

10 February 2009

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 10 FEBRUARY, 2009, COMMENCING AT 6.30PM.

T1. OPENING OF MEETING

Cr Dobro opened the meeting and advised members of the gallery that the matter relating to the Old Royal George Hotel was not listed on the agenda for discussion at this evening's meeting and would not be considered until such time as the proposal was advertised in accordance with the requirements of Council's town planning scheme.

T1.1 Present

Cr Stefanie Dobro	Presiding Member
Cr Dean Nardi	
Cr Richard Olson	
Cr Maria Rico	from 6.45pm
Cr Alex Wilson	
Mr Chris Warrener	Town Planner
Mrs Peta Cooper	Minute Secretary
Cr Cliff Collinson	Observer

T2. WELCOME TO GALLERY

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

T3. APOLOGIES

Mayor Alan Ferris
Cr Barry de Jong

T4. CONFIRMATION OF MINUTES

T4.1 Town Planning & Building Committee (Private Domain) – 2 December 2008

Cr Nardi – Cr Olson

That the Town Planning & Building Committee (Private Domain) minutes dated 2 December 2008 as adopted at the Council meeting held on 9 December 2008 be confirmed. CARRIED

T5. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T5.1 T7.23 Preston Point Road No. 32 (Lots 88 & 89)

Email received from Mr Mick Burke (Executive Manager – Uniting Church Homes) confirming verbal advice of 9 February that Uniting Church Homes is withdrawing it's application for a communications mast at Pilgrim House.

Cr Olson – Cr Wilson

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T7.23)

CARRIED

T6. REPORTS OF COMMITTEES

T6.1 Town Planning Advisory Panel – 27 January 2009

Cr Olson – Cr Wilson

That the minutes of the Town Planning Advisory Panel meeting held on 27 January 2009 be received and each item considered when the relevant development application is being discussed. CARRIED

10 February 2009

MINUTES

T7. REPORTS OF OFFICERS

T7.1 *Receipt of Reports*

Cr Wilson – Cr Olson
That the Reports of Officers be received.

CARRIED

T7.2 *Order of Business*

Cr Wilson – Cr Olson
The order of business be altered to allow members of the public to speak to relevant agenda items.

CARRIED

Cr Rico entered the meeting at 6.45pm

T7.3 **Allen Street No. 74 (Lot 24)** **Applicant: Pendlebury Construction** **Owner: Mr & Mrs O'Grady** **Application No. P207/2008**

By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for an outbuilding comprising a 3.2m² toilet next to the south side boundary at the rear of 74 Allen Street

Statutory Considerations

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

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 18 November 2008

Date Application Received

18 November 2008

Advertising

Adjoining land owners only

Date Advertised

12 December 2008

Close of Comment Period

5 January 2009

No. of Days Elapsed between Lodgement & Meeting Date

83 days

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

19 February 1979	Council approves an application for a detached garage;
20 June 2000	Council grants conditional approval for a fibreglass swimming pool;
21 June 2000	Building Permit 61/2955 issued for swimming pool;
21 September 2004	Council decides to advise the WAPC that it does not support the subdivision of 74 Allen Street;
15 October 2004	WAPC conditionally approves the subdivision of 74 Allen Street

10 February 2009

MINUTES

- 7 July 2006 into 2 survey strata lots (battleaxe);
Demolition Licence DL06/174 issued for single storey brick & tile house;
- 19 February 2008 Council grants conditional approval for additions comprising a double garage, en-suite, laundry, TV room, kitchen, family/meals, activity room, 2 bedrooms, bathroom & alfresco;
- 22 October 2008 Building Licence 08/133 approved for additions and alterations.

CONSULTATION

Public Submissions

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

REPORT

Issues

Boundary Wall

The proposed toilet will be set back 0.2m from the south side boundary common with 76 Allen Street.

The property already has a boundary wall along the south side for a garage.

LPP 142 states:

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

- (a) Walls are not higher than 3m and up to 9m in length up to one side boundary;*
- (b) Walls are behind the main dwelling;*
- (c) Subject to the overshadow provisions of the Residential Design Codes – Element 9;*
- (d) In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views; and*
- (e) Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions."*

As this application proposes two walls along one side boundary Council's discretion is required to be exercised to allow it.

Discussion

The property owner potentially affected by the boundary wall for the proposed toilet has endorsed a letter of no objection for the application.

The variation is considered relatively minor for what is considered to be a minor structure, and is supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the south side boundary setback pursuant to Local Planning Policy 142 for a second boundary wall for the construction of an outbuilding comprising a 3.2m² toilet next to the south side boundary at the rear of No. 74 (Lot 24) Allen Street, East Fremantle in accordance with the plans date stamp received on 18 November 2008 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 proposed toilet 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

10 February 2009

MINUTES

- 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. 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).*

Ms Simone O'Grady (applicant) addressed the meeting in support of her application.

RECOMMENDATION TO COUNCIL

Cr Olson – Cr Nardi

That Council exercise its discretion in granting approval for a variation to the south side boundary setback pursuant to Local Planning Policy 142 for a second boundary wall for the construction of an outbuilding comprising a 3.2m² toilet next to the south side boundary at the rear of No. 74 (Lot 24) Allen Street, East Fremantle in accordance with the plans date stamp received on 18 November 2008 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 proposed toilet 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 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**

10 February 2009

MINUTES

East Fremantle.

7. 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

T7.4

Fraser Street No. 1 (Lot 10)

Applicant & Owner: JC & SPM Moody

Application No. P1/2009

By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for Bed and Breakfast use of the downstairs living area at 1 Fraser Street.

Statutory Considerations

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

Documentation

Plans and relevant forms date stamp received on 6 January 2009

Date Application Received

6 January 2009

Advertising

Adjoining and nearby land owners

Date Advertised

8 January 2009

Close of Comment Period

22 January 2009

No. of Days Elapsed between Lodgement & Meeting Date

34 days

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

19 May 1980	Council grants a relaxation of standards to allow an extension of the plot ratio for a 2-storey house to 383.26m ² ;
17 June 1980	Building Permit 122/341 issued for 2-storey house;
31 October 1987	Building Permit 049/814 issued for a timber pergola;
18 April 1988	Council grants approval for use of part of the premises at 1 Fraser Street for a home occupation as beauty therapy for a period of 2 years;
18 January 2008	CEO grants approval under delegated authority for a verandah and deck; CEO grants approval under delegated authority for a swimming pool and fence;

10 February 2009

MINUTES

28 June 2008 CEO acting under delegated authority approves amended plans for the deck;

CONSULTATION

Public Submissions

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

REPORT

Issues

Land Use

1 Fraser Street is zoned Residential R12.5 under TPS 3. This application proposes use of downstairs living spaces for Bed and Breakfast.

Bed and Breakfast is defined under TPS 3 as follows:

“Bed and Breakfast” means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast;

It is classified as an “A” use in the Residential zone, 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.”*

Clause 9.4 states:

“9.4. Advertising of Applications

- 9.4.1. Where an application is made for planning approval to commence a use or commence or carry out development which involves a use which is —*
- (a) an ‘A’ use as referred to in clause 4.3.2; or*
 - (b) a use not listed in the Zoning Table,*
the local government is not to grant approval to that application unless notice is given in accordance with clause 9.4.3.
- 9.4.2. Despite clause 9.4.1, where application is made for a purpose other than a purpose referred to in that clause, the local government may require notice to be given in accordance with clause 9.4.3.*
- 9.4.3. The local government may give notice or require the applicant to give notice of an application for planning approval in one or more of the following ways —*
- (a) notice of the proposed use or development served on nearby owners and occupiers who, in the opinion of the local government, are likely to be affected by the granting of planning approval, stating that submissions may be made to the local government by a specified date being not less than 14 days from the day the notice is served;*
 - (b) notice of the proposed use or development published in a newspaper circulating in the Scheme area stating that submissions may be made to the local government by a specified day being not less than 14 days from the day the notice is published;*
 - (c) a sign or signs displaying notice of the proposed use or development to be erected in a conspicuous position on the land for a period of not less than 14 days from the day the notice is erected.*
- 9.4.4. The notice referred to in clause 9.4.3(a) and (b) is to be in the form prescribed in Schedule 8 with such modifications as are considered appropriate by the local government.*
- 9.4.5. Any person may inspect the application for planning approval referred to in the notice and the material accompanying that application at the offices of the local government.*
- 9.4.6. After the expiration of the specified period from the serving of notice of the application for planning approval, the publication of the notice or the erection of a sign or signs, whichever is the later, the local government is to consider and determine the application.”*

Discussion

Pursuant to TPS 3, sub-clause 9.4.3 (a) submissions were invited from the owners of adjoining and nearby properties. No submissions were received.

The owners/applicants state that it is intended to utilise downstairs living areas for the bed and breakfast activity. There is sufficient on-site parking available for at least 3 motor vehicles (two for the owners and 1 for anyone taking advantage of the bed and breakfast opportunity). Unimpeded access to Fraser Street is available for both sets of occupants



10 February 2009

MINUTES

(the residents, and people in the Bed and Breakfast) due to the configuration of the driveway access, the location of the double garage, and separate access for the upper and lower floor living spaces.

Given the relatively low key nature of this activity, the amenity afforded by the subject property both for the owners and users of the bed and breakfast, its proximity to public recreation areas, the Swan River, and public transport, this application for bed and breakfast is supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for Bed and Breakfast use of the downstairs living area at No. 1 (Lot 10) Fraser Street, East Fremantle in accordance with the documentation date stamp received on 6 January 2009.

Ms Sue Moody (applicant) addressed the meeting in support of her application.

RECOMMENDATION TO COUNCIL

Cr Rico – Cr Wilson

That Council exercise its discretion in granting approval for Bed and Breakfast use of the downstairs living area at No. 1 (Lot 10) Fraser Street, East Fremantle in accordance with the documentation date stamp received on 6 January 2009 and subject to the following conditions:

- (i) **Approval is for 12 months only.**
- (ii) **Any continuation of the Bed & Breakfast use will require a new Council approval.**
- (iii) **The approval may be revoked by Council, prior to the expiration of the 12 months period referred to in (i) above, if any adverse impacts involving noise, antisocial behaviour or parking are unable to be controlled by the applicants in a timely and effective manner which is to Council's satisfaction.**

CARRIED

Cr Dobro made the following impartiality declaration in the matter of 8 Preston Point Road: "As a consequence of my partner, Alan Fenna, having served on Council with the applicant, Mr John Kirkness, and our continued longstanding friendship, 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.

T7.5 Preston Point Road No. 8 (Lot 10)

Applicant: John W. Kirkness

Owner: Ms Janet Williamson

Application No. P212/2008

By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

A request to Council to initiate an amendment to TPS 3 to rezone 8 Preston Point Road from Residential R12.5 to Residential R25

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond Precinct (LPS)

Residential Design Codes (RDC)

Documentation

Submission request date stamp received on 2 December 2008

Date Application Received

2 December 2008

No. of Days Elapsed between Lodgement & Meeting Date

69 days

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

20 July 2004	Council considers two applications for the subdivision of 8 Preston Point Road, one a 3-strata lot subdivision, the other a 2-green title lot subdivision, and decides to advise the WAPC that it conditionally supports both applications;
18 August 2004	Building Licence 139/3619 approved for internal alterations to existing dwelling;
18 August 2004	WAPC grants conditional approval for the subdivision of 8 Preston Point Road into 2 green title lots;
25 August 2004	WAPC grants conditional approval for the subdivision of 8 Preston Point Road into 3 survey-strata lots;
3 June 2006	Council advises the WAPC that the conditions of the 3 survey-strata lot subdivision approval have been satisfied;
18 July 2006	Council grants approval for a home occupation – screen printing business at the house on the front strata lot.
21 September 2006	WAPC endorses for final approval Survey-Strata Plan 48701 for the subdivision of 8 Preston Point Road into 2 survey-strata lots;
17 October 2006	Council grants approval for a 2-storey house on the battleaxe block at the rear of 8 Preston Point Road;
21 December 2006	Building Licence 06/300 approved for two a storey dwelling on a vacant rear survey strata lot.

