

953 Dufferin Street - Rezoning– Refusal Report

Date:	July 27, 2010
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 18 – Davenport
Reference Number:	10 213474 STE 18 OZ

SUMMARY

This application was made on or after January 1, 2007 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

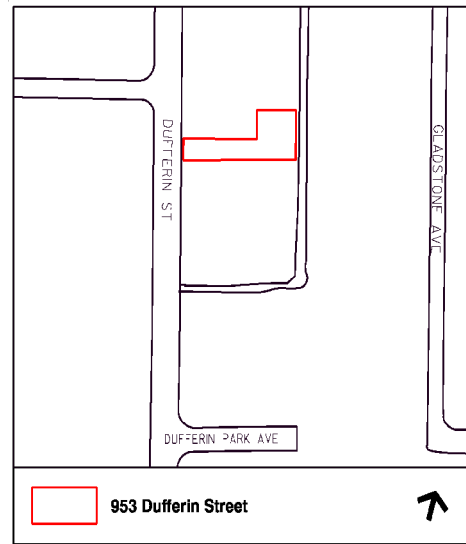
The application proposes to rezone the property at 953 Dufferin Street to permit a two storey “house behind a house” and the conversion of the main house into a *converted house* containing six dwelling units with an average size of 41.7 square metres.

This report reviews and recommends refusal of the application to amend the Zoning By-law.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse Application No 10 213474 STE 18 OZ for 953 Dufferin Street because a ‘house behind a house’:
 - conflicts with the Growth Plan for the Greater Golden Horseshoe;
 - is inconsistent with the Provincial Policy Statement;
 - does not conform to the



- Official Plan; and
- is not permitted by Zoning By-law 438-86.
2. City Council instruct the City Solicitor, together with the appropriate City staff to attend any Ontario Municipal Board hearing for Application No. 10 213474 STE 18 OZ to support the positions recommended in the report dated July 27, 2010 from the Director, Community Planning, Toronto and East York District.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

On September 7, 2005 the Committee of Adjustment refused a Minor Variance application made by the owner of 953 Dufferin Street for a detached garage located adjacent to the northern property line in the rear yard of the subject property. The application and plans submitted noted that the “existing detached accessory structure” near the south lot line, between the proposed garage and the dwelling, would be maintained.

On May 17, 2006 the Committee of Adjustment approved a Minor Variance application made by the owner of 953 Dufferin Street for a smaller detached garage located adjacent to the northern property line in the rear yard of the subject property. The application again noted that the existing “1.5 storey garage and building” near the south lot line, between the proposed garage and the dwelling, would be maintained.

The detached accessory/garage structure near the south lot line is the subject of the two subsequent Committee applications (referred to below) and the current rezoning application to create a ‘house behind a house’.

On January 17, 2007 the Committee of Adjustment refused a Minor Variance application made by the owner for a ‘house behind a house’ and other variances on the property.

On May 9, 2007 the Committee of Adjustment refused another Minor Variance application related to the ‘house behind a house’, and a Consent application that proposed severing the lot so that both houses could be assigned their own parcel of land.

The owner subsequently appealed the Committee’s decisions to the Ontario Municipal Board (OMB). In a decision issued on August 22, 2008, the OMB dismissed the appeals and the Committee’s decisions were upheld.

ISSUE BACKGROUND

Site and Surrounding Area

The subject property is located on the east side of Dufferin Street, south of Bloor Street West. The property is a flag shaped lot with an area of 666.8 square metres, a frontage of 9.14m to Dufferin Street, a depth of 51.5m and a width of 21.2m across the rear. The

survey plan (see Attachment 1) submitted with the application indicates that the site currently contains:

- A two and ½ storey house, which fronts onto Dufferin Street;
- A one storey concrete block garage located near the north property line;
- A small (2.62m x 3.375m) concrete block structure; and
- A two storey brick building, with a two storey block and stucco addition located adjacent to the south property line.

Uses and structures surrounding the site include:

- North: a two storey semi-detached dwelling with a landscaped rear yard (955 Dufferin Street). The area to the north is predominantly characterised by detached and semi-detached dwellings until Bloor Street West, which is characterized by a mix of uses;
- South: a two and ½ storey *converted house* containing six dwelling units with six parking spaces in the rear (951 Dufferin Street). The area to the south is predominantly characterized by detached and semi-detached dwellings until 919 Dufferin Street, which contains a high-rise apartment building;
- West: the Dufferin Mall is located on the west side of Dufferin Street, across from the site; and
- East: a 4.27m public laneway separates the site from detached and semi-detached dwellings, which front onto Gladstone Avenue.

Proposal

The application to amend the zoning by-law was submitted on July 6, 2010.

The application proposes to permit the conversion of the existing detached accessory structure located behind the main house into a two storey single family house with a gross floor area of 132.6 square metres (1,426 square feet), which is approximately twice the size of the original accessory structure which was 66.5 square metres (715.8 square feet). The additions/renovations to the original structure have already been constructed without required permits or approvals.

