher Street does have some high walls in parts, which have been in existence for decades and are considered to have a regrettable effect on the streetscape.

In the southern section between Dalgety and Fortescue Street for example, there is an unfortunate tunnel effect caused by several high walls which have been in existence for at least 20 years.

However most of Fletcher Street, fortunately, comprises attractive low fences and walls (the applicant's current fence is a good example) and this is considered to make a very positive contribution to the streetscape.

13 July 2010

MINUTES

Regarding the specific sites mentioned in the applicant's correspondence:

- the fencing referred to opposite the applicant's property, besides having been in place for decades, is all secondary boundary fencing of properties which face onto to Oakover and Irwin Streets. In other words Fletcher Street is the side boundary.
- it is quite true 7, 8, 9 and 12 Fletcher Street have high walls. This was mentioned above in terms of unfortunate past planning decisions (assuming they were approved). They provide an example of why more high walls in Fletcher Street should, arguably, *not* be approved.
- there is no Street named Irvine Street in the Town.
- 43A Millenden does not exist.

We are planning to put in a pool at later date and would require a higher wall constructed as is presently the case

Officer's response

This is a theoretical proposition which should not form part of the argument in this matter. For example the pool may not be approved by Council or the proposed wall may not meet the requirements of the relevant swimming pool fencing regulations.

CONCLUSION

It is concluded the application should not be supported for the reasons given in the officer's report, including the adverse precedent which would be set if the application were approved.

If the applicant wishes more screening, there is ample opportunity to implement denser plantings inside their existing front fence, as suggested by the Advisory Panel and supported by the authors of the report.

RECOMMENDATION

That the application be refused.

Mr Stephen & Mrs Julie Dark (owners) addressed the meeting in support of their proposed fencing and re-iterated their support for the proposal as contained in their submission to Council.

The applicants were advised that they could contact the Acting Town Planner before the Council meeting to consider alternative compliant solutions.

RECOMMENDATION TO COUNCIL

Cr Collinson – Cr Nardi

That the application be refused.

CARRIED ON THE CASTING VOTE OF THE PRESIDING MEMBER

Cr Collinson made the following impartiality declaration in the matter of 129 George Street: "As a consequence of Ms Ellie McGann being known to me as a neighbour, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T169.10 George Street No. 129 (Gigi's on George)

Applicant: Victor Turco

Owner: E & D D'Alessandro

Application P141/2009

Report written by Gemma Basley, Acting Town Planner on 12 July 2010

BACKGROUND

Description of subject site

The subject site:

- comprises Part Lots 1-3 on Strata Plan 41827;
- is zoned Mixed Use;

13 July 2010

MINUTES

- is developed with:
 - .. a single-storey commercial building and outdoor area located on Part Lots 3 and used as a restaurant (Gigi's).
 - .. a single-storey commercial building located on Part Lot 2 at the corner of George and Duke Street and which is used as a restaurant/take away (Pizza Palace).
 - .. a single-storey former house on Part Lot 1 and which is used as an office.
 - .. a single-storey commercial building located on Part Lot 2 (next to Gigi's) which was formerly used as a tanning salon and which now forms part of Gigi's.
- is included in the Town's Municipal Inventory (management Category of B+); and
- is located within the George Street Heritage Precinct. The George Street Precinct is listed in the Town Planning Scheme 3 Heritage List.

Description of Proposal

Planning approval is sought for a permanent outdoor shelter to replace the temporary marquee that has in recent months been erected over the outdoor eating area at Gigi's Restaurant. The marquee was originally intended to be removed by the end of January 2010. The assessment of the application seeking approval for a permanent structure was delayed due to additional information being required from the applicant, including the following:

- respond to the comments from the Town Planning Advisory Panel;
- respond to public submissions lodged previously;
- have a heritage assessment undertaken; and
- provide a suitable bin storage area.

The applicant's have submitted the above information and the application is considered to be ready for determination by Council.

Statutory Considerations

Town Planning Scheme 3 (TPS3)

Local Planning Strategy – Plympton Precinct (LPS)

Relevant Council Policies

None

Date Application Received

29 September 2009

Advertising

The proposal was advertised for public comment between the 28 October 2009 and the 11 November 2009. During this period no comments were received. Earlier submissions received in relation to the operation of the restaurant from owners of the George Street Mews, the King Street Terraces and from Claire McGowan were given to Gigi's and a response was requested to all submissions. A copy of the 3 submissions are included in the appendices as is a response from Gigi's.

The response from Gigi's confirms such matters as there being no increased in patron numbers as part of this application and there being no intention to play amplified music in the courtyard. The response from Gigi's is considered to satisfactorily respond to earlier submissions and all of the comments raised by the Town Planning Advisory Panel.

A schedule of these submissions and responses has not been included in the body of this report because the items do not relate to the subject proposal, being to permanently enclose the courtyard area.

Any Relevant Previous Decisions of Council

20 May 2003

Council grants special approval for a change of use from professional office to service premises – Airbrush Tanning Salon at 131 George Street.

13 July 2010

MINUTES

- 15 December 2009 Council conditionally approves an application for retrospective planning approval for a change in use of from 'Tanning Salon' to 'Restaurant' and also for alterations and additions to the restaurant.
- 24 December 2009 The Chief Executive Officer acting under delegated authority conditionally approved the application for retrospective planning approval for a temporary marquee over the outdoor eating area.

CONSULTATION

Building Surveyor's Comment

Preliminary assessment has not identified any matters that may impact on the outcome of the planning application.

Environmental Health Officer's Comment

Preliminary assessment has identified that prior to the subject application being approved that a suitable bin storage area is to be identified and included in the subject application.

Heritage Council of WA

The subject site is not included on the State Heritage Register and hence referral to the Heritage Council of WA is at the Town's discretion. In this case the proposal was referred to the Heritage Council as the application is for a permanent structure that could impact on the heritage fabric of the existing development.

The HCWA advice that a Conservation Officer has assessed the development referral in the context of the identified heritage significance of the place and confirm that there are no objections to the proposed structure.

Town Planning Advisory Panel

The subject application was assessed by the Panel on the 27 April 2010 and the following comments were made:

Panel Comment	Applicant Response
Limited detail of materials and finishes.	Revised plans have been submitted, which detail this.
Request Schedule of materials and finishes prior to issue of building licence.	Plans include Schedule. A condition is also included in the Recommendation to require this.
Council should have independent heritage assessment.	An assessment from Philip Griffiths has been submitted by the applicant's and is contained in an Appendix to this report. The assessment concludes that the development is acceptable in terms of heritage impact on the buildings with which it is associated, the adjoining terraces and the precinct as a whole.
Window proportions and details too busy – suggest frameless glass with a view to retaining the openness of the courtyard.	Windows and glass have been removed altogether to enable the retention of openness of the courtyard and atmosphere.
Disability access queried.	The courtyard area does not serve as an entrance. Access to courtyard is obtained from restaurant. When disabled customers visit the restaurant, staff lift the chair into the restaurant.
Query there being no landing over the front entry.	This is not an entrance so no landing is required.
Option would be to set building back to lessen its impact and to provide for a landing.	With the removal of the windows and frames the building will be less obtrusive and will lessen its visual impact.
Roof pitch could be lowered.	The roof pitch has been lowered so the ridge heights of the restaurant and the proposed structure are the same.

13 July 2010

MINUTES

Panel Comment	Applicant Response
Tree to be retained.	The trees on each side of the limestone stairs have been retained and will not be removed. A landscaping plan is submitted, which reinforces this.

It is the assessment of the Acting Town Planner, that the applicants have taken the Panel's comments into consideration and have as a result undertaken changes to the appearance of the courtyard structure.

The structure is well set back from the street and the proposed materials and finishes are to match the existing development and as such will complement the building and the streetscape.

A heritage assessment by Philip Griffiths concludes that the development is acceptable in terms of heritage impact on the buildings with which it is associated, the adjoining terraces and the precinct as a whole.

Site Inspection

By Acting Town Planner on 27 April 2010.

REPORT

Considerations

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies. The following aspects of the proposal are noted:

Noise

The permanent courtyard cover will ameliorate some of the noise concerns, by enclosing a predominantly open structure. Despite this, because the restaurant adjoins a residence it is recommended that the approval include a condition stating that amplified music and the like is not to be played within the marquee.

Restaurant Numbers

It is not proposed to increase the numbers of restaurant patrons as part of this application. Nonetheless it is worth formalising the number of patrons that the restaurant can accommodate. The maximum accommodation of the dining areas is as follows:

Dining room	: 43 persons
Courtyard	: 37 persons
Western verandah	: 15 persons
Northern verandah	: 9 persons
Reception	: 7 persons

It is recommended the applicant be informed of the above via an advice note attached to any planning approval.

RECOMMENDATION

That Council grant approval to replace the existing temporary marquee with a permanent structure at No. 129-131 George Street (Gigi's on George), East Fremantle as shown on plans dated 9 July 2010 and subject to the following conditions:

1. no amplified music and the like is to be played within the marquee.
2. the provision of a bin enclosure/storage area as shown on the approved plans.
3. the site of the relocation of the ice machine to allow for the bin storage area, to be to the satisfaction of the Chief Executive Officer.
4. a schedule of materials and finishes to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.
5. the works are 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.

13 July 2010

MINUTES

6. 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.
7. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnotes:

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

- (a) *This approval does not include acknowledgement or approval of any additional unauthorised development which may be on the site.*
- (b) *Where patrons are smoking on the footpath in front of the restaurant, the restaurant operators are encouraged to direct these patrons away from the adjoining residential property.*
- (c) *Exit routes around and through the marquee are to be maintained in accordance with the requirements of the Building Code of Australia.*
- (d) *The development is to comply with Health (Public Building) Regulations 1992.*
- (e) *The maximum accommodation of the dining areas is as follows:*

<i>Dining room</i>	<i>: 43 persons</i>
<i>Courtyard</i>	<i>: 37 persons</i>
<i>Western verandah</i>	<i>: 15 persons</i>
<i>Northern verandah</i>	<i>: 9 persons</i>
<i>Reception</i>	<i>: 7 persons</i>

Ms Ellie McGann (resident at 52 King Street) addressed the meeting.

Mr Domenic Lupis (director / owner of Gigi's on George) addressed the meeting in support of his application and questioned Condition (1) relating to amplified music and Condition (3) relating to the relocation of the ice machine.

Condition (3) was subsequently modified.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Lilleyman

That Council grant approval to replace the existing temporary marquee with a permanent structure at No. 129-131 George Street (Gigi's on George), East Fremantle as shown on plans dated 9 July 2010 and subject to the following conditions:

1. **no amplified music and the like is to be played within the marquee.**
2. **the provision of a bin enclosure/storage area as shown on the approved plans.**
3. **the ice machine to be separated from the bin storage area which is to be screened from view to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
4. **a schedule of materials and finishes to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.**
5. **the works are 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.**
6. **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.**
7. **with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have**

13 July 2010

MINUTES

received planning approval, without those changes being specifically marked for Council's attention.

8. clarification of whether any statutory requirements with respect to disability access are applicable to this application.
9. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnotes:

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

- (a) *This approval does not include acknowledgement or approval of any additional unauthorised development which may be on the site.*
- (b) *Where patrons are smoking on the footpath in front of the restaurant, the restaurant operators are encouraged to direct these patrons away from the adjoining residential property.*
- (c) *Exit routes around and through the marquee are to be maintained in accordance with the requirements of the Building Code of Australia.*
- (d) *The development is to comply with Health (Public Building) Regulations 1992.*
- (e) *The maximum accommodation of the dining areas is as follows:*

<i>Dining room</i>	<i>: 43 persons</i>
<i>Courtyard</i>	<i>: 37 persons</i>
<i>Western verandah</i>	<i>: 15 persons</i>
<i>Northern verandah</i>	<i>: 9 persons</i>
<i>Reception</i>	<i>: 7 persons</i>

CARRIED

T169.11 Preston Point Road No. 188 (Lot 17)

Applicant: Carrie Hood

Owner: Dominic Ward

Application No. P94/2010

By Gemma Basley, Acting Town Planner and Clare Roszak, Acting Planning Officer on 12 July 2010

BACKGROUND

Description of Site

The subject site is:

- a 991m² block,
- zoned Residential R12.5;
- developed with an existing three-storey dwelling on site, not listed on the MI
- located in the Richmond Hill Precinct.

Description of Proposal

An Application for Planning Approval for alteration and additions to the existing three-storey dwelling located at No. 188 Preston Point Road is the subject of this report. The applicant does not propose to demolish the existing three-storey residence, but has proposed internal and external changes to retrofit the existing dwelling.

There are three main components to the application which maintain the existing structural design of the house, as such alterations are proposed to the undercroft area, the first and second levels of the dwelling.

The undercroft area is proposed to:

- be situated underneath and aligned flush with the front of the proposed dwelling at the ground and upper floor levels;
- maintain the existing side boundary setbacks of the existing dwelling; and
- include a double garage and store, a carport, gym, games room, cellar, bathroom, courtyard and stair access.

13 July 2010

MINUTES

The first floor is proposed to:

- be aligned flush with the front of undercroft and second floor;
- have the main entrance to the dwelling, accessible via stairs on the eastern side of the building that access the terrace and entry/foyer; and
- include a terrace, pool, formal lounge, dining room, family room, kitchen, TV room, laundry, powder room, sewing room in addition to the pool and terrace;

The second floor is proposed to:

- be aligned flush with the front of the undercroft and first floor; and
- include four ensuite bedrooms, two balconies and a pergola located directly above the terrace on the first floor.

Statutory Considerations

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

Relevant Council Policies

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)

Date Application Received

Plans and relevant forms date stamp received on 1 June 2010
Revised Plans received 2 July 2010

No. of Days Elapsed between Lodgement & Meeting Date

47 days

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

Nil.

