

CITY OF UNLEY

DEVELOPMENT ASSESSMENT PANEL

**Meeting held on Tuesday, 15 June 2010
at 7.00pm in the Civic Centre, Unley**

ACKNOWLEDGEMENT

We would like to acknowledge this land that we meet on today is the traditional lands for the Kaurna people and that we respect their spiritual relationship with their country. We also acknowledge that Kaurna people as the custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

MEMBERS:

Mr Terry Tysoe (Presiding Member)
Mr Don Donaldson
Mr Graham Gaston
Ms Denise Tipper
Mr Will Webster

APOLOGIES:

Mr Mike Hudson
Mr Rob Sangster

OFFICERS PRESENT:

Mr Paul Weymouth, Manager Development
Mr Donny Michel, Team Leader, Planning
Ms Kelley Jaensch, Executive Assistant – City Development

CONFIRMATION OF MINUTES

MOVED: Denise Tipper SECONDED: Graham Gaston

That the Minutes of the City of Unley, Development Assessment Panel meeting held on Monday, 10 May 2010 as printed and circulated, be taken as read and signed as a correct record.

CARRIED

ITEM 1

DEVELOPMENT APPLICATION – 090/271/2010/C2 – 51A GOODWOOD ROAD, WAYVILLE 5034 (GOODWOOD)

John Fitzpatrick, presenter and Peter Philouras, the applicant, addressed the panel in respect for this Item.

MOVED: Denise Tipper

That Development Application 090/271/2010/C2 – 51A Goodwood Road, Wayville be REFUSED Planning Consent.

The motion of Denise Tipper **LAPSED** for want of a seconder.

MOVED: Graham Gaston

SECONDED Will Webster

That Development Application 090/271/2010/C2 at 51A Goodwood Road, Wayville 5034 is not at variance with the provisions of the Development Plan and should be GRANTED Planning Consent subject to the following conditions:

1. That the removal of the subject significant tree *Fraxinus Angustifolia* (Desert Ash) shall take place in accordance with the documents and details accompanying the application to the satisfaction of Council except where varied by conditions below (if any).

NOTES PERTAINING TO PLANNING CONSENT:

- That any necessary alterations to existing public infrastructure (stobie poles, lighting, traffic signs and the like) shall be carried out in accordance with any requirements and to the satisfaction of the relevant service providers.

CARRIED

ITEM 2

DEVELOPMENT APPLICATION – 090/218/2010/C2 – 43 YOUNG STREET, PARKSIDE 5063 (PARKSIDE)

Neil Wickham addressed the Panel in respect of this Item.

MOVED: Don Donaldson

SECONDED Graham Gaston

That Development Application 090/218/2010/C2 at 43 Young Street, Parkside 5063 is not seriously at variance with the provisions of the Development Plan and should be GRANTED Planning Consent subject to the following conditions:

1. The Development herein approved shall be undertaken in accordance with all plans, drawings, specifications and other documents submitted to Council and forming part of the relevant Development Application except where varied by conditions set out below (if any) and the development shall be undertaken to the satisfaction of Council.
2. That all external materials and finishes shall be the same as or complementary to the existing building(s) on the site.
3. All stormwater from the building and site shall be disposed of so as to not adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.

Item 2

Development Application – 090/218/2010/C2 – 43 Young Street, Parkside 5063 (Parkside) - Continued

NOTES PERTAINING TO PLANNING CONSENT:

- It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.
- That any necessary alterations to existing public infrastructure (stobie poles, lighting, traffic signs and the like) shall be carried out in accordance with any requirements and to the satisfaction of the relevant service providers.
- The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence or the erection of a new boundary fence, a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 8463 3555 or refer to their web site at www.lsc.sa.gov.au.
- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the developer or owner.

