

13 April 2010

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 13 APRIL, 2010 COMMENCING AT 6.35PM.

T135. OPENING OF MEETING

T135.1 Present

Cr Alex Wilson	Presiding Member
Mayor Alan Ferris	
Cr Barry de Jong	
Cr Rob Lilleyman	
Cr Siân Martin	
Cr Maria Rico	
Ms Gemma Basley	Acting Town Planner
Mrs Peta Cooper	Minute Secretary

T136. WELCOME TO GALLERY

There were 4 members of the public in the gallery at the commencement of the meeting.

T137. APOLOGIES

Cr Cliff Collinson
Cr Dean Nardi

T138. CONFIRMATION OF MINUTES

T138.1 Town Planning & Building Committee (Private Domain) – 9 March 2010

Cr de Jong – Cr Lilleyman

That the Town Planning & Building Committee (Private Domain) minutes dated 9 March 2010 as adopted at the Council meeting held on 16 March 2010 be confirmed. CARRIED

T139. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil.

T140. REPORTS OF COMMITTEES

T140.1 Town Planning Advisory Panel – 23 March 2010

Cr Wilson – Mayor Ferris

That the minutes of the Town Planning Advisory Panel meeting held on 23 March 2010 be received and each item considered when the relevant development application is being discussed. CARRIED

T141. REPORTS OF OFFICERS

T141.1 Receipt of Reports

Cr Rico – Cr Lilleyman

That the Reports of Officers be received. CARRIED

T141.2 Order of Business

Cr Rico – Cr Lilleyman

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

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T141.3 Oakover Street No. 56 (Lot 325)
Owner/Applicant: J & S Sowden
Application No. P28/2010
 By Janelle Pirone, Acting Planning Officer, 29 March 2010

BACKGROUND

Description of site

The subject site is:

- a 983m² block,
- zoned Residential R12.5;
- located in the Woodside Precinct; and
- there is currently a single storey dwelling on the site.

Description of Proposal

It is proposed to construct a single-storey single house.

The proposed floor area of the dwelling is 502m², resulting in the provision of 56% open space, providing that the site area is 983m².

The roof is of a concealed form pitched between 5° and 11° and clad in Colorbond roof sheeting of an unspecified colour.

Statutory Considerations

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

Relevant Council Policies

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

Date Application Received

5 February 2010 (amended plans received 31 March 2010).

Advertising

Adjoining landowners were advertised too during the comment period of 11 February 2010 to 1 March 2010. There was one objection to the proposed development at No. 56 Oakover Street, from the adjoining neighbour at No. 54B Oakover Street. The comments which were given by the owner are listed below:

Adjoining Landowner Comments	Town Planner Response
Style – contemporary style instead of reflecting the character styles which typically fit East Fremantle.	The contemporary style design of the proposed single-storey dwelling is not considered to have a large impact on the amenity and other style homes within the Town of East Fremantle.
Design – has an intelligent layout, utilises northern orientation and features open-aspect front fencing.	The town planner agrees with this, in that the layout does utilise the sun with its north facing orientation.
Roofing – ideally the roof would be of a shade that does not cause glare impacts.	The shade/colour of the Colorbond roofing has not been specified on the plans, and therefore in order to ensure compliance with the LPP 066 condition (4) has been applied
Levels – ideally any retaining and fill such as towards the front should be minimal in order to interface effectively with adjoining properties.	The retaining walls are considered to be minimised as the maximum height is 0.6 metres (with a requirement of 0.5 metres).
Setbacks – suggests that the setback variation of 0.38m, to the northern boundary is	The applicant has amended the plans in order to make the wall of the living room and alfresco

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Adjoining Landowner Comments	Town Planner Response
considered to be significant as it will make a “discernable difference in terms of practical amenity and visual sense of bulk/scale.”	to the northern boundary compliant with the setback requirement of 2.4 metres. Therefore satisfying the request of the adjoining neighbour.
<p>Construction –</p> <ul style="list-style-type: none"> - Demolition of shed to be kept with the regulations of the health requirements. - Preserve the current overhanging tree to the shed, as it affects the amenity of both properties. - Liaise with new neighbours regarding any changes to the side shared fence. 	<p>Demolition of shed requirements is noted.</p> <p>The suggested tree is not listed in the Town’s Heritage Municipal list and therefore retention of the tree is not required.</p> <p>Noted.</p>

A copy of the neighbour’s correspondence is provided at Attachment 4. The applicant was given the time frame from 8 March 2010 – 17 March 2010 to respond to the neighbour comments, however no further submission was received.

No. of Days Elapsed between Lodgement & Meeting Date

67 days

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

None

CONSULTATION

Principal Building Surveyor’s Comment

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

Town Planning Advisory Panel

The Panel viewed the proposal on 23 February 2010. The Panel’s advice is set out and responded to below:

Advisory Panel Comments	Town Planner Response
The design does not achieve a good passive solar design solution and in fact reduces the possible benefit of this by introducing a driveway to the south side of the property.	<p>Owner does not want to change design, as it maximises open space to the north.</p> <p>Town Planner agrees with the comments by the owner, in that the proposed play area (open space) and alfresco is situated to the north.</p>
Applicant to consider relocating driveway to north to improve solar access in anticipation of possible future two-storey development to north.	<p>Not considered as an appropriate request given the proposed open space to the north.</p> <p>Furthermore the proposed pool is situated in the correct location given the north facing direction and therefore the 2nd garage/workshop needs to be located at the south of the lot. Given that the driveway needs to be accessible to the workshop, the current proposed location of the driveway is considered supportable.</p>
Otherwise design generally supported.	Noted. Design will remain the same.