REPORT

Issues

Background

In July 2004 Council considered two separate applications to subdivide 8 Preston Point Road.

One application proposed to subdivide the property into 3 survey-strata lots, and the other application proposed its subdivision into 2 green title lots.

Council decided to support both applications, and the WAPC granted conditional approval to them.

In June 2006 Council cleared the conditions that were applied to the 3 survey-strata lot subdivision.

For reasons unknown the Survey Strata Plan that was endorsed by the WAPC on 21 September 2006 was for only 2 of the 3 approved survey-strata lots, creating strata titles for a rear battleaxe lot comprising 459m², a lot with direct frontage to Preston Point Road comprising 731m², and a common property lot providing access to the rear lot comprising 186m².

In December 2004 TPS 3 came into force. This scheme introduced the R-Codes into the Town of East Fremantle, and the subject land was included in an R12.5 coded area.

Under an R12.5 code the specified minimum lot size is 700m², with an average of 800m².

If it is proposed to subdivide a property in an R12.5 coded area into 2 lots the property has to comprise at least 1,600m². Therefore 8 Preston Point Road cannot be further subdivided under TPS 3, and the only way it can be subdivided is for the scheme to be amended to introduce a higher density code than R12.5.

10 February 2009

MINUTES

In this regard the application now before Council proposes to increase the density code applicable to the subject land to permit the front strata lot comprising 731m² to be subdivided into 2 survey-strata lots.

Land Use

The applicant has submitted a detailed report to support changing the R-Code for 8 Preston Point Road from R12.5 to R25.

This report refers to examples of grouped dwelling developments next to and nearby the subject property, which would be more suited to a higher density code than is currently applied under TPS 3. This particularly applies to property in the 'street block' that is bound by Canning Highway, Preston Point Road, Alcester Street, and Staton Road.

Discussion

One of the factors considered to be important in any argument for a higher density code in this area is the future impact on the current housing stock, and particularly whether increasing the density code could lead to the future removal/demolition of houses that are considered to have heritage value.

The subject land contains a single storey house at the front, which is not on Council's Heritage List nor is it in the Municipal Heritage Inventory (MI), therefore subdividing this property will not result in the removal of a building that is considered to have any heritage value.

The subject land is situated next to Preston Point Road quite close to Canning Highway. Canning Highway is designated an "Activity Corridor" in "Network City" the community planning strategy for Perth and Peel. This document states: "*Activity corridors are connections between activity centres that provide excellent, high frequency public transport to support the land uses that will occur along the activity corridors and at the activity centres.*" (Network City, page 14).

Preston Point Road is a local distributor road that intersects with Canning Highway. It is also a public transport route.

The planning objective for property that benefits by being in close proximity to these public transport routes is to encourage density development to take advantage of this infrastructure.

On this basis, having regard to the developed density of property nearby, and that subdivision of the subject land had previously been supported by Council and approved by the WAPC, it is not considered unreasonable to support an amendment to TPS 3 to increase the density of the property from R12.5 to R25 and ultimately allow its subdivision into 3 lots.

RECOMMENDATION

That Council advises the applicant that it is prepared to initiate an amendment to the Town of East Fremantle Town Planning Scheme No 3 to recode the property comprising 8 and 8A Preston Point Road from R12.5 to R25 subject to the submission of the appropriate amendment documentation.

Mr John Kirkness (applicant) addressed the meeting in support of the proposed rezoning.

RECOMMENDATION TO COUNCIL

Cr Wilson – Cr Nardi

That Council advises the applicant that it is prepared to initiate an amendment to the Town of East Fremantle Town Planning Scheme No 3 to recode the property



10 February 2009

MINUTES

comprising 8 and 8A Preston Point Road from R12.5 to R25 subject to the submission of the appropriate amendment documentation. CARRIED

T7.6 *Hubble Street No. 59 (Lot 187)*
Applicant: Outdoor World Rockingham
Owner: Helen Howarth
Application No. P214/2008

By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 10.2m long x 2.95m wide x 3m high gable roofed carport (garage) along the south side, and an 8.6m long x 4m wide x 3m high gable roofed patio at the rear of the single storey house at 59 Hubble Street.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
Local Planning Strategy - Plympton 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 9 December 2008

Date Application Received

9 December 2008

Additional information

2 February 2009 Front and south side elevations of 'carport' and rear patio received.

Advertising

Adjoining land owners only

Date Advertised

10 December 2008

Close of Comment Period

5 January 2009

No. of Days Elapsed between Lodgement & Meeting Date

62 days

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

Nil.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 27 January 2009 and the following comments were made:

- drawings inadequate – suggest applicant resubmit;
- it appears that the carport will be constructed on the boundary – how will the side setback requirement for the carport roof be resolved?
- more information required – in particular a visual of the proposed façade;
- more information on the carport 'door' required – a carport is open and a garage closed. It is not clear whether this is a carport without a door or a garage with a door.

10 February 2009

MINUTES

Public Submissions

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

Site Inspection

By Town Planner on 15 January 2009

REPORT

Issues

Type of Structure

The recently received front elevation shows that it is proposed to install a door at the front of the proposed 'carport'.

Under the RDC a carport is defined as follows:

"A roofed structure designed to accommodate one or more motor vehicles unenclosed except to the extent that it abuts a dwelling or a property boundary on one side, and being without a door unless that door is visually permeable."

A garage is defined as follows:

"Any roofed structure, other than a carport, designed to accommodate one or more motor vehicles and attached to the dwelling."

As the structure contains a visually impermeable door at the front it is considered to be a "garage" not a "carport".

Boundary Setbacks

This application proposes a carport that is 10.2m long and setback 0m from the south side boundary common with 63 Hubble Street.

Under LPP 142 the carport could be allowed along this boundary without the exercise of Council discretion if it is no longer than 9m.

Being longer than 9m the specified setback for the structure under the RDC is 1m.

The application also proposes a patio at the rear that is set back 0.95m from the north side boundary common with 57 Hubble Street.

Under the RDC the specified setback is 1m.

Discussion

The setback variations proposed by this application are considered relatively minor and do not detrimentally impact on the amenity of the potentially affected neighbouring properties, or on the local streetscape.

The potentially affected property owners have not objected to the application.

Being well set back behind the existing house the location and design of the proposed garage is considered not to detrimentally impact on the local streetscape and is supported.

RECOMMENDATION

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

- (a) variation to the north side boundary setback pursuant to the Residential Design Codes from 1m to 0.95m;
- (b) variation to the south side boundary setback pursuant to the Residential Design Codes from 1m to 0m;

for the construction of a 10.2m long x 2.95m wide x 3m high gable roofed garage along the south side, and an 8.6m long x 4m wide x 3m high gable roofed patio at the rear of

the single storey house at No. 59 (Lot 187) Hubble Street, East Fremantle in accordance with the plans date stamp received on 9 December 2008 and 2 February 2009 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 proposed garage and patio additions 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.
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. 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) *the patio may not be enclosed without the prior written consent of Council.*

Ms Helen Howarth & Mr John Loundes (applicants) addressed the meeting in support of their application.

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Olson

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

- (a) **variation to the north side boundary setback pursuant to the Residential Design Codes from 1m to 0.95m;**
- (b) **variation to the south side boundary setback pursuant to the Residential Design Codes from 1m to 0m;**

for the construction of a 10.2m long x 2.95m wide x 3m high gable roofed garage along the south side, and an 8.6m long x 4m wide x 3m high gable roofed patio at the rear of the single storey house at No. 59 (Lot 187) Hubble Street, East Fremantle in accordance with the plans date stamp received on 9 December 2008

10 February 2009

MINUTES

and 2 February 2009 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 proposed garage and patio additions 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.
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. 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) *the patio may not be enclosed without the prior written consent of Council.*

CARRIED

T7.7

Canning Highway No. 155 (Shop 23)

Applicant: International Food Store Pty Ltd

Owner: Dimitrios & Mary Dimitriou

Application No. P222/2008

By Chris Warrener, Town Planner on 5 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a change of use from Fast Food Outlet to Food Shop and Restaurant (Café), and signage comprising three building fascia signs, and a



10 February 2009

MINUTES

2.4m long x 1.2m wide pole mounted light-box sign at Shop 23, 155 Canning Highway.

Statutory Considerations

Town Planning Scheme No. 3 – Town Centre (TC)
Local Planning Strategy – Town Centre (TC)

Documentation

Plans and relevant forms date stamp received on 22 December 2008

Date Application Received

22 December 2008

Additional information

4 February 2009 Floor plan received

Advertising

Adjoining land owners only

Date Advertised

8 January 2009

Close of Comment Period

22 January 2009

No. of Days Elapsed between Lodgement & Meeting Date

49 days

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 27 January 2009 and the following comments were made:

- welcome business in the Town;
- signage is excessive – aesthetics require modification;
- modification of the colours and size recommended;
- pole signage size should be reduced by at least 50%;
- recommend applicant resubmit.

Other Agency/Authority

Main Roads WA (MRWA)

Main Roads WA advises it has no objections subject to the following conditions:

1. *The type of sign and location must comply with all relevant by-laws and planning schemes made by Council.*
2. *If illuminated the sign must be of low level not exceeding 300cd/m² and may not flash, pulsate or chase.*
3. *The double sided light box sign is to be placed on private property and may not overhang or encroach upon the road reserve, therefore Option 1 would meet with approval.*
5. *Main Roads agreement is to be obtained prior to any modifications.*
6. *The device shall not contain florescent, reflective or retro reflective colours or materials.*
7. *No unauthorised signage is to be displayed.*

Public Submissions

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

*Farmer Jacks /
Foodworks*

No objections to proposed food shop and café, concerns raised regarding car parking.

10 February 2009

MINUTES

Site Inspection

By Town Planner on 8 January 2009

**REPORT
Issues**

Land Use

155 Canning Highway is in the "Town Centre" zone under TPS 3.

From early 1980 to the end of August 2008 the premises at Shop 23, 155 Canning Highway operated as a "Red Rooster" fast food outlet.

Red Rooster closed in August 2008.

This application is for an international food store/shop, and a café at Shop 23.

In the Town Centre zone under TPS 3 the above-named uses are "P", which means that the uses are permitted by the Scheme providing they comply with the relevant development standards and requirements of the Scheme.

The total nett lettable area of the premises is 336m².

Car Parking

The application is for a food store/shop and café.

Of the total 336m² nett lettable area, 20m² will be dedicated as table space for the café.

Under Schedule 11 of TPS 3 the following car parking requirements are specified:

Restaurant (includes Café)	1 space for every 5 seats or 1 space for every 5 persons the building is designed to accommodate, or 1 space for every 5m ² seating area, whichever is the greater, plus 1 space for every staff member present at any one time
Shop	1 space for every 20m ² nett lettable area (5 spaces per 100m ² NLA) Minimum 4 spaces

A total of 4 car spaces are required for the café, and 16 car spaces are required for the shop.

There are 20 marked car parking spaces in a bitumen car-park next to the east side of the premises therefore the application does not involve a parking shortfall.

Signage

The application proposes 3 building fascia signs, and one illuminated pole mounted sign next to Canning Highway.

These signs will replace the signage that existed for the operation of the Red Rooster fast food outlet.

Under TPS 3 the fascia mounted signs are 'exempt' from the requirement for planning approval pursuant to Schedule 5: Advertisements Exempt from Planning Approval, which lists the following:

10 February 2009

MINUTES

Commercial and Industrial Buildings (e.g. showrooms, shops, exhibition centres, restaurants, hotels, motels, taverns, cinemas/theatres)	Signs and advertisements painted or flush-mounted on the building provided no more than 5 metres above ground level. No maximum size provided there is no extension to the building surface. Information or display to relate to the business or activities on the site of the advertisement.
---	---

The fascia signs painted on the building are less than 5m above ground level therefore they are exempt from planning approval.

The pole mounted light-box sign next to Canning Highway is required to be approved by MRWA.

MRWA has commented on the application stating the conditions it requires imposed on an approval.

The applicant has submitted photo-montages for two position options for the proposed double sided light-box sign. One is proposed to be fixed to the top of the pole, the other is proposed to be fixed to the side of the pole near the top with the bottom of the sign being 2.9m above the ground.