CARRIED

ITEM 3

DEVELOPMENT APPLICATION – 090/200/2010/C2 – 13 AVENUE ROAD, HIGHGATE 5063 (FULLARTON)

MOVED: Will Webster

SECONDED Graham Gaston

That Development Application 090/200/2010/C2 at 13 Avenue Road, Highgate 5063 is not at variance with the provisions of the Development Plan and should be GRANTED Planning Consent subject to the following conditions:

1. The Development herein approved shall be undertaken in accordance with all plans, drawings, specifications and other documents submitted to Council and forming part of the relevant Development Application except where varied by conditions set out below (if any) and the development shall be undertaken to the satisfaction of Council.
2. All stormwater from the building and site shall be disposed of so as to not adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.

NOTES PERTAINING TO PLANNING CONSENT:

- It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.
- That any necessary alterations to existing public infrastructure (stobie poles, lighting, traffic signs and the like) shall be carried out in accordance with any requirements and to the satisfaction of the relevant service providers.

Item 3

Development application – 090/200/2010/c2 – 13 avenue road, highgate 5063 (fullarton)

- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the developer or owner.
- That details of any airconditioning requiring approval under the Development Act shall be submitted to and approved by Council.

CARRIED

ITEM 4

DEVELOPMENT APPLICATION – 090/88/2010/C2 – 16 QUEEN STREET, UNLEY 5061 (UNLEY)

MOVED: Will Webster

SECONDED Graham Gaston

That Development Application 090/88/2010/C2 at 16 Queen Street, Unley 5061 is

- a) not seriously at variance with the provisions of the Development Plan, and
- b) having regard to the existing state of the tree which has been significantly compromised as a result of recent tree damaging activity, it is recommended that consent be granted for removal of the existing damaged tree, subject to the following condition:
 1. That the removal of the subject significant tree (White Cedar Melia azedarach) shall be undertaken in accordance with the plans and details accompanying the application to the satisfaction of Council except where varied by conditions below (if any).

NOTES PERTAINING TO PLANNING CONSENT:

- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the developer or owner.
- The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence or the erection of a new boundary fence, a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 8463 3555 or refer to their web site at www.lsc.sa.gov.au.
- It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.
- This decision has been made having regard to the existing state of the tree which has been significantly compromised as a result of recent tree damaging activity.

CARRIED

ITEM 5**DEVELOPMENT APPLICATION – 090/1035/2009/NC – 336 GOODWOOD ROAD, CLARENCE PARK 5034 (GOODWOOD SOUTH)**

MOVED: Don Donaldson

SECONDED Graham Gaston

That Development Application 090/1035/2009/NC at 336 Goodwood Road, Clarence Park 5034 is not seriously at variance with the provisions of the Development Plan and should be GRANTED Planning Consent subject to the following conditions:

1. The Development herein approved shall be undertaken in accordance with all plans, drawings, specifications and other documents submitted to Council and forming part of the relevant Development Application except where varied by conditions set out below (if any) and the development shall be undertaken to the satisfaction of Council.
2. All stormwater from the building and site shall be disposed of so as to not adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.
3. The landscaping, as approved by the Council, shall be established prior to occupation of the development, and that the landscaping and site be generally maintained to the reasonable satisfaction of Council at all times. Further, that trees used in landscaping of the site be at least 1.0 metre in height at the time of planting.
4. The driveway and car parking areas to be surfaced, drained and marked to the reasonable satisfaction of Council prior to the development being occupied.

NOTES PERTAINING TO PLANNING CONSENT:

- It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.
- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the developer or owner.

CARRIED

ITEM 6**DEVELOPMENT APPLICATION – 090/184/2010/C2 – 42 ESMOND STREET, HYDE PARK 5061 (UNLEY PARK)**

Withdrawn by administration.

ITEM 7**DEVELOPMENT APPLICATION – 090/149/2010/C2 – 4 VICTORIA AVENUE, UNLEY PARK 5061 (UNLEY PARK)**

MOVED: Don Donaldson

SECONDED Denise Tipper

That Development Application 090/149/2010/C2 at 4 Victoria Avenue, Unley Park 5061 is at variance with the provisions of the Development Plan and should be REFUSED Planning Consent as it is at variance with Council Wide Objective 60 and Principles of Development Control 176 and 178, in that the subject tree;

- Makes an important contribution to the character and amenity of the local area;
- Is not diseased and it's life expectancy is not short;
- Does not represent an unacceptable risk to public or private safety;
- Has not be shown to be causing, or threatening to cause damage to a substantial structure of value; and
- All other reasonable remedial treatments and measures have not been determined to be ineffective.