Site Inspection

By Acting Town Planner on 6 April 2010

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REPORT

Considerations

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

Requirement	Proposed	Town Planner Comments
<p>R-Codes:</p> <p><u>Building Setbacks:</u></p> <p>Front 7.5 metres</p> <p>East (rear) 1.5 metres</p>	<p>6.3 metres</p> <p>Nil</p>	<p>Supported – The proposed front setback is not considered to have an impact on the streetscape and on the amenity of Oakover Street.</p> <p>Given that the existing front setbacks of the adjoining landowners of either side are 6.3 metres and 7.5 metres, the proposed 6.3 metres is considered supportable.</p> <p>Furthermore, as the proposed front setback is 6.3 metres to bedroom 1 and 7.8 metres to the double garage, this has shown a fair articulation to the front façade of the property.</p> <p>The front setback area incursion is 14.22m², which is in accordance with 6.2.1 A1(i) and figure 1A of the R-Codes, therefore this front setback variation is considered to meet the relevant performance criteria of the R-Codes and is thus considered acceptable development, under the R-Codes (although should still be assessed with respect to relevant TPS3 provisions such as Clause 10.2).</p> <p>Supported – The proposed variation to the rear setback is not considered to have a significant impact on the adjoining landowner. Furthermore during the community consultation period, no objections were received from the rear landowners who will be directly affected.</p>
<p><u>Buildings on Boundary:</u></p> <p>9 metres in length</p>	<p>10.2 metres in length</p>	<p>Supported – as above.</p> <p>Additionally there are no other 'buildings on boundary' variations, and the 1.2 metres is not considered as significant.</p>
<p><u>Building Height:</u></p> <p>External wall: 3 metres</p> <p>Top of external wall (concealed roof): 4 metres</p>	<p>External wall: 3.5 metres</p> <p>Top of external wall (concealed roof): 5 metres maximum</p>	<p>Supported – The proposed variation to the external wall height is considered to be acceptable as not all portions of the wall is at 3.5 metres (some is compliant), and given the slope and the natural topography of the site this is supportable.</p> <p>In terms of the concealed roof variation, this is similar in that most portions of the roof line are less than 5 metres and given the general style and design of the dwelling this is also supportable.</p>
<p>LPP: 066 Roofing</p> <p>Roof pitches to be greater than 28°</p>	<p>Roof pitches are between 5° and 11°</p>	<p>Supported – The local planning policy 066 for roofing was prepared primarily for pitched roof and not concealed roof. Therefore given the new modern style design of a concealed roof which is seen as supportable, the proposed roof is acceptable.</p>

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*Front Setback -
Required 7.5m*

Proposed - Varies, 6.3m minimum

The setbacks proposed are in excess of 7.5m when averaged across the width of the house. Additionally there is open space on both sides of the house, further increasing the setback when averaged and contributing to both privacy and open space for adjoining dwellings.

The property to the south has a setback of 6.3m to the porch, property to the north is setback 7.5m to the carport, so the setbacks proposed meet or exceed those of the adjoining properties. When assessed as a whole the proposed building will be perceived to be setback roughly equally to its neighbours and is in keeping with the streetscape.

The garage is setback 7.8m, in excess of the minimum required, and in accordance with the requirement to minimize the impact of garages on the streetscape by having them setback behind the main building line.

Overall the setbacks and positioning of the front of the proposed residence meet or exceed the performance criteria of the R Codes, with regards to perceived bulk and scale, privacy, non-obstruction of views, solar access and amenity of adjoining properties, and contribution to the streetscape.

*Eastern Boundary Wall
Setback – Required 1.5m*

Proposed - Parapet wall, setback nil, length 10.2m (max 9.0m)

There is a parapet wall proposed to be constructed on the Eastern (rear) boundary, forming the rear wall of a garage/workshop. The R Codes allow buildings built up to boundaries when it is desirable to do so in order to make effective use of space and/or enhance the amenity of the development. In this instance it is desirable to build up to the eastern boundary in order to maximize the outdoor living area of the proposed development and maximize the separation of the dwelling from the outbuilding.

This wall exceeds the maximum length allowed of 9m. However the increase in length of 1.2m is minimal, and will have no impact on the adjoining property. The owners of the adjoining property offered no objection to the length or position of the parapet wall.

The adjacent space on the adjoining property is not used as an outdoor living area, additionally being to the East of the proposed wall there will be no impact on solar access to either property, in fact the presence of the wall will in my opinion complement the adjoining property as it will replace an old fence in a state of disrepair, as well as providing additional privacy and some protection from Western sun.

If the proposed wall length of 10.2m is not supported it

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will be acceptable to reduce the length of the wall to 9m maximum by removing the small section of overhanging roof to the north of the bathroom area and the accompanying section of parapet wall.

*Building Height – 3m max
(roof above);
4m (concealed roof)*

Proposed - Wall height varies; 3.5m – 5m max (concealed roof)

The performance criteria of the R Codes in relation to building height are: to protect the amenity of adjoining properties including adequate access to direct sunlight to habitable rooms and open spaces, access to views of significance, and to maintain consistency with the height of other buildings in the locality.

The proposed wall heights meet the performance criteria, the walls in question that do exceed the minimum heights are located where their impact is non-existent. There is a small section of wall over the entry solely to conceal the roof behind, this wall is 4.5m in height however being in the middle of the house and being a minor feature only, its impact on the streetscape and amenity of neighbours can be disregarded.

The southern wall of the front garage and Bedroom 4 area is approximately 3.5m in height, as a result of the garage floor level being 0.5m lower than the house. These walls are setback 2.7m – 4m from the adjacent (southern) boundary respectively and as such their additional minor increase in height can be disregarded in terms of impact on adjoining neighbours access to direct northern sunlight due to their increased setback.

Likewise the external wall to the living area is approximately 4.4m in height and setback 2.4m which is in accordance with the R Codes Table 2b. Being to the south of the northern adjoining neighbour there will be no overshadowing or restriction of solar access whatsoever.

In all cases there are no views from either adjoining property being affected and the overall height of the house is relatively low at approximately 5m maximum ridge height.

The remaining walls to the house are all 3m in height or less. Variation is thus sought on the basis that the design of the house and roof necessitates minor incursions in regards to wall heights, justification being that the requirements of the performance criteria are still being met.