There was no information submitted with the application detailing how the proposed house behind the main house is or can be serviced with its own water, storm and sewer services, which is a requirement for municipal servicing to residential dwellings. Additionally, no information was submitted to demonstrate that fire and other emergency vehicles can access the proposed house behind the main house.

With respect to the main dwelling, which fronts Dufferin Street, the application also proposes to legalize and maintain the existing six units ranging from 28.5 – 69.7 square metres (306.6 – 730.6 square feet), with an average size of 41.7 square metres (450 square feet) to create a *converted house*. Six parking spaces are proposed on the site including two in the existing garage, three surface spaces accessed off the public laneway

and one in the existing driveway, accessed off Dufferin Street. Attachments 2-7 contain plans of the proposal. Attachment 8 contains the Application Data Sheet.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

City Council's planning decisions are required by the Planning Act, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The site is designated *Neighbourhoods* in the Official Plan. In section 2.3.1 of the Official Plan, 'Healthy Neighbourhoods', Policy 1 states that *Neighbourhoods* are considered to be physically stable areas. Development within *Neighbourhoods* will be consistent with this objective and will respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in these areas.

Section 3.12 'Built Form', Policy 1 states that new development will be located and organized to fit with its existing context. It will frame and support adjacent streets to improve safety, pedestrian interest and casual views to these spaces from the development by generally locating buildings parallel to the street, with a consistent front yard setback, and locating main building entrances so that they are clearly visible and directly accessible from the public sidewalk.

'Built Form' Policy 3 states that new development will be massed to fit harmoniously into its existing context and will limit its impact on neighbouring streets, parks, open spaces and properties by: massing new buildings to frame adjacent streets and open spaces in a way that respects the existing street proportion; and providing for adequate light and privacy.

Section 4.1 speaks to the land use designation of *Neighbourhoods* and sets out development criteria for new development. Physical changes to established *Neighbourhoods* must be sensitive, gradual and generally "fit" the existing physical character. Policy 5 states development will respect and reinforce the existing physical character, including in particular:

- heights, massing, scale and dwelling type of nearby residential properties;

- prevailing building types;
- setbacks of buildings from the street or streets; and
- prevailing patterns of rear and side yard setbacks and landscaped open space.

Policy 5 also states no changes will be made through rezoning that are out of keeping with the physical character of the *Neighbourhood*.

Zoning

The site is zoned R4 Z1.0, which allows a range of residential uses with a total density of 1.0 times the area of the lot. The maximum height permitted on the lot is 10m. The R4 zoning includes development standards related to the maximum permitted density, setbacks, open space and parking. A zoning map is included in Attachment 8.

Site Plan Control

An application for Site Plan Control has not been submitted and is not required by the Site Plan Control By-law.

Reasons for Application

The proposal for a house behind a house does not conform to a number of Official Plan policies and is not in keeping with the predominant physical character of the neighbourhood.

The proposal for a ‘house behind a house’ and *converted house* with six units conflicts with a number of provisions within Zoning By-law 438-86, relating to:

- the ‘house behind a house’ condition;
- the proposed building has not been assigned its own parcel of land;
- north side yard setback (3.5m proposed, whereas 7.5m is required);
- south side yard setback (0.0m proposed whereas 7.5m is required);
- rear yard setback (7.0m proposed whereas, 7.5 is required);
- depth of the converted house (15.2m is proposed, whereas 14.0m is required);
- dwelling unit size in the converted house (a size range of 28.5 – 69.7 square metres is proposed, resulting in an average size of 41.7 square metres, whereas 65 square metres is required);
- vehicular access from Dufferin Street for one parking space, rather than the lane; and
- parking space dimensions.

The application material suggests that the existing structure behind the main house is an existing ‘coach house’, not an accessory structure or garage as described in the owner’s previous Committee of Adjustment applications. It is the opinion of Planning staff that the description ‘coach house’ is not an accurate description of this building.

Community Consultation

Staff have not conducted a community meeting for this rezoning application given the history of applications and refusal decisions related to the proposal for the 'house behind a house'. A number of letters of concern and opposition were received regarding the prior Committee of Adjustment applications. Additionally, staff and the local Councillor's office continue to receive phone calls from neighbours asking when the structure will be demolished, because they continue to have concerns related to their privacy and views.

A number of 'Orders to Comply' have been issued since 2006 when work began on the additions/renovations to the structure without the required permits. Court proceedings are currently in progress.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

COMMENTS

Provincial Policy Statement and Provincial Plans

The policies of the PPS were reviewed during the assessment of the proposed 'house behind a house'. Section 1.1.1 (c) states that healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

There are no services for water, sewer, garbage pickup, snow removal or emergency services in the laneway behind the site. As per the staff report titled 'Construction of Housing in Laneways' considered by City Council on July 25, 26 and 27, 2006 laneways do not provide adequate space for installing and maintaining both public and private utilities. Additionally, garbage and recycling collection, emergency services access and snow clearing are all problematic operations in laneways, especially if the laneway is not a through laneway.

Approval of housing in laneways would compromise safety, result in high infrastructure and maintenance costs, and increased disruption for residents with respect to delivering, operating and maintaining City services such as snow removal, garbage collection, water and sewer infrastructure with specialized, non-standard equipment and techniques.