TPAP considered that the proposed signage is excessive, its size should be reduced, the colour scheme changed, and the light-box sign should be reduced in size by 50%.

Discussion

The proposed use of what was the premises of a Red Rooster store for an international food shop and café is considered an appropriate commercial use in the Town Centre zone, one which is considered to improve the general shopping amenity of the precinct, and is supported, subject to standard and Main Roads WA conditions.

The Town Planner discussed the matter of signage and the comments of the TPAP on Wednesday 4 February 2009. The applicant expressed a willingness to work with Council to ensure that signage of the proposed business is attractive.

In regard to the proposed signage the CEO has delegated authority to deal with such matters on behalf of the Council.

RECOMMENDATION

That Council exercise its discretion in granting approval for a change of use from Fast Food Outlet to Food Shop and Restaurant, and signage comprising three fascia signs, and a 2.4m long x 1.2m wide pole mounted light-box sign at Shop 23, 155 Canning Highway, East Fremantle in accordance with the documentation and plans date stamp received on 22 December 2008 and 4 February 2009 subject to the following conditions:

1. prior to the issue of a building licence the applicant is to submit amended signage plans to the satisfaction of the CEO in consultation with relevant Council officers.
2. the proposed double sided light box sign is to be fixed as per "Position option 1" as specified in the submitted documentation.
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 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.

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).*

Mr Kumar Kandiah (applicant) and Mr Mark Elsing (Sign-A-Rama) addressed the meeting in support of the application.

RECOMMENDATION TO COUNCIL

Cr Olson – Cr Nardi

That Council exercise its discretion in granting approval for a change of use from Fast Food Outlet to Food Shop and Restaurant, and signage comprising three fascia signs, and a 1.8m long x 1.2m wide pole mounted light-box sign at Shop 23, 155 Canning Highway, East Fremantle in accordance with the documentation and plans date stamp received on 22 December 2008 and 4 February 2009 subject to the following conditions:

- 1. prior to the issue of a building licence the applicant is to submit amended signage plans to the satisfaction of the Chief Executive Officer in consultation with relevant Council officers.**
- 2. the proposed double sided light box sign is to be fixed as per "Position Option 1" as specified in the submitted documentation.**
- 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 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.**

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

10 February 2009

MINUTES

T7.8 Preston Point Road No. 37 (Unit 11)

Applicant & Owner: Ann Patrick

Application No. P208/2008

By Stuart Wearne, Chief Executive Officer & Chris Warrener, Town Planner on 6 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval to allow the premises at Unit 11, 37 Preston Point Road to be used for "Short Stay Accommodation".

Statutory Considerations

Town Planning Scheme No. 3 – Residential R30
Local Planning Strategy - Riverside Precinct (LPS)
Residential Design Codes (RDC)

Documentation

Application date stamp received on 20 November 2008

Date Application Received

20 November 2008

Advertising

Individual unit owners of 37 Preston Point Road

Date Advertised

26 November 2008

Close of Comment Period

12 December 2008

No. of Days Elapsed between Lodgement & Meeting Date

81 days

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

11 May 1973	Minister for Local Government upholds an appeal against the Town of East Fremantle to grant a building licence for Stage 2 (Units 13-20) of the Seville Court home unit project;
20 February 1974	Council refuses an application for development of 8 group houses (Units 13-20);
30 April 1974	Minister for Local Government upholds appeal against Town of East Fremantle for development of Stage 2 of 8 Townhouses (Units 13-20) on No. 37 Preston Point Road;
22 February 1977	Town Clerk endorses Strata Plan No 4842 for Units 13-20;
28 October 2008	Letter from tenant of Unit 12 / 37 Preston Point Road expressing concern re 'Short Term Rental' use of a number of units within the complex in particular Unit 11;
30 October 2008	Letter to owner of Unit 11 advising Council had received a claim from a member of the public advising unit was being used for 'Short Stay' accommodation.
17 November 2008	Two letters from owner of Unit 11 in which approval sought for existing unauthorised use for short stay accommodation.

CONSULTATION

Public Submissions

At the close of the comment period 3 submissions were received.

<i>P Lane Unit 6 / 37 Preston Point Road</i>	Assuming short term tenants abide our Strata rules and conditions (in respect of noise, parking etc) we support the application seeking change of use to allow short term rental
--	--

10 February 2009

MINUTES

D & J George
Unit 12 / 37 Preston
Point Road No objection to proposed use and interested in "this proposed new designation for property".

R Sier
Unit 9 / 37 Preston
Point Road No objection to proposed use subject to tenants being made aware of rules and regulations applied by the Council of Owners regarding undue noise, parking etc.

Site Inspection

By Town Planner on 17 December 2008

REPORT

Issues

Land Use

This application seeks approval for the use "short stay accommodation" at Unit 11, 37 Preston Point Road.

There are 20 dwelling units at 37 Preston Point Road. Units 1 to 12 are a group of 3-storey multiple dwellings at the rear, and Units 13 to 20 are a group of 2-storey grouped dwellings at the front.

It appears that the building at the rear was developed sometime during the 1950's; there are no records to indicate the time that the building was approved or built however its construction type and design indicates that it was built in the 1950's.

Council records indicate that the grouped dwellings at the front were built during the 1970's.

Unit 11 is one of a group of the 12 multiple dwellings in the 3-storey building at the rear of 37 Preston Point Road. It is on the "top floor" (third level).

Short stay accommodation is not a use that is listed in the Zoning Table under TPS 3, nor is it considered to be a use that could reasonably be determined as falling within any use class in the Table.

TPS 3 states:

- "4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within any use class in the Table, the local government may:*
- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or*
 - (b) determine that the use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.5 in considering an application for planning approval; or*
 - (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted."*

Discussion

In response to an application for the short stay accommodation use of the single house and 2-storey studio at the rear at 13 Sewell Street, Council refused that application for the following reasons:

- "1. The applicant be advised to cease the use of the studio for habitation as:*
 - (a) such habitation is a breach of a prevailing condition of planning approval*
 - (b) such habitation is in breach of the Residential Design Codes density applicable to this location.*
- 2. Council determines that "short stay accommodation" is neither a use listed in the Zoning Table of Council's Town Planning Scheme and nor can such a use be reasonably determined as falling within any use class listed in the Zoning Table.*

10 February 2009

MINUTES

3. Council determines that the proposed use does not meet the objectives and purposes of the Residential Zone, and therefore, is not a permitted land use.
4. Subject to recommendations 2 and 3 above, Council refuses the application for planning approval as:
 - (a) the proposed unlisted use is not a permitted use under Clause 4.4.2 of Town Planning Scheme 3 as the proposed use is not consistent with the objectives and purposes of the Residential Zone.
 - (b) having regard to the orderly and proper planning of the locality, and in particular the preservation of the amenity of the locality, the proposed unlisted use is considered inappropriate having regard to the proposed use and its location within the Residential Zone.
5. The applicant be advised that any tenants of the main house should involve tenancy agreements of six months duration or more, since any tenancy arrangement involving a lesser period without Council's planning consent may be an unlawful use of that property."

The following is an extract from the officers' report on the application for 13 Sewell Street:

The key elements to consider in assessing the appropriateness of this change of use lie in the objectives and purpose of the Residential zone.

Following are the objectives of the Residential Zone:

- To provide for a range and variety of housing to meet the social and economic needs of the community, while recognising the limitations on re-development necessary to protect local character.
- To safeguard and enhance the amenity of residential areas and ensure that new housing development is sympathetic with the character and scale of the existing built form.
- To encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation, water sensitive design and provision of 'greenspace'.
- To protect residential areas from encroachment of inappropriate land uses which are likely to detract from residential amenities, but to provide for a limited range of home-based activities compatible with the locality.
- To recognise the importance of design elements such as the 'front yard' and the 'back yard' to the character, amenity and historical development of the Town and to the community." (TPS 3, Part 4: Zones, 4.2 Objectives of the zones)

Arguments in favour of a conclusion that the proposed use (other than use of studio) is consistent with the objectives and purposes of the Residential Zone.

Whilst it is concluded the first dot point of the Objectives of the Residential Zone (see above) is intended to apply to the *physical* aspects of any proposed new housing, it may be arguable that a broader "social" interpretation could apply, in which event the provision of short stay accommodation, which it was deemed helped "meet the social and economic needs of the community" (and in particular a need for short stay tourist accommodation) could be seen as a positive attribute of the proposal, notwithstanding this would also involve applying a broad definition of "community."

Arguments in favour of a conclusion that the proposed use (other than use of studio) is not consistent with the objectives and purposes of the Residential Zone.

These arguments will essentially involve assessing the proposal in respect of the amenity provisions referred to above ie "To safeguard and enhance the amenity of residential areas..."; "To protect residential areas from encroachment of inappropriate land uses which are likely to detract from residential amenities..."

10 February 2009

MINUTES

In considering the application for the short stay use of 13 Sewell Street Council had been mindful of the objections raised by the owners of adjoining properties and properties nearby, and concluded:

“Based on the above considerations it is concluded the proposed use does not meet the objectives and purposes of the Residential Zone, and therefore, is not a permitted land use pursuant to Clause 4.4.2(c) of Town of East Fremantle Local Planning Strategy 3”.

Whereas 13 Sewell Street contains a single dwelling in what is essentially a single residential area, 37 Preston Point Road contains grouped and multiple dwelling units in a medium density area that contains a mix of grouped and multiple dwellings, most of which were developed during the 1950's, 1960's and 1970's.

The property at 37 Preston Point Road is next to a Parks and Recreation reserve that contains the “Niergarup Track” a man-made trail that provides users with panoramic river views and direct access via spur tracks containing stairs down to the river.

It is arguable a visitor oriented facility available to tourists and the general public may be regarded as meeting the broader definition of community referred to above.

It is also noted that in this particular case at least some of the property owners who would be directly affected by the use of the subject property for short stay accommodation have supported the application, and there was no opposition to the application as a result of Council's advertising.

Nevertheless this planning application was the result of a written complaint about the use of Unit 11 for short stay accommodation, from one of the other residents. The letter included the following claims:

“The Owner of Unit 11...advertises the Unit for short-term rentals on the website www.stayz.com.au/23252. It is not unusual to have several different “travelling” neighbours each week, with many only staying for one or two nights. We often have to introduce ourselves to our new neighbours in order to request they... perhaps pick up the litter they have dropped in the stairwell. We are also required to wheel out their rubbish bin as part of the “Wheelie Bin Roster” laid down by the Body Corporate. We do not particularly like the lack of a community feel that this situation creates.”

There is also a general argument that such a use in a residential area does not meet the objectives and purposes of the Residential Zone and could set an adverse precedent if it were allowed, in terms of residential amenity being protected, particularly as the Town of East Fremantle has no specific Scheme provisions or policies for dealing with such applications.

In contrast the City of Fremantle, where unauthorised and authorised short stay accommodation has been a problematic issue, have recently implemented a local law (“Short Stay Accommodation Local Law 2008”) and Local Planning Scheme Amendment (Local Planning Scheme No. 4 Amendment No. 4) to assist in dealing with some applications.

This gives rise to one option, which would be to refuse such applications until Council had better regulatory mechanisms in place for dealing with such applications.

There would be nothing unduly onerous on Council's part if it were to temporarily adopt this position – noting that in Council's adopted Town Planning Scheme, “short stay accommodation” is simply not a land use listed in the Zoning Table – like many other potential uses which could have been included in the Zoning Table.

Another option would be to approve this application for a time limited period, effectively as a trial, subject to appropriate conditions.

This is in fact the recommended option.

It has recently become apparent that much short stay accommodation is being operated in the Town without planning permission and it seems far better for Council to attempt to have a degree of control of such activities in particular by seeking to minimise potential impacts associated with short stay accommodation through attempting to support applications, where deemed appropriate, by applicants who are seeking "to do the right thing" by seeking Council's approval (albeit in this case after the event).

If elected members adopt this option, the matter could be reviewed at the end of the trial period and consideration meanwhile given to implementing appropriate regulatory mechanisms with respect to such applications.

