



30 March 2010

MINUTES

MINUTES OF A SPECIAL COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON TUESDAY, 30 MARCH, 2010 COMMENCING AT 6.35PM.

50. DECLARATION OF OPENING OF MEETING

The Mayor (Presiding Member) declared the meeting open.

50.1 Present

Mayor A Ferris	Presiding Member
Cr C Collinson	
Cr B de Jong	
Cr R Lilleyman	
Cr S Martin	
Cr M Rico	
Cr A Wilson	
Mr S Wearne	Chief Executive Officer
Ms G Basley	Acting Town Planner

51. ACKNOWLEDGEMENT OF COUNTRY

Mayor Ferris made the following acknowledgement:

“On behalf of the Council I would like to acknowledge the Nyoongar people as the traditional custodians of the land on which this meeting is taking place.”

52. WELCOME TO GALLERY AND INTRODUCTION OF ELECTED MEMBERS AND STAFF

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

53. RECORD OF APPROVED LEAVE OF ABSENCE

Nil.

54. RECORD OF APOLOGIES

Cr Nardi.
Cr Olson.

55. PUBLIC QUESTION TIME

Nil.

56. BUSINESS

56.1 Preston Point Road No. 65A (Lot 1)

Application No. P18/10

Owner: Katherine Brady

Applicant: Craig Bailey

Application No. P18/10

By Gemma Basley, Acting Town Planner, 26th March 2010

BACKGROUND

Description of subject site

The subject site is:

- 270m² in area
- zoned Residential R30
- located in the Riverside Precinct
- undeveloped – original dwelling demolished.

Description of Proposal

It is proposed to construct a two-storey single house with a front double garage and rear balcony on the upper floor.



The proposal requires several variations to the Residential Design Codes and Council's Local Planning Policy, which are detailed in Table 2 of this report.

The ground floor is proposed to:

- be 147.9m² in area (including the double garage)
- be set back a minimum of 3.885m from the front of the lot and an average set back of 4.4m to the front boundary
- have a nil and 2.2m side setback on the southern boundary
- have a nil and 2.6m rear setback on the rear western boundary
- have a 1.85m side setback on the northern boundary

The upper floor is proposed to:

- occupy a similar footprint to the ground floor with an area 112.5m²
- have total wall heights of between 5.4m and 7.1m above the changing natural ground level (includes retaining walls)
- have a 3m side setback on the southern boundary
- have a 2m rear setback to the western boundary and a 1.5m rear setback from the screened balcony to the western boundary
- have a 1.5m side setback to the northern boundary

Materials and finishes comprise:

- paint finish to external walls
- landscaping of front setback area to include a 300mm high wall (with letterbox) and a 1 metre high Orange Jessamine (Maurraya) and Ornamental Pears down the side and rear. The front fence will be reinforced in order to provide a safety barrier as the bedroom behind is vulnerable to brake failure from vehicles coming down Fraser Street to this T-junction.

CONSULTATION

Town Planning Advisory Panel

This application was considered by the Town Planning Advisory Panel at its meeting held on 2 February 2010 and the following comments were made:

- further detail is required on the form and finishes of what appears to be louvered windows to the front facade.
- it is considered that additional articulation can be provided to the garage and room above to lessen the visual impact of this sheer two storey wall that faces the street - one option may be to cantilever the upper floor room forward of the garage.
- the Panel considered the front of the house poorly articulated.
- consider relocating master bedroom and bathroom.
- the open space provision is queried.
- overall skillion roof design appropriate for an area of new development.
- further details are required as to whether the Peppermint tree is to be retained or removed.

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

22 January 2010

Date Revised Plans Received

23 March 2010

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 March 2010 Council resolved to defer the application to a future meeting of council to allow the applicant to provide additional information to clarify issues raised by the elected members.

CONSULTATION

The proposal was referred to the adjoining land owners indicated on the attached location plan and a sign was placed on site. The referral period was 3 February 2010 to the 16 February 2010.

One response was received from the owner of 65B Preston Point Road, which is the lot to the rear of 65A, which stated there were no objections to the proposed development.

Further consultation has occurred between the Acting Town Planner and the Applicant since Council's March meeting to resolve issues raised by the elected members.