Section 4.5 of the PPS provides that the Official Plan is the most important vehicle for implementation of the PPS. In addition, the PPS provides that comprehensive, integrated and long term planning is best achieved through municipal official plans, that official plans are to set out appropriate land use designations and policies, and that official plans shall provide clear, reasonable and attainable policies to direct development to suitable areas. Development is to be provided in areas that take into account the existing building stock or area, and availability of infrastructure.

Based on the above, and an analysis of the Official Plan policies, the proposal is not consistent with the PPS policies for avoiding development and land use patterns which may cause environmental or public health and safety concerns and the Official Plan policies related to built form and development patterns.

The Growth Plan for the Greater Golden Horseshoe was considered during the review of the application. The Growth Plan states in section 2.2.3.6 'General Intensification' that municipalities will develop and implement through their Official Plans and other supporting documents and policies to phase in and achieve intensification. The policies are to identify the appropriate type and scale of development.

The Official Plan directs growth to certain areas of the City. While some growth can be accommodated in *Neighbourhoods*, development is to respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in these areas. The creation a 'house behind a house' in this area does not support the Official Plan policies.

Based on the above-noted reasons, the proposal does not conform to, and conflicts with, the Growth Plan for the Greater Golden Horseshoe.

Land Use

The application was reviewed in the context of the Official Plan policies for healthy *Neighbourhoods*, built form and development criteria in *Neighbourhoods*. The proposed 'house behind a house' will result in development that will conflict with the Official Plan policies.

The proposed 'house behind a house' does not respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in the area. There are no other houses located behind houses in the surrounding area. Most of the lots to the north, south and east contain single or semi-detached houses with rear yard amenity spaces and garages situated at the rear abutting the public lane. The location of the proposed house is not located and organized to fit with its existing context of one house per lot with rear yard amenity space and a garage facing the lane way. If approved this proposal will change the character of the prevailing pattern of development and set a precedent that may, over time, change the character of this stable neighbourhood.

The development does not frame and support the street, nor does it contribute positively to the streetscape. The proposed house has a setback from Dufferin Street of approximately 28m, whereas the majority of houses on this part of Dufferin Street have consistent front yard setbacks of approximately 3m to 4.5m. The house fronts the lane and not the street. The main building entrance of the proposed house is not clearly visible and directly accessible from the public sidewalk and will be hard to identify and locate even with appropriate signage.

The location, massing and setbacks of the proposed house, which is in the centre of the rear yard of the main house, is not sensitive, nor does it fit harmoniously into its existing

context. Rear yards are intended to provide relief from built form. The proposed house will impact on the quality and quantity of the rear yard open space for occupants of the main house. The rear yard open space needs for the main house will also increase with the creation of the proposed six converted dwelling units. Additionally, the proposed house will impact on neighbouring properties privacy and enjoyment of their rear yards in terms of increased shadowing, and reduced light and sky-views.

The proposal is in conflict with a number of performance standards in the Zoning By-law, which is an instrument for translating the Official Plan policies into practice. The intent of the Zoning By-law is to allow for the maintenance of existing residential patterns such as one house per lot, appropriate side yard setbacks and a rear yard. The Zoning By-law also intends to preserve the light, views and privacy of adjacent properties. These performance standards have not been met in this instance.

The Committee of Adjustment and the OMB have previously refused minor variance and consent applications related to the subject 'house behind a house'. The Board member who heard this case provides a particularly useful summary in his August 22, 2008 decision:

"...The appellants' proposed variances do not maintain the general intent and purpose of the Official Plan and Zoning By-law of the City. The proposed variances would result in a house location in the rear yard amenity area. This would reduce the quantity and quality of outdoor amenity space for the severed lot and reduce the privacy and light enjoyed by the neighbouring rear yard amenity areas. Accordingly, the variances are not desirable for the appropriate development or use of the Subject Lands and neighbouring properties".

Although a severance is not being proposed at this time, the application as it relates to the 'house behind a house' is almost identical to that considered by the OMB. The proposed 'house behind a house' will result in development that will conflict with the Official Plan policies, and performance standards of the Zoning By-law.

With respect to the proposal to convert the existing main house into a *converted house*, the proposal is to create six units ranging in size from 28.5 - 69.7 square metres with an average size of 41.7 square metres, whereas 65 square metres is required by the Zoning By-law. Staff could support the *converted house* proposal if the smallest unit, at 28.5 square metres located in the basement, was deleted. Staff are of the opinion this unit is too small. If the smallest unit was merged with the second smallest unit (33.5 square metres) also located in the basement, this would create one larger unit in the basement at 62 square metres and bring the average unit size for the *converted house* up to 50 square metres.

If the applicant was willing to make the recommended changes to the proposed *converted house* staff could support an application for five units as described above, through a Committee of Adjustment application. However, unchanged and combined with the 'house behind a house' proposal, staff can not recommend approval of the application as presented.

Servicing

There was no information submitted with the application detailing how the proposed house behind the main house is/can be serviced with its own water, storm and sewer services. There is no sewer or water service provided in the laneway abutting the site, so the proposed house behind a house would need to be serviced from Dufferin Street along the driveway beside the main house. Staff also have concerns about emergency services access to the house behind the main house.