RECOMMENDATION (PREFERRED)

That Council exercise its discretion in granting approval for the use of Unit 11, 37 Preston Point Road, East Fremantle for short stay accommodation subject to the following conditions:

- (i) Approval is for 12 months only.
- (ii) Any continuation of the short stay accommodation use will require a new Council approval.
- (iii) The written consent of the Strata Company to the use of the dwelling for short stay accommodation purposes must be provided.
- (iv) Maximum accommodation is 6 persons (based on two bedrooms being provided)
- (v) Each short stay accommodation booking must be for a minimum stay of 4 consecutive nights.
- (vi) A minimum of one on site parking bay for the exclusive use of one or more of the occupants must be provided.
- (vii) A complaints management procedure, which is to be to the satisfaction of the Chief Executive Officer and which covers or includes the control of noise, antisocial behaviour, security, parking, residents' code of conduct is to be provided.
- (viii) The owner or manager of the short stay dwelling must be contactable, using contact details provided to the Town, at any time of the day or night and the manager must respond, within 12 hours, to any contact relating to the short stay dwelling.
- (ix) The approval may be revoked by Council, prior to the expiration of the 12 months period referred to in (i) above, if any adverse impacts involving noise, antisocial behaviour or parking are unable to be controlled by the applicant or their representative in a timely and effective manner which is to Council's satisfaction.
- (x) No on site signage is permitted with respect to the application.

ALTERNATIVE RECOMMENDATION

1. Council determines that "short stay accommodation" is neither a use listed in the Zoning Table of Council's Town Planning Scheme and nor can such a use be reasonably determined as falling within any use class listed in the Zoning Table.
2. Council determines that the proposed use does not meet the objectives and purposes of the Residential Zone, and therefore, is not a permitted land use.
3. Pursuant to recommendations 2 and 3 above, Council refuses the application for planning approval as:
 - (a) the proposed unlisted use is not a permitted use under Clause 4.4.2 of Town Planning Scheme 3 as the proposed use is not consistent with the objectives and purposes of the Residential Zone.
 - (b) having regard to the orderly and proper planning of the locality, and in particular the preservation of the amenity of the locality, the proposed unlisted use is considered inappropriate having regard to the proposed use and its location within the Residential Zone.

Ms Ann Patrick (applicant) addressed the meeting in support of the proposal.

10 February 2009

MINUTES

RECOMMENDATION TO COUNCIL

Cr Olson – Cr Wilson

That Council exercise its discretion in granting approval for the use of Unit 11, 37 Preston Point Road, East Fremantle for short stay accommodation subject to the following conditions:

- (i) Approval is for 12 months only.**
- (ii) Any continuation of the short stay accommodation use will require a new Council approval.**
- (iii) The written consent of the Strata Company to the use of the dwelling for short stay accommodation purposes must be provided.**
- (iv) Maximum accommodation is 4 persons (based on two bedrooms being provided)**
- (v) Each short stay accommodation booking must be for a minimum stay of 3 consecutive nights.**
- (vi) A minimum of one on site parking bay for the exclusive use of one or more of the occupants must be provided.**
- (vii) A complaints management procedure, which is to be to the satisfaction of the Chief Executive Officer and which covers or includes the control of noise, antisocial behaviour, security, parking, residents' code of conduct is to be provided.**
- (viii) The owner or manager of the short stay dwelling must be contactable, using contact details provided to the Town, at any time of the day or night and the manager must respond, within 12 hours, to any contact relating to the short stay dwelling.**
- (ix) The approval may be revoked by Council, prior to the expiration of the 12 months period referred to in (i) above, if any adverse impacts involving noise, antisocial behaviour or parking are unable to be controlled by the applicant or their representative in a timely and effective manner which is to Council's satisfaction.**
- (x) No on site signage is permitted with respect to the application. CARRIED**

T7.9 Preston Point Road No. 166 (Lot 2)

Applicant: Zorzi Builders

Owner: Debra Maher

Application No. P217/2008

By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for unauthorised existing development comprising a boundary fence along the west side that is solid up to 1.8m high in the front setback between 166 and 164 Preston Point Road.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5, & Clause 8.4

Local Planning Strategy - Richmond Hill Precinct (LPS)

Relevant Council Policies

Local Planning Policy No. 143 – Fencing (LPP 143)

Documentation

Plans and relevant forms date stamp received on 18 December 2008

Date Application Received

18 December 2008

No. of Days Elapsed between Lodgement & Meeting Date

54 days

10 February 2009

MINUTES

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

19 November 1990	Council refuses to grant special approval for the erection of a two storey addition to the house at 166 Preston Point Road;
16 September 1991	Council refuses to grant special approval for the erection of a second storey addition;
21 October 1991	Council refuses to grant special approval for amended plans for a second storey addition;
3 June 1992	Minister for Planning advises that appeal versus Council decision has not been upheld;
22 December 2004	Council advises the WAPC that it does not support the subdivision of 166 Preston Point Road into 2 lots;
15 January 2005	WAPC refuses the subdivision (green title) of 166 Preston Point Road;
11 July 2005	WAPC reconsiders its previous decision and conditionally approves a survey strata subdivision.
18 July 2006	Council grants conditional approval for variations to roof & wall height and boundary setbacks for two 3-level houses at 166 Preston Point Road;
17 October 2006	Council grants approval for two 3-level houses at 166 Preston Point Road.

CONSULTATION

Site Inspection

By Town Planner on 23 December 2008

REPORT

Issues

Front Fence The west side boundary fence in the front setback between 166 and 164 Preston Point Road is solid up to 1.8m high.

LPP 143 states:

"Part 3 - Fence Design

Council requires front fences and walls above 1.2m to be visually permeable defined as:

Continuous vertical gaps of at least 50mm width occupying not less than 60% of the face in aggregate of the entire surface that is at least 60% of the length of the wall must be open. (Note: This differs from the 'R' Codes)"

Unauthorised Existing Development

The visually impermeable portion of the front fence that exceeds the fence height specified in LPP 143 should have been the subject of a planning approval process for which Council's discretion would have been required to allow.

On or around 3 December 2008 the Town Planner contacted the builder to advise that the front fence does not comply with LPP 143 and to modify the fence to comply (Council approval is not required for a compliant front fence).

The builder subsequently decided to retain the fence and apply for unauthorised existing development, a process available for the approval of unauthorised works under TPS 3.

Clause 8.4 states:

"8.4. Unauthorised Existing Developments

8.4.1. 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

10 February 2009

MINUTES

development conforms to the provisions of the Scheme.

- 8.4.2. *Development which was unlawfully commenced is not rendered lawful by the occurrence of any subsequent event except the granting of planning approval, and the continuation of the development unlawfully commenced is taken to be lawful upon the grant of planning approval.*

- Note:
1. *Applications for approval to an existing development are made under Part 9.*
 2. *The approval by the local government of an existing development does not affect the power of the local government to take appropriate action for a breach of the Scheme or the Act in respect of the commencement or carrying out of development without planning approval."*

Discussion

The brick fence between 164 and 166 Preston Point Road is the only fence along this section of Preston Point Road which does not comply with LPP 143, and as a consequence it appears as an unsightly 'blot' on an otherwise attractive local streetscape.

Being visually impermeable above 1.2m the fence blocks views from 164 Preston Point Road across the front of 166 Preston Point Road to Preston Point Road, which is considered to detrimentally impact on the security of that property, and its amenity.

This application for unauthorised existing development is not supported, and the fence should be modified to comply with LPP 143.

RECOMMENDATION

That Council:

1. Refuses to grant approval for unauthorised existing development comprising a boundary fence along the west side that is solid up to 1.8m high in the front setback between 166 and 164 Preston Point Road for the following reasons:
 - ... the side boundary fence has a detrimental impact on the local streetscape in conflict with Local Planning Policy 143 – Fencing;
 - ... the side boundary fence is incompatible with the appearance of the local streetscape in conflict with Town Planning Scheme No 3, Clause 10.2 (j) and (o);
 - ... the side boundary fence has a detrimental impact on the adjoining property at 164 Preston Point Road in conflict with Town Planning Scheme No 3, Clause 10.2 (p).
2. Directs the applicant/owner pursuant to s. 214 of the Planning and Development Act 2005 to modify the fence to comply with Local Planning Policy 143 – Fencing within 60 days after service of the direction.

RECOMMENDATION TO COUNCIL

Cr Dobro – Cr Wilson

That Council:

1. Refuses to grant approval for unauthorised existing development comprising a boundary fence along the west side that is solid up to 1.8m high in the front setback between 166 and 164 Preston Point Road for the following reasons:
 - ... the side boundary fence has a detrimental impact on the local streetscape in conflict with Local Planning Policy 143 – Fencing;
 - ... the side boundary fence is incompatible with the appearance of the local streetscape in conflict with Town Planning Scheme No 3, Clause 10.2 (j) and (o);
 - ... the side boundary fence has a detrimental impact on the adjoining property at 164 Preston Point Road in conflict with Town Planning Scheme No 3, Clause 10.2 (p).
2. Directs the applicant/owner pursuant to s. 214 of the Planning and Development Act 2005 to modify the fence to comply with Local Planning Policy 143 – Fencing within 60 days after service of the direction.

CARRIED UNANIMOUSLY



10 February 2009

MINUTES

T7.10 Speedy Cheval Street No. 36 (Lot 19)
Applicant: Elite Outdoor
Owner: David Lees
Application No. P206/2008
By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 5m long x 3.5m wide x 3m high dome roofed patio at the rear of the attached grouped dwelling at 36 Speedy Cheval Street.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R40
Local Planning Strategy - Raceway Precinct (LPS)
Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 064 – Richmond Raceway Design Guidelines (LPP 064)
Local Planning Policy No. 142 – Residential Development (LPP 142)

Documentation

Plans and relevant forms date stamp received on 21 November 2008

Date Application Received

14 November 2008

Additional information

18 November 2008 Email received from Applicant regarding setbacks
21 November 2008 Amended plans

Advertising

Adjoining land owners only

Date Advertised

19 November 2008

Close of Comment Period

4 December 2008

No. of Days Elapsed between Lodgement & Meeting Date

87 days

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

Nil

CONSULTATION

Public Submissions

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

REPORT

Issues

Boundary Setbacks

This application is for a patio at the rear of the 2-storey grouped dwelling at 36 Speedy Cheval Street, which is proposed to be set back 0.5m from both the east and west side boundaries.

The RDC specify a 1m setback on both sides for this structure.

10 February 2009

MINUTES

Discussion

The potentially affected property owners have not objected to the application, the setback variations are considered relatively minor, and are considered not to detrimentally affect the potentially affected adjoining properties; the application is supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the east and west side boundary setbacks pursuant to the Residential Design Codes from 1m to 0.5m for the construction of a 5m long x 3.5m wide x 3m high dome roofed patio at the rear of the attached grouped dwelling at No. 36 (Lot 19) Speedy Cheval Street, East Fremantle in accordance with the plans date stamp received on 21 November 2008 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 proposed patio 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.
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. 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).*
- (d) *the patio may not be enclosed without the prior written consent of Council.*

RECOMMENDATION TO COUNCIL

Cr Wilson – Cr Nardi

That Council exercise its discretion in granting approval for a variation to the east and west side boundary setbacks pursuant to the Residential Design Codes from 1m to 0.5m for the construction of a 5m long x 3.5m wide x 3m high dome roofed patio at the rear of the attached grouped dwelling at No. 36 (Lot 19) Speedy Cheval Street, East Fremantle in accordance with the plans date stamp received on 21 November 2008 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 proposed patio 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.
 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. 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).*
- (d) *the patio may not be enclosed without the prior written consent of Council.*

CARRIED

T7.11

Locke Crescent No. 4 (Lot 4997)

Applicant & Owner: Ray & Colleen O'Byrne

Application No. P219/2008

By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for additions at the rear of the 2-level house at 4 Locke Crescent comprising a kitchen, dining & living room, toilet, and a verandah.