Town Planning Advisory Panel

Minutes from the 2 February 2010 TPAP meeting are attached. Additional information has since been provided by the owner addressing the items raised by the Panel and is detailed in Table 1 below:

Table 1

TPAP	Landowner Response	Planning Response
Further details on the form and finishes of louvered windows.	No louvered windows to be provided on the front façade. Rather Aluminium window frames with clear glass will be provided.	Revised plans submitted by the applicant do not include the louvered windows and include transparent aluminium framed windows consistent with the UF Bed 2.
Provision of additional articulation to the garage and room above i.e. cantilevering UF forward of the garage.	The applicant proposes to articulate the front facade, provide fencing and a hedge and possible decorative cladding. The applicant also proposes to recess the entrance for added articulation.	Revised plans submitted by the applicant cantilever the UF wall forward of the garage to provide improved articulation and to reduce the area of the UF. The entrance has also been recessed to add to the articulation of the façade.
The front of the house is poorly articulated.	Refer above.	Refer above.
Consider relocating master bedroom and bathroom.	Unsure why this comment has been made.	The floor plan is acceptable in its current form.
Query the open space provision.	Revised Plans have been lodged, which increase the open space.	The revised plans have decreased the site cover and increased the open space to 45.3%, which complies with the requirements of the R-Codes.
Skillion roof design appropriate for the	In support of comment.	In support of TPAP comment.

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TPAP	Landowner Response	Planning Response
area.		
Details on the retention/removal of the Peppermint tree.	The Peppermint tree was removed some time ago.	The Peppermint tree was removed some time ago.
Impact of Overshadowing		

It is considered the provided information satisfactorily addresses the Panel's comments and queries.

Principal Building Surveyor's Comment

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

Site Inspection

By Acting Town Planner, most recently on 11 March 2010

REPORT

The Applicant has submitted revised plans in an effort to address issues raised by Elected Members and to minimise the extent of variations required to the R-Codes.

The extent of retaining on the adjoining lot to the south has been the basis for establishing the proposed ground level of RL 16.7m.

Many of the variations that are being requested relate to the topography of the site and the applicant's desire to have a level ground floor.

Non Compliant Components Requiring A Variation To The R-Codes And LPP 142

The following Table identifies the variation requirements, the applicant's justification and the Planning Response.

Table 2

Variation	Planning Response
<p>Excavation/Fill</p> <p>Retaining walls within the front setback area are proposed to a maximum height of 0.54m and require a minor variation of 0.04m to both side boundaries.</p> <p>Retaining walls on the northern, rear (western) and southern boundaries also require a variation of between 0.4m and 0.8m.</p> <p>The retaining walls have been designed to match the development that adjoins to the south and will be no higher than the adjoining walls. As such the extent of retaining on the adjoining lot to the south has been the basis for establishing the proposed ground level of RL 16.7m and subsequent retaining levels.</p> <p>The Applicant has advised that retaining</p>	<p>Clause 6.6.1 of the R-Codes requires a maximum cut/fill of 0.5m.</p> <p>The variation of 0.4m in the front setback area and 0.4m to 0.8m on the side and rear boundaries is supported on the basis that the retaining walls are to be designed to match the adjoining development to the south.</p> <p>In addition the height of the proposed walls has enabled this steep block to be developed. Effectively the subdivided lots are so small that it is impractical to step the site and hence retaining has been utilised.</p> <p>The extent of retaining and the</p>

Variation	Planning Response
<p>levels have been established based on the adjoining development and to build a residence with a level Ground Floor to accommodate the Applicants ageing mother.</p>	<p>variations proposed will still ensure that the proposed development retains the visual impression of the natural level of the site, as seen from the street. This meets the Performance Criteria of the Codes.</p> <p>There have been no objections received from the neighbouring properties regarding the height of the retaining wall.</p>
<p>Building Height Variation</p> <p>The R-Codes and Council's LPP 142 establishes maximum building heights in localities where views are an important part of the amenity of the area. The maximum building heights are listed below:</p> <ul style="list-style-type: none"> - 8.1m to the top of the pitched roof - 5.6m to the top of the external wall <p>The subject application proposes a maximum wall height (retaining wall height included) of 6.8m and an average wall height of 5.7m and requires a variation of between 0.1m and 1.2 m to LPP 142.</p> <p>The applicant has utilised skillion roofing, which will lower the overall height of the building and will compensate for the increased wall height. The use of skillion roofing however, does increase the total height of the northern wall while it considerably lessens the overall height of the house and thus will provide a much better view opportunity for properties on the eastern side of Preston Point Road when they eventually build.</p> <p>The applicant further advises that If the roof were pitched, it would lower the overall height of the northern wall by 0.3m. but increase the overall height in other parts of the lot.</p>	<p>The height variation of 0.1m to 1.2m is supported on the basis that whilst the wall height exceeds the requirements, the maximum roof height of 7.0m is significantly less than the permitted maximum of 8.1m. This has been facilitated through the use of skillion roofing. There have been no objections to the wall height and the use of skillion roofing and comments from the TPAP support the use of skillion roofing in this area of new development.</p> <p>The increased building height will not impact on access to sunlight or ventilation for either of the adjoining lots because of the battleaxe access leg on the northern boundary and because of the design of the adjoining development to the south, which does not comprise any outdoor living areas or major openings to habitable rooms.</p> <p>The increased building height will not impact on views.</p> <p>This variation meets the Performance Criteria of the Codes.</p>
<p>Southern Boundary Wall</p> <p>A boundary wall is proposed for the southern boundary with a maximum height (retaining wall inclusive) of 3.8m, a minimum height of 3.0m and an average height of 3.4m. This wall requires a height variation of 0.4 to 0.8m in accordance with Clause 6.3.2 of the R-Codes.</p> <p>The Applicant has demonstrated that the reduced setback will not impact on the adjoining development to the south, because of it containing no outdoor living areas on the common boundary and no major openings to</p>	<p>The proposed southern boundary wall height variation of 0.4m to 0.8m is supported. The increased height of the wall will not impact on access to sunlight or ventilation for either of the adjoining lots because of the battleaxe access leg on the northern boundary and because of the design of the adjoining development to the south, which does not comprise any outdoor living areas or major openings to habitable rooms.</p>