CONSULTATION

Advertising

The subject application was advertised to adjoining landowners for 2 weeks from the 14 June 2010 to 29 June 2010. There were no objections received during the community consultation process.

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Town Planning Advisory Panel

The Panel viewed the proposal on 22 June 2010. The Panel's advice is set out and responded to below:

- Retention of existing dwelling and innovative contemporary makeover supported.
- New plans to be provided that show actual proposal rather than writing over previous plans.
- 3D is a little confusing as stair well protrudes.
- Details of pergola roofing required.
- Pool located in front setback – fencing must comply.

In response to the Panel's comments the applicant provided revised plans received on 2 July 2010 which included greater detail of the proposal including specification of the proposed pergola and its roofing, as well as individual floor plans for each level. It was also noted on the revised plans that the pool fence to the proposed swimming pool (within the front setback area) is to be compliant with relevant regulations.

13 July 2010

MINUTES

REPORT

Comment

The contemporary design of the proposal has been supported by the Town Planning Advisory Panel, and furthermore is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008. As such the variations sought by the proposal are considered minor and furthermore seen to pose no adverse impact on the adjoining property owners or on the Preston Point Road streetscape; but rather seen to enhance the aesthetics of the area.

Considerations

The proposal meets the majority of the quantitative provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

Requirement	Proposed	Planning Officer Comments
<p>R-Codes: <u>Minor Incursions to the Front Setback Area</u> A porch, balcony, verandah, chimney or the equivalent may not project more than 1.0 metre into the FSA</p>	<p>Steps encroach 1.4 metre into the FSA</p>	<p>Supported – As the proposed stairwell does not detract from the character of the streetscape. Also highlighted within the applicants submission (appendix 1) the incursion is compensated by areas located behind the prescribed street setback which have an aggregate area of 21.3m², also noted within their submission was existing dwellings also located on Preston Point Road which have access in a similar manner. The minor incursion is considered to meet the Performance Criteria of the Codes because it will not detract from the character of the street.</p>
<p><u>Privacy Setbacks West (Bedroom 4)</u> 4.5 metres</p> <p><u>Western Opening of Pergola</u> 7.5 metres</p>	<p>2.8 metres to western boundary.</p> <p>1.8 metres</p>	<p>Supported – The proposed setback variation is not considered to adversely affect the adjoining property owner of No. 186 Preston Point Road as highlighted within the applicants submission the existing dwelling has two major openings located on the same elevation which encroach the privacy setback area. Additionally, the overlooking which will occur does not fall on any major openings of the adjoining neighbour. The reduced setback is considered to meet the Performance Criteria of the Codes because no direct overlooking will occur from this window.</p> <p>Not Supported – The pergola area is likely to be one of the major outdoor living and entertaining area. An area of such high activity has the potential to impact on the privacy of the adjoining property and as such this opening should be screened as per the requirements of the R-Codes (refer Condition No. 1).</p>

13 July 2010

MINUTES

Requirement	Proposed	Planning Officer Comments
LLP 142: Residential Development <u>Building Height</u> 5.6m to top of external wall 8.1m to top of pitched roof	<u>Ridge Height</u> <i>Front 11.0m</i> <i>Rear 7.9m</i> <i>West 11.0m</i> <i>East 10.5</i>	Supported – The height of the existing residence already exceeds the heights established in LPP 142. The subject proposal in fact will reduce the ridge height and overall height of the building and is considered to have an adverse impact on the adjoining property owners or on the Preston Point Road streetscape, because it is an existing dwelling. The new development is considered to be compatible with adjoining developments.

Additional Applicant Comments

This is a three level dated residence with low street appeal that has remained unoccupied for approximately three years. Main walls & roof are cavity brick external elevations and a clay tile roof. Front elevation is painted white render; side and back elevation are dark brown face brick. Windows are aluminium frame; main interior linings are hard wall plastered brick; concrete flooring. Interior and exterior condition is original and dated.

Gardens are degraded and paving and tiling to front terrace are damaged. Fences are in good condition and constructed on all boundaries in dark brown face brick.

Request to Relax Front Setback

A minimum front setback of 7.5m is required. The proposed plan includes refurbishment and upgrading of the front elevation and rationalisation of entry to the house. It is proposed that steps will take visitors/occupants directly to the first floor (rather than ground floor - storage and garaging facilities) as this is where most activity takes place. To create a smooth and comfortable transition to the first floor, steps are wide and slightly more shallow than usual. The steps are interrupted by a landing midway.

To achieve these transitions the steps will have to be located within the 7.5m setback and may fall under the category of 'minor intrusion'. This intrusion is compensated by areas behind prescribed street setback area that are undeveloped. This minor incursion will not detract from the streetscape.

Request to Relax Side Boundary Setback

The application proposes a new window on the western wall that is setback 2.8m from the boundary. As the existing adjoining bedroom has a window we request that council permit a similar window for new Bedroom 4 as there are excellent views to the ocean from this location. In addition, any overlooking of the adjacent property is negated by the nature of the design of the current residence (at 186 Preston Point Road).

Pergola

A steel framed fibre cement clad pergola is proposed for erection over the existing terrace (with a floor level of 3096mm AGL) at the front of the house. The pergola will provide sun protection and privacy for occupants. A barbeque/outdoor food prep & cooking area is planned for the western end of the terrace in a style similar to many of the surrounding houses on Preston Point Road. The pergola has an 'open' structure and so it is anticipated that the side boundary setback of 2.5m for walls with major openings of 6.0m high will not apply, as the structure will be open on three sides.

CONCLUSION

The subject application proposes to retain and retro fit a substantial 3 storey residence on Preston Point Road. The retention of the dwelling and the proposed retrofit is commended.

13 July 2010

MINUTES

The existing residence exceeds the height requirements listed in LPP No. 142 and as such it is not appropriate to apply the policy requirements to the subject proposal, which will in fact marginally lower the roof height of the proposal.

The relaxation of the privacy setback for Bedroom 4 is also supported because it will not look directly into a habitable room and because it is a relatively small window.

The relaxation to the privacy setback of the pergola is not supported because there is the potential for outdoor living activities to impact on the adjoining property in terms of visibility and noise. A condition is included in the recommendation to require privacy screening.

Given the above, the application is considered to be acceptable and is recommended for Approval.

RECOMMENDATION

Council exercise its discretion in granting approval for:

- the ridge height of the eastern elevation being 10.5 metres in height, the rear elevation being 7.9 metres in height and the front and western elevation being 11.0 metres in height, the in lieu of 8.1 metres as per the maximum building height requirement of the Local Planning Policy 142;
- the minor incursion into the front setback area of 1.4 metres, in lieu of the 1.0 metre requirement as per the Residential Design Codes 2008;
- the privacy setback on the western elevation to bedroom 4 of 2.8 metres, in lieu of the 4.5 metre requirement as per the Residential Design Codes 2008;

for a three-storey single house at No. 188 (Lot 17) Preston point Road, East Fremantle as shown on plans received 1 June 2010 and the amended floor plans, and pergola roofing specification received 2 July 2010 and subject to the following conditions:

1. Privacy screening to be provided on the western opening of the pergola to meet the privacy requirements of the R-Codes.
2. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
3. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
4. All storm water resulting from the development is to be retained on site.
5. The works are 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.
6. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. The proposed works 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.
9. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

13 July 2010

MINUTES

Footnote:

That the applicant be advised of the following:

- (a) 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.*
- (b) 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.*
- (c) 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).*
- (d) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Dominic Ward (owner) addressed the meeting in support of the officer's recommendation.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Lilleyman

Council exercise its discretion in granting approval for:

- **the ridge height of the eastern elevation being 10.5 metres in height, the rear elevation being 7.9 metres in height and the front and western elevation being 11.0 metres in height, the in lieu of 8.1 metres as per the maximum building height requirement of the Local Planning Policy 142;**
- **the minor incursion into the front setback area of 1.4 metres, in lieu of the 1.0 metre requirement as per the Residential Design Codes 2008;**
- **the privacy setback on the western elevation to bedroom 4 of 2.8 metres, in lieu of the 4.5 metre requirement as per the Residential Design Codes 2008;**

for a three-storey single house at No. 188 (Lot 17) Preston point Road, East Fremantle as shown on plans received 1 June 2010 and the amended floor plans, and pergola roofing specification received 2 July 2010 and subject to the following conditions:

- 1. Privacy screening to be provided on the western opening of the pergola to meet the privacy requirements of the R-Codes.**
- 2. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.**
- 3. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.**
- 4. All storm water resulting from the development is to be retained on site.**
- 5. The works are 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.**
- 6. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 8. The proposed works 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.**

13 July 2010

MINUTES

9. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

That the applicant be advised of the following:

- (a) *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.*
- (b) *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.*
- (c) *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).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T169.12 *Marmion Street No. 150 (Lot 223)*

Applicant: The Patio Guys

Owner: Tanya Smith

Application No. P88/2010

By Clare Roszak, Acting Planning Officer on 8 July 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval to erect a patio at the rear of the property, at No. 150 Marmion Street, East Fremantle is the subject of this report. The application is being referred to Council as two setback variations are sought by the application.

Statutory Considerations

Town Planning Scheme No. 3

Local Planning Strategy - Woodside Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

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

Impact on Public Domain

Tree in Verge : No impact

Light Pole : No impact

Crossover : No impact

Footpath : No impact

Documentation

Plans and relevant forms date stamped received on 24 May 2010

Date Application Received

24 May 2010

13 July 2010

MINUTES

Advertising

The subject application was not advertised as both affected neighbours provided letters of consent.

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

Nil.

REPORT

Comment

Approval is sought to erect a patio to the rear of the property at No. 150 Marmion Street, East Fremantle. The application proposes a 0.5 metre setback variation to the rear northern boundary and also to the side eastern boundary. The proposal meets all other requirements of the R-Codes and will provide a compliant outdoor living area space. Both adjoining property owners have provided letters of consent stating no objection to the proposed structure and setback variation. Based on the above, the proposed setback variations are supported.

The table below details the variation to the R-Codes that forms part of the proposal:

Requirement	Proposed	Planning Officer Comments
R-Codes: <u>Building Setbacks</u> <i>North</i> 1.0 metre	0.5 metres	Supported – The reduced setback is not considered to have an undue impact on the adjoining property the variation is minor, and the affected property owner has provided a letter of consent stating no objection to the proposed.
<i>East</i> 1.0 metre	0.5 metres	Supported – As above.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the building setback on the northern elevation and eastern elevation being 0.5 metres in lieu of the required 1.0 metres required under the R-Codes 2008 for the construction of alterations and additions at No. 150 (Lot 223) Marmion Street, East Fremantle in accordance with the plans date stamp received on 24 May 2010 subject to the following conditions:

1. The works are 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council;
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention;
4. The patio structure is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers; and
5. This planning approval to remain valid for a period of 24 months from date of this approval.

13 July 2010

MINUTES

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) 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).*
- (d) the patio may not be enclosed without the prior written consent of Council.*

RECOMMENDATION TO COUNCIL

Cr Lilleyman – Mayor Ferris

That Council exercise its discretion in granting approval for a variation to the building setback on the northern elevation and eastern elevation being 0.5 metres in lieu of the required 1.0 metres required under the R-Codes 2008 for the construction of alterations and additions at No. 150 (Lot 223) Marmion Street, East Fremantle in accordance with the plans date stamp received on 24 May 2010 subject to the following conditions:

- 1. The works are 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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council;**
- 3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention;**
- 4. The patio structure is not to be utilised until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers; and**
- 5. 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) 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).*

CARRIED

13 July 2010

MINUTES

T169.13 **Walter Street No. 13 (Lot 52)**
Owner: Geoff Cuthbertson
Applicant: Shayne Le Roy
Application No. P87/2010
By Clare Roszak, Acting Planning Officer on 5 July 2010

BACKGROUND

Description of Site

The subject site is:

- a 911m² block
- zoned Residential R12.5
- located in the Richmond Precinct
- the site is currently vacant

Description of Proposal

An Application for Planning Approval for the construction of a single-storey residence and swimming pool, located at No. 13 Walter Street has been proposed. The demolition licence was approved on the 1 December 2009, the residence has since been demolished.

The new proposal includes the development of a single-storey dwelling comprising of a four car garage, alfresco area, swimming pool, sun deck, 3 bedrooms, 2 bathrooms, an office, music room, activity room, family room, laundry, kitchen and courtyard.

Statutory Considerations

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

Relevant Council Policies

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)

Date Application Received

Plans and relevant forms date stamp received on 21 May 2010

Advertising

The subject application was advertised to adjoining landowners from 27 May to 11 June 2010. There were no objections received during the community consultation process.

No. of Days Elapsed between Lodgement & Meeting Date

53 days

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Town Planning Advisory Panel

The Panel viewed the proposal on 22 July 2010. The Panel's advice is set out and responded to below:

Advisory Panel Comments	Applicant Response
Support of contemporary design.	Noted.
Query garage compliance, Council requires justification for the proposed 4 bay garage if site coverage is exceeded.	The proposal does not exceed the site coverage requirement for an R12.5 zoned residential dwelling. Further highlighted within the applicants submission was the need for a 4-bay garage, due to the "value and number of cars the owner has, the garage is needed to house them all securely".

13 July 2010

MINUTES

Advisory Panel Comments	Applicant Response
Concerns relating to the height of the parapet wall.	As noted within the applicant's submission, "we have submitted to the Town the adjoining property owner's letter of 'no objection' to the proposed boundary wall. The parapet wall does not exceed 9.0 metres in length. The orientation of this wall should not restrict northern light to the neighbour and the overshadowing is nil. We have endeavoured to set the parapet wall well back behind the streetscape front setback (7.5m) to reduce the size and bulk to the neighbour".

