



10 July 2007

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 10 JULY 2007, COMMENCING AT 6.34PM.

PART II

T71.8 **Salvado Road No. 1 (Lot 1)**
Applicant & Owner: Bruce Vincent Shorter
Application No. P120/07
By Chris Warrener, Consultant Town Planner on 28 June 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval pursuant to sub-clause 8.4.1 of Town Planning Scheme No 3 for development already carried out comprising a store room, and change to the shape of the roof of the carport at 1 Salvado Avenue.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5
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 11 June 2007

Date Application Received

11 June 2007

Advertising

Adjoining land owners only

Date Advertised

14 June 2007

Close of Comment Period

28 June 2007

No. of Days Elapsed between Lodgement & Meeting Date

29 days

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

17 October 2006 Council grants conditional approval for variations to the north and east side boundary setbacks for the construction of ground level extensions to the house at 1 Salvado Avenue, (Lot 1), East Fremantle comprising dining and family room, a laundry, built in robes, an en suite, a deck/verandah and a separate double carport.

CONSULTATION

Public Submissions

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

Site Inspection

By Consultant Town Planner on 26 June 2007



10 July 2007

MINUTES

REPORT

Issues

Unauthorised Development

In October 2006 Council approved works to improve the single house at 1 Salvado Avenue.

In the process of undertaking the approved works the builder has changed the pitch of the roof of the separate double carport from a gable at 25° to a skillion at 3° attached to the east side of the main house.

In addition the builder has constructed a separate 2.95m long X 2.53m wide X 2.4m high store room setback 1.73m from the east side wall of the single house, and set back 1m from the north side boundary common with 58 Staton Road.

The above-referred building works were not the subject of the original Planning Approval nor were they the subject of the subsequent Building Licence therefore they have been undertaken in contravention of TPS 3, and are potentially subject to the penalties prescribed in the Planning and Development Act 2005, which states:

“218. Contravention of Planning Scheme

A person who –

- (a) contravenes the provisions of a planning scheme;*
- (b) commences, continues or carries out any development in any part of a region the subject of a region planning scheme or any part of an area the subject of a local planning scheme otherwise than in accordance with the provisions of the planning scheme; or*
- (c) commences, continues or carries out any such development which is required to comply with a planning scheme otherwise than in accordance with any condition imposed under this Act or the scheme with respect to the development, or otherwise fails to comply with any such condition,*
commits an offence.

223. Penalty for Offence

Unless otherwise provided, a person who commits an offence under this Act is liable to a penalty of \$50,000.00 and, in the case of a continuing offence, a further fine of \$5 000 for each day during which the offence continues.”

Discussion

Notwithstanding that the works have been carried out and were unauthorised, TPS 3 sub-clause 8.4.1 states:

“The local government may grant planning approval to a use or development already commenced or carried out regardless of when it was commenced or carried out, if the development conforms to the provisions of the Scheme.”

In the case of the unauthorised works they conform with the provisions of TPS 3/RDC in regard to setbacks, and do not involve variations for which Council discretion is required to be exercised.

The attached double carport is considered to have a better appearance than a separate carport by virtue of it being less obtrusive, and “fitting in” with the “look” of the property.

The potentially affected adjoining property owners have not objected to the development.



10 July 2007

MINUTES

RECOMMENDATION

That Council pursuant to Town Planning Scheme No 3, sub-clause 8.4.1 grant approval for a store room, and change to the carport at No. 1(Lot 1) Salvado Avenue, East Fremantle subject to the applicant seeking a retrospective acknowledgement from Council's Building Surveyor to ensure that the works are structurally sound and comply with the relevant regulations.

Footnote:

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

- (a) *this decision of Council 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 retrospective acknowledgement is to conform with the approved plans unless otherwise approved by Council.*

RECOMMENDATION TO COUNCIL

Mr Martin – Mayor O'Neill

That Council pursuant to Town Planning Scheme No 3, sub-clause 8.4.1 grant approval for a store room, and change to the carport at No. 1(Lot 1) Salvado Avenue, East Fremantle subject to the applicant seeking a retrospective acknowledgement from Council's Building Surveyor to ensure that the works are structurally sound and comply with the relevant regulations.