Regardless of whether or not the servicing concerns can be addressed to the satisfaction of the Executive Director of Technical Services, staff recommend refusal of the proposed house behind a house on the basis of the land use and other considerations outlined in this report.

Toronto Green Standard

The applicant has not submitted a Toronto Green Development Standard checklist in order to assess the proposal's compliance with the Standard.

CONTACT

Jamaica Hewston, Planner
Tel. No. 416-392-0758
Fax No. 416-392-1330
E-mail: jhewsto@toronto.ca

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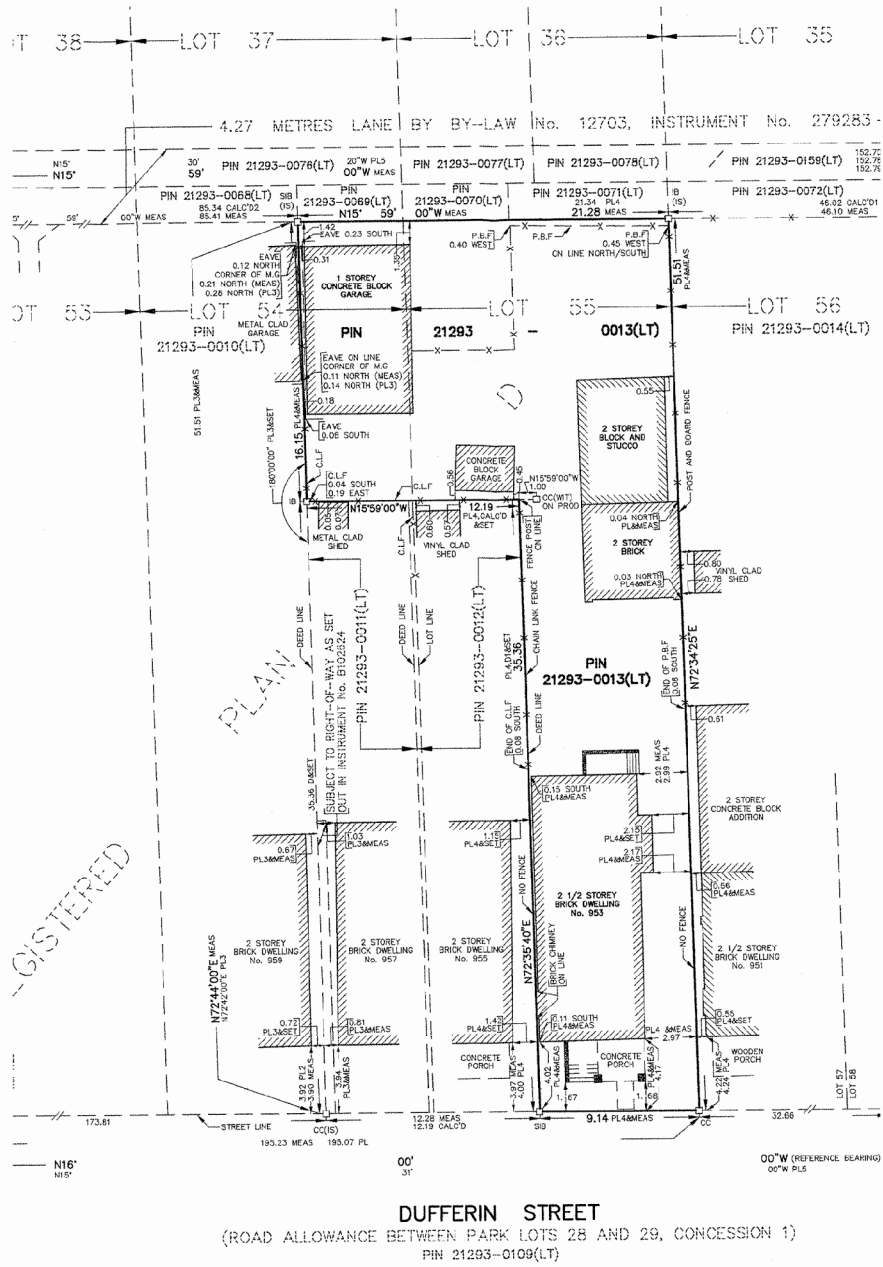
Raymond David, Director
Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Survey Plan
Attachment 2: Site Plan
Attachment 3: Floor Plans – Main House/Converted House
Attachment 4: Floor Plans – House Behind Main House
Attachment 5: Elevations - Main House/Converted House
Attachment 6: Elevations – House Behind Main House
Attachment 7: Application Data Sheet
Attachment 8: Zoning