*LPP 066 – Minimum Roof
Pitch 28°*

Proposed – Roof pitch varies 5° - 11°

The local planning policy of maintaining a minimum roof pitch of 28° can be presumed to be in place in order to protect the streetscape, since many houses in the area are older houses with roof pitches of generally 28° or greater. It is understood however that this would apply to

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traditional hip & valley roofs only, which it is agreed would look out of place if the roof area was not in proportion to the house when compared to other houses in the area.

The proposed dwelling is of a contemporary design incorporating a skillion roof with excellent solar access to the northern side of the house, indoor and outdoor living areas. Due to the orientation of the site this was considered to be the most favourable design, as sustainability and energy efficiency is of high importance to the owners.

Whilst it can be argued that there are many traditional houses in the area with tiled or metal roofs of 28° pitch or higher, to impose design constraints by insisting on a steeply pitched traditional roof would significantly reduce the benefits of the proposed design, particularly to the north facing living and alfresco areas where the owners will do the vast majority of their living.

RECOMMENDATION

Council exercise its discretion in granting approval for:

- the 6.3 metre front setback, in lieu of the required 7.5 metre setback as per the Residential Design Codes;
- a nil setback to the eastern boundary of the rear garage/workshop, in lieu of the required 1.5 metre setback as per the building setback requirements of the Residential Design Codes;
- the proposed external wall building height being 3.5 metres and the top of external wall (concealed roof) height being 5 metres in lieu of 3 metres and 4 metres as per the building height requirements of the Residential Design Codes;
- as per the local planning policy 066, the proposed roof pitch is between 5° and 11°, in lieu of the required 28° minimum;

for a single storey single house at No. 56 (Lot 325) Oakover Street, East Fremantle as shown on amended plans received 31 March 2010 and subject to the following conditions:

1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
2. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the CEO prior to issue of building licence.
3. Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
4. All storm water resulting from the development is to be retained on site.
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. The proposed works are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

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

That the applicant be advised of the following:

- (a) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (b) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (c) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr James Sowden (owner) and Mr Fraser Kelly (designer) addressed the meeting in support of the application for a single storey residence.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr de Jong

Council exercise its discretion in granting approval for:

- **the 6.3 metre front setback, in lieu of the required 7.5 metre setback as per the Residential Design Codes;**
- **a nil setback to the eastern boundary of the rear garage/workshop, in lieu of the required 1.5 metre setback as per the building setback requirements of the Residential Design Codes;**
- **the proposed external wall building height being 3.5 metres and the top of external wall (concealed roof) height being 5 metres in lieu of 3 metres and 4 metres as per the building height requirements of the Residential Design Codes;**
- **as per the local planning policy 066, the proposed roof pitch is between 5° and 11°, in lieu of the required 28° minimum;**

for a single storey single house at No. 56 (Lot 325) Oakover Street, East Fremantle as shown on amended plans received 31 March 2010 and subject to the following conditions:

1. **Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.**
2. **Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the CEO prior to issue of building licence.**
3. **Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.**
4. **All storm water resulting from the development is to be retained on site.**
5. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
6. **The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in**

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compliance with the conditions of this planning approval unless otherwise amended by Council.

7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. The proposed works are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
9. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
 - (b) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
 - (c) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
 - (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- CARRIED

T141.4 No. 73A (Lot 2) Dalgety Street, East Fremantle

Owner: K Lucas

Applicant: Novus Homes

Application No. P14/2010

By Janelle Pirone, Acting Planning Officer and Gemma Basley, Acting Town Planner on 9 April 2010

BACKGROUND

Description of site

The subject site is:

- a 580m² block,
- zoned Residential R12.5;
- located in the Woodside Precinct;
- the site is currently vacant and is the rear lot of a battleaxe.

Description of Proposal

The subject planning application is for the construction of a double-storey single house.

Statutory Considerations

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

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Relevant Council Policies

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

Date Application Received

19 January 2010 (overshadowing plan received 26 March 2010)

Advertising

The subject application was advertised to adjoining landowners for 2 weeks from the 3/2/2010 to the 16/2/2010. There was one objection to the proposed development at No. 73A Dalgety Street, from one of the adjoining neighbours at No. 74 Allen Street. The comments which were given by the land owner are listed below:

Adjoining Landowner Comments	Town Planner Response
Concerned with the size and location of the main bedroom window as it will overlook into main living areas.	Although the proposed window is from a habitable living space and is considered as a major opening, the window complies with the privacy requirements of the R-Codes. The proposed setback from the window to the western boundary is 5 metres, and given the requirements are 4.5 metres for a bedroom, this complies with the required cone of vision.

A copy of the neighbour's correspondence is provided at Attachment 4. A copy of the applicant's response to the neighbour comments is provided at Attachment 5. was given the time frame of 10 days following this period to respond to the neighbour comments; however no further submission was received.

Furthermore the two adjoining landowners at 72 Allen Street and 73 Dalgety Street have provided their support to the proposal.

No. of Days Elapsed between Lodgement & Meeting Date

84 days

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

- 6 September 2002 The Western Australian Planning Commission approved a two lot survey strata subdivision for the subject site.
- 2 June 2006 A planning application for a rear decking and kitchen renovation to the subject site was approved under delegated authority.

CONSULTATION

Principal Building Surveyor's Comment

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

Town Planning Advisory Panel

The Panel viewed the proposal on 2 February 2010. The Panel's advice is set out and responded to below:

Advisory Panel Comments	Town Planner Response
Streetscape elevation is not required in this case.	Noted. Given the rear battleaxe nature of the site, the streetscape elevation is not required.
Query open space provision.	Proposed open space is 50.5%. This is

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Advisory Panel Comments	Town Planner Response
	non-compliant with the requirements of R12.5. As will be discussed later in this report, numerous variations to the requirements of the R12.5 Code are supported on the basis that the subject lot area is smaller than a standard R12.5 lot and as such cannot reasonably accommodate all of the R12.5 requirements.
Query whether upper floor area is 30% or less than the ground floor as per the requirements of the Residential Development Policy (LPP 142).	The proposed area of the upper floor is 36% the area of the ground floor and requires a variation to the requirements of LPP 142. Please refer to the below table in relation to this variation.
An overshadowing diagram is required.	An overshadowing diagram has been received from the applicant and demonstrates that 10.7% of the adjoining lot will be affected by overshadowing. This is acceptable under the R-Codes.
Contextually inappropriate cascade of roof forms – overly complex given the simpler roof forms of the more traditional forms of development in the locality.	Not considered to be an issue from a planning perspective given the location of the dwelling (rear battleaxe block). Therefore the roof forms will not have an immediate impact on the streetscape.
A terracotta tile roof is considered to be a more appropriate roof material given the nature of surrounding development.	As above.
There are concerns about the potential bulk and scale of the development. Further details on the proposal's compliance with the R-Codes about the Residential Development Policy are required.	Please see below for the variations of the proposal to the R-Codes and the details of the bulk and scale to the proposal.