Footnote:

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

- (a) *this decision of Council 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 retrospective acknowledgement is to conform with the approved plans unless otherwise approved by Council.*

CARRIED

T71.9

Fraser Street No. 2 (Lot 801)

Applicant: Westral Outdoor Centre

Owner: Domenic Chiappini

Application No. P106/07

By Chris Warrener, Consultant Town Planner on 22 June 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for two flat roofed patios either side of the cabana at the rear of the 2-storey house at 2 Fraser Street.

Patio 1 is 6m long X 4m wide X 2.4m high, patio 2 is 3.6m long X 3m wide X 2.4m high.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5

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 18 May 2007

Date Application Received

18 May 2007



10 July 2007

MINUTES

Advertising

Adjoining land owners only

Date Advertised

5 June 2007

Close of Comment Period

19 June 2007

No. of Days Elapsed between Lodgement & Meeting Date

53 days

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

20 March 2002 WAPC endorses for final approval Deposited Plan 30910 to subdivide Lot 1703 into 2 lots (1 X 549m², 1 X 470m²) creating 2 Fraser Street & 58 Preston Point Road;
15 June 2004 Council grants conditional special approval for a 2-storey house with reduced east side ground & upper floor setbacks;
7 September 2004 Building Licence 3629 issued for 2-storey house;
11 November 2005 CEO grants approval for a 4.5m crossover.

CONSULTATION

Public Submissions

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

Site Inspection

By Consultant Town Planner on 24 May 2007

REPORT

Issues

Boundary Setbacks

The patio on the east side of the cabana is set back 1.123m from the south side boundary common with 56C Preston Point Road, and the patio on the west side of the cabana is similarly set back 1.123m from the south side boundary common with 56B and 56C Preston Point Road.

The RDC recommend a 1.5m setback.

Discussion

The variation to the boundary setback, comprising 0.377m is considered relatively minor not impacting negatively on the amenity of the potentially affected adjoining properties.

There were no submissions received objecting to the application.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the west side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.123m for the construction of two flat roofed patios either side of the cabana at the rear of the 2-storey house at No. 2 (Lot 801) Fraser Street, East Fremantle in accordance with the plans date stamp received on 18 May 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.



10 July 2007

MINUTES

3. the proposed patios are 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.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. 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 of Council 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 O'Neill – Cr Martin

That Council exercise its discretion in granting approval for a variation to the west side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.123m for the construction of two flat roofed patios either side of the cabana at the rear of the 2-storey house at No. 2 (Lot 801) Fraser Street, East Fremantle in accordance with the plans date stamp received on 18 May 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed patios are 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.
4. all stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. 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 of Council 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

10 July 2007

MINUTES

T71.10 **Preston Point Road No. 19 (Lot 35)**
Applicant & Owner: G & J Archer
Application No. P223/07
By Chris Warrener, Consultant Town Planner on 3 July 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 3 level house, with front door to Reynolds Street, and a 2-storey building, comprising a double garage, and upper floor studio, with frontage to Preston Point Road, and an 8m long X 3m wide below ground lap pool.

Materials proposed include colorbond non-reflective roofing, rendered brickwork, textured blockwork, feature brickwork and timber or colorbond cladding.

Statutory Requirements

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

Relevant Council Policies

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

Documentation

Plans date stamp received on 29 June 2007

Date Application Received

29 June 2007

Advertising

This current application has not been advertised.

SAT member Marie Connor responded to an enquiry from Council's Town Planner that in light of the fact that the previously refused application did not receive any submissions during the time it was advertised, and in light of the fact that the new application involves less variations, that it should not be necessary for this application to be advertised.

The application does not involve development that would impact on neighbouring property views, and side boundary setbacks have been increased to further reduce the impact of the proposal on adjoining property.