Attachment 1: Survey Plan



Survey

Applicant's Submitted Drawing

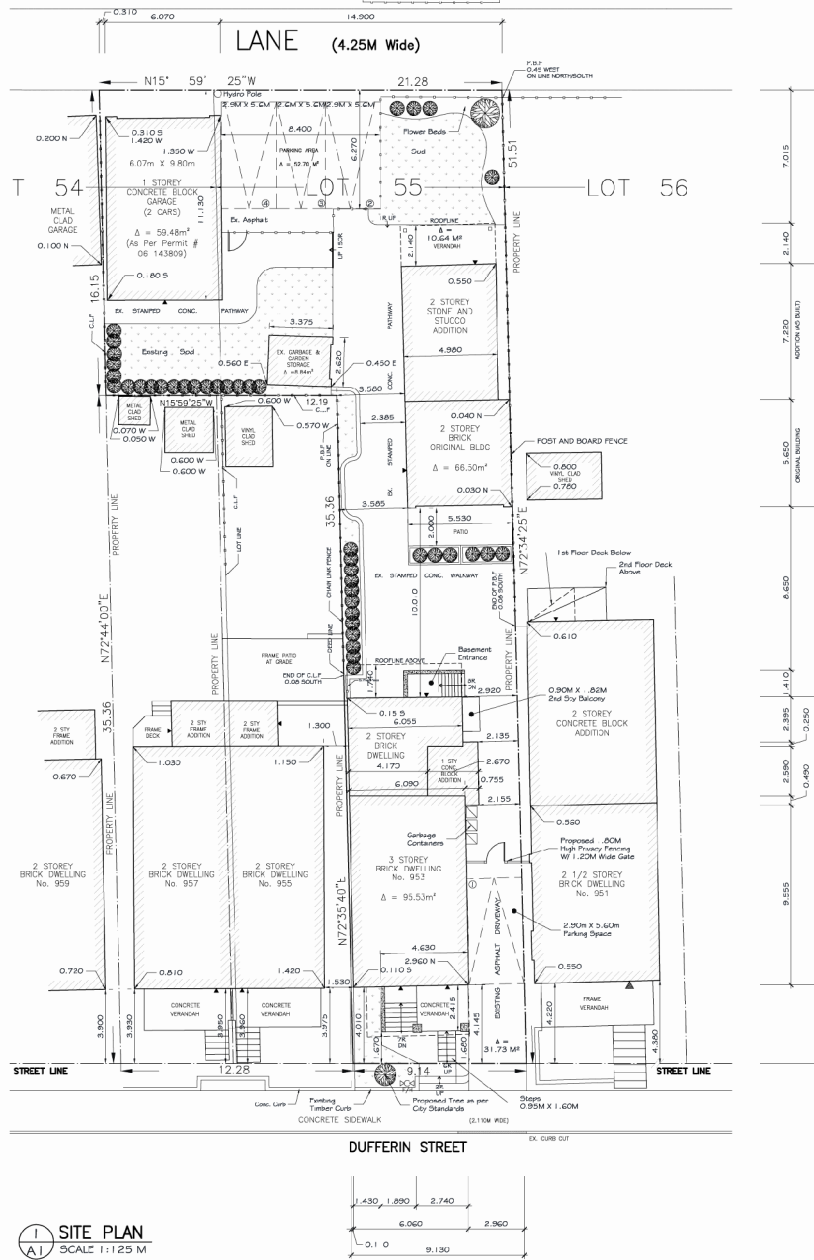
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953 Dufferin St.