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 No. 142 – Residential Development (LPP 142)

Documentation

Plans and relevant forms date stamp received on 22 December 2008



10 February 2009

MINUTES

Date Application Received

22 December 2008

Advertising

Adjoining land owners only

Date Advertised

23 December 2008

Close of Comment Period

16 January 2009

No. of Days Elapsed between Lodgement & Meeting Date

49 days

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

19 December 1985	Council approves reduced setback from 5m to 1.4m for a deck on the north side;
31 December 1985	Building Permit 107/1068 approved for a timber deck;
20 September 1993	Council defers an application for an extension to a timber framed patio deck;
18 October 1993	Council resolves to refer back a proposed extension to an existing balcony to the Town Planning & Building Committee;
15 November 1993	Council approves a reduced setback from 5m to 2.45m to allow the erection of a deck, and refuses a pergola because it would interfere with views from adjoining properties;
24 November 1993	Building Licence 111/2110 approved for deck;
9 May 1995	Town Planner grants approval under delegated authority for a spa platform;
	Building Licence 053/2286 approved for spa platform;
10 December 1995	Council decides to hold over an application for a double carport pending a meeting between the applicants and the Town Planner;
22 April 1997	Council grants special approval for a reduced front setback from 7.5m to 0.45m, and a reduced side setback from 1.5m to 0.75m for a double carport;
1 May 1997	Building Licence 050/2519 approved for carport.

CONSULTATION

Public Submissions

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

REPORT

Issues

Boundary Setbacks/Privacy

The application proposes upper level additions at the rear of the 2-level house at 4 Locke Crescent, which include a new kitchen, and living area with windows set back 2.8m from the north side boundary common with 6 Locke Crescent.

The RDC specify a 6m setback.

Discussion

There is presently an upper level deck area at the rear, which this application proposes to enclose for the purposes of creating the new rooms.

The landowner potentially affected by the setback variation proposed along the north side has endorsed support on the form prescribed under the RDC.

The area overlooked by these windows comprises a vegetated side access, and the roof of the house at 6 Locke Crescent therefore there is not considered to be any overlooking

10 February 2009

MINUTES

pursuant to the RDC of an outdoor living area (e.g. barbeque, swimming pool, patio/entertaining area).

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 6m to 2.8m for the construction of additions at the rear of the 2-level house at No. 4 (Lot 4997) Locke Crescent, East Fremantle comprising a kitchen, dining & living room, toilet, and a verandah in accordance with the plans date stamp received on 22 December 2008 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 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 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. 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) *the verandah may not be enclosed without the prior written consent of Council.*

RECOMMENDATION TO COUNCIL

Cr Olson – Cr Wilson

That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 6m to 2.8m for the construction of additions at the rear of the 2-level house at No. 4 (Lot 4997) Locke Crescent, East Fremantle comprising a kitchen, dining & living room, toilet, and a verandah in accordance with the plans date stamp received on 22 December 2008 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.**

10 February 2009

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. 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 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. 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) ***the verandah may not be enclosed without the prior written consent of Council.***

CARRIED

Cr Wilson made the following impartiality declaration in the matter of 19 Irwin Street: "As a consequence of the applicants being known to me due to our serving together on the committee of the Richmond Primary School, 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.

T7.12 Irwin Street No 19 (Lot 192)
Applicant: Dale Alcock Home Improvement
Owner: Derek & Tania Giles
Application No. P218/2008

By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for an outbuilding comprising a double garage, pool room, bathroom, and porch next to the southwest corner of 19 Irwin Street.

Statutory Considerations

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

10 February 2009

MINUTES

Relevant Council Policies

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

Documentation

Plans and relevant forms date stamp received on 19 December 2008

Date Application Received

19 December 2008

Advertising

Adjoining land owners only

Date Advertised

23 December 2008

Close of Comment Period

16 January 2009

No. of Days Elapsed between Lodgement & Meeting Date

52 days

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

16 October 1978	Council approves erection of a front boundary fence to a height of 1.8m with an additional height for brick piers;
29 October 1992	Building Licence 163/1999 approved for a fibre-glass below ground swimming pool;
17 February 2004	Council approves a setback variation on the south side for additions comprising enlarging 2 bedrooms and adding another bedroom;
14 April 2004	Building Licence 225/3571 approved for additions to residence.

CONSULTATION

Public Submissions

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

Site Inspection

By Town Planner on 23 December 2008

STATISTICS

	<i>Required</i>	<i>Proposed</i>
Land Area		1012m ² Existing
Open Space	55%	70.47% Acceptable
Zoning		R12.5
Heritage Listing		Municipal Inventory

Setbacks:

Rear (West)			
<i>Ground</i>	<i>Garage</i>	1.0	1.61 Acceptable
	<i>Bath</i>	1.0	2.5 Acceptable
Side (North)			
<i>Ground</i>	<i>Porch</i>	1.5	12.0 Acceptable

10 February 2009

MINUTES

STATISTICS		Required	Proposed
	Garage	1.0	8.135 Acceptable
Side (South)			
	Ground Bath	1.0	2.5 Acceptable
	Pool Room	1.0	1.1 Acceptable
Height:			
	Wall	2.4	2.4 Acceptable
	Building	4.2	3.9 Acceptable

REPORT

Issues

Outbuilding

The structure proposed for a pool room, bathroom and double garage is classified as an "outbuilding" pursuant to the RDC, for which the following acceptable development provisions apply:

- "A1 Outbuildings that:
- i are not attached to a dwelling;
 - ii are non-habitable;
 - iii collectively do not exceed 60 sq m in area or 10 per cent in aggregate of the site area, whichever is the lesser;
 - iv do not exceed a wall height of 2.4 m;
 - v do not exceed ridge height of 4.2 m;
 - vi are not within the primary street setback area;
 - vii do not reduce the amount of open space required in table 1; and
 - viii comply with the siting and design requirements for the dwelling, but do not need to meet rear setback requirements of table 1."

The proposed outbuilding comprises a total floor area of 83.48m² therefore Council's discretion is required to be exercised to allow it.

Discussion

The proposed double garage, pool room, and bathroom replace a single garage and 2 sheds.

While the size of this outbuilding is bigger than the maximum specified under the RDC most of the space is for the double garage (39.06m²).

A garage is normally provided as an integral part of contemporary single residential development (usually it is attached), and not counted as an outbuilding. In this application the garage is not attached to the dwelling, and is an integral part of the new building which is also proposed to contain a pool, room, bathroom and porch, and is by definition a part of an outbuilding.

If the floor area of the garage is deducted from the total building area for the purposes of determining the extent of the outbuilding the area left comprises 44.42m², which is less than the maximum specified in the RDC for outbuildings.

The proposed variation to the size of an outbuilding does not detrimentally affect the amenity of any adjoining property, the subject land will contain more than 70% open space after construction of the proposed outbuilding, which is considered to improve the amenity of the property, and is supported.



10 February 2009

MINUTES

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to floor area pursuant to the RDC from 60m² to 83.48m² for the construction of an outbuilding, comprising a double garage, bathroom, pool room, and porch, next to the southwest corner of No. 19 (Lot 192) Irwin Street, East Fremantle in accordance with the plans date stamp received on 19 December 2008 subject to the following conditions:

1. the outbuilding is not to be occupied for residential purposes.
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 outbuilding 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.
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. 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).*

RECOMMENDATION TO COUNCIL

Cr Rico – Cr Nardi

That Council exercise its discretion in granting approval for a variation to floor area pursuant to the RDC from 60m² to 83.48m² for the construction of an outbuilding, comprising a double garage, bathroom, pool room, and porch, next to the southwest corner of No. 19 (Lot 192) Irwin Street, East Fremantle in accordance with the plans date stamp received on 19 December 2008 subject to the following conditions:

- 1. the outbuilding is not to be occupied for residential purposes.**



10 February 2009

MINUTES

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 outbuilding 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.
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. 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

T7.13 A Guide to Meeting Procedure (Brochure)

Following discussion, suggested changes to the brochure were put forward.

Cr Wilson – Cr Rico

That subject to the changes to the brochure being undertaken as discussed, the brochure entitled 'A Guide to Meeting Procedure' be adopted and made available to the public.

CARRIED



10 February 2009

MINUTES

T7.14 Locke Crescent No. 8 (Lot 4995)

Applicant: Austin Pearce

Owner: Craig Mason

Application No. P213/2008

By Chris Warrener, Town Planner on 5 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 12m long x 3.5m wide x 3.450m high gable roofed gazebo/patio situated partially over the swimming pool at the rear of the 2-storey house at 8 Locke Crescent.

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 No. 142 – Residential Development (LPP 142)

Documentation

Plans and relevant forms date stamp received on 4 December 2008

Date Application Received

4 December 2008

Additional information

5 February 2009 Amended plans for increased setback to 1.5m along the south side received.

Advertising

Adjoining land owners only

Date Advertised

10 December 2008

Close of Comment Period

5 January 2009

No. of Days Elapsed between Lodgement & Meeting Date

67 days

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

16 May 1986	Building Licence 182/1134 approved for a timber pergola;
5 March 1993	Building Licence 058/2054 approved for a balcony extension and a new double garage;
18 April 2000	Council decides to advise the WAPC that it does not support the battleaxe subdivision of 8 Locke Crescent into 2 lots (1 x 450m ² , 1 x 463m ²);
15 May 2000	WAPC grants conditional approval to the subdivision of 8 Locke Crescent;
21 November 2000	Council grants approval for a swimming pool & a retaining wall;
27 November 2000	Building Licence 163/3002 approved for a retaining wall & swimming pool;
15 July 2003	Council grants approval for front and north side setback variations for additions comprising an upper level balcony and a garage with a parapet wall on the north side;
3 August 2004	Building Licence 3609 approved for additions to residence.

10 February 2009

MINUTES

CONSULTATION

Public Submissions

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

D White Any proposal must abide with current building codes and
6 Locke Crescent objectives.

Site Inspection

By Town Planner on 13 January 2009

REPORT

Issues

Boundary Setbacks

The proposed gazebo will be set back 1.3m from the south side boundary common with 6 Locke Crescent.

The RDC specify a 1.5m setback.

Discussion

Approval is sought for the construction of a rectangular shaped gazebo over the kidney shaped swimming pool that is located near the southeast corner of the irregular shaped property at 8 Locke Crescent.

Approximately 50% of this gazebo will be built over the pool and will provide shade and sun protection.

The following table provides compliance details:

STATISTICS	Required	Proposed
<u>Setbacks:</u>		
Side (East)	1.00	1.4 Acceptable
Side (South)	1.50	1.30 Discretion Required
<u>Height:</u>		
Wall	6.00	2.20 Acceptable
Building	9.00	3.450 Acceptable

The setback variation along the east side is considered relatively minor however in response to the submission from the neighbour the owner has decided to increase the south side setback to 1.5m to comply with the RDC.

RECOMMENDATION

That Council exercise its discretion in granting approval for the construction of a 12m long x 3.5m wide x 3.450m high gable roofed gazebo/patio situated partially over the swimming pool at the rear of the 2-storey house at No. 8 (Lot 4995) Locke Crescent, East Fremantle in accordance with the plans date stamp received on 4 December 2008 subject to the following conditions:

1. prior to the issue of a building licence amended plans are to be submitted specifying that the setback for the gazebo along the south side is 1.5m to comply with the setback specified in the Residential Design Codes.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where

10 February 2009

MINUTES

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

RECOMMENDATION TO COUNCIL

Cr Olson – Cr Rico

That Council exercise its discretion in granting approval for the construction of a 12m long x 3.5m wide x 3.450m high gable roofed gazebo/patio situated partially over the swimming pool at the rear of the 2-storey house at No. 8 (Lot 4995) Locke Crescent, East Fremantle in accordance with the plans date stamp received on 4 December 2008 subject to the following conditions:

1. **prior to the issue of a building licence amended plans are to be submitted specifying that the setback for the gazebo along the south side is 1.5m to comply with the setback specified in the Residential Design Codes.**
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.**

10 February 2009

MINUTES

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

CARRIED

T7.15

Gill Street No. 5 (Lot 5)

Applicant: Greg Rowe & Associates

Owner: The Commissioners of the Presbyterian Church in WA

Application No. P136/2008

By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

Following advertising Council is requested to adopt for final approval Amendment No 5 to permit 5 Gill Street to be used as an office in association with the Braemar Homes for the Aged.