No. of Days Elapsed between Lodgement & Meeting Date

11 days

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

1990	Council conditionally approves an additional unit at the rear of 21 Preston Point Road (now 5 Reynolds Street) with increased building and ceiling heights;
23 February 1998	Council conditionally approves a 4-level house at the rear of 17 Preston Point Road (now 9 Reynolds Street) on reduced setbacks and increased building height;
30 March 1993	State Planning Commission certifies approval to subdivide 21 Preston Point Road into 2 strata lots (1 X 378m ² - 5 Reynolds Street, 1 X 524 ² - 21 Preston Point Road);
17 April 2001	Council grants special approval for a second storey deck and parapet wall additions to the house at 5 Reynolds Street;
22 March 2002	WAPC certifies approval to subdivide 17 Preston Point Road into 2 strata lots (1 X 217m ² - 9 Reynolds Street, 1 X 304 ² - 17 Preston Point Road);

30 May 2006	CEO under delegated authority conditionally approves an upper level deck addition to 5 Reynolds Street
19 December 2006	Council defers an application for a 3-level house;
20 February 2007	Council defers application pending a site inspection;
6 March 2007	Council refuses the application;
10 April 2007	Applicant appeals Council decision;
9 May 2007	SAT orders applicant to prepare and submit preliminary elevations for an amended house plan for Council comment;
19 June 2007	Council decides to advise SAT that it is prepared to grant in-principle approval to amended plans and requests the applicant to submit a formal application for planning approval, consistent with the new plans, for Council's detailed consideration and the formulation of appropriate conditions of approval;
22 June 2007	SAT Directions Hearing to hear outcome of Council meeting, and decide on action to progress the matter;
22 June 2007	SAT orders Directions Hearing for 23 July 2007

STATISTICS	Required	Proposed
Land Area		539m ²
Zoning		R12.5
Open space		68%
Setbacks:		
Front	<i>(Preston Point Rd)</i>	
	<i>Ground</i>	
	<i>Garage</i> 7.50	6.70 Discretion Required
	<i>Workshop</i> 7.50	2.765 Discretion Required
	<i>Upper</i>	
	<i>Sewing</i> 7.50	1.20 to 1.50 Discretion Required
	<i>Kitchen</i> 7.50	2.20 Discretion Required
	<i>Balcony</i> 7.50	2.765 Discretion Required
Rear	<i>(Reynolds Street)</i>	
	<i>Undercroft</i>	
	<i>Bed 3</i> 6.00	3.00 Discretion Required
	<i>Bath</i> 6.00	Nil Discretion Required
	<i>Ground</i>	
	<i>Balcony</i> 6.00	3.10 Discretion Required
	<i>Entry</i> 6.00	4.10 Discretion Required
	<i>Upper</i>	
	<i>Dining/Family</i> 6.00	3.10 Discretion Required

10 July 2007

MINUTES

Side (north)	<i>Undercroft Music</i>	1.00	2.40 Acceptable
	<i>Ground Workshop</i>	Nil	<i>LPP152</i> Nil Acceptable
	<i>Master</i>	1.20	1.70 Acceptable
	<i>Bed 2 & 3</i>	1.10	2.30 Acceptable
	<i>Upper (1) Studio</i>	1.10	1.10 Acceptable
	<i>Living</i>	2.40	1.80 Discretion Required
	<i>Upper (2) Kitchen</i>	1.50	1.80 Discretion Required
Side (south)	<i>Undercroft Stairs</i>	1.00	1.50 Acceptable
	<i>Laundry</i>	1.00	2.00 Acceptable
	<i>Ground Bedroom 4</i>	1.50	1.50 Acceptable
	<i>Ensuite</i>	1.50	2.00 Acceptable
	<i>Garage</i>	1.00	1.20 Acceptable
	<i>Upper (1) Study</i>	4.30	2.00 Discretion Required
	<i>Sewing</i>	1.20	1.23 Acceptable
	<i>Upper (2) Family</i>	1.30	1.50 Acceptable
Height:			
Wall	<i>South</i>	6.50	11.30 Discretion Required
	<i>North</i>	6.50	11.30 Discretion Required
Ridge		9.00	Flat Roof
Overshadowing:		48% of Reynolds Street 27.6% of 17 Preston Point Road	

REPORT

Issues

Background

At its meeting held on 6 March 2007 Council decided to refuse an Application for Planning Approval for a 3 level house, with front door to Reynolds Street, and a 2-storey building, comprising a double garage, and upper floor studio, with frontage to Preston Point Road.



10 July 2007

MINUTES

The applicant/owner appealed the Council decision, and in response to a 9 May 2007 SAT Order the Applicant submitted "preliminary elevation drawings" which incorporated the following revisions to the plans previously refused.