File # 10_213474

Attachment 2: Site Plan



Site Plan

Applicant's Submitted Drawing

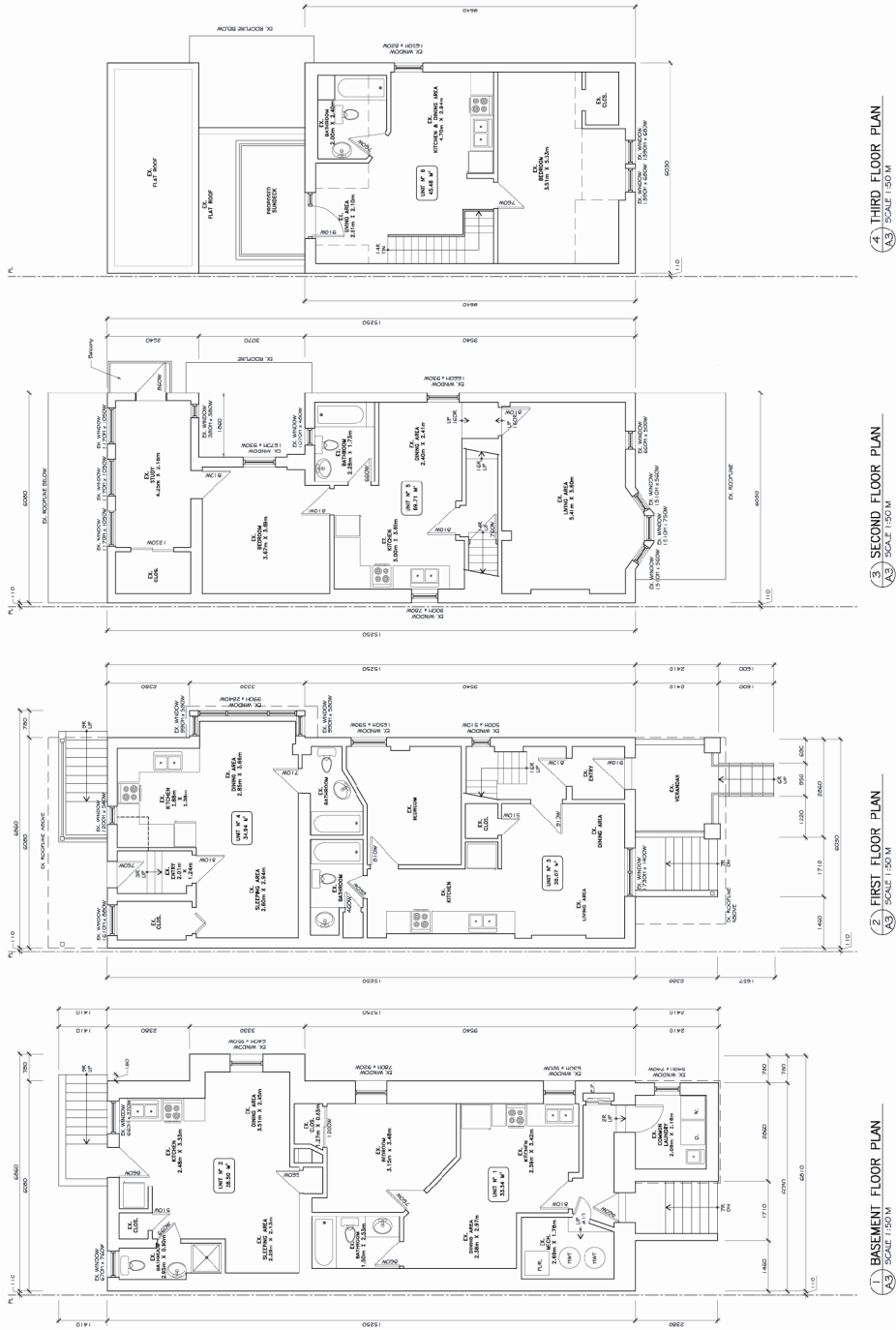
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953 Dufferin St.

File # 10_213474

Attachment 3: Floor Plans –Main House/Converted House



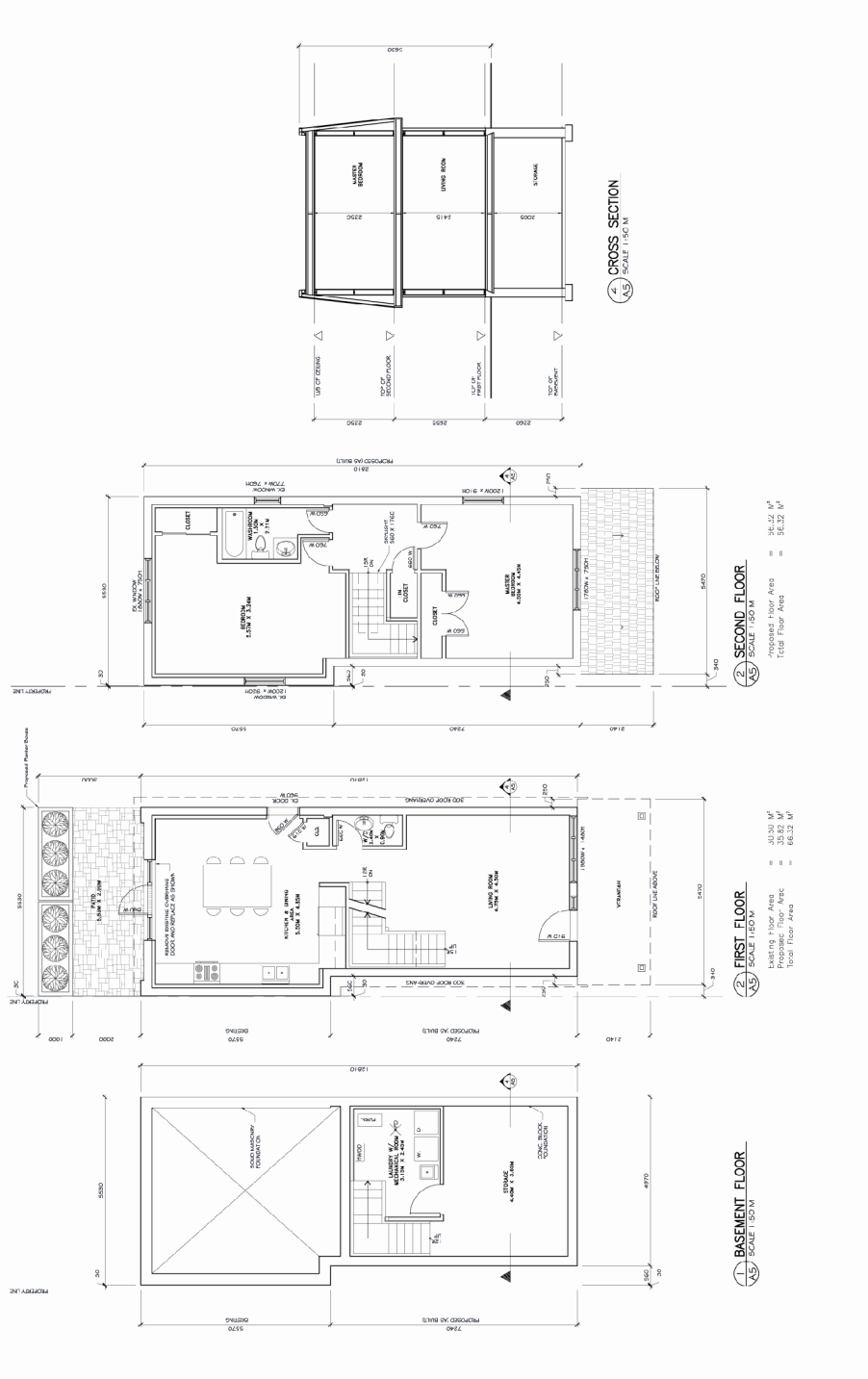
953 Dufferin St.