CARRIED**ITEM 8****DEVELOPMENT APPLICATION – 090/87/2010/C2 – 1 ARUNDEL AVENUE, MILLSWOOD 5034 (GOODWOOD SOUTH)**

Janette Hodge addressed the Panel in respect for this Item.

Applicant addressed the Panel in respect for this Item

MOVED: Denise Tipper

SECONDED: Graham Gaston

That Development Application 090/87/2010/C2 – 1 Arundel Avenue, Millswood be DEFERRED to allow administration:

- To provide further information on the nature of pruning work and costs associated with ongoing maintenance of the tree
- To provide further information in relation to what is considered reasonable remedial treatments and measures as determined by the ERD Court.

CARRIED**ITEM 9****DEVELOPMENT APPLICATION – 090/266/2010/C2 – 49 FOSTER STREET, PARKSIDE 5063 (PARKSIDE)**

MOVED: Graham Gaston

SECONDED Don Donaldson

That Development Application 090/266/2010/C2 at 49 Foster Street, Parkside 5063 is not at variance with the provisions of the Development Plan and should be GRANTED Planning Consent subject to the following conditions:

Item 9

Development Application – 090/266/2010/C2 – 49 Foster Street, Parkside 5063 (Parkside) – Continued

1. That the removal of the subject significant tree (*Cupressus lusitanica* – Mexican Cypress) shall be undertaken in accordance with the plans and details accompanying the application to the satisfaction of Council except where varied by conditions below (if any).

NOTES PERTAINING TO PLANNING CONSENT:

- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the developer or owner.
- That any necessary alterations to existing public infrastructure (stobie poles, lighting, traffic signs and the like) shall be carried out in accordance with any requirements and to the satisfaction of the relevant service providers.

CARRIED

ITEM 10

DEVELOPMENT APPLICATION – 090/221/2010/C2 – 41 MALCOLM STREET, MILLSWOOD 5034 (UNLEY PARK)

MOVED: Will Webster

SECONDED Graham Gaston

That Development Application 090/221/2010/C2 at 41 Malcolm Street, Millswood 5034 is not seriously at variance with the provisions of the Development Plan and should be GRANTED Planning Consent subject to the following conditions:

1. That the removal of the subject significant tree (*Eucalyptus cladocalyx*) shall be undertaken in accordance with the plans and details accompanying the application to the satisfaction of Council except where varied by conditions below (if any).
2. All stormwater from the building and site shall be disposed of so as to not adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.
3. That ancillary pool and/or spa equipment shall be entirely located within a sound attenuated enclosure which is at least 5 metres from a habitable room window on an adjoining property prior to the operation of said equipment.
4. That waste water from the swimming pool shall be discharged to the sewer, and not be allowed to flow onto adjoining properties or the street water table under any circumstances.
5. The applicant shall ensure that the recommendations as detailed in the arboricultural report prepared by Tree Environs (dated 24 March 2010) be undertaken, ensuring that tree protection zones be in place prior to the commencement of any demolition or building works on site. For this purpose, no excavation, construction or storage of materials shall occur within the protection zone. Further to this, tree protection fencing around the trees shall be installed prior to the commencement of any work on site and shall remain until the completion of all building works.

Item 10

Development Application – 090/221/2010/C2 – 41 Malcolm Street, Millswood 5034 (Unley Park) - Continued

NOTES PERTAINING TO PLANNING CONSENT:

- It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.
- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the developer or owner.
- Noise generated from ancillary pool and/or spa equipment must not exceed the maximum noise level recommended by the EPA. For this purpose, noise generated from ancillary pool / spa equipment shall not exceed 52 db(a) between 7am and 10pm and 45 db(a) between 10pm and 7am on any day, measured from a habitable room window or private open space of an adjoining dwelling.