- The building next to Preston Point Road incorporates a pitched/gable roof instead of a flat roof;
- The design of the house with entry to Reynolds Street has been changed to reduce the amount of upper level floor space, which therefore reduces the overall building bulk, with subsequent reductions in wall heights.

Council considered the new elevation drawings were an improvement on the refused application.

The following is an extract of the Council Minute dated 19 June 2007:

"Mr Archer was asked whether he would consider amending the new proposal to replace the flat roof on the garage/store located on the eastern side of the lot to a raked roof as per the previous application. Mr Archer agreed to this change as he preferred the raked roof.

Cr Dobro – Cr Ferris

That Council advises the State Administrative Tribunal that it has considered the preliminary elevation drawings discussed at the Directions Hearing on 2 May 2007, and based on detailed plans for these elevations provided by the applicant on 14 June 2007, it considers the new proposal to be an improvement on the previous application, to the point that Council is prepared to grant in-principle approval and requests the applicant to submit a formal application for planning approval, consistent with the new plans, for Council's detailed consideration and the formulation of appropriate conditions of approval."

The applicant has submitted a fresh Application for Planning Approval in response to this Council decision.

The following items are the issues relating to the new plans.

Building Height

North Side

Common with 5 Reynolds Street

The height of the upper floor level 2 wall for the kitchen of the building which faces Reynolds Street varies up to 11.3m above Natural Ground Level (NGL), and roof height varies up to 11.7m above NGL.

The RDC recommend a 6m wall height limit and a 9m roof height limit for Category B buildings.

South Side

Common with 9 Reynolds Street

The height of the upper floor level 2 wall for the family room of the building which faces Reynolds Street varies up to 11.3m above Natural Ground Level (NGL), and roof height varies up to 11.7m above NGL.

The RDC recommend a 6m wall height limit and a 9m roof height limit for Category B buildings.



10 July 2007

MINUTES

Boundary Setbacks

East Side (front)

Preston Point Road

A ground level garage is set back 6.7m, a workshop is set back 2.765m, an upper floor sewing room is set back 1.5m, a kitchenette is set back 2.2m, and a balcony is set back 2.765m from the front boundary.

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

West Side (rear)

Reynolds Street

At basement level bedroom 3 is set back 3m, a bathroom is set back 0m, a ground floor balcony is set back 3.1m, an entry is set back 4.1m, and an upper floor dining/family room is set back 3.1m from the rear boundary.

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

North Side

Common with 21 Preston Point Road & 5 Reynolds Street

A first floor wall for a living room is set back 1.8m from the north side boundary.

The RDC recommend a 2.4m setback.

South Side

Common with 17 Preston Point Road & 9 Reynolds Street

A first floor wall for a study is set back 2m from the south side boundary.

The RDC recommend a 4.3m setback.

Roof Pitch

The roofs over the two proposed buildings are proposed to be pitched at 5°.

CP 066 states:

dominant elements to be greater than 28°.

Overshadow

The application will result in the property at 9 Reynolds Street being overshadowed 48%, and the property at 17 Preston Point Road being overshadowed 27.6%.

The RDC recommend a 25% overshadow limit on adjoining property.

Discussion

Building Height &
Boundary Setbacks

The development that is the subject of the current application contains significantly fewer variations than were proposed in the application Council refused in March 2007.

Building height has been substantially reduced and the proposed house will be lower overall than its neighbours at 5 and 9 Reynolds Street.

The increased side boundary setbacks and stepped down appearance of the 3-level house proposed to front Reynolds Street are considered to ameliorate the impact of height and bulk on adjoining properties, and are considered to result in a more attractive building overall.



10 July 2007

MINUTES

The proposed front and rear boundary setback variations do not result in a development that is “out of kilter” with the setback of adjoining and nearby properties, and the attractive streetscape of Reynolds Street and Preston Point Road will be maintained.

Roof Pitch

The building to the south which is used for a picture framer has a concealed/flat roof.

The house to the north at 5 Reynolds Street has concealed/flat roofed sections and low pitched sections.

Nearby, houses at 3 Reynolds Street and 2 Surbiton Road have low pitched roofs.

Given the existence of other nearby properties containing houses with flat and low pitched roofs the variation to roof pitch is considered acceptable and will not negatively impact on local streetscape.