In response to the Panel's comments the application has been assessed and was found to be in compliance with the open space requirements of the R-Codes 2008 for a dwelling zoned R12.5. Additionally, due to the large setback of the of the garage, and its compliance with requirement (ii) of the LLP 142, Part 2 relating to Streetscape, the proposed garage is compliant and considered to have no undue impact on the Walter streetscape. Additionally, the applicant comments relating to the non-compliant boundary wall are supported. See table below for further comments.

**REPORT
Comment**

Approval is sought for the development of a single-storey residence at No. 13 Walter Street, East Fremantle.

The modern design of the proposal has been supported by the Town Planning Advisory Panel, and furthermore is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008. As such the variations sought by the proposal are considered minor and furthermore seen to pose no adverse impact on the adjoining property owners or on the Walter Street streetscape.

Considerations

The proposal meets the quantitative provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

Requirement	Proposed	Planning Officer Comments
<p>R-Codes: <u>Building Setbacks:</u></p> <p>Ground Floor North 1.6 metres</p>	<p>Nil – 1.66 metres</p>	<p>Supported – The reduced setback is not considered to have an undue impact on the adjoining property or on the Walter Street streetscape, no objections were received during the community consultation period and a letter of consent from the affected neighbour was received stating no objection to the proposed.</p>
<p><u>Street Walls and Fences</u> 1.2 metre solid portion, then visually permeable to 1.8 metres from NGL</p>	<p>Front fence 1.4 – 2.0 metres (visually permeable)</p>	<p>Supported – Given the highly permeable nature of the fence the proposed height variation is considered to be minor and to have no undue impact on the Walter Street streetscape. Additionally, part 4.3 of LLP 143 warrants a consideration to the requirements where there is a difference in the levels between one side of the fence and the other side. The frontage of No. 13 Walter Street has a notable change in ground level from the</p>

13 July 2010

MINUTES

Requirement	Proposed	Planning Officer Comments
	Letterbox solid to 1.8 – 1.9 metres	north to south boundary. Supported – Given the highly permeable nature of the proposed fencing the non-compliant portion solid which exceeds the permitted infill amount by 700 millimetres is considered minor, and provides a degree of visual screening to the subject property.
<u>Buildings on Boundary:</u> R12.5 – Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions	Does not abut an existing wall. <i>Height Maximum:</i> 3.5 metres <i>Height Average:</i> 3.4 metres <i>Length:</i> 9.0 metres	Supported – The proposed parapet wall is considered to have no undue impact on the adjoining property or on the Walter Street streetscape, a letter of consent was provided by the owners of No. 15 Walter Street, stating they had no objections with the proposed parapet. Additionally, the proposed parapet wall is considered to meet several of the performance criteria of requirement 6.3.2 of the R-Codes 2008 relating to buildings on boundaries. More specifically, the parapet wall is considered to make effective use of space, enhance the amenity of the development and not have any significant adverse effects on the amenity of the adjoining property- the location of the proposed wall will have no effect on the neighbouring properties sunlight, ventilation or cause adverse overshadowing.
<u>Retaining Walls:</u> Not to exceed 0.5 metres in height.	Maximum retaining walls are 0.63 metres in height.	Supported – There is only a very small portion of the retaining wall that is a variation. It is considered as more appropriate to have this higher retaining than to have the dwelling stepped down. Furthermore, the proposed fill retains the visual impression of the natural level of the site, as seen from the Walter streetscape, as such satisfying the performance criteria for requirement 6.6.1 of the R-Codes 2008.

Additional Applicant Comments:

*Front Screen Wall
(Letterbox)*

Higher than 1.2 metres and wider than 500 millimetres. With regards to this variation we feel that the overall design of the front screen wall has a predominantly “open” aesthetic with the majority of the fence constructed in metal infill bars 120mm apart resulting in greater than 50% permeability. To balance this aesthetic we feel the solid structure is needed to complement the openness of the infill metalwork. We feel that its overall width of this single pier would still be less than multiple pier and infill walls in the area.

13 July 2010

MINUTES

RECOMMENDATION

Council exercise its discretion in granting approval for:

- a portion of the ground floor setback to the northern boundary of nil – 1.1 metres in lieu of the 1.6 metres required setback as per the building setback requirements of the Residential Design Codes;
- the wall and ridge height of the boundary wall being 3.5 and 3.4 metres in height, in lieu of 3 and 2.7 metres as per the buildings on boundary requirements of the Residential Design Codes;
- the retaining wall height of 0.63 metres, in lieu of the 0.5 metre requirement as per the Residential Design Codes;
- a portion of the proposed front fence to the height of 1.8 metres – 1.9 metres solid, in lieu of the required 1.2 metres as per the Local Planning Policy 143 relating to Fencing;

for a single-storey single house and swimming pool at No. 13 (Lot 52) Walter Street, East Fremantle as shown on plans received 21 May 2010 and the amended front elevation received 6 July 2010 and subject to the following conditions:

1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
3. Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.
4. All storm water resulting from the development is to be retained on site.
5. The works are 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.
6. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. The proposed works 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.
9. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. Protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
11. Pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
12. Pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
13. Swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.

13 July 2010

MINUTES

14. Prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
15. Pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
16. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *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.*
- (b) *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.*
- (c) *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).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

RECOMMENDATION TO COUNCIL

Cr Lilleyman – Cr Nardi

Council exercise its discretion in granting approval for:

- **a portion of the ground floor setback to the northern boundary of nil – 1.1 metres in lieu of the 1.6 metres required setback as per the building setback requirements of the Residential Design Codes;**
- **the wall and ridge height of the boundary wall being 3.5 and 3.4 metres in height, in lieu of 3 and 2.7 metres as per the buildings on boundary requirements of the Residential Design Codes;**
- **the retaining wall height of 0.63 metres, in lieu of the 0.5 metre requirement as per the Residential Design Codes;**
- **a portion of the proposed front fence to the height of 1.8 metres – 1.9 metres solid, in lieu of the required 1.2 metres as per the Local Planning Policy 143 relating to Fencing;**

for a single-storey single house and swimming pool at No. 13 (Lot 52) Walter Street, East Fremantle as shown on plans received 21 May 2010 and the amended front elevation received 6 July 2010 and subject to the following conditions:

1. **Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.**
2. **Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.**
3. **Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a building licence.**
4. **All storm water resulting from the development is to be retained on site.**
5. **The works are 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.**
6. **The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in**

13 July 2010

MINUTES

- compliance with the conditions of this planning approval unless otherwise amended by Council.
7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 8. The proposed works 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.
 9. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 10. Protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
 11. Pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
 12. Pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
 13. Swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
 14. Prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
 15. Pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
 16. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *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.*
- (b) *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.*
- (c) *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).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

13 July 2010

MINUTES

T169.14 Philip Street No. 8 (Lot 1)

Applicant: Lorimer Homes

Owner: Christopher & Kate Grieve

Application No. P80/2010

By Gemma Claire Basley, Acting Town Planner on 29 June 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for the construction of a two storey residence involving the demolition of the existing residence.

Description of Site

The subject site is:

- a 500 m² block
- zoned Residential R12.5
- adjoins two residential premises

Statutory Considerations

Town Planning Scheme No. 3

Local Planning Strategy - Richmond Hill Precinct (LPS)

Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy No. 142 : Residential Development

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Documentation

Plans and relevant forms date stamp received on 2 June 2010

Date Application Received

23 April 2010

Additional information

Revised plans were submitted by the applicant on the 2 June 2010 in response to the Town Planning advisory Panel comments.

Advertising

Adjoining neighbours were advised of the proposal and were give a 2 week period to comment on the plans. In addition to this a sign was placed on the site.

Date Advertised

4 May 2010

Close of Comment Period

19 May 2010

No. of Days Elapsed between Lodgement & Meeting Date

81 Days

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

17 December 1990 Council grants special approval to erect a garage on the eastern boundary;

20 June 2000 Council refuses an application for a double carport with a reduced setback;

13 July 2010

MINUTES

6 November 2000	Minister for Planning upholds appeal and approves the open sided carport;
7 February 2001	WAPC conditionally approves the battleaxe subdivision application;
17 April 2001	Council grants approval to demolish the garage;
27 April 2001	Demolition Licence issued for garage;
19 February 2002	Council grants special approval for reduced north, south & west side boundary setbacks for a 2-storey house at 8A Philip Street;
25 September 2002	WAPC endorses for final approval the survey strata plan 42375 for the battleaxe subdivision of 8 Philip Street;
19 October 2004	Council approves upper level additions to the single storey house at 8 Philip Street.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel (TPAP) at its meeting held on 25 May 2010 and the following comments were made with a response from the applicant also provided below:

TPAP Comment	Applicant Response
Garage needs to be reduced in size, currently exceeds 50% of the frontage.	As per Clause R6.2.3 of the R-Codes Part A3.4, the garage as proposed is 7090mm in width. The frontage of the block at the building line is 16,119m. As such the proposed garage width is less than 50% of the frontage.
Garage needs to be set back level with the bulk of the building envelope level for the southern elevation.	Revised Plans have been submitted, which pull the garage back and in line with the main building line. A small porch extends forward of the main building line to provide some articulation.
Simply inserting a protruding 'robe' niche is unacceptable as a design solution to ameliorate the prominence of the garage.	The garage has been pulled back to minimise its prominence and as per the R-Codes, the garage width is compliant and not considered to be prominent. The protruding robe was intended to provide visual interest and articulation in the front elevation.
Fundamental design solution to alleviate impact of double garage is sought.	Revised plans have been submitted.

The applicant has taken on the comments from the TPAP and has submitted revised plans which pull the garage back away from the street and level with the main building line. It is the assessment of the Acting Town Planner that the garage door width is compliant with the R-Codes in that it does not exceed 50% of the site's frontage, and in fact only takes up 43.9% of the sites frontage. The garage does take up 53.7% of the façade however there are no provisions under the R-Codes or Council's LPP No. 142 to assess the garage against this. In this regard the garage is deemed to be compliant in terms of impact on streetscape.

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Public Submissions

At the close of the comment period one submission had been received from the neighbour who adjoins the northern boundary in support of the parapet wall.

Site Inspection

By Acting Town Planner on 3 June 2010

13 July 2010

MINUTES

REPORT

The application has been assessed against the requirements of the R12.5 provisions of the R-Codes and LPP No. 143. The application complies with the majority of the setback requirements, height requirements, access and parking requirements, privacy requirements and design for climate requirements. The areas of non compliance, where the applicant is requesting variations are listed below and summarised in the table that follows:

- Boundary wall exceeds an average height of 2.7 metres and does not adjoining an existing boundary wall.
- Fill/earthworks exceed 0.5 metres.
- Building Height exceeds LPP 142.
- Overlooking from upper floor bedroom 1.

Requirement	Proposal	Acting Town Planner Comment
<p><u>Rear Boundary Setback</u> R12.5 – 6 metres</p>	<p>Minimum 1 metre Average 7.2 metres</p>	<p>Supported – A variation to the rear setback is requested for the ground floor alfresco and for the upper floor bedroom 1.</p> <p>The variation to the rear setback for the alfresco area and the upper floor bedroom is not considered to be a concern because this section of the rear boundary has a parapet wall for the adjoining lots garage. As such the alfresco area will not have an impact on any habitable rooms or outdoor living areas in the adjoining lot as these are located on the northern side of the neighbouring house. The upper floor bedroom will not result in any overshadowing or loss of ventilation to the adjoining lot because it is north of the subject site.</p> <p>An issue does arise from the reduced setback of the bedroom being overlooking, but this will be addressed separately.</p> <p>The variation to the rear setback for the upper floor bedroom is also supported on the basis that</p>
<p><u>Buildings on Boundary:</u> R12.5 – Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions</p>	<p>Does not abut an existing wall.</p> <p><i>Height Maximum:</i> 2.8 metres</p> <p><i>Height Average:</i> 3.25 metres</p> <p><i>Length:</i> 8.99 metres</p>	<p>Supported – The proposed parapet wall is considered to have no undue impact on the adjoining property or on the streetscape. The application was advertised to the adjoining neighbours and they raised no objection to the proposed wall.</p> <p>Additionally, the proposed parapet wall is considered to meet several of the performance criteria of Clause 6.3.2 of the R-Codes relating to buildings on boundaries. More specifically, the parapet wall is considered to make effective use of space, enhance the amenity of the development and not have any significant</p>

13 July 2010

MINUTES

Requirement	Proposal	Acting Town Planner Comment
		adverse effects on the amenity of the adjoining property- the location of the proposed wall will have no effect on the neighbouring properties sunlight, ventilation or cause any overshadowing.
<p><u>Retaining Walls:</u> Not to exceed 0.5 metres in height within 1 metre of the boundary.</p>	<p>Maximum retaining walls are 1.2 metres in height on the boundary.</p>	<p>Supported – The retaining walls are existing and are not to be increased under this application. The site has a fall of nearly 4 metres from south to north and on a lot, which is significantly small (500m²) for the R12.5 coding and which has met the front setback requirements of the R-Codes. It is considered as more appropriate to retain this higher retaining than to have the new dwelling stepped down. There have been no objections received from the neighbouring properties regarding the retention of the retaining wall.</p>
<p><u>Visual Privacy / Overlooking</u> Bedrooms to be setback 4.5 metres from a boundary or to be visually screened</p>	<p>Bedroom 1 Windows setback 3.8 metres from the boundary.</p>	<p>Not Supported - Whilst, Bed 1 only overlooks the garage roof, the driveway and entry of the adjoining lot, it is the assessment of the Acting Town Planner that screening should be required for this window. The reason for this is to avoid overlooking of the neighbouring entry and to avoid overlooking to the upper floor of the neighbouring lot, which has windows to habitable rooms. A condition will be included in the recommendation requiring this window to be screened.</p>
<p><u>Building Height</u> Council's LPP 142 establishes maximum building heights in localities where views are an important part of the amenity of the area. The maximum building heights are listed below: - 8.1m to the top of the pitched roof - 5.6m to the top of the external wall - 6.5 metres to the top of an external wall (concealed roof)</p>	<p>Maximum height of 6.8 metres</p>	<p>Supported - The height variation whilst the wall height exceeds the requirements, the maximum roof height is significantly less than the permitted maximum of 8.1m. In addition to this, the increased height will not impact on the streetscape, will not result in any overshadowing of adjoining lots and will not impact on any views of surrounding lots. In addition to this Council has previously approved a variation to the wall height from 5.6 metres to 7 metres (20 November 2007).</p>

The variations sought by the applicant and supported by the Acting Town Planner are summarised below:

- rear setback variation supported based on the lot being smaller than a standard R12.5 lot and on the existing garage parapet wall on the adjoining lot;

13 July 2010

MINUTES

- retaining walls with heights greater than 0.5 metres are already existing and are not being altered as part of the application;
- wall height exceeding the height restrictions by 0.3 metres on the basis that the overall roof is lower than permitted and the increased height of walls will not impact on any adjoining lots.