CARRIED

ITEM 11

DEVELOPMENT APPLICATION – 090/184/2009/C2/A – 215 KING WILLIAM ROAD, HYDE PARK 5061 (UNLEY PARK)

MOVED: Graham Gaston

SECONDED Terry Tysoe

That Development Application 090/184/2009/C2/A at 215 King William Road, Hyde Park 5061 is not seriously at variance with the provisions of the Development Plan and should be GRANTED Planning Consent subject to the following conditions:

1. That the development herein approved shall be undertaken in accordance with the amended plans and details accompanying the application to the satisfaction of Council except where varied by conditions below (if any).
2. The conditions, where pertinent, of the Planning Consent Development Application Number 090/184/2009/C2 in respect to the original overall development shall be complied with to the reasonable satisfaction of Council at all times.

CARRIED

ITEM 12

DEVELOPMENT APPLICATION – 090/202/2010/C2 – 468 FULLARTON ROAD, MYRTLE BANK 5064 (FULLARTON)

MOVED: Don Donaldson

SECONDED Will Webster

That Development Application 090/202/2010/C2 at 468 Fullarton Road, Myrtle Bank 5064 is not seriously at variance with the provisions of the Development Plan and should be GRANTED Planning Consent subject to the following conditions:

1. The Development herein approved shall be undertaken in accordance with all plans, drawings, specifications and other documents submitted to Council and forming part of

Item 12

Development Application – 090/202/2010/C2 – 468 Fullarton Road, Myrtle Bank 5064 (Fullarton) - Continued

the relevant Development Application except where varied by conditions set out below (if any) and the development shall be undertaken to the satisfaction of Council.

2. That the (*Agonis flexuosa*) Willow Myrtle at the front of the property shall be protected during construction by a fence placed a minimum of 2 metres radius around the base of the tree.
3. All stormwater from the building and site shall be disposed of so as to not adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.
4. That ancillary pool and/or spa equipment shall be entirely located within a sound attenuated enclosure which is at least 5 metres from a habitable room window on an adjoining property prior to the operation of said equipment.
5. That waste water from the swimming pool shall be discharged to the sewer, and not be allowed to flow onto adjoining properties or the street water table under any circumstances.

NOTES PERTAINING TO PLANNING CONSENT:

- It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.
- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the developer or owner.
- Noise generated from ancillary pool and/or spa equipment must not exceed the maximum noise level recommended by the EPA. For this purpose, noise generated from ancillary pool / spa equipment shall not exceed 52 db(a) between 7am and 10pm and 45 db(a) between 10pm and 7am on any day, measured from a habitable room window or private open space of an adjoining dwelling.

CARRIED

ITEM 13

DEVELOPMENT APPLICATION – 090/45/2010/C2 – 41 PARK STREET, HYDE PARK 5061 (UNLEY PARK)

MOVED: Don Donaldson

SECONDED Denise Tipper

That Development Application 090/45/2010/C2 at 41 Park Street, Hyde Park 5061 is not at variance with the provisions of the Development Plan and should be GRANTED Planning Consent subject to the following conditions:

1. The Development herein approved shall be undertaken in accordance with all plans, drawings, specifications and other documents submitted to Council and forming part of

Item 13**Development Application – 090/45/2010/C2 – 41 Park Street, Hyde Park 5061 (Unley Park) - Continued**

the relevant Development Application except where varied by conditions set out below (if any) and the development shall be undertaken to the satisfaction of Council.

2. All stormwater from the building and site shall be disposed of so as to not adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.
3. That all southern, eastern and western upper floor windows must be treated to avoid overlooking by being fitted with fixed non-openable translucent glazed panels to a minimum height of 1700mm above floor level with such translucent glazing to be kept in place at all times.
4. That 1.7m high privacy screening be erected along the western and southern side of the balcony prior to occupation. Further details to be provided to Councils satisfaction prior to the issue of Development Approval.
5. That ancillary pool and/or spa equipment shall be entirely located within a sound attenuated enclosure which is at least 5 metres from any habitable room window on an adjoining property prior to the operation of said equipment.