Overshadow

Overshadow proposed in the application that was refused amounted to 52% over 9 Reynolds Street, and 30% over 17 Preston Point Road.

The current application is for a development which results in a reduction in the percentage of overshadow, albeit a variation for which Council discretion is sought to allow.

In regard to this variation the following extract from the RDC is relevant:

“In terms of residential development, the three main aims of climate-sensitive design are to reduce energy consumption, optimise on-site solar access, and protect solar access for neighbouring properties.

However, it is difficult to translate these aims into development provisions. This is not because the issues are subjective but because conditions vary greatly from one situation to another, making it difficult to establish universally valid rules.

To give an obvious example, a narrow east-west oriented lot on the south side of a development site, especially where the terrain slopes toward the south, is highly vulnerable to being overshadowed, even by a relatively low building set back from the common boundary.”

This application is an example of what the RDC refer to.

The properties south of the subject land are narrow east-west oriented lots with frontages of 12.65m and 12.57m. There is a significant level difference between the application land and the properties to the south, which are down to 3m lower.

In Element 9 – Design for Climate the RDC state:

“It is clear that the sites most vulnerable to overshadowing are narrow east-west orientated sites, on the south side of a

10 July 2007

MINUTES

development site, especially if they are also lower or on a south-facing slope.

In such cases, even a relatively low building may cast mid-winter shadow over a greater proportion of the site than allowed under 3.9.1.

In other cases a shadow cast by a proposed building may exceed the allowable limits in theory, but in practice may simply be casting a shadow onto a boundary wall or roof or both, with minimal adverse effect.

A shadow may not exceed the limit but may fall over the only available outdoor living area, or living room window, of an adjoining house."

While the percentage of overshadow exceeds the limit recommended in the RDC it is largely unavoidable, and does not negatively impact on the amenity of the adjoining properties (overshadow of 17 Preston Point Road is of a driveway).

RECOMMENDATION

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

- (a) variation to wall height on the south side pursuant to the Residential Design Codes from 6m to 11.3m;
 - (b) variation to roof height on the south side pursuant to the Residential Design Codes from 9.0m to 11.7m;
 - (c) variation to wall height on the north side pursuant to the Residential Design Codes from 6m to 11.3m;
 - (d) variation to roof height on the north side pursuant to the Residential Design Codes from 9.0m to 11.7m;
 - (e) variation to the east side (front) boundary setback for a garage and workshop pursuant to the Residential Design Codes from 7.5m to 6.7m and 2.765m respectively;
 - (f) variation to the east side (front) boundary setback for an upper floor sewing room, kitchenette and balcony pursuant to the Residential Design Codes from 7.5m to 1.5m, 2.2m & 2.765m respectively;
 - (g) variation to the west side (rear) boundary setback for an under-croft bedroom 3 and bathroom, a ground level balcony and entry, and an upper floor family/dining room pursuant to the Residential Design Codes from 6.0m to 3m, 0m, 3.1m, 4.1m, and 3.1m respectively;
 - (h) variation to the north side boundary setback (next to 5 Reynolds Street) for an upper floor living room pursuant to the Residential Design Codes from 2.4m to 1.8m;
 - (i) variation to the south side boundary setback (next to 9 Reynolds Street) for an upper floor study pursuant to the Residential Design Codes from 4.3m to 2m;
 - (j) variation to the percentage of overshadow onto 9 Reynolds Street and 17 Preston Point Road pursuant to the Residential Design Codes from 25% to 48% and 27.6% respectively;
 - (k) variation to roof pitch pursuant to Council Policy 066 from 28° to 5°;
- for the construction of a 3 level house on Lot 35 (No. 19) Preston Point Road, East Fremantle with front door to Reynolds Street, and a 2-storey building comprising a garage, and upper floor studio with frontage to Preston Point Road and an 8m long X 3m wide below ground lap pool in accordance with the plans date stamp received on 29 June 2007 subject to the following conditions:
1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.