The overlooking variation from upper floor Bed 1 is not supported and as such a condition (see Condition 1) recommending screening is included in the recommendation.

Given the proposal meets the majority of quantitative provisions of TPS No. 3, the R-Codes and Council Policies and given the only variations being requested are considered minor the application is considered acceptable and recommended for Council approval.

RECOMMENDATION

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

- variation to the rear setback requirements to allow a minimum ground floor setback of 1.0 metres in lieu of 6 metres and a reduced upper floor setback of 3.8 metres in lieu of 6.0 metres required under the R-Codes;
- variation to the boundary wall requirements to allow a boundary wall in the R12.5 coding in lieu of abutting an existing boundary wall as required under the R-Codes; and
- variation to allow a maximum wall height of 6.8 metres in lieu of the 6.5 metre height limit required under LPP No. 142;

for a two storey residence at No. 8 (Lot 1) Philip Street, East Fremantle in accordance with the plans date stamp received on 1 June 2010 subject to the following conditions:

1. The provision of privacy screening to the north facing windows of the upper floor bedroom 1 to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.
2. The works are 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.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
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 is 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.
7. All parapet walls are 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.
8. 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.*

13 July 2010

MINUTES

- (c) *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).*
- (d) *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.*

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Lilleyman

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

- **variation to the rear setback requirements to allow a minimum ground floor setback of 1.0 metres in lieu of 6 metres and a reduced upper floor setback of 3.8 metres in lieu of 6.0 metres required under the R-Codes;**
- **variation to the boundary wall requirements to allow a boundary wall in the R12.5 coding in lieu of abutting an existing boundary wall as required under the R-Codes; and**
- **variation to allow a maximum wall height of 6.8 metres in lieu of the 6.5 metre height limit required under LPP No. 142;**

for a two storey residence at No. 8 (Lot 1) Philip Street, East Fremantle in accordance with the plans date stamp received on 1 June 2010 subject to the following conditions:

- 1. Prior to the issue of a Building Licence amended plans to be submitted showing either the use of highlight windows or the provision of privacy screening to the north facing windows of the upper floor bedroom 1 to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 2. The works are 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.**
- 4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 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 is 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.**
- 7. All parapet walls are 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.**
- 8. 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.***

13 July 2010

MINUTES

- (c) *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).*
- (d) *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.* CARRIED

Cr Cliff Collinson left the meeting at 8.37pm.

T169.15 Clayton Street No. 4 (Lot 431)
Applicant & Owner: Stephen Price
Application No. P81/2010
By Clare Roszak, Acting Planning Officer on 25 June 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for alterations and additions to the existing single house located at No. 4 Clayton Street, incorporating the partial demolition of some existing areas.

The demolition includes the removal of the existing sleep-out, veranda, bathroom and laundry. The additions include a proposed alfresco area, bedroom, laundry and bathroom. The alterations include the internal renovations to the existing garage to accommodate two car parking bays, and internal renovations to the main dwelling to accommodate a study/bedroom and an increased dining area.

Description of Site

The subject site is:

- a 805m² block
- zoned Residential R12.5
- developed with a dwelling on-site included within the MI with a B↑ rating
- located in the Richmond Precinct

Statutory Considerations

Town Planning Scheme No. 3
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)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : No impact

Documentation

Plans and relevant forms date stamp received on 30 April 2010.

Date Application Received

30 April 2010

No. of Days Elapsed between Lodgement & Meeting Date

74 days

13 July 2010

MINUTES

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

29 February 1996 The Council informed the Owner of No. 4 Clayton Street, that the subject property was included within the Municipal Inventory.

Advertising

The subject application was advertised to adjoining landowners for the standard 2 week period from the 12/5/2010 to the 26/5/2010. There were no comments received during this time.

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Town Planning Advisory Panel Comments

The Panel viewed the proposal on 25 May 2010. The Panel's advice is set out and responded to below:

Panel Comments	Applicant Response	Planning Officer's Comments
Proposed double garage is not supported; the panel recommends retention of the existing form of the garage in order to preserve heritage integrity of the existing building at street front level. Suggests an increased setback for a second garage to mimic original roofline.	With regards to the 'preservation of the heritage integrity of the building at street front level' it is thought by the applicants they have more than reasonably met this requirement as the application: 1. Complies with the setback and height guidelines of the LLP 142 and the Residential Design Codes. 2. From the street – the extension to the rear is unseen; the garage continues the existing roofline of the current garage and in its location hides the rear extension at street frontage level. The applicant further indicates increasing the setback of the proposed garage will: - adversely impact the area designated for the proposed laundry and ensuite; - will block light into the existing residence; and - incorporating the new garage will require substantial changes to the roofline, rather than continuing the existing garage roofline which is proposed. Further noted by the applicant is existing similar style Garages located along Clayton Street	The applicant's comments are supported and with appropriate materials and finishes, the proposed garage is considered to be appropriate for the existing bungalow character style home in addition to aesthetics of the Clayton streetscape. In addition, the length and height of the parapet wall is compliant with the R-Codes and there is neighbour support for the proposed wall.
Council to query the retention of chimney in existing house.	Applicants intend to keep the existing chimney as it features a large art-deco style fireplace in the lounge room.	Noted.

**REPORT
Comment**

Approval is sought for the partial demolition of and, alterations and additions to the existing dwelling, located at No. 4 Clayton Street, East Fremantle.

The proposal is considered to have no adverse impact on the existing streetscape, and is believed to have conscientiously adopted the existing dwelling's design characteristics

13 July 2010

MINUTES

into the new proposal and furthermore, proven to be sympathetic to the heritage characteristics of the dwelling.

The only change to the property from the street view will be the extension of the garage to the southern boundary.

It is noted the TPAP considered this change should not be supported due to the perceived adverse effect on the heritage integrity of the building.

Under the MI, the building has a B↑ rating and has received the highest rating possible for its heritage integrity.

This is a subjective issue for elected members to decide on.

Elected members are obliged, under clause 10.2 of TPS 3, to consider a number of matters, including:

- 10.2(j) the compatibility of a use or development with its setting;
- 10.2(o) the preservation of the amenity of the locality; and
- 10.2(p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal.

Implicit in the above is the need to consider the effect of a proposal on the heritage integrity of the existing home and on the existing streetscape.

In the officer's view, in taking the abovementioned provisions into account, the application is recommended for support, however, as indicated, the issues concerned are subjective in nature and will require individual elected member consideration with respect to their decision making.

Considerations

In addition to the above, the proposal meets the quantitative provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

Requirement	Proposed	Planning Officer Comments
R-Codes: <u>Building Setbacks</u> <i>North</i> 4.5 metres	3.61 metres – 3.72 metres	Supported – The reduced setback is not considered to have an undue impact on the adjoining property or on the Clayton Street streetscape, no objections were received during the community consultation period. Additionally, the proposed addition maintains the existing building line and setback of the existing dwelling as such satisfying the performance criteria of Clause 6.2.1 of the R-Codes 2008 relating specifically to the preservation of the desired streetscape.
<u>Building on Boundaries</u> R12.5 – Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions	<i>Wall Height:</i> 3.0 metres <i>Wall Length:</i> 6.0 metres	Supported – The parapet is considered to meet the performance criteria of Clause 6.3.2 of the R-Codes as it is not seen to have an adverse effect on the amenity of the adjoining property as it will not restrict sunlight to habitable rooms or

13 July 2010

MINUTES

Requirement	Proposed	Planning Officer Comments
		to outdoor living areas of the adjacent property. The proposed parapet wall is not considered to adversely affect the Clayton Street streetscape due to the neighbouring lot which has an existing garage positioned forward of the proposed parapet wall. Additionally, given the central positioning of the dwelling within the lot, the proposed parapet wall is also considered to make effective use of space.
<u>Building Height</u> Category A (Single storey development): Top of external wall: 3m	<i>Southern Elevation (External Wall):</i> 3.1 – 3.35 metres <i>Northern Elevation (External Wall):</i> 3.4 – 3.7 metres <i>Rear Elevation:</i> 3.1 – 3.3 metres	Supported – as the increased wall height is not considered to have an undue impact on the adjoining property or on the streetscape. The proposed wall height has demonstrated an attempted to comply with the R-Code requirements as well as maintaining the character of the existing dwelling, most notably as the external wall of the additions are significantly lower than the existing external walls of the main dwelling. Additionally, the proposed wall height is considered to meet the performance criteria of Clause 6.7.1 of the R-Codes as the wall height will have no undue impact on the neighbouring properties amenity as the shadow cast will fall within the adjoining properties front setback area. Supported – As above. Supported – As above.

Given the proposal is considered to meet either the acceptable development provisions or the Performance Criteria of the Residential Design Codes, the Town's Local Planning Policies, and at least the quantitative provisions of TPS No. 3, the application can be supported. Whilst variations are being pursued it is considered that the variations are minor in nature.

RECOMMENDATION

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

- variation to the external wall height on the southern elevation being 3.1 metres – 3.35 metres, the northern elevation being 3.4 metres – 3.7 metres and the western elevation being 3.1 – 3.3 metres high, in lieu of the required 3.0 metre requirement of the R-Codes 2008;
- variation to the building setback on the northern elevation being 3.61 metres to 3.72 metres in lieu of the required 4.5 metres; and
- variation to the proposed boundary wall height being 3m in lieu of the 2.7m average required under the R-Codes;

for the construction of alterations and additions at No. 4 (Lot 431) Clayton Street, East Fremantle in accordance with the plans date stamp received on 30 April 2010 subject to the following conditions:

1. The works are 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.

13 July 2010

MINUTES

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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed alterations and additions 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.
5. All stormwater is 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 are 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. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. Any new crossovers which are constructed under this approval are 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.
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) *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).*

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Lilleyman

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

- **variation to the external wall height on the southern elevation being 3.1 metres – 3.35 metres, the northern elevation being 3.4 metres – 3.7 metres and the western elevation being 3.1 – 3.3 metres high, in lieu of the required 3.0 metre requirement of the R-Codes 2008;**
- **variation to the building setback on the northern elevation being 3.61 metres to 3.72 metres in lieu of the required 4.5 metres; and**
- **variation to the proposed boundary wall height being 3m in lieu of the 2.7m average required under the R-Codes;**

for the construction of alterations and additions at No. 4 (Lot 431) Clayton Street, East Fremantle in accordance with the plans date stamp received on 30 April 2010

13 July 2010

MINUTES

subject to the following conditions:

1. Prior to the issue of a Building Licence a 'schedule of materials & finishes' is to be submitted to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. The works are 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.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed alterations and additions 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.
6. All stormwater is 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.
7. All parapet walls are 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.
8. 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. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. Any new crossovers which are constructed under this approval are 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.
10. 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.
11. 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) *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).*

CARRIED

13 July 2010

MINUTES

T169.16 Windsor Road No. 17 (Lot 28)
Applicant: Andrew Sullivan Architect
Owner: Michael Purdie & Mardie West
Application No. P82/2010
By Clare Roszak, Acting Planning Officer on 6 July 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for alterations and additions to the existing single house located at No. 17 Windsor Road is the subject of this report.

The application includes the addition of a new sunroom and alfresco area to the northern elevation of the dwelling, as well as an extension to the existing verandah located at the front of the property to the northern side of the dwelling.

A rear alfresco area is proposed which incorporates an under-croft area; the existing rear deck is also proposed to be modified in association with the new rear additions in order to complement the existing and new alfresco proposal.

Description of Site

The subject site is:

- a 911m² block
- zoned Residential R12.5
- developed with a dwelling on-site
- on Council's MI with B Category rating
- located in the Richmond Precinct

Statutory Considerations

Town Planning Scheme No. 3
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)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : No impact

Documentation

Plans and relevant forms date stamp received on 6 May 2010

Date Application Received

6 May 2010

No. of Days Elapsed between Lodgement & Meeting Date

68 days

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

18 April 2002 The Council granted the Owner(s) of No. 17 Windsor Street Planning Approval for rear additions to the existing residence as well as a carport addition.

25 June 2009 The Council under delegated authority granted Planning Approval for the proposed alterations and additions to the existing

13 July 2010

MINUTES

residence, comprising of a gable roofed carport, bathroom renovations, and the conversion of a cellar to a studio.

Advertising

The subject application was advertised to adjoining landowners for the standard 2 week period from the 27 May to 11 June 2010. There were no comments received during this time.

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Town Planning Advisory Panel Comments

The Panel viewed the proposal on 22 June 2010 and made the following comments:

- query ceiling heights for studio and under-croft – ensure they meet minimum requirements.
- support revised plans.

In response to the Panel's comments relating to the proposed ceiling height for the studio and the under-croft area, the Town's Local Planning Policies, and the Residential Design Codes 2008 do not have any requirements relating to this, the Building Codes of Australia (BCA), specify a minimum ceiling height for habitable spaces to be 2.4 metres. As such the Town's Building Surveyor has viewed the proposal, and noted the plans are compliant.

REPORT

Comment

Approval is sought for alterations and additions to the existing dwelling, located at No 17 Windsor Road, East Fremantle.