Statutory Considerations

Local Planning Scheme No. 3 – Residential R12.5 (LPS 3)

Local Planning Strategy - Richmond Precinct (LPS)

Residential Design Codes (RDC)

Documentation

Request and draft documentation date stamp received on 26 June 2008.

Date Application Received

26 June 2008

Advertising

Adjoining landowners, sign on site, and advertisement in local newspaper

Date Advertised

1 November 2008

10 February 2009

MINUTES

Close of Comment Period

15 December 2008

No. of Days Elapsed between Lodgement & Meeting Date

220 days

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

- 18 October 2005 Council decides to undertake a (21) day public submission period including letters to local residents, notice in a local newspaper and a sign on site to use 5 Gill Street as offices for the administration of the Braemar Homes activities with the results being referred back to Council for further consideration;
- 21 February 2006 Council decides to refuse an application for planning approval to use the building at 5 (Lot 5) Gill Street, East Fremantle for administration purposes associated with Braemar Homes;
- 19 August 2008 Council resolves to initiate an amendment to Town Planning Scheme No 3 to allow the house at 5 Gill Street to be used as offices for the administration of the Braemar Homes.

CONSULTATION

Public Submissions

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

REPORT

At its meeting held on 19 August 2008 Council resolved:

"That Council, pursuant to Section 75 of the Planning and Development Act 2005, resolves to initiate an amendment to the Town of East Fremantle Town Planning Scheme No 3 by:

- 1. Replacing the 'Description of Land' of 'Additional Use Site No. 14' under Schedule 2 of the Scheme Text with the following:
"Lot 57 (No. 10) Windsor Road, East Fremantle, and Lot 5 (No 5) Gill Street East Fremantle."*
- 2. Modifying the Scheme Map to reflect the new boundaries of 'Additional Use Site No. 14.'*

The amendment was advertised and no submissions were received.

If Council decides to adopt this amendment for final approval, and the Minister approves it the house at 5 Gill Street will be used as offices associated with the use of the Braemar Homes.

Office use of this property is considered not to detrimentally impact on the amenity of adjoining and nearby properties, and is therefore supported.

RECOMMENDATION

That Council:

1. Adopts Amendment No. 5 to the Town of East Fremantle Town Planning Scheme No 3 for Final Approval, and
2. Pursuant to section 87 of the Planning and Development Act 2005 submits the amendment to the Minister for approval.

RECOMMENDATION TO COUNCIL

Cr Olson – Cr Nardi

That Council:

- 1. Adopts Amendment No. 5 to the Town of East Fremantle Town Planning Scheme No 3 for Final Approval, and**
- 2. Pursuant to section 87 of the Planning and Development Act 2005 submits the amendment to the Minister for approval.**

CARRIED

10 February 2009

MINUTES

Mr Simon Maxwell (architect) and representing the owners of 25 Angwin Street, entered the meeting at 8.20pm.

7.16 Order of Business

Cr Olson – Cr Wilson

That the order of business be altered to allow Mr Maxwell to address the meeting and present options for the proposed amendments to the residence currently under construction at 25 Angwin Street. CARRIED

**T7.17 Angwin Street No. 25 (Lot 46)
Applicant: Urbanize Architects
Owner: Alf Pelliccione & Gillian Meacock
Application No. P126/2008**

The following memo from the Town Planner, Chris Warrener, relating to 25 Angwin Street and an upcoming Directions Hearing was circulated to councillors prior to the meeting.

“On 5 February 2009 the Town Planner attended mediation at the State Administrative Tribunal (SAT) to discuss the decision Council made at its meeting on 3 February 2009 to refuse the amended plans for 25 Angwin Street.

In light of Council's decision to refuse the application SAT Member Antony Ednie-Brown has referred the matter back to the SAT for a Directions Hearing on 18 February 2009 and subsequent formal hearing process.

The purpose of scheduling the Directions Hearing for this date is to give the parties further opportunity to resolve the matter.

The Town Planner had advised the mediation hearing that a comment made at the Council meeting inferred that a skillion roofed option for the room above the garage might be a better solution than the rejected amended plan for a mansard roof.

Mr Simon Maxwell for the Owner has offered to sit down with Crs to table and discuss 3 options for the proposed development with a view to working through a solution which Council would be happy to accept, and if there is an acceptable solution to put that to Full Council.

It is therefore proposed to hold an informal discussion with Mr Maxwell at the end of Tuesday night's Town Planning & Building Committee agenda.”

Mr Maxwell presented two options, namely Rev-F and Mediation Option, for consideration by the Committee.

Cr Dobro – Cr Wilson

That the applicant be requested to submit revised drawings that show a skillion roof with a reduced pitch of approximately 12° and a reduction in pitching height to 2150. CARRIED

Mr Maxwell left the meeting at 8.47pm.

10 February 2009

MINUTES

T7.18 Gill Street No. 24B (Lot 2)
Applicant: Broadview Design
Owner: Lorraine Mountain
Application No. P233/2008
By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for ground floor additions to the single storey house at 24B Gill Street comprising a new kitchen, garage (to replace a carport), built-in-robos, porch, and roofed outdoor alfresco.

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy No. 142 – Residential Development (LPP 142)
Council Policy 138 – Development on Rear Battleaxe Lots

Documentation

Plans and relevant forms date stamp received on 23 December 2008

Date Application Received

23 December 2008

Advertising

Adjoining land owners only

Date Advertised

2 January 2009

Close of Comment Period

16 January 2009

No. of Days Elapsed between Lodgement & Meeting Date

48 days

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

22 April 1992	Council decides to order cessation of all work relating to demolition of existing residence;
25 May 1992	Council resolves to issue a demolition permit for the existing structure;
27 May 1992	Council grants special approval for a duplex development;
3 June 1992	Building Licence 018c/1942 approved for two duplex units;
27 November 1992	Town Clerk certifies the Strata Plan for the duplex units;
26 May 1999	Strata Plan 23602 registered for duplex units;
17 May 2005	Council grants conditional approval for setback variations for additions to 24B Gill Street involving the extension of a garage on the eastern boundary, extending the living room to the western boundary and en-suite to the northern boundary.

CONSULTATION

Public Submissions

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

D Finlayson
26A Gill Street

No object to proposed development.

STATISTICS	Required	Proposed
Land Area		430m ² Existing
Open Space	55%	52.5% Discretion Required
Zoning		R12.5
<u>Setbacks:</u>		
Front (West)		
<i>Ground Porch</i>	1.5	3.8 Acceptable
<i>Garage</i>	1.0/Nil	<i>Policy 142</i> Nil Acceptable
Rear (East)		
<i>Ground Kitchen</i>	1.0	1.0 Acceptable
<i>Alfresco</i>	1.0	1.0 Acceptable
Side (North)		
<i>Ground Alfresco</i>	1.0	1.0 Acceptable
<i>Porch</i>	1.5	9.0 Acceptable
<i>Garage</i>	1.0	11.8 Acceptable
Side (South)		
<i>Ground Garage/WIR</i>	1.0	1.5 Acceptable
<u>Height:</u>		
Wall	6.00	2.7 Acceptable
Building	9.00	5.2 Acceptable

REPORT

Issues

Open Space

The additions to the house result in the development at 24B Gill Street occupying approximately 47.5% of the property, leaving 52.5% open space.

The RDC specify 55% open space for R12.5 coded property.

Discussion

The reduction in the amount of open space available at 24B Gill Street is considered relatively minor, it is not considered to have a detrimental impact on the amenity of the property, and given that this property is a strata lot with an area more suited to an R20 residential code where 50% open space is specified, the proposed variation is supported.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the open space provision pursuant to the Residential Design Codes from 55% to 52.5% for the construction of ground floor additions to the single storey house at No. 24B (Lot 2) Gill Street, East Fremantle comprising a new kitchen, garage (to replace a carport), built-in-robos, porch, and roofed outdoor alfresco in accordance with the plans date stamp received on 23 December 2008 subject to the following conditions:

10 February 2009

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

RECOMMENDATION TO COUNCIL

Cr Olson – Cr Nardi

That Council exercise its discretion in granting approval for a variation to the open space provision pursuant to the Residential Design Codes from 55% to 52.5% for the construction of ground floor additions to the single storey house at No. 24B (Lot 2) Gill Street, East Fremantle comprising a new kitchen, garage (to replace a carport), built-in-robos, porch, and roofed outdoor alfresco in accordance with the plans date stamp received on 23 December 2008 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**

10 February 2009

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

CARRIED

10 February 2009

MINUTES

- T7.19** **Hamilton Street No. 18A (Lot 881)**
Applicant: Peter Stannard Homes Pty Ltd
Owner: Stephen & Christine Doyle
Application No. P205/2008
By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a single storey house on the rear/battleaxe block at 18A Hamilton Street comprising a double garage & store, entry, home theatre, study, 4 bedrooms, 2 bathrooms, kitchen, family and meals room, laundry and roofed alfresco.

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy 066 – Roofing (LPP 066)
Local Planning Policy No. 142 – Residential Development (LPP 142)
Council Policy 138 – Development on Rear Battleaxe Lots

Documentation

Plans and relevant forms date stamp received on 13 November 2008

Additional Information'

Amended site plan received 28 January 2009-02-06

Date Application Received

13 November 2008

Advertising

Adjoining land owners only

Date Advertised

13 November 2008

Close of Comment Period

27 November 2008

No. of Days Elapsed between Lodgement & Meeting Date

88 days

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

7 December 1999	Demolition Licence 363 issued for the house at 18 Hamilton Street;
4 November 2004	WAPC conditionally approves the subdivision of 201 Canning Highway and 18 Hamilton Street (a single lot) into 2 lots to create 203 Canning Highway & 18 Hamilton Street;
20 December 2005	Council conditionally approves a single storey house at 18 Hamilton Street;
16 February 2006	Building Licence 05/71 approved for single storey house at 18 Hamilton Street;
6 June 2006	WAPC endorses Deposited Plan 42067 to create 18 Hamilton Street & 203 Canning Highway;
7 February 2008	WAPC conditionally approves the subdivision of 203 Canning Highway into 2 lots to create 18A Hamilton Street (860m ²) & 203 Canning Highway (860m ²);
20 May 2008	Council approves a setback variation on the north side and a parapet wall height variation for a single storey house.

10 February 2009

MINUTES

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 27 January 2009 and the following comments were made:

- neat low level solution with good solar orientation;
- not a house to get excited about.

Public Submissions

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

Site Inspection

By Town Planner on 30 April 2008

STATISTICS	Required	Proposed
Land Area		860m ² Existing
Open Space	55%	61.2% Acceptable
Zoning		R12.5
Setbacks:		
Front (South)	<i>Garage</i>	1.0 11.4 Acceptable
	<i>Theatre</i>	1.5 12.0 Acceptable
	<i>Study</i>	1.0 5.2 Acceptable
	<i>Bed 3 & 4</i>	1.5 2.0 Acceptable
Rear (North)	<i>Bed 1</i>	1.5 4.45 Acceptable
	<i>Family</i>	1.5 7.0 Acceptable
	<i>Alfresco</i>	1.0 4.45 Acceptable
	<i>Garage</i>	1.0 14.3 Acceptable
	<i>Store</i>	1.0 2.1 Acceptable
Side (East)	<i>Bed 3</i>	1.0 2.0 Acceptable
	<i>Bed 2</i>	1.5 1.514 Acceptable
	<i>Ensuite/Bed 1</i>	1.0 1.514 Acceptable
Side (West)	<i>Alfresco</i>	1.0 2.812 Acceptable
	<i>Kitchen</i>	1.0 2.812 Acceptable
	<i>Garage</i>	1.0/Nil <i>Policy 142</i> 1.6 Acceptable
	<i>Entry</i>	1.5 13.0 Acceptable

10 February 2009

MINUTES

STATISTICS		<i>Required</i>	<i>Proposed</i>
	<i>Study</i>	1.5	12.4
			Acceptable
	<i>Bed 4</i>	1.5	16.0
			Acceptable
Height:			
	Wall	6.0	3.0
			Acceptable
	Building	9.0	6.5
			Acceptable

REPORT

Issues

Roof Pitch

The proposed house has a colorbond roof pitched at 25°38'.