10 July 2007

MINUTES

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. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all 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.
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. 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.
7. the proposed works for the lap 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. the lap 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 of Council 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 property.*

10 July 2007

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) *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 O'Neill – Cr Olson

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

- (a) **variation to wall height on the south side pursuant to the Residential Design Codes from 6m to 11.3m;**
- (b) **variation to roof height on the south side pursuant to the Residential Design Codes from 9.0m to 11.7m;**
- (c) **variation to wall height on the north side pursuant to the Residential Design Codes from 6m to 11.3m;**
- (d) **variation to roof height on the north side pursuant to the Residential Design Codes from 9.0m to 11.7m;**
- (e) **variation to the east side (front) boundary setback for a garage and workshop pursuant to the Residential Design Codes from 7.5m to 6.7m and 2.765m respectively;**
- (f) **variation to the east side (front) boundary setback for an upper floor sewing room, kitchenette and balcony pursuant to the Residential Design Codes from 7.5m to 1.5m, 2.2m & 2.765m respectively;**
- (g) **variation to the west side (rear) boundary setback for an under-croft bedroom 3 and bathroom, a ground level balcony and entry, and an upper floor family/dining room pursuant to the Residential Design Codes from 6.0m to 3m, 0m, 3.1m, 4.1m, and 3.1m respectively;**
- (h) **variation to the north side boundary setback (next to 5 Reynolds Street) for an upper floor living room pursuant to the Residential Design Codes from 2.4m to 1.8m;**
- (i) **variation to the south side boundary setback (next to 9 Reynolds Street) for an upper floor study pursuant to the Residential Design Codes from 4.3m to 2m;**
- (j) **variation to the percentage of overshadow onto 9 Reynolds Street and 17 Preston Point Road pursuant to the Residential Design Codes from 25% to 48% and 27.6% respectively;**
- (k) **variation to roof pitch pursuant to Council Policy 066 from 28° to 5°;**
for the construction of a 3 level house on Lot 35 (No. 19) Preston Point Road, East Fremantle with front door to Reynolds Street, and a 2-storey building comprising a garage, and upper floor studio with frontage to Preston Point Road and an 8m long X 3m wide below ground lap pool in accordance with the plans date stamp received on 29 June 2007 subject to the following conditions:
 - 1. **all costs relating to any works carried out as part of this development within the public domain to be met by the applicant.**
 - 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 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.**
 - 5. **all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**

10 July 2007

MINUTES

6. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. 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. the proposed works for the lap 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.
9. 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.
10. 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.
11. 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.
12. the lap 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. 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.
14. pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
15. 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 of Council 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 property.*
- (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

10 July 2007

MINUTES

Cr Martin having declared an interest in the following item given the close proximity of his residence to the proposed development at No. 19 Woodhouse Road, left the meeting at 7.55pm.

T71.11 **Woodhouse Road No. 19 (Lot 294)**
Applicant: Ian Bayley Building Designer
Owner: Charles Soh
Application No. P113/07
By Chris Warrener, Consultant Town Planner on 29 June 2007

BACKGROUND

Description of Proposal

An Application for Planning Approval for renovations and alterations to the 2-storey house at 19 Woodhouse Road comprising:

- extend the existing ensuite and add another vanity and shower;
- add onto the existing main bedroom a small study;
- upgrade and enclose the existing patio area to create an alfresco;
- remove existing timber decking and 0.9m high glazed balustrading to upstairs balcony and pour new concrete slab, install new 1m high glazing and new 'vergola' over balcony.

Statutory Requirements

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5
Local Planning Strategy – Richmond Hill 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 5 June 2007

Date Application Received

5 June 2007

Advertising

Adjoining land owners only

Date Advertised

6 June 2007

Close of Comment Period

20 June 2007

No. of Days Elapsed between Lodgement & Meeting Date

35 days

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

21 April 1986	Building Licence issued for a 2-storey residence;
7 November 1986	Building Licence issued for a concrete below ground swimming pool;
17 August 1992	Council refuses special approval for a sundeck/balcony which, at its extremity comes to within 2.000 of the east side boundary;
19 October 1992	Council grants conditional special approval for relaxation of standards to allow the construction of a balcony set back 3.13 m from the east side boundary;
8 January 1993	Building Licence issued for balcony;
15 August 1994	Council grants approval for a balcony extension;
16 August 1994	Building Licence issued for balcony extension.