There are two major components to this application, firstly the additions to the front of the dwelling comprising of an extension of the existing verandah as well as a sunroom and alfresco addition to the northern elevation. The additions are not seen to have an adverse affect on the streetscape appearance, and are believed to have conscientiously adopted the existing dwelling's design characteristics into the new proposal. The only change to the property from the street view will be the extension of the existing verandah towards the northern boundary in order to match the southern side of the dwelling's façade.

The second component of the development also proposes an alfresco area located towards the rear of the existing dwelling, alterations to the existing deck are also proposed as well as an under-croft area located beneath the alfresco area.

Considerations

In addition to the above, the proposal meets the quantitative provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

Requirement	Proposed	Planning Officer Comments
R-Codes: <u>Building Setbacks</u> <i>North</i> 1.5 metres	1.33 metres	Supported – The reduced setback is not considered to have an undue impact on the adjoining property or on the Windsor streetscape, no objections were received during the community consultation period and a letter of consent from the affected neighbour was received stating no

13 July 2010

MINUTES

Requirement	Proposed	Planning Officer Comments
<p><i>South</i> 2.5 metres</p>	2.245 metres	<p>objection to the proposed.</p> <p>Supported – The reduced setback variation is minor and therefore considered to have no undue impact on the adjoining property owner. Further to the above no objections were received during the community consultation period.</p>
<p><u>Building Height</u> Category A (Single storey development)</p> <p>Top of External Wall: 3m</p> <p>Top of Pitched Roof: 6m</p>	<p><i>Western Elevation (External Wall):</i> 4.6 metres – 4.7 metres</p> <p><i>Top of Pitched Roof:</i> 6.2m</p> <p><i>Southern Elevation (External Wall):</i> 4.3 metres – 4.4 metres</p>	<p>Supported – The small portion of the solid wall is located to the rear of the dwelling and therefore is not considered to have an undue impact on the adjoining property owner or on the Windsor streetscape.</p> <p>Supported – As above.</p> <p>Supported – The proposed height variation is not considered to have an undue impact on the adjoining property owners, although a small percentage of the adjoining property falls within the overshadowing diagram, no windows to habitable rooms are affected and the overall overshadowing of the proposal is compliant with the R12.5 requirement of the R-Codes 2008. Furthermore, taking the slope of the land into consideration the variation is considered to be consistent with the design, bulk and scale of the existing dwelling, as well as the established character of the area.</p>
<p><u>Privacy Setback</u></p> <p><i>North (Verandah)</i> 7.5 metres</p> <p><i>West (Alfresco)</i> 7.5 metres</p>	<p>2.9 metres to northern boundary</p> <p>4.98 metres to western boundary</p>	<p>Not Supported – The proposed privacy setback variation is considered to be quite severe and as such poses an undue impact on the adjoining property owner. A condition (Condition 1) to comply with the R-Code requirements has been applied.</p> <p>Supported – The proposed privacy setback is not considered to have an undue impact on the western property, as the applicants have incorporated a screen wall to the height of 2.6 metres above the NGL, and 1.6 metres above the FFL of the alfresco area into their design. The wall is located between the proposed alfresco area and the western boundary and meets the performance criteria of Clause 6.8.1 of the R-Codes 2008.</p>

13 July 2010

MINUTES

Given the proposal meets the majority of the provisional requirements of the Residential Design Codes and the Town's Local Planning Policies, the application can be supported. Whilst variations are being pursued it is considered that the variations are minor in nature.

RECOMMENDATION

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

- variation to the external wall height on the western elevation being 4.6 metres – 4.7 metres, the southern elevation being 4.3 metres – 4.4 metres high, in lieu of the required 3.0 metre requirement of the R-Codes 2008;
- variation to the height of the pitched roof on the western elevation being 6.2 metres, in lieu of the 6.0 metre requirement of the R-Codes 2008;
- variation to the building setback on the northern elevation being 1.33 metres in lieu of the required 1.5 metres, and the building setback on the southern elevation being 2.245 metres in lieu of the required 2.5 metres;
- variation to the proposed privacy setback on the western elevation being 4.98 metres in lieu of the required 7.5 metres;

for the construction of alterations and additions at No. 17 (Lot 28) Windsor Road, East Fremantle in accordance with the plans date stamp received on 6 May 2010 subject to the following conditions:

1. The verandah on the northern elevation be screened with a permanent non-removable obscure material to the height of 1.6 metres from the finished floor level.
2. The works are 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed alterations and additions 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.
5. 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.
6. Any new crossovers which are constructed under this approval are 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.
7. 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.
8. All stormwater is 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.
9. 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.*

13 July 2010

MINUTES

- (c) *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).*

RECOMMENDATION TO COUNCIL

Cr de Jong – Mayor Ferris

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

- variation to the external wall height on the western elevation being 4.6 metres – 4.7 metres, the southern elevation being 4.3 metres – 4.4 metres high, in lieu of the required 3.0 metre requirement of the R-Codes 2008;
- variation to the height of the pitched roof on the western elevation being 6.2 metres, in lieu of the 6.0 metre requirement of the R-Codes 2008;
- variation to the building setback on the northern elevation being 1.33 metres in lieu of the required 1.5 metres, and the building setback on the southern elevation being 2.245 metres in lieu of the required 2.5 metres;
- variation to the proposed privacy setback on the western elevation being 4.98 metres in lieu of the required 7.5 metres;

for the construction of alterations and additions at No. 17 (Lot 28) Windsor Road, East Fremantle in accordance with the plans date stamp received on 6 May 2010 subject to the following conditions:

1. The verandah on the northern elevation be screened with a permanent non-removable obscure material to the height of 1.6 metres from the finished floor level.
2. The works are 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed alterations and additions 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.
5. 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.
6. Any new crossovers which are constructed under this approval are 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.
7. 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.
8. All stormwater is 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.
9. 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.***

13 July 2010

MINUTES

- (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) 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). CARRIED

Cr Nardi made the following impartiality declaration in the matter of 80 King Street: "As a consequence of my friendship with the adjoining neighbours at 82 King Street, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T169.17 King Street No. 80 (Lot 355)
Owner & Applicant: Irene & Therese Thorn
Application No. P93/2010
By Clare Roszak, Acting Planning Officer on 9 July 2010

BACKGROUND

Description of Site

The subject site is:

- a 508m² block,
- zoned Residential R20;
- located in the Plympton Ward;
- the site is currently developed with a dwelling on site.

Description of Proposal

An Application for Planning Approval for the construction of a single-storey residence, located at No. 80 King Street is the subject of this report. The application involves the demolition of the existing dwelling, which is considered by the applicant to be uninhabitable and of no heritage significance. The application for demolition has been lodged with the Town however has not yet been determined.

The new proposal includes the development of a single-storey dwelling including a single car garage with disability access.

Statutory Considerations

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

Relevant Council Policies

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)

Date Application Received

- Relevant forms date stamp received 31 May 2010
- Revised plans received 1 July 2010

Advertising

The subject application was advertised to adjoining landowners for 2 weeks from the 9/6/2010 to the 24/6/2010. There were no objections received during the community consultation process.

No. of Days Elapsed between Lodgement & Meeting Date

48 days

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

Nil.

13 July 2010

MINUTES

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval. The owners of No. 82 King Street wrote to Council to advise it supports the demolition of the house and construction of a new dwelling.

Town Planning Advisory Panel

The Panel viewed the proposal on 22 June 2010. The Panel's advice is set out and responded to below:

Panel Comments	Applicant Response
Justification required for garage width.	<p>As noted within the Applicants submission the garage width is largely due to the primary long-term occupant of the proposed dwelling suffering from a medical condition which is suspected will lead to a reduction in physical mobility. It is for this reason that sensible provision is being made at this time to facilitate her movement and self-sustaining living arrangements without the need for major modification to the premises at a future date.</p> <p>In addition to the above, the applicant has also included photos of the adjacent properties highlighting the fact No. 100 King Street, has a double car garage facing King Street and as such considers their proposal is keeping with the aesthetics of the wider precinct both in terms of scale, form and detail.</p>
Suggest bedroom (4) and verandah be pulled forward.	Applicant appreciates the Panel's comments and agrees to make the changes suggested – bringing the verandah forward and more comprehensive disabled access facility. Revised plans received 1 July 2010 demonstrate this change.
Disability compliance in design not consistently applied.	Applicant advises there are no steps on the proposed plan, thus does not limit the applicant mobility on site.
AS1428.1 – make compliant (2009 revision) 1428.2.	Applicant highlights that the dimensions of the garage were based on information received from the WA Disability Services Commission who advised that the minimum dimensions for a garage of this nature are 4.0 metres x 5.7 metres; on this basis the internal dimensions proposed of 4.5 metres x 6.42 metres are reasonable.

REPORT

Considerations

The proposal has been assessed against the quantitative provisions of TPS3, the R-Codes 2008 and the applicable Local Planning Policies. The proposal was found to meet the majority of the requirements with the exception of the R-Code requirements relating to incursions to the front setback area, building setbacks, building on boundaries, site works and fill, building heights and privacy setbacks. A description of these variations is summarised in the following table.

13 July 2010

MINUTES

Requirement	Proposed	Planning Officer Comments
<p>R-Codes: <u>Building Setbacks:</u></p> <p><i>North</i> 1.5 metres</p> <p><i>South</i> 1.5 metres</p>	<p>1.27 metres – 1.5 metres</p> <p>Nil – 1.78 metres</p>	<p>Supported – The reduced setback is not considered to have an undue impact on the adjoining property or on the King Street streetscape, no objections were received during the community consultation period.</p> <p>Supported – A letter of consent from the affected neighbour was received stating no objection to the proposed setback.</p>
<p><u>Minor Incursions to the Front Setback Area:</u> A porch, balcony, verandah, chimney or the equivalent may not project more than 1.0 metre into the FSA.</p>	<p>Verandah falls 2.0 metres in the FSA</p>	<p>Supported - The proposed verandah does not detract from the character of the streetscape as demonstrated by the applicant's plans other dwellings located on the same side of King Street have lesser setbacks which also have minor incursions into this area.</p>
<p><u>Buildings on Boundary:</u> R20 – walls not higher than 3.0 metres, with an average of 2.7 metres, up to 9.0 metres in length on one side of the boundary.</p>	<p><i>Height Maximum:</i> 3.6 metres</p> <p><i>Height Average:</i> 3.6 metres</p> <p><i>Length:</i> 6.58 metres</p>	<p>Supported - A letter of consent was provided by the owners of No. 82 King Street, stating they had no objections with the proposed parapet wall. Additionally, the proposed parapet wall is considered to make effective use of space and enhance the amenity of the development, particularly as the applicant demonstrated a need for the garage to meet disability standards. The proposed parapet is not considered to have any significant adverse effect on the amenity of the adjoining property as the location of the wall will not block sunlight, ventilation or cause adverse overshadowing.</p>
<p><u>Excavation and Fill</u> Cut/fill not to exceed 0.5 metres</p>	<p>Fill in portions of the site exceeds 0.5m</p>	<p>Supported – It is considered more appropriate to have this higher retaining than to have the dwelling stepped down, particularly taking the need for wheelchair access into consideration. Furthermore, the proposed fill retains the visual impression of the natural level of the site, as seen from the King Street streetscape, as such satisfying the performance criteria for requirement 6.6.1 of the R-Codes 2008.</p>
<p><u>Privacy Setbacks</u> <i>North (Family Room)</i> 6.0 metres</p>	<p>1.5 metres to northern boundary</p>	<p>Not Supported – The proposed privacy setback variation is considered to be quite severe and as such poses an</p>

13 July 2010

MINUTES

Requirement	Proposed	Planning Officer Comments
<p><i>North (Patio)</i> 7.5 metres</p> <p><i>South (Master Bedroom)</i> 4.5 metres</p> <p><i>South (Patio)</i> 7.5 metres</p>	<p>1.5 metres to northern boundary</p> <p>1.4 metres to southern boundary</p> <p>1.4 metres to southern boundary</p>	<p>undue impact on the adjoining property owner. A condition (Condition 2) to comply with the R-Code requirements has been applied.</p> <p>Not Supported – As above (Condition1)</p> <p>Not Supported – As above (Condition3)</p> <p>Not Supported – As above (Condition 1)</p>
<p><u>Building Height:</u> Category A (Single storey development):</p> <p><i>Top of External Wall:</i> 3m</p> <p><i>Top of Pitched Roof:</i> 6m</p>	<p><i>North:</i> 3.1 metres – 4.0 metres</p> <p><i>South:</i> 3.1 metres – 3.8 metres</p>	<p>Supported – Taking the slope of the land into consideration the variation of 1 metre to the maximum building height is considered acceptable as it considered more appropriate than stepping the house down. It also enables the proposed dwelling to be developed consistently with the surrounding aesthetics of the area. There will be no undue impact on the adjoining property owner in terms of overshadowing as shadow cast will fall towards the southern boundary.</p> <p>Supported – as above, additionally the affected property owners have provided a letter of consent which states no objection to the proposed. Minor overshadowing will occur towards the front of the adjacent dwelling however, is compliant with the overshadowing requirement of the R-Codes 2008.</p>

Based on the above discussions, the application is considered to be generally compliant and to be of a design that is in keeping with the area and particularly the streetscape. On this basis, the application can be supported and is recommended for approval.