Site Inspection

By Planning Officer on 6 April 2010

REPORT

Considerations

As mentioned above, a two lot survey strata subdivision was approved for the subject site on 6 September 2002. This application was approved under the former TPS No. 2, which did not incorporate the R-Codes and as such the survey strata application was not assessed against the R-Codes. When TPS No. 2 was superseded by TPS No. 3, the appropriate zoning for lots that had been the subject of a subdivision or survey strata was not identified. As a result the subject slot and numerous other sites in the Town are zoned R12.5 but have lot areas more consistent with the R20 coding.

The proposed floor area of the dwelling is 399m², resulting in the provision of 50.5% open space.

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

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Requirement	Proposed	Planning Officer Comments
<p>R-Codes: <u>Building Setbacks:</u> Ground Floor North 1 metre</p>	Nil	Supported – Given that the variation is considered as minor and there were no objections received from the affected neighbour the proposed parapet wall is acceptable.
<p><u>Buildings on Boundary:</u> Height Maximum: 3 metres Height Average: 2.7 metres</p>	<p>Height Maximum 3.4 metres Height Average 3.45 metres</p>	Supported – The subject lot area is smaller than a standard R12.5 lot and as such a boundary wall is supported because it will enable a more efficient use of the lot.
<p><u>Retaining walls:</u> Not to exceed 0.5 metres in height.</p>	Maximum retaining walls are 0.71 metres in height.	Supported – There is only a very small portion of the retaining wall that is a variation. It is considered as more appropriate to have this higher retaining than to have the dwelling stepped down.
<p><u>Open Space</u> R12.5 – 55%</p>	53%	Supported - The subject lot area is smaller than a standard R12.5 lot and as such cannot reasonably provide 55% open space. 54% for a lot with an area of 580m ² is considered acceptable.
<p><u>GF – Southern Setback</u> 1.5m required</p>	1.3m to 1.8m	Supported – The section of wall that does not meet the setback requirement is small and is offset by other sections of the wall that exceed the setback requirements. The setback reduction is only proposed on the GF and as such will not impact adversely on the adjoining lot.
<p>LPP066 - Roofing Roof pitches to be greater than 28°</p>	The proposed roof pitches are proposed to be between 24° and 26°.	Supported – The proposed 4° variation to the roof pitch is not considered significant and a variation as such can be supported under LPP 142.
<p>LPP142 - Residential Development The Residential Development Policy limits building heights on battleaxe lots to single storey. A two-storey dwelling is proposed.</p>		

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Requirement	Proposed	Planning Officer Comments
<p>However, the Policy does allow for an upper floor on battleaxe sites where the following is "strictly observed":</p> <p>1. <i>The proposal demonstrates design, bulk and scale that responds to the established character or other site specific circumstances;</i></p>	N/a	1. Supported – The design of the proposal is considered as compatible with other developments in the area. Given that the proposal is compliant with open space and overshadowing the bulk and scale of the dwelling is supportable.
<p>2. <i>The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped;</i></p>	N/a	2. Supported – It is recommended by any planning approval to include a condition requiring a landscaping plan in accordance with the provision being provided and endorsed by the CEO prior to the issue of a Building Licence.
<p>3. <i>A maximum of 30% of the ground floor area (including garages and roofed areas enclosed on three sides) being contained in all upper level portions of the dwelling; and</i></p>	36% of the ground floor area is being contained in the upper floor.	3. Supported – Given that the variation is only 6%, which is very minor. The applicant has minimised the upper floor area to a maximum, with only 1 master bedroom, a living space and a study. Furthermore the proposed upper floor complies with 3 out of the 4 setbacks, which ultimately minimises the upper floor area as well.
<p>4. <i>Setbacks to the second storey being a minimum of 4m from all boundaries unless it is demonstrated to Council's satisfaction that a lesser setback will not adversely impact on amenity."</i></p>	Upper floor, South: 3.2 metres. All other upper floor setbacks are compliant.	4. Supported – As the proposed dwelling as complied with 3 out of the 4 upper floor setbacks, and the variation is only minor (800 millimetres), it can be supported. Furthermore, the proposal complies with overshadowing and privacy requirements of the R-Codes.

Additional Applicant Comments:

1. Reduced setback to the alfresco to the northern boundary. We do not believe that there is any impact on the neighbour. This boundary wall is opposite to the neighbours very large shed, also being on the northern boundary there are no overshadowing issues.
2. The garage and store room walls are on the eastern boundary. We have provided a signed letter from the neighbour to the east that has no objection to wall or height.

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3. Retaining wall height 710mm. We have provided a letter of consent from both the neighbour to the west and east regarding retaining wall heights. The finished floor level was chosen so as not to impact on any neighbour.
4. Upper floor to be no more than a maximum of 30% of the total ground floor and setbacks to be 4m from all boundaries. The upper floor is 6% over and we ask for discretionary approval for this on the grounds that to achieve the desired accommodation for the client this was required. The overall size of the upper floor compared to the over all building (bulk and scale) is actually quite small and we do not believe that there is any impact on any neighbour. We have achieved a 4m setback to all boundaries except the south where the setback is 3.2 metres. We have provided an overshadowing diagram, which we believe conforms to the code. Also we do not believe that this reduced setback has any impact to the neighbour.