LPP 066 states:

“dominant elements to be greater than 28°.”

Discussion

Apart from roof pitch there are no other variations for which Council is required to exercise its discretion to allow.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25°38' for the construction of a single storey house on the rear/battleaxe block at No. 18A (Lot 881) Hamilton Street, East Fremantle comprising a double garage & store, home theatre, entry, study, 4 bedrooms, 2 bathrooms, kitchen, family and meals room, laundry and roofed alfresco in accordance with the plans date stamp received on 13 November 2008 & 28 January 2009 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 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 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 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



10 February 2009

MINUTES

- 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. 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) *the alfresco may not be enclosed without the prior written consent of Council.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

RECOMMENDATION TO COUNCIL

Cr Olson – Cr Nardi

That Council exercise its discretion in granting approval for a variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25°38' for the construction of a single storey house on the rear/battleaxe block at No. 18A (Lot 881) Hamilton Street, East Fremantle comprising a double garage & store, home theatre, entry, study, 4 bedrooms, 2 bathrooms, kitchen, family and meals room, laundry and roofed alfresco in accordance with the plans date stamp received on 13 November 2008 & 28 January 2009 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 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 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 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.**

10 February 2009

MINUTES

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. 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. 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) *the alfresco may not be enclosed without the prior written consent of Council.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T7.20

View Terrace No. 51 (Lot 59)

Applicant: Howard & Heaver Architects

Owner: T & F Brien

Application No. P220/2008

By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for additions to the 2-storey house at 51 View Terrace ("Penshurst") comprising:

Ground floor: new kitchen, porch, study, timber decked courtyard, dining and living room;

First floor: new study/sitting room, & bathroom.

10 February 2009

MINUTES

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 No. 142 – Residential Development (LPP 142)

Documentation

Plans and relevant forms date stamp received on 22 December 2008

Date Application Received

22 December 2008

Additional information

Open space calculation received on 9 January 2009

Advertising

Adjoining land owners only

Date Advertised

23 December 2008

Close of Comment Period

16 January 2009

No. of Days Elapsed between Lodgement & Meeting Date

49 days

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

5 May 2000	WAPC grants conditional approval (111749) for the subdivision of 51 View Terrace (excise 190m ² from 53 View Terrace & amalgamate 190m ² with 51 View Terrace) to provide property access to Penshurst Street for 51 View Terrace;
17 July 2001	Council decides to advise the WAPC that it supports a boundary adjustment;
15 January 2002	WAPC endorses for final approval Deposited Plan 30154;
16 July 2002	Council grants conditional approval for setback variations for conservation works and alterations;
10 October 2002	Building Licence 112/3305 approved for renovation/restoration of heritage building;
19 November 2002	Council grants approval for a garage;
17 December 2002	Council approves erection of boundary fencing;
17 August 2004	Council grants approval for a below ground concrete swimming pool;
30 August 2004	Building Licence 104/3622 approved for below ground swimming pool.

CONSULTATION

Town Planning Advisory Panel

This application was considered by the Town Planning Advisory Panel at its meeting held on 27 January 2009 and the following comments were made:

- heritage value is significant and that value comes from its heritage fabric not just the streetscape value of the home;
- the proposed additions are to the rear of the property and as such will be partially concealed, however this is a very conspicuous house within the Town and one with considerable history;
- concern that significant original fabric of the house is proposed to be removed or covered up;

10 February 2009

MINUTES

- the form of the additions proposed is acceptable, however, the manner in which the additions are elevated appears to be at odds with the original house and which do not enhance the house:
 - .. the fenestration within the kitchen is useless
 - .. the diningroom too small
 - .. the reason for the fully enclosed porch off the laundry which effectively blocks the kitchen windows is not clear;
- whilst appreciating the need for definition of old and new, surely timber window frames would be a more acceptable solution for the new east elevation glazing;
- additions should be attached by way of a link rather than abutting the original home in order to differentiate the original from the additions;
- whilst contemporary additions would be acceptable, what is being proposed is not compatible. Owners should seek the advice of a heritage architect;
- original first floor verandah at the rear and original limestone wall and brick quoining should be reinstated;
- site inspection required to understand the original layout of the home and to understand and assess request for planning application.

Other Agency/Authority

Heritage Council of Western Australia (HCWA)

Public Submissions

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

Site Inspection

By Town Planner on 5 January 2009

STATISTICS		<i>Required</i>	<i>Proposed</i>
Land Area			1128m ² Existing
Open Space		55%	69.79% Acceptable
Zoning			R12.5
Heritage Listing			State Register & Heritage list (TPS3)
Setbacks:			
Rear (South)			
	<i>Ground Dining & Living</i>	6.0	7.2 Acceptable
	<i>Upper Bath/Study</i>	6.0	12.0 Acceptable
	<i>Bath/Study wall height</i>	7.5	6.5 Discretion Required
Side (West)			
	<i>Ground Porch</i>	1.0	0.25 Discretion Required
	<i>Kitchen</i>	1.0	2.0 Acceptable
	<i>Dining</i>	1.0	1.516 Acceptable
	<i>Upper Bath</i>	1.3	2.0 Acceptable
	<i>Bath wall height</i>	7.5	6.5 Discretion Required

10 February 2009

MINUTES

STATISTICS	Required	Proposed
Side (East)		
Ground Living	1.5	14.0
		Acceptable
Study	3.5	18.4
		Acceptable
Study wall height	7.5	6.5
		Discretion Required

**REPORT
Issues**

Heritage

The 2-storey house at 51 View Terrace, "Penshurst", is on the State Register of Heritage Places and the Heritage List under TPS 3 therefore this application was referred to the HCWA for comment.

Boundary Setbacks

The application proposes a porch that is set back 0.25m from the west side boundary common with 49 View Terrace.

Wall height of the porch is 3.5m.

The RDC specify a 1m setback.

Building Height

The subject property is an area of East Fremantle where views are an important part of the amenity of the area.

The proposed additions incorporate a flat/concealed roof therefore under LPP 142 the specified wall height limit is 6.5m.

.. Rear South

The wall for a proposed upper floor bathroom and study is 7.5m above natural ground level (NGL).

LPP 142 specifies a wall height limit of 6.5m above NGL.

.. Side West

The wall for a proposed bathroom is 7.5m above NGL.

LPP 142 specifies a 6.5m wall height limit.

.. Side East

The wall for a proposed study is 7.5m above NGL.

LPP 142 specifies a 6.5m wall height limit.

Discussion

Heritage

The Heritage Council advised that it supports the proposed works subject to the following conditions:

1. *The setback of the proposed addition should reflect the Design Guidelines, which state "that where any new structure abuts the existing building it should be set in from the façade line so that the juncture is clearly defined." A plan detailing the required setback is attached.*
2. *retained in the proposed new door opening into the kitchen area that clearly interprets its function as an exterior wall.*
3. *The existing window widths shall be retained in new door openings proposed for the ground floor new study and first floor existing bedroom.*
4. *The original door on the first floor existing bedroom shall be re-used in the proposed new door opening to the study/sitting room.*

10 February 2009

MINUTES

5. *Drywall construction shall be used when infilling the door between the first floor existing bedroom and new study/sitting room, in a manner that enables the former door to be read. This should incorporate the retention of architraves and/or minor reveals to denote the former door.*
6. *The boarding of the ground floor windows in the existing dining room shall be designed in such a way to reveal the architraves.*
7. *The weatherboard-clad addition on the west elevation shall be constructed in such a way to minimise impact on the exterior fabric.*

Boundary Setbacks The proposed setback variation for the porch is considered relatively minor and is not considered to detrimentally affect the adjoining property at 49 View Terrace. The potentially affected property owner has not objected to the application.

Building Height While the applications proposes a variation to wall height this variation is required to ensure that the height of the proposed additions matches the wall height of the existing house and is supported. There are no impacts on adjoining or nearby property views by the wall height variation for the proposed additions.

RECOMMENDATION

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

- (a) variation to the west side boundary setback for a porch pursuant to the Residential Design Codes from 1m to 0.25m;
- (b) variation to wall height on the south, west and east sides for a bathroom and study pursuant to Local Planning Policy 142 from 6.5m to 7.5m;

for the construction of additions to the 2-storey house at No. 51 (Lot 59) View Terrace ("Penshurst"), East Fremantle comprising:

Ground floor: new kitchen, porch, study, timber decked courtyard, dining and living room;

First floor: new study/sitting room, & bathroom;

in accordance with the plans date stamp received on 22 December 2008 subject to the following conditions:

1. the setback of the proposed addition shall reflect the Design Guidelines, which state "that where any new structure abuts the existing building it should be set in from the façade line so that the juncture is clearly defined." A plan detailing the required setback is attached.
2. wall nibs of at least 450mm and a substantial portion of the wall from ceiling shall be retained in the proposed new door opening into the kitchen area that clearly interprets its function as an exterior wall.
3. the existing window widths shall be retained in new door openings proposed for the ground floor new study and first floor existing bedroom.
4. the original door on the first floor existing bedroom shall be re-used in the proposed new door opening to the study/sitting room.
5. drywall construction shall be used when infilling the door between the first floor existing bedroom and new study/sitting room, in a manner that enables the former door to be read. This shall incorporate the retention of architraves and/or minor reveals to denote the former door.
6. the boarding of the ground floor windows in the existing dining room shall be designed in such a way to reveal the architraves.
7. the weatherboard-clad addition on the west elevation shall be constructed in such a way to minimise impact on the exterior fabric.
8. 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.

10 February 2009

MINUTES

9. 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. 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.
11. the proposed extensions 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.
12. 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. 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.
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).*

RECOMMENDATION TO COUNCIL

That the application for alterations/additions to the residence "Penshurst" located at No. 51 (Lot 59) View Terrace, East Fremantle be deferred pending a site visit being undertaken which includes viewing of both the internal and external elements of the existing residence.

CARRIED

T7.21 Preston Point Road No. 138 (Lot 4953)

Applicant: Shane Leroy Design

Owner: Giuseppe & Antonette Spirito

Application No. P198/2008

By Chris Warrener, Town Planner on 3 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for a 2-storey house at 138 Preston Point Road comprising:

Ground floor: double garage & store, porch & entry, laundry, powder room, kitchen, pantry, dining & family room, master bedroom, en-suite & dressing room, terrace and alfresco;

Upper floor: 3 bedrooms, bathroom, powder room, office, entertaining room, and balcony.



10 February 2009

MINUTES

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)
Local Planning Policy No. 143 – Fencing (LPP 143)

Documentation

Plans and relevant forms date stamp received on 3 November 2008

Date Application Received

3 November 2008

Additional information

27 November 2008 Roof plan defining building heights received;
22 December 2008 Revised plans received demonstrating compliance with 8.1m roof height limit.

Advertising

Adjoining landowners and sign on site

Date Advertised

11 November 2008

Close of Comment Period

25 November 2008

No. of Days Elapsed between Lodgement & Meeting Date

99 days

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

17 August 1987 Council refuses its special approval to erect another storey over the existing residence because it does not conform to the setback requirements of TPS 2.

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting on 20 November 2008 and the following comments were made:

- interesting design;
- design is acceptable.

Public Submissions

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

A & S Eldrid Expressed concern regarding building height – request that
24 Locke Crescent maximum building height is adhered to & in no way is exceeded.