CONSULTATION

Public Submissions

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

Site Inspection

By Consultant Town Planner on 4 January 2007

REPORT

Issues

Setbacks/Privacy/Overlooking

The application proposes works to an upper floor balcony that varies between 1.377m and 3.13m setback from the east side boundary common with 21 Woodhouse Road. This balcony is unscreened.

The RDC recommend a 7.5m setback for unscreened balconies.

Discussion

The balcony is an existing structure that is proposed to be replaced, and with the addition of a vergola.

The area of the adjoining property overlooked by this balcony comprises its driveway access, front yard, and the public domain/Woodhouse Road.

The RDC state that there is a lesser need for privacy protection for front gardens and areas visible from the street, and this principle also should be carried over to other public places, such as parks. The basis for this acceptance is that control of overlooking for areas visible from public places would be largely ineffective in terms of privacy protection and also could limit outlook over, and surveillance of, the public places themselves.

The acceptable development provisions are limited to protection of areas of any adjoining property *behind its street setback line*, while the performance criteria recognise the *lesser need to prevent overlooking of extensive back gardens, front gardens or areas visible from the street*. In the latter case, some discretion is involved, and consultation with the relevant adjoining property owners generally will be required to inform decision-making by the local government.

The potentially affected adjoining property owner has not objected to the application.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the east side boundary setback for an unscreened upper floor balcony pursuant to the Residential Design Codes from 7.5m to 1.377m for the construction of renovations and alterations to the 2-storey house at No. 19 (Lot 294) Woodhouse Road, East Fremantle comprising:

- *extend the existing ensuite and add another vanity and shower;*
- *add onto the existing main bedroom a small study;*
- *upgrade and enclose the existing patio area to create an alfresco;*
- *remove existing timber decking and 0.9m high glazed balustrading to upstairs balcony and pour new concrete slab, install new 1m high glazing and new 'vergola' over balcony;*

in accordance with the plans date stamp received on 5 June 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.



10 July 2007

MINUTES

3. the proposed renovations and alterations 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 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. 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 of Council 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 O'Neill – Cr Harrington

That Council exercise its discretion in granting approval for a variation to the east side boundary setback for an unscreened upper floor balcony pursuant to the Residential Design Codes from 7.5m to 1.377m for the construction of renovations and alterations to the 2-storey house at No. 19 (Lot 294) Woodhouse Road, East Fremantle comprising:

- ***extend the existing ensuite and add another vanity and shower;***
- ***add onto the existing main bedroom a small study;***
- ***upgrade and enclose the existing patio area to create an alfresco;***
- ***remove existing timber decking and 0.9m high glazed balustrading to upstairs balcony and pour new concrete slab, install new 1m high glazing and new 'vergola' over balcony;***

in accordance with the plans date stamp received on 5 June 2007 subject to the following conditions:

1. **the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
2. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
3. **the proposed renovations and alterations 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 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. **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 of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*

10 July 2007

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 Martin returned to the meeting at 7.56pm and it should be noted that he neither spoke nor voted on the foregoing item.

T72. REFERRED BUSINESS (NOT INCLUDED ELSEWHERE)

**T72.1 Town Planning Principles – Decreased Roof Pitch & Increased Wall Height
(MB Ref T63.1 – TP & BC Meeting of 12 June 2007)**

Mr Chris Warrener, Town Planner, advised that he had liaised with the City of Melville, City of Fremantle, Town of Mosman Park and Town of Cottesloe. and reported that none of these local governments have a roof pitch policy, and all have policies which allow wall and roof heights above those recommended in Local Planning Policy 142.

He advised that research into every planning application received over the past 2 years to determine which applications have roof and/or wall height and roof height variations would be an extremely tedious process and Council does not have the personnel needed to undertake such a project.

Cr Martin advised that the Residential Design Guidelines currently being prepared would remove the application of the roof pitch policy from the Richmond Hill precinct, and considered that it was originally intended to apply only to the Plympton, Woodside and Richmond precincts.

The Town Planner suggested that the matter raised was not really an issue.

Cr O'Neill agreed that Mr Warrener's verbal presentation to the meeting was acceptable.

T73. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T74. CLOSURE OF MEETING

There being no further business the meeting closed at 8.15pm.

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 10 July 2007, Minute Book reference T65. to T74. were confirmed at the meeting of the Committee on

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Presiding Member