Variation	Planning Response
<p>habitable rooms.</p>	<p>The variation is supported on the basis that there were no objections/comments from the adjoining owners and because any overshadowing that will occur onto the adjoining site to the south will only impact a side setback area and will not impact on access to sunlight or ventilation for the adjoining lots.</p> <p>This variation meets the Performance Criteria of the Codes.</p>
<p>Western Rear Boundary Wall</p> <p>A 4.3m high boundary wall is proposed for the rear (western) boundary and requires a height variation of 1.3m in accordance with Clause 6.3.2 of the Codes.</p> <p>The applicant has advised that as a result of the significant retaining on the site, the height of this wall is increased significantly. The Applicant has further advised that the immediate neighbour Amir Kiani is happy to have this boundary wall, rather than have open living area and a fence dividing the two properties. The parapet wall ensures complete privacy for the neighbour in this area.</p>	<p>The proposed variation of 1.3m for the western boundary wall is supported on the basis that there were no objections/comments from the adjoining owners and because minimal overshadowing will occur onto the adjoining site.</p> <p>The proposed boundary wall also makes efficient use of space on a small block and will significantly enhance the privacy of the subject lot and the adjoining lot to the west. The variation meets the Performance Criteria of the R-Codes.</p>
<p>Northern UF Setback Variation</p> <p>The northern UF setback requires a variation of 0.2m. More specifically, the UF wall, which has a length of 11.06m and a wall height up to 6.4m with no major opening, requires a setback of 3.4m. In accordance with Acceptable Development provision 6.3.1 A1v of the R-Codes, this setback distance may be halved by half the width of any adjoining battleaxe access leg.</p> <p>The northern boundary of the site adjoins a 4m wide battleaxe access leg that provides access to the lots that adjoin to the west. This enables the setback to the northern boundary to be halved to 1.7m. A setback of 1.5m is proposed, which requires a setback variation of 0.2m.</p> <p>The applicant has advised that to pull the northern wall back to meet the setback requirements would decrease the size of bedrooms and make them very small.</p>	<p>The northern boundary setback variation of 0.2m is supported on the basis that the northern boundary of the site adjoins two parallel battleaxe access legs, with a combined width of 7.5m. The reduced setback will only impact the battleaxes access legs and will not impact on the provision of direct sun and ventilation to the subject site or the sites that adjoin to the north.</p> <p>This variation meets the Performance Criteria of the Codes.</p>

DISCUSSION

The revised plans submitted by the applicants have addressed all issues identified by the elected members. More specifically the revised plans include the following:



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- Privacy screening to the western balcony opening and to bed 1. This has eradicated any requirement for a setback variation to the western boundary and has addressed any issues of overlooking and any impact on the privacy of the adjoining lots.
- The Open space provision for the site has been increased to meet the requirements of the R-Codes.
- The building design has been articulated to provide increased visual interest from the streetscape.
- The level of retaining has been justified on the basis of the adjoining development and a desire to construct a level residence to accommodate special needs of the Applicant.
- The increased boundary wall heights and overall building heights have been justified on the basis of the site being retained and on the basis of providing improved privacy between the site and the lot that adjoins to the west.
- The increased building height has been justified on the basis of providing better overall views to the river from the east and the utilisation of a skillion roof, which increases the wall height, but decreases the overall height.
- The provision of landscaping and fencing in the front yard will provide for a more attractive streetscape

Overall, the revised plan is considered acceptable and the minor variations proposed and summarised below are considered to be justifiable.