RECOMMENDATION

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

- variation to the external wall height on the northern elevation being 3.1 metres – 4.0 metres, and the southern elevation being 3.1 metres – 3.8 metres high, in lieu of the required 3.0 metre requirement of the R-Codes 2008;
- variation to the building setback on the northern elevation being 1.27 metres – 1.5 metres in lieu of the required 4.5 metres, and the building setback on the southern elevation being Nil – 1.78 metres in lieu of the required 4.5 metres;
- an increase in the retaining and fill up to a height of 0.9m in lieu of the 0.5 metres required under the R-Codes;
- variation to the minor incursion into the street setback area being 2.0 metres in lieu of the required 1.0 metre; and

13 July 2010

MINUTES

- the wall height of the boundary wall being 3.6 metres in height, in lieu of the 3.0 metre maximum and 2.7 metre maximum average as per the buildings on boundary requirements of the Residential Design Codes 2008;
- for a single-storey residence at No. 80 (Lot 355) King Street, East Fremantle as shown on plans received 27 May & 1 July 2010 and subject to the following conditions:
1. The patio on the northern, southern and eastern elevation be screened with a permanent non-removable obscure material to the height of 1.6 metres from the finished floor level.
 2. The windows to the family room on the northern elevation be screened with a permanent non-removable obscure material to the height of 1.6 metres from the finished floor level.
 3. The windows to the master bedroom on the southern elevation be screened with a permanent non-removable obscure material to the height of 1.6 metres from the finished floor level.
 4. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
 5. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
 6. Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
 7. The works are 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.
 8. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 9. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 10. 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.
 11. All storm water is 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.
 12. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 13. 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.
 14. Any new crossovers which are constructed under this approval are 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.
 15. 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.

13 July 2010

MINUTES

16. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

That the applicant be advised of the following:

- (a) 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.
- (b) 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.
- (c) 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).
- (d) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

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

- variation to the external wall height on the northern elevation being 3.1 metres – 4.0 metres, and the southern elevation being 3.1 metres – 3.8 metres high, in lieu of the required 3.0 metre requirement of the R-Codes 2008;
- variation to the building setback on the northern elevation being 1.27 metres – 1.5 metres in lieu of the required 4.5 metres, and the building setback on the southern elevation being Nil – 1.78 metres in lieu of the required 4.5 metres;
- an increase in the retaining and fill up to a height of 0.9m in lieu of the 0.5 metres required under the R-Codes;
- variation to the minor incursion into the street setback area being 2.0 metres in lieu of the required 1.0 metre; and
- the wall height of the boundary wall being 3.6 metres in height, in lieu of the 3.0 metre maximum and 2.7 metre maximum average as per the buildings on boundary requirements of the Residential Design Codes 2008;

for a single-storey residence at No. 80 (Lot 355) King Street, East Fremantle as shown on plans received 27 May & 1 July 2010 and subject to the following conditions:

1. The patio on the northern, southern and eastern elevation be screened with a permanent non-removable obscure material to the height of 1.6 metres from the finished floor level.
2. The windows to the family room on the northern elevation be screened with a permanent non-removable obscure material to the height of 1.6 metres from the finished floor level.
3. The windows to the master bedroom on the southern elevation be screened with a permanent non-removable obscure material to the height of 1.6 metres from the finished floor level.
4. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
5. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
6. Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
7. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than

13 July 2010

MINUTES

- where varied in compliance with the conditions of this planning approval or with Council's further approval.
8. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 9. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 10. 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.
 11. All storm water is 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.
 12. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 13. 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.
 14. Any new crossovers which are constructed under this approval are 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.
 15. 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.
 16. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

That the applicant be advised of the following:

- (a) *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.*
- (b) *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.*
- (c) *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).*

CARRIED

13 July 2010

MINUTES

Cr de Jong having declared an interest in the following item as his property and the subject property abut one another, left the meeting at 9.21pm.

T169.18 Habgood Street No. 7 (Lot 5022)
Applicant/Owner: Bruce & Fiona Moriarty
Application No. P91/2010
By Gemma Basley, Acting Town Planner on Friday 9 July 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for additions to the 3-level house at 7 Habgood Street comprising:

Ground floor: add a deck and a 7m long x 3.8m wide swimming pool to the front, enlarge the living room and add an alfresco at the rear;
Upper floor: master bedroom, built-in-robos & en-suite, study, living room & balcony to the front, and balcony at the rear.

Preamble

The subject application has previously been approved by Council (20th May 2008) however the 2 year approval period has expired without substantial works being undertaken to implement the approval. The applicant has therefore been required to lodge a new application in order to obtain a current approval.

The subject application does not differ in any way to the previous application and there have been no changes to the requirements of Council's TPS No. 3 and/or the R-Codes that would necessitate the application being assessed in a different manner to the earlier application.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Local Planning Strategy - Richmond Hill 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 25 May 2010

Date Application Received

25 March 2010

Advertising

The application was advertised to the adjoining neighbours for the standard 2 week period. During this time no submissions or objections were lodged.

Date Advertised

10 June 2010

Close of Comment Period

25 June 2010

No. of Days Elapsed between Lodgement & Meeting Date

52 days

13 July 2010

MINUTES

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

14 August 1981	Building Permit 014/507 issued for the erection of a family room over the existing residence;
7 March 1986	Building Permit 148/1097 approved for a metal workshop;
16 March 2004	Council grants approval for a Home Occupation – Property Management & Real Estate Sales;
20 May 2008	Council exercises its discretion and grants approval for additions to the house.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 22 June 2010 and the following comments were made:

- Re-approval is supported
- significant improvement
- finishes will be critical to the success of this proposal
- some thought could be given to the design of the side elevations
- nice balance
- 200mm over height is noted
- Plans for basement carport required.

The comments received from the Panel are generally positive and in support of the application. In response to the comment regarding the importance of finishes to the dwelling, a condition is included in the recommendation to require a schedule of materials and finishes to be lodged prior to the issue of a building licence and to the satisfaction of the Chief Executive Officer (Condition 1).

Site Inspection

By Acting Town Planner 22 June 2010

REPORT

This application proposes additions to the 3-storey house at 7 Habgood Street, which incorporate a curved roof structure, which is considered to make a positive contribution to the appearance of the property and the local streetscape. The application is generally compliant with the exception of the following elements, which will be discussed in the next section of this report:

- Building Height;
- Rear Setback;
- Unscreened balcony setback/overlooking; and
- Roof pitch.

Variations

As discussed above, Council has previously supported numerous variations as part of the previous approval. The variations will be discussed below.

Requirement	Proposed	Acting Town Planner Comment.
<p><u>Building Height</u> LPP 142 stipulates a maximum roof height of 8.1 metres and a maximum wall height of 5.6 metres</p>	<p>Maximum roof height of 8.3 metres</p> <p>Upper floor master bed maximum wall height of 6.2 metres.</p> <p>Upper floor living room maximum wall height of 6.7 metres</p>	<p>Supported - As per previous approval and on the basis that the increased height in the two sections of the residence will not result in the loss of views to surrounding lots and will not result in any overshadowing above and beyond that already cast over the adjoining lot from the existing development.</p> <p>No objections were received from any surrounding landowners.</p>

13 July 2010

MINUTES

Requirement	Proposed	Acting Town Planner Comment.
<u>Boundary Setbacks</u> R12.5 6 metre rear setback.	4.52 metres from rear (south west) boundary.	Supported - As per previous approval and on the basis that the adjoining residences are well setback from the boundary. No objections were received from any neighbours regarding the reduced setback.
<u>Unscreened Balcony</u> 7.5 metres from the boundary.	2.2 metres from front boundary.	Supported - As per previous approval. The balcony will overlook the front setback area and the public domain and will not overlook outdoor living areas or into habitable rooms. As such, the unscreened balcony meets the Performance Criteria of the Codes.
<u>Roof Pitch</u> LPP No. 66 requires dominant elements to be greater than 28 degrees.	Curved roof pitched at approximately 10°.	Supported - As per previous approval. The roof form is interesting and will soften the building and make a positive impact on the streetscape.

The variations to roof pitch, wall height and setbacks are very minor, and are considered to be acceptable because there will be no detrimental impact on any adjoining or nearby property views. Given the proposal meets the majority of quantitative provisions of TPS No. 3, the R-Codes and Council Policies and given the subject application and proposed variations have previously been approved by Council, the application is considered acceptable and recommended for Council approval.

RECOMMENDATION

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

- variation to the northwest side boundary setback for a balcony pursuant to the Residential Design Codes from 7.5m to 2.2m;
- variation to roof height pursuant to Local Planning Policy 142 from 8.1m to 8.3m;
- variation to wall height on the northeast and northwest sides pursuant to Local Planning Policy 142 from 5.6m to 6.2m and 6.7m respectively;
- variation to roof pitch pursuant to Local Planning Policy 066 from 28° to a curved roof pitched at approximately 10°;

for the construction of additions to the 3-level (2-storey) house at No. 7 (Lot 5022) Habgood Street, East Fremantle comprising:

Ground floor: a deck and a 7m long x 3.8m wide swimming pool to the front, enlarge the living room and add an alfresco at the rear;

Upper floor: master bedroom, built-in-robos & en-suite, study, living room & balconies to the front, and rear.

in accordance with the plans date stamp received on 25 May 2010 subject to the following conditions:

1. a schedule of materials and finishes to be submitted prior to the issue of a building licence to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.

13 July 2010

MINUTES

4. the proposed additions 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.
5. 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 introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. the proposed works for the swimming pool are not to be commenced until approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
8. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
9. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
10. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
11. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
12. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
13. pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
14. 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).*

13 July 2010

MINUTES

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

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

- variation to the northwest side boundary setback for a balcony pursuant to the Residential Design Codes from 7.5m to 2.2m;
- variation to roof height pursuant to Local Planning Policy 142 from 8.1m to 8.3m;
- variation to wall height on the northeast and northwest sides pursuant to Local Planning Policy 142 from 5.6m to 6.2m and 6.7m respectively;
- variation to roof pitch pursuant to Local Planning Policy 066 from 28° to a curved roof pitched at approximately 10°;

for the construction of additions to the 3-level (2-storey) house at No. 7 (Lot 5022) Habgood Street, East Fremantle comprising:

Ground floor: a deck and a 7m long x 3.8m wide swimming pool to the front, enlarge the living room and add an alfresco at the rear;

Upper floor: master bedroom, built-in-robos & en-suite, study, living room & balconies to the front, and rear.

in accordance with the plans date stamp received on 25 May 2010 subject to the following conditions:

1. a schedule of materials and finishes to be submitted prior to the issue of a building licence to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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 building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. the proposed additions 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.
5. 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 introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. the proposed works for the swimming pool are not to be commenced until approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
8. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
9. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
10. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.

13 July 2010

MINUTES

11. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
12. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
13. pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
14. 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).*

CARRIED

Cr de Jong returned to the meeting at 9.24pm and it should be noted that he neither spoke nor voted on the foregoing item.

T169.19 Council Place No. 4 (Lot 3)

Applicant: Brian Klopper

Owner: Alan Field

Application No. P72/2010

By Gemma Claire Basley, Acting Town Planner on 30 June 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for 2 'live work' units has been received for the front portion of 4 Council Place, East Fremantle. More specifically an application has been received for the development of 2 two-storey grouped dwellings with a 'home office' on the ground floor.

Unit 1, which will front Council Place, is proposed to include a 'home office' on the ground floor with a sitting room and other amenities including a garage and store area with a floor area of approximately 80m². The upper floor is proposed to have an area in the order of 85m² and contain a master bedroom, ensuite, a living area and kitchen. The upper floor will also include two north facing 'Juliette balconies' and an outdoor living area with an area of approximately 16.5m². The outdoor living area will extend to the northern boundary.

Unit 2 is proposed to have a 'home office', sitting room, toilet and other amenities such as a garage and store room with a total floor area of approximately 86m² on the ground floor. The upper floor is proposed to have an area in the order of 88m² and contain a master bedroom, ensuite, living area and kitchen. The upper floor will also include one

13 July 2010

MINUTES

north facing and one south facing 'Juliette balcony' and an outdoor living area with an area in the order of 25.5m², which will extend to the northern boundary.

The proposal involves the demolition of the existing fibro house (not listed on Council's Municipal Inventory) that fronts Council Place.

The application proposes a nil setback to Council Place and an awning over the footpath of Council Place, consistent with the adjoining development.

Description of Site

The subject site is:

- a 306m² survey strata block
- zoned 'Town Centre'
- developed with a fibro house and two storey units at the rear
- adjoins to the north a two-storey unit with a nil setback to Council Place
- adjoins to the south a laneway associated with the commercial buildings on the corner of Council Place and St Peters Lane

Statutory Considerations

Town Planning Scheme No. 3 – Town Centre
Local Planning Strategy – Woodside Precinct (LPS)
Residential Design Codes (R-Codes)

Relevant Council Policies

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

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : Awning proposed to overhang the footpath

Documentation

Plans and relevant forms date stamp received 6th July 2010.

Date Application Received

19 April 2010
6 July 2010 Revised Plans received

Advertising

Adjoining landowners were advised of the proposed development application and a sign was placed on site. The advertising period was for 14 days between the 4 May 2010 and the 19 May 2010.

During the advertising period one submission from the owner of 2 Council Place was received, which stated that there was no objection to the proposal and the proposed boundary walls along the southern boundary (shared boundary).

No. of Days Elapsed between Lodgement & Meeting Date

105 Days (applicant agreed to a deferral last month in order to allow reconsideration of proposal due to non conforming elements at that time)

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

10 March 2009 Council grants approval for the construction of two 2-storey single bedroom grouped dwellings at the rear, a verandah extension at the front and a double carport with tiled roof to match the existing house at No. 4 Council Place.