RECOMMENDATION

Council exercise its discretion in granting approval for:

- the ground floor north setback of nil metres, in lieu of the 1 metre required setback as per the building setback requirements of the Residential Design Codes.
- the wall and ridge height of the boundary wall being 3.4 and 3.45 metres in height, in lieu of 3 and 2.7 metres as per the buildings on boundary requirements of the Residential Design Codes.
- the retaining wall height of 710 millimetres, in lieu of the 500 millimetre requirement as per the Residential Design Codes.
- portion of the GF setback to the southern boundary of 1.3m in lieu of the required 1.5m under the Residential Design Codes.
- the roof pitches of the proposed dwelling to be ranging from 24° – 26°, in lieu of the required 28° as per the Local Planning Policy 66 in relation to roofing.
- the 36% upper floor area of the ground floor, in lieu of the required 30% as per the requirements of the Local Planning Policy 142 in relation to residential development.
- the Upper Floor setback to the northern boundary being 3.2m in lieu of the 4m required under Local Planning Policy 142.

for a two storey single house at No. 73A (Lot 2) Dalgety Street, East Fremantle as shown on plans received 19 January and 26 March 2010 and subject to the following conditions:

1. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
2. A minimum of 50% of the effective lot area is to be landscaped in accordance with Part 1(iii) of the Residential Development Policy (LPP142). In this regard a landscaping plan is to be provided to and endorsed by the CEO prior to issuance of a building licence.
3. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
4. Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
5. All storm water resulting from the development is to be retained on site.
6. 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.
7. 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.
8. 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.
9. The proposed works are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

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

That the applicant be advised of the following:

- (a) A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (b) It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.
- (c) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (d) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.

Ms Simone O'Grady (neighbour at 74 Allen Street) addressed the meeting and expressed concern with the upper floor west facing bedroom window and the potential for overlooking into her backyard resulting in loss of privacy.

Mr Ronald Lucas (husband of owner) advised that he did not have a problem with the suggested treatment relating to the upper floor west facing bedroom window.

Mayor Ferris – Cr de Jong

That the following additional condition be inserted:

1. The opening to upper floor bedroom to be treated or amended in such a way as to address the potential overlooking issues to the west to the satisfaction of the Chief Executive Officer in consultation with relevant officers. CARRIED

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

Council exercise its discretion in granting approval for:

- the ground floor north setback of nil metres, in lieu of the 1 metre required setback as per the building setback requirements of the Residential Design Codes.
- the wall and ridge height of the boundary wall being 3.4 and 3.45 metres in height, in lieu of 3 and 2.7 metres as per the buildings on boundary requirements of the Residential Design Codes.
- the retaining wall height of 710 millimetres, in lieu of the 500 millimetre requirement as per the Residential Design Codes.
- portion of the GF setback to the southern boundary of 1.3m in lieu of the required 1.5m under the Residential Design Codes.
- the roof pitches of the proposed dwelling to be ranging from 24° – 26°, in lieu of the required 28° as per the Local Planning Policy 66 in relation to roofing.
- the 36% upper floor area of the ground floor, in lieu of the required 30% as per the requirements of the Local Planning Policy 142 in relation to residential development.
- the Upper Floor setback to the northern boundary being 3.2m in lieu of the 4m required under Local Planning Policy 142.

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for a two storey single house at No. 73A (Lot 2) Dalgety Street, East Fremantle as shown on plans received 19 January and 26 March 2010 and subject to the following conditions:

1. The opening to upper floor bedroom to be treated or amended in such a way as to address the potential overlooking issues to the west to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
3. A minimum of 50% of the effective lot area is to be landscaped in accordance with Part 1(iii) of the Residential Development Policy (LPP142). In this regard a landscaping plan is to be provided to and endorsed by the CEO prior to issuance of a building licence.
4. Materials and finishes are to be of a high standard, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
5. Exposed boundary walls are to be finished to the same standard as the rest of the development, details of which are to be provided to and endorsed by the CEO prior to issuance of a building licence.
6. All storm water resulting from the development is to be retained on site.
7. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
8. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
9. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
10. The proposed works are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
11. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
12. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (b) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (c) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

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T141.5 Fortescue Street No. 80 (Lot 147)
Owner/Applicant: A Neville and S Hanko
Application No. P23/2010
By Janelle Pirone, Acting Planning Officer, 1 April 2010

BACKGROUND

Description of site

The subject site is:

- a 1011m² block,
- zoned Residential R12.5;
- located in the Woodside Precinct;
- there is currently a single storey dwelling on the site; and
- the subject site is on the Town's Heritage Municipal Inventory list with a management category of B[^].

Description of Proposal

An application for planning approval is requested to construct additions to the dwelling.

The applicant is proposing the following additions:

- a carport at the front of the house,
- a rear shed (also described on the plans as an "brick & iron garage"), and
- a feature wall.

The proposal results in the provision of 74% open space.

Statutory Considerations

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

Relevant Council Policies

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

Date Application Received

1 February 2010

Advertising

Adjoining landowners were advertised too during the comment period of 16 February 2010 to 3 March 2010. There were no objections received to the proposed development at No. 80 Fortescue Street. The adjoining landowner at No. 82 Fortescue Street advised the Town that they did not have any objections to the development.

No. of Days Elapsed between Lodgement & Meeting Date

71 days

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

13 April 2007 The Town under delegated authority resolved to approve a planning application for a proposed development for alterations and additions to the existing single house, comprising of re-roofing, front fence, patio and front verandah.

19 February 2008 The Town issued a Building Licence for the proposed additions stated above.

CONSULTATION

Principal Building Surveyor's Comment

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

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Town Planning Advisory Panel

The Panel viewed the proposal on 23 February 2010. The Panel's advice is set out and responded to below:

Advisory Panel Comments	Town Planner Response
The carport is located forward/in front of the existing house which is not supportable.	This is also not considered as supportable from a planning perspective given the Local Planning Policy – Residential Development. Carports/garages are not to be located in front of the main building line, and given that the site has ample room to erect the carport to comply with this requirement this cannot be supported. Therefore condition (13) on the planning approval states that the carport is to be setback.
Query if a new front fence has already been constructed.	Yes, there has been a new front fence constructed. This was found as per the site visit conducted by the Town Planner on 31 March 2010. Please see photos as per attachment 4.