Floor Plans 1
 Applicant's Submitted Drawing

File # 10_213474

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Attachment 4: Floor Plans – House Behind Main House



953 Dufferin St.

Floor Plans 2
 Applicant's Submitted Drawing

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File # 10_213474

Attachment 5: Elevations – Main House/Converted House



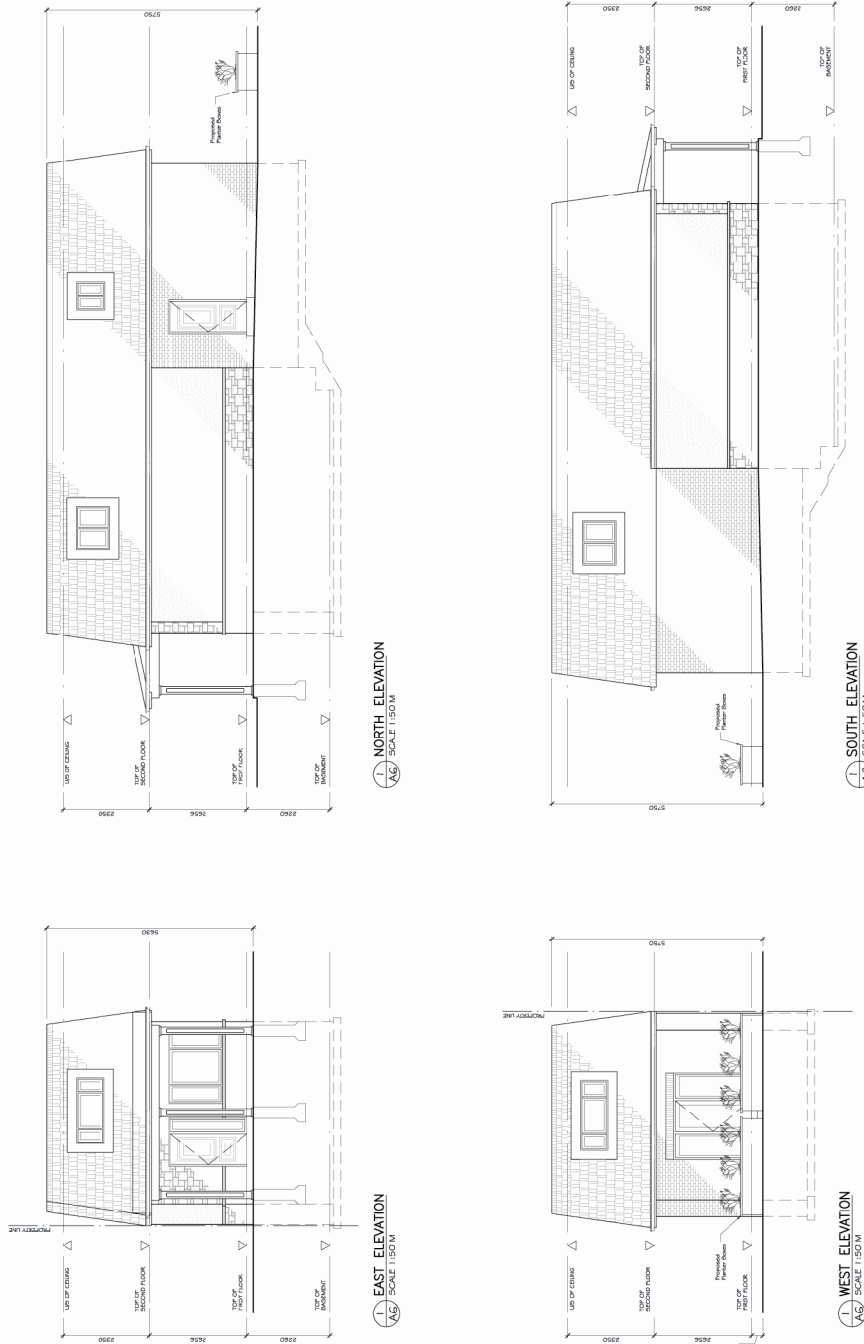
953 Dufferin St.