13 July 2010

MINUTES

- 10 July 2009 Under Delegated Authority, support was given to the Western Australian Planning Commission (WAPC) for the subdivision of 4 Council Place into 3 survey strata lots plus a lot for common property.
- 19 March 2010 Under Delegated Authority, conditions of the WAPC Survey Strata approval were cleared.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 25 May 2010 and the following comments were made:

TPAP Comment	Applicant Response
Council needs to take note of previous planning approvals for the lots to the rear	Retention of the existing house was included in the original submission but it was not a condition of the planning approval
Is retention of the existing residence subject of previous approval?	As above
The density proposed is technically supported	I believe the resulting density will be appropriate to the town Centre zone.
Query the overall social and economic concept of a 1 bed apartment over commercial premises; consider amalgamation of two residences to provide greater degree of domestic flexibility and larger commercial space.	I question the panel's economic expertise, The experience of the shopping centre would indicate that it is difficult to find tenants for any commercial space let alone large commercial spaces live/work units will increase our chances. In regard to "domestic flexibility" we need affordable housing not large houses.
Properties to the rear will be compromised	Part of the reason for this proposal is to open up the driveway by setting the new units back from the existing house footprint and in so doing improve the amenity of the rear units.
Query effectiveness of 'lattice-work' screening in providing visual privacy	"lattice-work" is an inaccurate description (my mistake). I propose a screen of timber slats that will permit air movement but screen any view to or from the terrace area.
Query car access and egress requirements are practicable and meet code requirements	I take the panel's point in regard to car access and have amended the wall piers accordingly. It now barely complies with the turning templates. We intend to layout the situation on the shopping centre car park and test the situation. I am confident it will be satisfactory and I would point out that the parking code is based on the 1979 Ford LTD. Modern SUV's are shorter with shorter overhangs and better turning circles.

Town Planner's Response

Whilst it is correct that retention of the existing house was not a condition of the previous planning approval, it was clearly a factor which was taken into consideration in that approval. Council was advised at that time that not only would the existing house be retained, the front verandah was to be extended and a new carport built, with a tile roof to match the existing house.

Whilst it is not known to what extent the retention of the existing house influenced the decision of elected members with respect to the previous approval, it is noted the approval was the subject of a large number of significant relaxations.

13 July 2010

MINUTES

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval. The Principal Building Surveyor did however; note the requirements for approval of the proposed awning over the Council Place footpath under the Local Government (Miscellaneous Provisions) Act 1960.

Site Inspection

By Acting Town Planner on 18 March 2010 and 31 May 2010

REPORT

Land Use

4 Council Place comprises 680m². A Survey Strata Approval however, which has been endorsed (with titles in order for dealing) creates Lot 1 with an area of 306m², which is the subject of this application. Part of the survey strata approval allows an easement of between 0.59m and 0.63m wide over the Common Property (for future balconies).

This application proposes the development of two 2-storey grouped dwellings with a home office on the ground floor. The density of development proposed is R-Inner City (R-IC), which allows for grouped dwellings to be developed on lot greater in area than 110m².

The subject site is zoned 'Town Centre' under Council's TPS No. 3. TPS 3 allows for residential development at a density in excess of R40 where it is satisfied that the resultant design and mix of development will be consistent with the planning proposals contained in the LPS and accord with any approved development plan for the centre. In support of achieving a higher density on the site (RIC), the LPS states with regard to land use in the Town Centre Precinct:

"Land Use

It is the Council's intention to achieve consolidated attractive development, which includes retail, office, community and residential uses around a central square. Shops and businesses would be encouraged at ground level and offices and residential development at upper levels except on the perimeter of the precinct where residential would be appropriate on all levels."

Being on the perimeter of the town centre precinct, this application for residential development at a RIC density conforms to Council's intent for land use under the LPS and as such the increased density is supported, consistent with surrounding development.

Under the 'Town Centre' zone a 'Grouped Dwelling' is classified as 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.". Similarly a 'Home Office' is classified as a "P" uses, which "means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme." Both the home office and the grouped dwelling are land uses that can be approved by Council under this application.

A home office is defined as 'a home occupation limited to a business carried out solely within a dwelling by a resident of that dwelling but which does not;

- (a) entail clients or customers travelling to and from the dwelling
- (b) involve any advertising signs on the premises; or
- (c) require any external change to the appearance of the dwelling.'

As per the definition a Home Office will be assessed against the home occupation requirements, as modified by the home office use requirement and will be conditioned accordingly. The table below outlines the home occupation requirements and identifies if the subject application meets the requirements of TPS No. 3.

13 July 2010

MINUTES

Home Office - Required	Comment
Does not employ any person not a member of the occupier's household	Applicant has advised that the owner of each unit will be the only employee – see Condition 12
Will not cause injury to or adversely affect the amenity of the neighbourhood	No impact on neighbourhood
Does not occupy an area greater than 20 square metres	See Condition 12
Does not involve the retail sale, display or hire of goods of any nature	See Condition 12
In relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles	Applicant advises that there will not be any vehicles associated with the Home Office. See Condition 12
Does not involve the use of an essential service of greater capacity than normally required in the zone	Complies
Does not entail clients or customers travelling to and from the dwelling	See Condition 12
Does not involve any advertising signs on the premises	See Condition 12
Does not require any external change to the appearance of the dwelling.	N/a

Section 5.8 of TPS No. 3 deals with the Commercial Zones, which includes the Town Centre zone. The application complies with the requirements of this clause, which includes building height and plot ratio.

Compliance

The proposal complies with all of the requirements of TPS No. 3 and the R-Codes with the exception of the following each of which is discussed separately.

- privacy screening to the north;
- awning placement height;
- vehicle manoeuvring and parking; and
- boundary wall height.

Privacy

The application proposes 4 north facing major openings (“Juliette Balcony” or a standard balcony) and outdoor living areas on the upper floors of the proposed units, which requires a 7.5m privacy separation or the provision of appropriate screening. The application proposes a setback of between nil and 5.5 metres. The proposed setbacks are not sufficient.

The applicant has put forward the provision of screening around the outdoor living areas but this has not been deemed to be satisfactory. In this regard a condition is recommended to require the provision of appropriate screening to all north facing openings on the upper floor, to the satisfaction of the Chief Executive Officer.

Vehicle Manoeuvring and Parking

The applicant has demonstrated that by pulling back the columns of the garages, the vehicles will be able to manoeuvre in accordance with the requirements of the Codes and TPS No. 3. To ensure, this occurs a condition is recommended that revised plans be

13 July 2010

MINUTES

submitted prior to the issue of a building licence to demonstrate that all vehicles can manoeuvre and park appropriately to the satisfaction of the Chief Executive Officer.

Boundary Wall Height

The R-Codes allow for boundary walls in the R-IC to be not higher than 3.5 metres with no limit in length or walls not higher than 6.5m for two-thirds of the length of the boundary or 12m, whichever is the lesser.

A boundary wall is already developed on the southern boundary of 2 Council Place and has a length of 6.9 metres and a height of 5.2 metres. The subject application proposes to extend this boundary wall eastwards along the entire northern boundary and specifically a further 18.2m with a height ranging from 2.4 metres to 4 metres. This requires a variation to the requirements of the R-Codes.

Awning Placement Height

Division 8, Section 400 Subsection (2) of the Local Government (Miscellaneous Provisions) Act 1960 allows for the Local Government to approve the placement of an awning or verandah at least 2.75m above the footpath in a street, way or other public place.

In accordance with this Act, approval can be granted for the proposed awning. The awning as proposed however, does not meet the requirements however of being at least 2.75m above the footpath. A condition is recommended to make this a requirement.

See Condition 1(b).

Variations

As demonstrated above, the application requires several variations to the R-Codes and Council's TPS No. 3 and are detailed below:

Requirement	Proposed	Acting Town Planner Comment
<p><u>Vehicle Manoeuvring and Parking</u> In accordance with the requirements of Clause 5.8.5, and Schedule 11 of TPS No. 3</p>	<p>Turning area does not meet the requirements of TPS No. 3</p>	<p>Not Supported - It is essential that the vehicles accessing the proposed units are able to access and egress the site in a forward direction, conveniently. A condition is recommended to require this to be demonstrated prior to the issue of a Building Licence. See Condition 1(a)</p>
<p><u>Boundary Walls</u> R-IC to be not higher than 3.5 metres with no limit in length or walls not higher than 6.5 metres for two-thirds of the length of the boundary or 12 metres, whichever is the lesser.</p>	<p>An 18.2m long boundary wall with a height ranging from 2.4 metres to 4 metres</p>	<p>Supported - Whilst the wall length is longer than permitted under the Codes, the proposed wall height is significantly less than permitted under the Codes.</p> <p>The adjoining neighbour has supported the proposed boundary wall length and height.</p> <p>It is considered that the use of a boundary wall with a minimum height of 2.4m will add to the provision of privacy for the subject and the proposed development.</p> <p>The variation to the wall length is supported.</p>

13 July 2010

MINUTES

Requirement	Proposed	Acting Town Planner Comment
<u>Visual Privacy</u> 7.5m cone of vision from outdoor living areas	Nil to 5.5m	<p>Not Supported - The variation to the visual privacy requirements is considered unacceptable because of the potential impacts on the residential unit to the north.</p> <p>A condition is recommended to require adequate screening measures. See Condition 1(c)</p>

CONCLUSION

The proposed grouped dwellings with a home office at 4 Council Place, East Fremantle is considered to meet the land use objectives of the LPS, and provides a mix of housing types and provides for additional employment opportunities in the town centre.

Local character will be consolidated via this proposed development and will round of the development of this area that approaches the Council Place and St Peters Lane intersection.

Given the proposal meets the majority of quantitative provisions of TPS No. 3, the R-Codes and Council Policies and given the variations being requested are minor, the plans is considered acceptable and recommended for Council approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the length of the boundary wall to allow an 18.2m boundary wall with a height ranging from 2.4m to 4.0m for the construction of two x 2-storey grouped dwellings, each with a home office at No. 4 (proposed Lot 1) Council Place, East Fremantle in accordance with the plans date stamp received on 19 April & 6 July 2010 subject to the following conditions:

1. Prior to the issue of a building licence amended plans be submitted to the satisfaction of the Chief Executive Officer in consultation with relevant officers to demonstrate the following:
 - (a) car parking and vehicular access meets the requirements of Clause 5.8.5 and Schedule 11 of TPS No. 3;
 - (b) the proposed awning over the footpath of Council Place to be a minimum vertical distance of 2.75 metres between the footpath and the base of the awning;
 - (c) the provision of satisfactory privacy screening along the northern boundary of the site and in relation to the visual privacy cone that extends northwards from the proposed Juliette balconies and outdoor living areas of both units.
 - (d) the home office not occupy any area greater than 20m².
2. The works are 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.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed dwellings 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.
6. All stormwater is 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

13 July 2010

MINUTES

- Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. All parapet walls are 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.
 8. 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. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 9. Any new crossovers which are constructed under this approval are 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.
 10. 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.
 11. 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.
 12. The home office to not:
 - employ any person not a member of the occupier's household;
 - entail clients or customers travelling to or from the dwelling;
 - occupy an area greater than 20m²;
 - involve any advertising signs on the premises;
 - involve the retail sale, display or hire of goods of any nature.
 13. 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.*

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That Council exercise its discretion in granting approval for a variation to the length of the boundary wall to allow an 18.2m boundary wall with a height ranging from 2.4m to 4.0m for the construction of two x 2-storey grouped dwellings, each with a home office at No. 4 (proposed Lot 1) Council Place, East Fremantle in accordance with the plans date stamp received on 19 April & 6 July 2010 subject to the following conditions:

13 July 2010

MINUTES

1. Prior to the issue of a building licence amended plans be submitted to the satisfaction of the Chief Executive Officer in consultation with relevant officers to demonstrate the following:
 - (a) car parking and vehicular access meets the requirements of Clause 5.8.5 and Schedule 11 of TPS No. 3;
 - (b) the proposed awning over the footpath of Council Place to be a minimum vertical distance of 2.75 metres between the footpath and the base of the awning;
 - (c) the provision of satisfactory privacy screening along the northern boundary of the site and in relation to the visual privacy cone that extends northwards from the proposed Juliette balconies and outdoor living areas of both units.
 - (d) the home office not occupy any area greater than 20m².
2. Prior to the issue of a Building Licence a 'schedule of materials & finishes' be submitted to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
3. The works are 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.
4. 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. The proposed dwellings 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.
7. All stormwater is 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.
8. All parapet walls are 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.
9. 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. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. Any new crossovers which are constructed under this approval are 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.
11. 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.
12. The zinalume 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.

13 July 2010

MINUTES

13. The home office to not:
- employ any person not a member of the occupier's household;
 - entail clients or customers travelling to or from the dwelling;
 - occupy an area greater than 20m²;
 - involve any advertising signs on the premises;
 - involve the retail sale, display or hire of goods of any nature.
14. 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.* CARRIED

T169.20 *Fraser Street No. 48 (Lot 7)*
Applicant & Owner: George Gonthier
Application No. P85/2010
By Clare Roszak, Acting Planning Officer on 9 July 2010

BACKGROUND

Description of Proposal

An Application for Planning Approval for alterations and additions to the existing single house located at No. 48 Fraser Street is the subject of this report.

The application includes the addition of a new shed, gazebo, deck, carport and retaining wall to the existing dwelling.

Description of site

The subject site is:

- a 827m² block
- zoned Residential R12.5
- developed with a dwelling on-site
- located in the Richmond Precinct

Statutory Considerations

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

Relevant Council Policies

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

13 July 2010

MINUTES

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : No impact

Documentation

Plans and relevant forms date stamp received on 11 May 2010
Amended plans received 2 July 2010

Date Application Received

11 May 2010

No. of Days Elapsed between Lodgement & Meeting Date

70 days

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

Nil.

Advertising

The subject application was advertised to adjoining landowners for the standard 2 week period from the 27/5/2010 to the 11/6/2010. There were no comments received during this time.