Site Inspection

By Town Planner on 12 December 2008

STATISTICS		Required		Proposed
Land Area				709m ² Existing
Open Space		55%		65.31% Acceptable
Zoning				R12.5
Setbacks:				
Front (North)				
	Ground	Terrace	7.5	7.5 Acceptable
		Master Bed	7.5	7.5 Acceptable
		Ensuite	7.5	8.69 Acceptable
	Upper	Office	7.5	11.46 Acceptable
		Balcony	7.5	7.86 Acceptable
Rear (South)				
	Ground	Laundry	6.0	9.2 Acceptable
		Garage	6.0	0.228 Discretion Required
	Upper	Bedroom 3 & 4	6.0	12.217 Acceptable
		Robe	6.0	7.248 Acceptable
Side (East)				
	Ground	Garage	1.0/Nil	Policy 142 Nil Acceptable
		Powder	1.0	1.6 Acceptable
		Alfresco	1.0	1.0 Acceptable
		Family	1.5	4.17 Acceptable
		Master	1.5	9.78 Acceptable
	Upper	Bed 2 & 3	1.7	3.395 Acceptable
		Office	1.2	4.125 Acceptable
		Balcony	7.5	8.3 Acceptable
Side (West)				
	Ground	Ensuite	1.0	3.8 Acceptable
		Entry	1.5	3.769 Acceptable
		Kitchen	1.0	4.5 Acceptable
		Garage	1.0	5.2 Acceptable
	Upper	Balcony & Entertaining	1.2	6.5 Acceptable

10 February 2009

MINUTES

STATISTICS		<i>Required</i>	<i>Proposed</i>
	<i>Stair Void</i>	1.2	3.7 Acceptable
	<i>Bed 4</i>	1.2	3.3 Acceptable
<u>Height:</u>			
	Wall	5.6	5.6 Acceptable
	Building	8.1	8.1 Acceptable

**REPORT
Issues**

Streetscape

The proposed house will be set back 7.5m from the front boundary.

While this conforms to the specified front setback pursuant to the RDC, LPP 142 states:

“(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.”

The houses on the adjoining properties are set back approximately 10m from the front boundary, and most of the houses along this section of Preston Point Road are at or around a 10m front setback.

Boundary Walls

A proposed double garage has a parapet wall along the east side boundary common with 140 Preston Point Road, and is setback a minimum of 0.228m from the rear/south side boundary common with 26 Locke Crescent.

LPP 142 allows a 9m long x 3m high wall along one side boundary however this application proposes that a 2.6m long section of the garage wall is situated next to the south side boundary. This section of wall comprises a second boundary wall and is therefore subject to the exercise of Council's discretion to be allowed.

Setbacks

The application proposes a double garage with a setback that varies from 2.4m to 0.228m from the south side (rear) boundary.

The RDC specify a 6m rear setback for R12.5 coded property. proposed in the application Council refused in March 2007.

Fencing

The application proposes a front fence which contains three (3) solid fence panels that vary in height up to 2m above NGL.

The two solid panels in the front setback along the frontage to the property and the solid curved rendered wall next to the west side boundary comprise fencing that does not comply with LPP 143.

Submissions

The submission from the owners of 24 Locke Crescent states concern that the proposed house is built to comply with the maximum building height limit.

10 February 2009

MINUTES

Discussion

Building Height

In response to the concerns raised by the author of the submission, and in response to telephone discussions with the Town Planner the applicant submitted amended plans to bring the roof height into compliance with LPP 142

Streetscape

The existing house at 138 Preston Point Road is set back approximately 7.5m from the front boundary.

Its replacement is proposed at a similar setback, which is not considered to detrimentally impact on the local streetscape given its position adjacent to a bend in the road, and the location of the adjacent house at 136 Preston Point Road; this variation is supported.

Boundary Walls

The variation proposed to the extent of boundary walls for the garage is considered acceptable especially given that the application proposes to situate the garage at the rear, well behind the main building line not visible to Preston Point Road.

The potentially affected property owners have not objected to this variation, which will contribute to better privacy between the properties, and is supported.

Setbacks

The proposed rear setback variation is considered reasonable it does not detrimentally impact on the amenity of the potentially affected property, and the potentially affected property owner has not objected to the application. This variation is supported.

Fencing

A 4.1m long section of the front fence screens a proposed swimming pool in the front setback, and a 3.9m long section of this fence screens a portion of a proposed outdoor living area in the front setback. Similarly the curved rendered wall provides a privacy screen for the proposed outdoor living area on the west side.

The remainder of the fence "more than complies" with LPP 143 in having a greater visual permeability than 60% up to 2m above NGL.

RECOMMENDATION

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

- (a) variation to the rear (south side) boundary setback pursuant to the Residential Design Codes from 6m to 0.228m;
- (b) variation to Local Planning Policy 142 to permit two boundary walls;
- (c) variation to Local Planning Policy 142 in regard to the front setback along Preston Point Road from 10m to 7.5m;
- (d) variation to Local Planning Policy 143 to allow portions of the front fence to be visually impermeable up to 2m above natural ground level;

for the construction of a 2-storey house at No. 138 (Lot 4953) Preston Point Road, East Fremantle comprising:

Ground floor: double garage & store, laundry, pantry, powder room, kitchen pantry, dining & family room, master bedroom, en-suite & dressing room, porch & entry, terrace and alfresco;

Upper floor: 3 bedrooms, bathroom, powder room, office, entertaining room, and balcony;

in accordance with the revised plans date stamp received on 22 December 2008 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

10 February 2009

MINUTES

- 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 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 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. 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) *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).*



10 February 2009

MINUTES

- (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.*
- (g) *the alfresco may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

RECOMMENDATION TO COUNCIL

Cr Wilson – Cr Olson

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

- (a) variation to the rear (south side) boundary setback pursuant to the Residential Design Codes from 6m to 0.228m;**
- (b) variation to Local Planning Policy 142 to permit two boundary walls;**
- (c) variation to Local Planning Policy 142 in regard to the front setback along Preston Point Road from 10m to 7.5m;**
- (d) variation to Local Planning Policy 143 to allow portions of the front fence to be visually impermeable up to 2m above natural ground level;**

for the construction of a 2-storey house at No. 138 (Lot 4953) Preston Point Road, East Fremantle comprising:

Ground floor: double garage & store, laundry, pantry, powder room, kitchen pantry, dining & family room, master bedroom, en-suite & dressing room, porch & entry, terrace and alfresco;

Upper floor: 3 bedrooms, bathroom, powder room, office, entertaining room, and balcony;

in accordance with the revised plans date stamp received on 22 December 2008 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 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 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 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. 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**

10 February 2009

MINUTES

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) *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.*
- (g) *the alfresco may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T7.22

King Street No. 44 (Lot 445)

Applicant & Owner: Phillip Edward Jankowski

Application No. P173/2008

By Chris Warrener, Town Planner on 6 February 2009

BACKGROUND

Description of Proposal

An Application for Planning Approval for unauthorised existing development for windows to a bathroom next to the south side boundary of 44 King Street to be frosted.

Statutory Considerations

Town Planning Scheme No. 3 – Clause 8.4 Unauthorised Existing Development

Local Planning Strategy – Plympton Precinct (LPS)

Residential Design Codes (RDC)

State Administrative Tribunal Act s31

Relevant Council Policies

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



10 February 2009

MINUTES

Documentation

SAT Order of 28 January 2009

Date Application Received

19 September 2008

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

- 12 October 2004 Council defers the application for additions and alterations the dwelling to allow the applicants the opportunity to modify the design to reduce the adverse impact of the proposal on the neighbour to the south particularly having regard to the setback and wall height of this southern wall;
- 21 December 2004 Council's grants approval for the northern side boundary setback to the carport be reduced from 1m to nil for alterations and additions to an existing dwelling at 44 King Street;
- 22 December 2004 Demolition Licence 463/2004 issued for part of building prior to additions;
- 25 August 2005 Building Licence 134-22 approved for additions and alterations to dwelling;
- 5 May 2008 Council's Building Services send a letter to the owners of 44 King Street to inform them that the recent installation of a large glazed frame including a door and associated windows does not comply with the approved planning drawings submitted for the works.
- 18 November 2008 Council decides to direct the owner to undertake works to ensure that the building additions comply in all respects with the Planning Approval granted by Council on 21 December 2004.

REPORT

Background

On 21 December 2004 Council approved an application for planning approval for works to the property at 44 King Street comprising a carport, a new kitchen, dining and living room, 2 bathrooms, a laundry, and an office.

On 25 August 2005 the Building Surveyor approved a building licence for the additions.

On 5 May 2008 the Town Planner visited the grouped dwelling/terrace house at 46 King Street to inspect a privacy issue that had been raised by the tenant and owner in regard to some windows and a door to a bathroom recently built at 44 King Street.

These windows were not specified on the plans approved by Council in December 2004 however they were specified on the plans for which Building Licence No 134-22 was approved and issued.

In the course of endeavouring to rectify the problems relating to the unauthorised works, and in an effort to "appease" the affected adjoining property owner's concerns regarding privacy, the owner of 44 King Street installed a slatted steel screen next to the boundary wall between the two properties.

The Owner applied to Council for approval for "unauthorised existing development", and obscure glazing portions of the windows.

At its meeting held on 18 November 2008 Council considered the application however it decided not to support the unauthorised works including the partial glazing of the windows, directing the owner to reinstate the additions in accordance with the approved plans.

The decision stated:

"That Council pursuant to s.214 of the Planning and Development Act 2005 directs the owner of 44 King Street to undertake works to ensure that the building additions comply in all respects with the

10 February 2009

MINUTES

Planning Approval granted by Council on 21 December 2004, and such works are to be completed within 60 days of the date of this decision."

The Owner applied to the State Administrative Tribunal (SAT) for a review of this decision.

Discussion

On Wednesday 28 January 2009 the Town Planner attended a Directions Hearing at SAT with Member Marie Connor, and the Applicant/Owner, Mr Phil Jankowski.

At the hearing it was suggested that a compromise solution that might be acceptable to the Council would be for the two unauthorised floor to above-head high window panes to be obscure glazed, and for the slatted steel screen that was erected without approval to be removed.

This action would result in the bathroom being screened from the neighbour's view, and was a course of action that had been suggested as an option by the Building Surveyor in a letter to the owner dated 7 May 2008.

The owner/applicant has subsequently submitted a letter to Council which includes a plan incorporating the suggested acceptable outcome as discussed at SAT.

RECOMMENDATION TO COUNCIL

Cr Rico – Cr Nardi

A. That Council give consideration to the proposal to revoke the resolution relating to a proposed unauthorised existing development at 44 King Street
TO BE SUPPORTED BY AT LEAST ONE THIRD OF COUNCIL MEMBERS

B. That the resolution of the Council, Minute Book reference 359.7 of the Council meeting held on 18 November 2008, and which is as follows, be revoked:

"That Council pursuant to s.214 of the Planning and Development Act 2005 directs the owner of 44 King Street to undertake works to ensure that the building additions comply in all respects with the Planning Approval granted by Council on 21 December 2004, and such works are to be completed within 60 days of the date of this decision."

ABSOLUTE MAJORITY RESOLUTION REQUIRED

C. That Council grants approval for unauthorised existing development for windows to a bathroom next to the south side boundary of No. 44 (Lot 445) King Street, East Fremantle to be replaced with opaque glass in accordance with the plan date stamp received on 30 January 2009 subject to the following conditions:

- 1. prior to the issue of a building licence:**
 - (a) the slatted screen next to the south side boundary is to be removed; and**
 - (b) the external glazed doorway leading from the bathroom to be obscure glazed;****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 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**

10 February 2009

MINUTES

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

T7.23 ***Preston Point Road No. 32 (Lots 88 & 89)***
Applicant: Mick Burke Executive Manager Assets
Owner: Uniting Church Homes
Application No. P148/2008

An email received from Mr Mick Burke (Executive Manager – Uniting Church Homes) confirming verbal advice of 9 February that Uniting Church Homes is withdrawing it's application for a communications mast at Pilgrim House was tabled (MB Ref: T5.1).

Cr Dobro – Cr Olson

That the application for planning approval for unauthorised existing development comprising a 15m high communications mast / antenna at No. 32 Preston Point Road (Pilgrim House), East Fremantle be withdrawn from the agenda as per the applicant's request.

CARRIED

T8. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T8.1 *Short Stay Accommodation*

Cr Wilson – Cr Dobro

That appropriate regulatory mechanisms be developed for the control of 'Short Stay Accommodation' within the Town by its inclusion in the Zoning Table (Clause 4.3 refers) of Town Planning Scheme No. 3.

CARRIED

T9. CLOSURE OF MEETING

There being no further business the meeting closed at 9.23pm.

*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 February 2009**, Minute Book reference **T1. to T9.** were confirmed at the meeting of the Committee on*

.....

Presiding Member