- a variation of 0.4m for the retaining wall height in the front setback area.
- a variation of 0.4m to 0.8m for the retaining walls on the side and rear boundaries.
- a variation of 0.1 to 1.2m for the overall wall height.
- a variation of 0.4m to 0.8m for the southern boundary wall height.
- a variation of 1.3m for the western boundary wall height.
- a variation of 0.2m for the northern UF setback.

RECOMMENDATION

That Council exercise its discretion in granting approval for the following variations to the R-Codes and Council's LPP 142:

- a variation of 0.4m for the retaining wall height in the front setback area;
- a variation of 0.4m to 0.8m for the retaining walls on the side and rear boundaries;
- a variation of 0.1 to 1.2m for the overall wall height;
- a variation of 0.4m to 0.8m for the southern boundary wall height;
- a variation of 1.3m for the western boundary wall height;
- a variation of 0.2m for the northern UF setback;

for a two-storey single house at No. 65A (Lot 1) Preston Point Road, East Fremantle, as shown on plans received 23 March 2010 and subject to the following conditions:

1. All windows in the front UF elevation to be transparent.
2. The UF balcony and window of Bed 1 to be provided with permanent vertical screening or equivalent devices (obscured glass) or alternatively the UF setback to the western boundary is to be increased to meet the requirements of the Residential Design Codes to the satisfaction of the Chief Executive Officer.
3. The upper floor bathroom to be cantilevered forward of the garage or set back behind the garage or alternatively cladding to be applied to this wall to provide visual interest to the satisfaction of the Chief Executive Officer.
4. The material and form of the proposed retaining walls to match the adjoining development.
5. Any air-conditioning plant is to be positioned so that it that will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a Building Licence.
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.



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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.
10. 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.
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) *Approved materials and finishes are those shown on the approved plans.*
- (b) *No louver windows are to be constructed in the front elevation.*
- (c) *This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.*
- (d) *With respect to condition 5), the installation of air-conditioning plant on the roof, or at a prominent position on the upper storey, is unlikely to be supported.*
- (e) *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.*
- (f) *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.*
- (g) *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).*
- (h) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Additional details demonstrating that crossover will result in minimal disruption to the existing verge levels and that storm water will be effectively managed are to be provided to and endorsed by the CEO in consultation with relevant officers prior to issuance of a Building Licence.*

Cr Wilson – Cr Martin

That Council exercise its discretion in granting approval for the following variations to the R-Codes and Council's LPP 142:

- a variation of 0.4m for the retaining wall height in the front setback area;
- a variation of 0.4m to 0.8m for the retaining walls on the side and rear boundaries;
- a variation of 0.1 to 1.2m for the overall wall height;
- a variation of 0.4m to 0.8m for the southern boundary wall height;
- a variation of 1.3m for the western boundary wall height;
- a variation of 0.2m for the northern UF setback;

for a two-storey single house at No. 65A (Lot 1) Preston Point Road, East Fremantle, as shown on plans received 23 March 2010 and subject to the following conditions:

1. **All windows in the front UF elevation to be transparent.**
2. **The UF balcony and window of Bed 1 to be provided with permanent vertical screening or equivalent devices (obscured glass) or alternatively the UF setback to the western boundary is to be increased to meet the requirements of the Residential Design Codes to the satisfaction of the Chief Executive Officer.**



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3. The upper floor bathroom to be cantilevered forward of the garage or set back behind the garage or alternatively cladding to be applied to this wall to provide visual interest to the satisfaction of the Chief Executive Officer.
4. The material and form of the proposed retaining walls to match the adjoining development.
5. Any air-conditioning plant is to be positioned so that it that will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the Chief Executive Officer prior to issuance of a Building Licence.
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. 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.
10. 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.
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) ***Approved materials and finishes are those shown on the approved plans.***
- (b) ***No louver windows are to be constructed in the front elevation.***
- (c) ***This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.***
- (d) ***With respect to condition 5), the installation of air-conditioning plant on the roof, or at a prominent position on the upper storey, is unlikely to be supported.***
- (e) ***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.***
- (f) ***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.***
- (g) ***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).***
- (h) ***Matters relating to dividing fences are subject to the Dividing Fences Act 1961.***
- (i) ***Additional details demonstrating that crossover will result in minimal disruption to the existing verge levels and that storm water will be effectively managed are to be provided to and endorsed by the CEO in consultation with relevant officers prior to issuance of a Building Licence.***

CARRIED**57. CLOSURE OF MEETING**

There being no further business, the meeting closed at 7.10pm.

*I hereby certify that the Minutes of the special meeting of the **Council** of the Town of East Fremantle, held on **30 March 2010**, Minute Book reference **50. to 57.** were confirmed at the meeting of the Council on*

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Presiding Member