Site Inspection

By Acting Town Planner on 31 March 2010

REPORT

Considerations

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

Requirement	Proposed	Town Planner Comments
R-Codes: <u>Building Setbacks:</u>		
Carport (North) 1.5 metres	0.54 metres	Supported – The proposed variation to the side setback is not considered to have a significant impact on the adjoining landowner. Furthermore during the community consultation period, no objections were received from the neighbour who will be directly affected.
<u>Retaining Walls:</u> Not to exceed 0.5 metres in height	Retaining wall of shed is up to 0.67 metres in height.	Supported – Given that the variation is only very minor (170 millimetres higher than required), and that the topography of the land has a slightly greater slope at one point of the proposed shed, it makes sense to support the retaining variation than to allow for different finished floor levels within the shed.
<u>Outbuildings:</u> Does not exceed a wall height of 2.4 metres. Does not exceed a ridge height of 4.2 metres.	Wall height ranging from 3.35 – 4.22 metres in height. Ranging from 3.7 – 4.5 metres in overall ridge height.	Supported.
LPP: 066 Roofing Roof pitches to be	Roof pitches of	Supported – The local planning policy 066 for

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Requirement	Proposed	Town Planner Comments
greater than 28°	both shed and carport are proposed to be 5°.	roofing was prepared primarily for pitched roof and not concealed roof. Therefore given the new modern style design of a concealed roof which is seen as supportable, the proposed roof is acceptable.
LPP: Residential Development Carports are to be located in line with existing dwelling and not to intrude into the front setback area.	The proposed carport is located 10.8 metres in front of the main dwelling.	Not Supported – Given the scope of the residential development policy from the Town's Local Planning Policy, this requirement must be proposed to comply. Therefore the carport will be conditioned to be setback to be in line with the existing dwelling (Condition 1(i))

Additional Applicant Justification

- There is a clear pattern in the street for garages and carports and buildings forward of the 7.5 metre setback line.
- The existing houses' setback is significantly greater (11.06 metres) than the average setback in the street (7.5 metres).
- The carport has no walls (the façade of the house is clearly visible).
- The carport is consistent with design and construction of the existing residence and the new carport.

RECOMMENDATION

Council exercise its discretion in granting approval for:

- the 0.54 metre setback for the carport to the northern boundary, in lieu of the required 1.5 metre setback as per the building setback requirements of the Residential Design Codes;
- the 0.67 metre high retaining wall for the proposed shed, in lieu of the required 0.5 metre high retaining wall as per the excavation and fill requirements of the Residential Design Codes;
- as per the Local Planning Policy 066, the proposed roof pitch of 5°, in lieu of the required 28° minimum;

for a carport, shed and feature wall addition to the existing single house at No. 80 (Lot 147) Fortescue Street, East Fremantle as shown on the plans received 1 February 2010 and subject to the following conditions:

1. Prior to the issue of a Building Licence the following shall be submitted:
 - (i) revised plans which demonstrate that the proposed carport is appropriately setback from the front of the existing dwelling in accordance with the requirements of Local Planning Policy 142 - Residential Development; and
 - (ii) a schedule of materials and finishes of a high standard; to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. All storm water resulting from the development is to be retained on site.
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.
6. The proposed works are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

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

That the applicant be advised of the following:

- (a) A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (b) It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.
- (c) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (d) This approval does not include approval for the front and side boundary fences which are to be separately assessed for compliance.
- (e) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.

RECOMMENDATION TO COUNCIL

Cr de Jong – Mayor Ferris

Council exercise its discretion in granting approval for:

- the 0.54 metre setback for the carport to the northern boundary, in lieu of the required 1.5 metre setback as per the building setback requirements of the Residential Design Codes;
- the 0.67 metre high retaining wall for the proposed shed, in lieu of the required 0.5 metre high retaining wall as per the excavation and fill requirements of the Residential Design Codes;
- as per the Local Planning Policy 066, the proposed roof pitch of 5°, in lieu of the required 28° minimum;

for a carport, shed and feature wall addition to the existing single house at No. 80 (Lot 147) Fortescue Street, East Fremantle as shown on the plans received 1 February 2010 and subject to the following conditions:

1. Prior to the issue of a Building Licence the following shall be submitted:
 - (i) revised plans which demonstrate that the proposed carport is appropriately setback from the front of the existing dwelling in accordance with the requirements of Local Planning Policy 142 - Residential Development; and
 - (ii) a schedule of materials and finishes of a high standard; to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. All storm water resulting from the development is to be retained on site.
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

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

6. The proposed works are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. Any introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
 - (b) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
 - (c) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
 - (d) *This approval does not include approval for the front and side boundary fences which are to be separately assessed for compliance.*
 - (e) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- CARRIED

T141.6

Allen Street No. 80 (Lot 21)

Applicant/Owner: CN Kessey & EJ Cumming

Application No. P31/2010

By Janelle Pirone, Acting Planning Officer on 15 March 2010

BACKGROUND

Description of Subject Site

The subject site is 1088m² in area and developed with a single-storey single dwelling that is included on the Town's Municipal Heritage Inventory with a Management Category of C+^.

Description of Proposal

An Application for Planning Approval is requested for a front verandah addition to the existing single storey dwelling at No. 80 Allen Street.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Residential Design Codes (R Codes)

Relevant Council Policies

Residential Development Policy (LPP142)

Date Application Received

10 February 2010

13 April 2010

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No. of Days Elapsed between Lodgement & Meeting Date

69 Days

Advertising

Adjoining Neighbours: 10 March 2010 – 25 March 2010-03-17

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

Nil

CONSULTATION

Town Planning Advisory Panel

The panel viewed the proposal on 23 February 2010 (item 7.1) and made the following comments:

Panel Comments	Town Planner/Applicant Response
Site/floor plan required	Site/floor plan submitted by applicant.
Recommend that no changes be made to the size of the front door opening.	Applicant has decided to retain the existing front door.
Query the front door and retain if original.	Applicant has decided to retain the existing front door.
Replacement of window with French doors not objected to.	Agree with Advisory Panel that the replacement of French doors from windows will not affect the streetscape and amenity and therefore should not be objected too.
Query second chimney and the removal of existing chimney as shown on plans.	The applicant has agreed to delete the proposed second chimney to the northern side. Regarding removal of existing chimney see comments below.
Query the materials (including roofing) of the verandah.	The applicant has advised that Colorbond and recycled timber will now be the materials for the roof, which will be an extension to the existing roof.
Query the change in roof line as shown on plans.	The existing roof line is now to be retained.
Proposal is generally supported.	Proposal is recommended for approval.