CONSULTATION

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Town Planning Advisory Panel Comments

The Panel viewed the proposal on 22 June 2010. The Panel's advice is set out and responded to below:

Advisory Panel Comments	Applicant Response
Front elevation required including streetscape elevation	Revised plans received showing front elevation including streetscape elevation.
Carport elevations and schedule of materials to be provided.	Applicant advises that carport materials are galvanised steel frames as detailed in the engineering drawings and colorbond roof gutters. The steel will be painted when the whole exterior of the house is painted.
Carport should be pulled back (southward).	The applicant advises as shown in the elevations, the block slopes down away from the street. The rear building has only north facing windows and is also lower than the house. Putting the carport level with the front of the house allows light to reach the bedroom.
Query carport location – why not closer to house.	Applicant advises the carport is not closer to the house due to the position of windows and the slope of the land. It is thought if the carport were moved towards the southern boundary it would block sunlight into the north facing windows. Also highlighted by the applicant was the existing chimney located to the rear of the proposed carport, which makes it difficult to attach to the main dwelling.

13 July 2010

MINUTES

REPORT

Comment

Approval is sought for alterations and additions to the existing dwelling, located at No 48 Fraser Street, East Fremantle.

There are two major components to this application, firstly the additions to the front of the dwelling comprising of a carport addition. The addition is not seen to have an adverse affect on the streetscape appearance as the proposed carport is adequately setback in accordance LLP 142.

The second component of the development proposes a gazebo and shed addition located within the south west corner of the lot. A retaining wall running adjacent to the western boundary is also proposed, the proposed retaining wall seeks a variation to the permitted height of retaining walls as per the Residential Design Codes 2008, see table below for further discussion.

Considerations

In addition to the above, the proposal meets the quantitative provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

Requirement	Proposed	Planning Officer Comments
R-Codes: <u>Building Setbacks</u> East (Carport) 1.0 metre	Nil	Supported – no objections were received during the community consultation process, additionally the reduced setback is considered to meet the performance criteria of Clause 6.3.1 of the R-Codes 2008 relating to adequate sun and ventilation exposure to the subject and neighbouring property as neither properties are adversely effected in this respect. Additionally, the setback variation is not considered to have an undue impact on the Fraser Street streetscape.
South (Gazebo & Shed) 1.0 metre	Nil	Supported – As above.
West (Gazebo & Shed) 1.0 metre	Nil	Supported – As above.
<u>Building on Boundaries</u> R12.5 – Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions	Southern Boundary Wall Height: 3.0m Length: 3.0m	Supported – although the proposed boundary wall does not abut a structure similar in nature, it is not considered to adversely affect the adjoining property as the shadow cast falls within the overshadowing requirements of the R-Codes. The proposed boundary wall will have no impact on the visual amenity on either the Fraser street or Windsor Street streetscape due to its location at the rear of the lot.

13 July 2010

MINUTES

Requirement	Proposed	Planning Officer Comments
<u>Excavation and Fill</u> Cut/fill not to exceed 05 metres	Western retaining wall: 0.765m – 1.59m	Supported – taking the slope of the land into consideration it is considered more appropriate to have this higher retaining than to have the dwelling stepped down. By doing so the proposal meets the performance criteria of Clause 6.6.1 of the R-Codes as the development retains the visual impression of the natural ground level of the site as seen from the street.

Given the proposal meets the majority of the provisional requirements of the Residential Design Codes and the Town's Local Planning Policies, the application can be supported. Whilst variations are being pursued it is considered that the variations are minor in nature.

RECOMMENDATION

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

- variation to the building setback on the eastern, southern and western elevation being nil metres in lieu of the required 1.0 metres as per the building setback requirements of the Residential Design Codes;
- a portion of the ground floor setback to the northern boundary of nil – 1.1 metres in lieu of the 1.6 metres required setback as per the building setback requirements of the Residential Design Codes;
- the wall height of the boundary wall being 3.0 metres in height, in lieu of 3.0 and 2.7 metres as per the buildings on boundary requirements of the Residential Design Codes;
- the retaining wall height of 0.765 metres – 1.59 metres, in lieu of the 0.5 metre requirement as per the Residential Design Codes;

for the construction of alterations and additions at No. 48 (Lot 7) Fraser Street, East Fremantle in accordance with the plans date stamp received on 11 May 2010, and revised plans received 2 July 2010 subject to the following conditions:

1. the works are 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. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
3. the proposed alterations and additions 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.
4. all stormwater is 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. 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.
6. 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.

13 July 2010

MINUTES

7. 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.
8. 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) *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).*

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Lilleyman

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

- **variation to the building setback on the eastern, southern and western elevation being nil metres in lieu of the required 1.0 metres as per the building setback requirements of the Residential Design Codes;**
- **a portion of the ground floor setback to the northern boundary of nil – 1.1 metres in lieu of the 1.6 metres required setback as per the building setback requirements of the Residential Design Codes;**
- **the wall height of the boundary wall being 3.0 metres in height, in lieu of 3.0 and 2.7 metres as per the buildings on boundary requirements of the Residential Design Codes;**
- **the retaining wall height of 0.765 metres – 1.59 metres, in lieu of the 0.5 metre requirement as per the Residential Design Codes;**

for the construction of alterations and additions at No. 48 (Lot 7) Fraser Street, East Fremantle in accordance with the plans date stamp received on 11 May 2010, and revised plans received 2 July 2010 subject to the following conditions:

1. **the works are 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. **with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
3. **the proposed alterations and additions 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.**
4. **all stormwater is 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. **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.**
6. **any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue**

13 July 2010

MINUTES

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.

7. 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.
8. 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) *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).*

CARRIED

T169.21 *Pier Street No. 56 (Lot 108)*
Owner: Christine & David Rowlands
Applicant: Croudace Architects
Application No. P92/2010
By Gemma Basley, Acting Town Planner on 12 July 2010

BACKGROUND

Description of site

The subject site is:

- a 890² block,
- zoned Residential R12.5;
- an undeveloped site with a fall of 7 metres from north to south;
- adjoins two vacant lots to the west and a lot with a two-storey dwelling to the east; and
- located in the Richmond Hill Precinct.

Description of Proposal

It is proposed to construct a two-storey house at 56 Pier Street that is well set back from the street and the residence that adjoins to the east and with a garage that will not be visible from the street. More specifically the dwelling will comprise the following:

Ground Floor: 3 bedrooms, an ensuite and robe, bathroom, entry and porch, laundry and garage.

First Floor: A front deck, kitchen, living and dining area, studio/bedroom 4 and a rear deck

The proposed residence is a unique and contemporary design that works with the natural topography of the site as opposed to undertaking major earthworks.

The plans also identify 4 rainwater tanks adjacent to the eastern boundary. The applicant advises that these are nominal at present and will be the subject of a separate application as with front fencing.

The proposed roof is to be a flat/concealed roof.

Statutory Considerations

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

13 July 2010

MINUTES

Relevant Council Policies

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)

Date Application Received

27 May 2010
2 July 3D Elevation received

No. of Days Elapsed between Lodgement & Meeting Date

51 days

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

Nil

CONSULTATION

Advertising

Adjoining landowners were advised of the proposal and were given a two week period between the 9 June 2010 and 24 June 2010 in which to lodge any submissions or objections.

No comments were received during the advertising period.

Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

Town Planning Advisory Panel

The Panel viewed the proposal at its meeting of 22 June 2010 and made the following comments:

Advisory Panel comment	Response from Planner
Interesting design	Noted
Query any potential overlooking	Overlooking could occur to the west from the rear deck and from the kitchen. Screening is proposed on the western side of the rear deck and will continue along the side of the stairs leading into the garden. (See Conditions 1 & 2)
Detailed landscaping plan for the front elevation to be provided.	The applicant has identified potential landscaping on the 3D elevation. A landscaping condition is included in the Recommendation. (See Condition 3)
Further information required on the volume, design and materials for rainwater tanks.	These are nominal at this stage and do not form part of the proposed approval and will be subject to a separate application together with fencing.
Proposed wall heights to be confirmed.	Maximum wall height is 6.9 metres.
Request a decent CAD elevation	Applicant has provided.

Site Inspection

By Acting Town Planner 22 June 2010

REPORT

Considerations

The proposal meets the majority of the quantitative provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

13 July 2010

MINUTES

R-Codes and Council's Local Planning Strategy

Requirement	Proposed	Acting Town Planner Comment
<u>West Boundary Setback</u> 21.69 metre long wall with average height of 4.85 metres with major openings requires a setback of 4.2 metres	2.63 metres	<p>Not Supported - Condition to require the building to be set back in accordance with the R-Codes or to require screening to west facing kitchen window. (See Condition 1)</p> <p>Condition to require the provision of 1.6 metre high screening along the western side of the front and rear deck (refer Condition 2).</p>
<u>Building Height</u> Maximum wall height 6.5 metres (concealed roof)	Maximum of 6.9 metres and average of 6.2 metres	<p>Supported - The variation of 0.4m is supported. The increased wall height in a small section of the proposed residence is offset by the reduced average wall height and the use of a flat roof as opposed to a pitched roof.</p> <p>The small section of wall exceeding 6.5 metres will not result in any overshadowing and will not impact on view corridors of neighbouring properties.</p>
<u>Roof Pitch</u> Prominent elements to be 28°	0 degrees	<p>Supported - The use of flat/skillion roofing in the design results in the building scale and building bulk being significantly reduced as well as the overall height. This in turn reduces building height and resultant impacts on views.</p>
<u>Overlooking</u> 7.5m from balconies		<p>Not Supported - As above, a condition is recommended to require the provision of screening along the western boundary of the front and rear deck and also to the west facing kitchen window (refer Conditions 1 & 2).</p>

Due to the significant slope over the property, which falls up to 7 metres from the rear to the front boundary, it is not unreasonable to expect that a minor building height variation will occur. It is considered that the subject application has kept the height variations to a minimum and proposes nothing over and above that which has been approved on the adjoining lot.

The subject design is considered to have a minimal impact on the views from surrounding lots.

The design proposes the garage to be at the rear of the property and not in street view. This design approach is supported and commended.

Given that the proposal meets the majority of the quantitative provisions of TPS3, the R-Codes and Local Planning Policies and given that the variations that are requested are minor, the plan is considered acceptable and is recommended for Council approval.

13 July 2010

MINUTES

RECOMMENDATION

That Council exercise its discretion in granting approval for:

- a variation of 0.4m to the maximum wall heights specified in LPP No. 143; and
- a variation to LPP No. 66 to allow a flat roof;

for a two-storey house at No. 56 (Lot 108) Pier Street, East Fremantle, as shown on plans date stamped 27 May and 2 July 2010 and subject to the following conditions:

1. Unless the plans are modified to set back the building in accordance with the R-Codes, the west facing kitchen window to be obscured or screened to meet the privacy requirements of the R-Codes, to the satisfaction of the Chief Executive Officer.
2. Unless the plans are modified to set back the building in accordance with the R-Codes, screening to be provided on the western edge of front and rear decking areas, to the satisfaction of the Chief Executive Officer.
3. The front setback area to be landscaped in accordance and a landscaping plan is to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.
4. Any air-conditioning plant is to be positioned so that it that will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a Building Licence.
5. Details of materials and finishes are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a Building Licence.
6. All storm water resulting from the development is to be retained on site.
7. The works are 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.
8. 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.
9. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
10. The proposed works 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.
11. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
12. This planning approval to remain valid for a period of 24 months from date of this approval.
13. Additional information demonstrating how vehicle access to the undercroft can be provided without raising the ground floor level of the dwelling and without requiring a driveway to be cut in at the subject lot's front boundary is to be provided to and endorsed by the Chief Executive Officer prior to issuance of a Building Licence

That the applicant be advised of the following:

- (a) *This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.*
- (b) *This approval does not cover the construction of any rainwater tanks which must be the subject of a separate planning application and building licence.*
- (c) *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.*

13 July 2010

MINUTES

- (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) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

RECOMMENDATION TO COUNCIL

Cr de Jong – Mayor Ferris

That Council exercise its discretion in granting approval for:

- a variation of 0.4m to the maximum wall heights specified in LPP No. 143; and
- a variation to LPP No. 66 to allow a flat roof;

for a two-storey house at No. 56 (Lot 108) Pier Street, East Fremantle, as shown on plans date stamped 27 May and 2 July 2010 and subject to the following conditions:

1. **Unless the plans are modified to set back the building in accordance with the R-Codes, the west facing kitchen window to be obscured or screened to meet the privacy requirements of the R-Codes, to the satisfaction of the Chief Executive Officer.**
2. **Unless the plans are modified to set back the building in accordance with the R-Codes, screening to be provided on the western edge of front and rear decking areas, to the satisfaction of the Chief Executive Officer.**
3. **The front setback area to be landscaped in accordance and a landscaping plan is to be provided to and endorsed by the Chief Executive Officer prior to the issue of a building licence.**
4. **Any air-conditioning plant is to be positioned so that it that will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a Building Licence.**
5. **Details of materials and finishes are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a Building Licence.**
6. **All storm water resulting from the development is to be retained on site.**
7. **The works are 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.**
8. **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.**
9. **With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
10. **The proposed works 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.**
11. **All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
12. **This planning approval to remain valid for a period of 24 months from date of this approval.**
13. **Additional information demonstrating how vehicle access to the undercroft can be provided without raising the ground floor level of the dwelling and without requiring a driveway to be cut in at the subject lot's front boundary is to be provided to and endorsed by the Chief Executive Officer prior to issuance of a Building Licence**

13 July 2010

MINUTES

That the applicant be advised of the following:

- (a) *This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.*
 - (b) *This approval does not cover the construction of any rainwater tanks which must be the subject of a separate planning application and building licence.*
 - (c) *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.*
 - (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) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- CARRIED

T170. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T170.1 Town Centre

Both Mayor Ferris and Acting Town Planner, Ms Gemma Basley, provided progress reports on their respective meetings with Mr John Collier and Mr Russell Quinn in relation to the Town Centre.

Elected members were advised that Mr Quinn wanted in-principle support prior to the submission of detailed plans.

T171. CLOSURE OF MEETING

There being no further business the meeting closed at 9.55pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee (Private Domain)** of the Town of East Fremantle, held on **13 July 2010**, Minute Book reference **T163. to T171.** were confirmed at the meeting of the Committee on*

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Presiding Member