Elevations 1
 Applicant's Submitted Drawing

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File # 10_213474

Attachment 6: Elevations – House Behind Main House



953 Dufferin St.

File # 10_213474

Elevations 2
Applicant's Submitted Drawing

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Attachment 7: Application Data Sheet

APPLICATION DATA SHEET

Application Type	Rezoning	Application Number:	10 213474 STE 18 OZ
Details	Rezoning, Standard	Application Date:	July 6, 2010

Municipal Address: 953 DUFFERIN ST
 Location Description: PLAN D121 PT LOT 55 **GRID S1805
 Project Description: Standard rezoning application to permit existing converted dwelling with 6 units and permit a two storey 'house behind a house' at rear with 1 dwelling unit.

Applicant:	Agent:	Architect:	Owner:
SORENSEN GRAVELY LOWES PLANNING ASSOCIATES INC		AMBIENT DESIGNS LIMITED	JOEL BRITO DOMINGUES

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:
Zoning:	R4 Z1.0	Historical Status:
Height Limit (m):	10	Site Plan Control Area:

PROJECT INFORMATION

Site Area (sq. m):	666.82	Height:	Storeys:	3
Frontage (m):	9.14		Metres:	8.37
Depth (m):	51.51			
Total Ground Floor Area (sq. m):	161.64			Total
Total Residential GFA (sq. m):	476.1		Parking Spaces:	6
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	476.1			
Lot Coverage Ratio (%):	24.2			
Floor Space Index:	0.71			

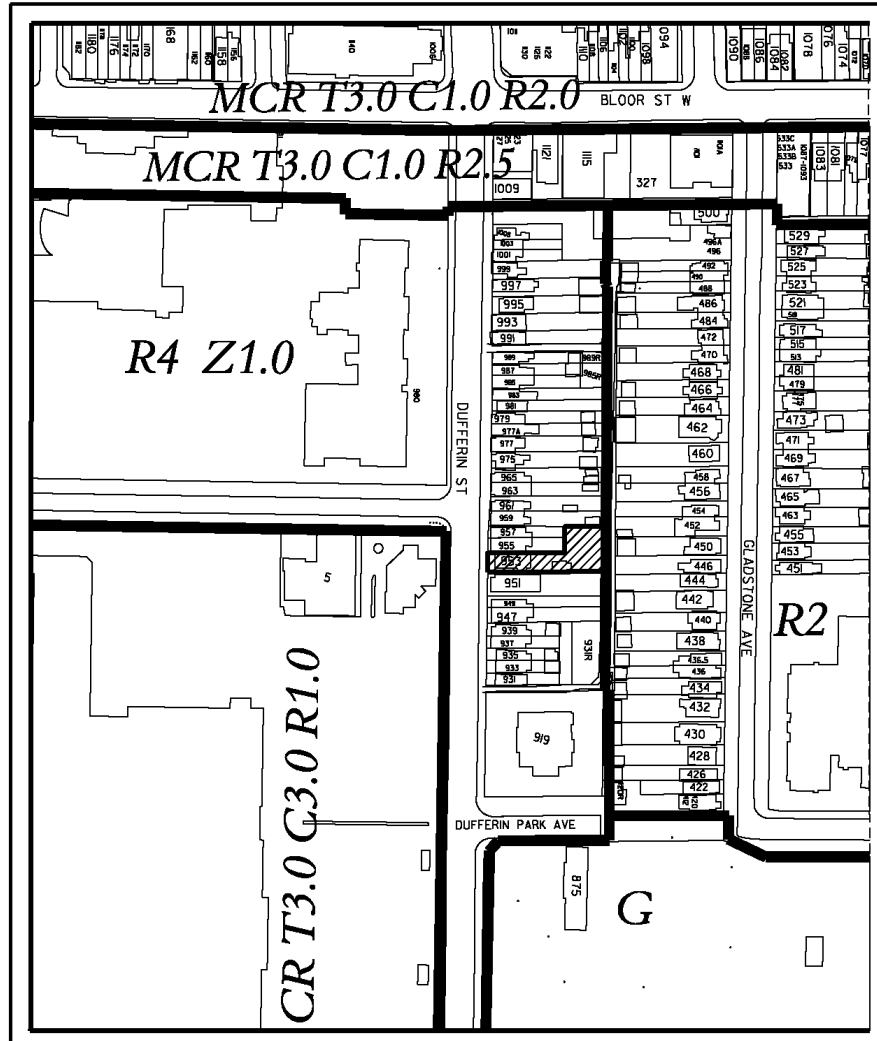
DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Rental		Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	373.89	102.21
Bachelor:	0	Retail GFA (sq. m):	0	0
1 Bedroom:	6	Office GFA (sq. m):	0	0
2 Bedroom:	1	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	7			

CONTACT: PLANNER NAME: Jamaica Hewston, Planner
TELEPHONE: 416-392-0758

Attachment 8: Zoning



TORONTO Urban Development Services
Zoning

953 Dufferin Street
File # 10_213474

- R2 Residential District
- R4 Residential District
- G Parks District
- CR Mixed-Use District
- MCR Mixed-Use District



Not to Scale
Zoning By-law 438-88 as amended
Extracted 07/13/2010-FF