REPORT

The proposal complies with the R-Codes and the relevant planning policies.

Considerations

The application was initially submitted to the Town with the proposal of two chimneys as well as the removal and replacement of the front door. However following the Town Planning Advisory Panel Meeting dated 23 February 2010 the applicant submitted revised plans, which deleted the 2nd chimney and retained the front door. At the time of writing it appears the applicant may wish to remove a rear chimney on the southern side. This is not supported.

Based on the advice of the Town Planning Advisory Panel, the proposed verandah extension is considered to be acceptable in terms of the heritage of the property. It should also be noted that there were no objections received from the surrounding neighbours of the subject site.

Based on the above, the application to extend the verandah in front of the house is supported, and it is recommended that Council grant conditional approval to the subject planning application.

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RECOMMENDATION

That Council grant approval for the verandah addition to the existing single storey dwelling at No. 80 (Lot 21) Allen Street, East Fremantle in accordance with the plans received on 10 February 2010 and 10 March 2010 and 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. This approval does not include approval for any new chimneys or the removal of any existing chimneys.
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 have received planning approval, without those changes being specifically marked for Council's attention.
5. The additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. This planning approval to remain valid for a period of 24 months from date of this approval.
8. The extension to the verandah is to be finished to the same standard as, and to match the existing development. Details of finishes and materials are to be provided to, and endorsed by, the Chief Executive Officer, in consultation with relevant officers, prior to the issue of a Building Licence.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Martin

That Council grant approval for the verandah addition to the existing single storey dwelling at No. 80 (Lot 21) Allen Street, East Fremantle in accordance with the plans received on 10 February 2010 and 10 March 2010 and 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. This approval does not include approval for any new chimneys or the removal of any existing chimneys.**
- 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.**

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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 additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. This planning approval to remain valid for a period of 24 months from date of this approval.
8. The extension to the verandah is to be finished to the same standard as, and to match the existing development. Details of finishes and materials are to be provided to, and endorsed by, the Chief Executive Officer, in consultation with relevant officers, prior to the issue of a Building Licence.

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

Footnote:

The applicant be commended for acceding to the comments of the TP Advisory Panel in order to retain the integrity of the dwelling.

T141.7

No. 12 (Lot 210) Preston Point Road

Applicant: Greg Rowe & Associates

Owner: Mark & Tamara Zammit

Application No. P57/2007

By Janelle Pirone, Acting Planning Officer on 17 March 2010

BACKGROUND

Description of Proposal

A request seeking a 12 month extension to planning approval dated 23 March 2007 that approves a 2-storey single house at No. 12 Preston Point Road.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R 12.5

Residential Design Codes (R-Codes)

Local Planning Strategy - Richmond Precinct (LPS)

Relevant Council Policies

Residential Development Policy (LPP 142)

Date Application Received

8 March 2010

No. of Days Elapsed between Lodgement & Meeting Date

43 Days

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MINUTES

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

7 February 2005	WAPC conditionally approves a 2-lot survey strata subdivision;
20 June 2006	Council grants conditional approval for a 3-car garage with cellar, store and workshop on a reduced front setback at 3 Alcester Street (the parent lot);
15 May 2007	Council granted conditional approval for an application for Planning Approval to allow construction of a rendered brick with colour-bond roof, 2-storey house comprising of 3 bedrooms, 2 bathrooms, games room, office and double garage;
21 April 2009	The Council resolved to grant a 12 month extension to the planning approval for a 2-storey single house dated 15 May 2007.

REPORT

This application seeks a further 12 month extension to an already issued 12 month extension dated 21 April 2009, to the initial planning approval dated 15 May 2007 for a 2-storey single house.

TPS 3 Clause 10.5 states:

“10.5. Term of planning approval

10.5.1. Where the local government grants planning approval for the development of land —

(a) the development approved is to be substantially commenced within 2 years, or such other period as specified in the approval, after the date of the determination; and

(b) the approval lapses if the development has not substantially commenced before the expiration of that period.

10.5.2. A written request may be made to the local government for an extension of the term of planning approval at any time prior to the expiry of the approval period in clause 10.5.1.”

Discussion

The current planning approval for the subject site is due to expire on 15 May 2010.

The owner has written to the Town of East Fremantle (8th March 2010) requesting a further two-year extension for the planning approval at No. 12 Preston Point Road.

The primary reason for the delay has involved funding issues.

Whilst a two year extension has been requested, consistent with proper and orderly planning and Council's previous decision, a 12 month extension is recommended, with the objective of the reduced period being the minimisation of any potential conflicts with any Town Planning Scheme modifications that may occur in the future.

RECOMMENDATION

That Council exercise its discretion in granting a 12 month extension to the term of the existing planning approval for:

- (a) a variation to the west side (front) boundary setback pursuant to the Residential Design Codes for a games room from 6m to 2.7m, for a double garage from 6m to 5.4m, for an upper floor porch from 6m to 3.4m, and an upper floor family room from 6m to 2.9m;
- (b) a variation to the east side (rear) boundary setback for an upper floor kitchen and master bedroom pursuant to the Residential Design Codes from 1.9m to 1.5m;
- (c) a variation to the south side boundary setback for an upper floor master bedroom pursuant to the Residential Design Codes from 1.1m to 1m;
- (d) a variation to the north side boundary setback for an upper floor alfresco area pursuant to the Residential Design Codes from 7.5m to 3.1m;

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for a rendered brick with colour-bond roof, 2-storey house at 12 Preston Point Road comprising 3 bedrooms, 2 bathrooms, games room, office, and double garage subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. 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 an extension to the term of the planning approval, without those changes being specifically marked for Council's attention.
4. the proposed dwelling 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 being 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. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.