NOTES PERTAINING TO PLANNING CONSENT:

- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the developer or owner.
- That any necessary alterations to existing public infrastructure (stobie poles, lighting, traffic signs and the like) shall be carried out in accordance with any requirements and to the satisfaction of the relevant service providers.
- It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.
- Noise generated from ancillary pool and/or spa equipment must not exceed the maximum noise level recommended by the EPA. For this purpose, noise generated from ancillary pool / spa equipment shall not exceed 52 db(a) between 7am and 10pm and 45 db(a) between 10pm and 7am on any day, measured from a habitable room window or private open space of an adjoining dwelling.
- The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence or the erection of a new boundary fence, a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 8463 3555 or refer to their web site at www.lsc.sa.gov.au.

CARRIED

DECISION REPORT

REPORT TITLE: CONFIDENTIAL MOTION FOR ITEM 14 - PLANNING APPEAL – ERD
COURT ACTION NO. 10-127 – 6 Austral Terrace, Malvern 5061 (D.A. 090/889/2009/C2)

ITEM NUMBER: 14

DATE OF MEETING: 15 June 2010

AUTHOR: MANAGER, DEVELOPMENT

RESPONSIBLE OFFICER: GENERAL MANAGER, URBAN SERVICES

COMMUNITY GOAL: 6.2 Generate an approach to all Council operations which maintains the principles of good governance such as public accountability, transparency, integrity, leadership, co-operation with other levels of Government and social equity.

REPRESENTORS: Nil

ATTACHMENTS: Yes

PURPOSE

To recommend that Item 14 be considered in confidence at the June 2010 Development Assessment Panel meeting and that the Attachments and Resolutions referring to this appeal remain confidential until such time as the confidentiality order is revoked by the Chief Executive Officer.

RECOMMENDATION

Prior to debate on Item 14

It is recommended to the Development Assessment Panel that the following resolution be adopted:

MOVED: Denise Tipper

SECONDED: Graham Gaston

That:

Pursuant to Section 56A(12)(a)(viii) and (ix) of the Development Act 1993, as amended, the Development Assessment Panel orders the public be excluded, with the exception of Elected Members of the City of Unley, Council Administration and their advisor on the basis that it will receive and consider a report on the planning appeal (Item 14) in relation to 6 Austral Terrace, Malvern 5061 and that the Council is satisfied that the principle that the meeting should be conducted in a place open to the public has been outweighed in relation to this matter because:

There is likely to be discussion about the legal advice Council has received in respect of this item.

CARRIED

CONFIDENTIAL

At the conclusion of the debate the Panel is asked to consider the retaining of confidentiality of the Attachments and Resolutions relating to the appeal in accordance with the following motion:

MOVED: Graham Gaston

SECONDED: Will Webster

1. Pursuant to Section 56A(16) of the Development Act 1993, as amended, the Development Assessment Panel orders:

1.1 that the documentation referring to ERD Court Action No. 10-127

is to remain confidential on the basis that the disclosure of the information may prejudice Council's position

1.1.2 that the documentation referring to ERD Court Action No. 10-127

will not be available for public inspection until such time as the appeal has been determined and the confidentiality order has been revoked by the Chief Executive Officer.

CARRIED

MOVED: Graham Gaston

SECONDED: Will Webster that the Ordinary Meeting of the Development Assessment Panel resume in Public.

CARRIED

The Chamber doors were opened at 9.08pm.

MATTER FOR COUNCIL'S CONSIDERATION

That Council review the relevance of residential zoning on the western side of Goodwood Road between Cross Road and George Street due to the nature of commercial activities in this precinct.

CLOSURE

The Presiding Member declared the meeting closed at 9.10pm.

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PRESIDING MEMBER

NEXT MEETING
Monday, 12 July 2010