Footnote:

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

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

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Lilleyman

That Council exercise its discretion in granting a 12 month extension to the term of the existing planning approval for:

- (a) **a variation to the west side (front) boundary setback pursuant to the Residential Design Codes for a games room from 6m to 2.7m, for a double**

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garage from 6m to 5.4m, for an upper floor porch from 6m to 3.4m, and an upper floor family room from 6m to 2.9m;

- (b) a variation to the east side (rear) boundary setback for an upper floor kitchen and master bedroom pursuant to the Residential Design Codes from 1.9m to 1.5m;
- (c) a variation to the south side boundary setback for an upper floor master bedroom pursuant to the Residential Design Codes from 1.1m to 1m;
- (d) a variation to the north side boundary setback for an upper floor alfresco area pursuant to the Residential Design Codes from 7.5m to 3.1m;

for a rendered brick with colour-bond roof, 2-storey house at 12 Preston Point Road comprising 3 bedrooms, 2 bathrooms, games room, office, and double garage subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. 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 an extension to the term of the planning approval, without those changes being specifically marked for Council's attention.
4. the proposed dwelling 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 being 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. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
7. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
8. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.

Footnote:

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

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

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report should be lodged with Council and one copy should be given to the owner of any affected property.

- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

CARRIED

T141.8 **King Street No 34 (Lot 450)**
Applicant/Owner: Darren Holden & Leigh Sinclair
Application No. P20/2010
By Stuart Wearne, Chief Executive Officer, on 13 April 2010

BACKGROUND

Attached is a report on the above application which was previously circulated under the "Delegated Authority" procedures under which:

- (i) the report is circulated to all elected members
- (ii) if any elected member seeks to have the report considered at Committee/Council meeting level, this occurs

or

- (ii) if elected members express no concerns, the report is then considered by the Chief Executive Officer, taking into account any public or elected member comments following which, and particularly in the absence of any issues having been raised, the Chief Executive Officer and Town Planner would normally "sign off" on an endorsement of the application.

In this case:

- (i) Cr Martin raised some concerns regarding the issue of the studio potentially being used for rental accommodation in future.
- (ii) on reading the officer's report, the Chief Executive Officer considered there were flaws in the assessment which required rectification.

REPORT

In the Chief Executive Officer's view the original officer's report did not make it sufficiently clear that the primary purpose of the conversion was for temporary accommodation for visitors. See letter from applicant attached. Further, the letter to neighbours had the same shortcoming.

The issues this request gives rise to are:

- (i) is such a use permissible under TPS 3 and in what circumstances?
- (ii) what safeguards should be considered to prevent unauthorised use of the "studio", eg for rental purposes?
- (iii) what potential implications would arise from the loss of the garage for carparking purposes?

With respect to (i) above, different issues technically apply in the case of relatives using the studio, as opposed to non relatives.

In the case of relatives the studio could be used for family accommodation purposes via the Ancillary Accommodation provision of the Scheme. "Ancillary Accommodation" is defined in the R Codes as "Self contained living accommodation on the same lot as a single house that may be attached or detached from the single house occupied by members of the same family as the occupiers of the main dwelling."

Unfortunately however, under the Zoning Table of Town of East Fremantle Town Planning Scheme 3, Ancillary Accommodation is an "A" use, meaning (as per clause 4.3.2 of the Scheme) "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."

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The effect of the above is that in this case, for Ancillary Accommodation to be an approved use of the studio, the elected Council would need to approve such use and such approval could only be granted once the necessary advertising had taken place.

In the case of non relatives albeit friends etc using the studio on a non rental basis, there are, technically, no similar Scheme or R Code provisions however, in the event approval was granted for Ancillary Accommodation, a commonsense position would be to informally allow the application of that approval to extend to visiting family friends, on a limited and strictly non rental basis.

The use of the studio for any form of rental or long stay accommodation for non family members cannot be approved.

Such use would render the studio a separate dwelling, in turn resulting in the overall residential configuration constituting a group dwelling. Yet as the property is zoned R20, and as the resulting applicable minimum site area for a group dwelling is 1000m², and as this property is only 509m², a group dwelling is not a permitted use for this site.

The only way the studio could be approved for habitation (other than as Ancillary Accommodation) would be via a rezoning of the property to a sufficiently higher density (at least R40) or via the granting of an Additional Use as per Clause 4.5 of TPS3.

DISCUSSION

In discussion with the applicant on 13 April 2010 the applicant has accepted the above situation, however has advised that a builder had already been arranged for this time, and a further delay would be problematic. The author has suggested that in the circumstances the garage extension be approved and the issue of the garage being used for accommodation purposes be dealt with separately.

This is reflected in the following recommendation:

RECOMMENDATION

That Council grant approval for an extension to the existing garage and conversion into a studio at No. 34 (Lot 450) King Street, East Fremantle in accordance with the plans received on 25 January 2010 and subject to the following conditions:

1. Provision of an additional car parking space in accordance with the requirements of Clause 7.1.1 (A1) (iv) of the R 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 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 additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. This planning approval to remain valid for a period of 24 months from date of this approval.
8. The studio is not to be used for any form of accommodation, with any such accommodation requiring a separate application for planning approval.

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Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That Council grant approval for an extension to the existing garage and conversion into a studio at No. 34 (Lot 450) King Street, East Fremantle in accordance with the plans received on 25 January 2010 and 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 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.**
- 7. The studio is not to be used for any form of accommodation, with any such accommodation requiring a separate application for planning 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

T142. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.

T143. CLOSURE OF MEETING

There being no further business the meeting closed at 7.25pm.

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*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee (Private Domain)** of the Town of East Fremantle, held on **13 April 2010**, Minute Book reference **T135. to T143.** were confirmed at the meeting of the Committee on*

.....

Presiding Member