



## **STAFF REPORT ACTION REQUIRED**

### **53 Saulters Street- Request for direction re OMB pre-hearing conference, July 6, 2007 and hearing, September 11, 2007**

|                          |                            |
|--------------------------|----------------------------|
| <b>Date:</b>             | June 7, 2007               |
| <b>To:</b>               | City Council               |
| <b>From:</b>             | City Solicitor             |
| <b>Wards:</b>            | Ward 30 - Toronto-Danforth |
| <b>Reference Number:</b> | File No. 04-169574 STE OZ  |

### **SUMMARY**

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At the first pre-hearing conference in this matter to consider the appeals filed by 940412 Ontario Ltd. and 572550 Ontario Ltd. (the "Appellant"), who are the owners of 53 Saulters Street (the "Lands"), the Ontario Municipal Board (the "OMB") set a second pre-hearing conference for July 6, 2007 so that the City Solicitor could obtain instructions from City Council regarding the issues in this matter. The OMB set aside nine days for a hearing commencing September 11, 2007.

There have been several meetings with the Appellant, its lawyer and consultants and with the lawyer and representative of the Canadian National Railway Company ("CN") in an effort to resolve all outstanding issues among the parties prior to the OMB hearing or, at the very least, to define what issues remain outstanding prior to the pre-hearing conference on July 6, 2007.

The purpose of this report is to obtain specific directions for the pre-hearing conference set for July 6, 2007 and the hearing which commences September 11, 2007. This matter must therefore be considered by Council at its meeting commencing June 19, 2007 and cannot first be considered by Toronto and East York Community Council.

## RECOMMENDATIONS

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The City Solicitor recommends that:

1. the City Solicitor be authorized, at the Ontario Municipal Board (the “OMB”) pre-hearing conference and at the hearing relating to the appeals of 53 Saulters Street (the “Lands”), to support the revised development application of 940412 Ontario Ltd. and 572550 Ontario Ltd. (the “Appellant”), as generally set out in Appendix “A” attached hereto, subject to the following:
  - a. that the Canadian National Railway Company (“CN”) is satisfied with the protective and mitigation measures to be implemented by the Appellant on the Lands with respect to the proximity of the Lands to the railway corridor;
  - b. should CN not be satisfied with the protective and mitigation measures to be implemented by the Appellant on the Lands, then the City Solicitor advise the OMB that the City of Toronto supports the revised development application subject to satisfactory resolution by CN and the Appellant or by adjudication by the OMB, of the protective and mitigation measures for the Lands with respect to the adjacent railway corridor.
  - c. that the OMB withhold its order approving the official plan and zoning by-law amendments until the Appellant has entered into a site plan agreement with the City of Toronto under Section 41 of the *Planning Act*.
  - d. that the conditions of Technical Services, as set out in Appendix “A” attached hereto, and any other conditions or requirements from any City Division, arising from the ongoing review of the revised development application, be satisfied.
2. That the City Solicitor and necessary City staff be authorized to take all necessary actions so as to give effect to these recommendations.

## FINANCIAL IMPACT

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There are no financial implications resulting from the adoption of this report.

## DECISION HISTORY

<http://www.toronto.ca/legdocs/2004/agendas/committees/ts/ts041116/it033.pdf>

The rezoning and official plan amendment applications for conversion of an existing industrial property to residential use for a total of 16 residential live/work units were made on August 27, 2004. At its meeting of November 16, 2004, Toronto and East York

Community Council considered the Preliminary Report and directed a community consultation meeting to discuss the application. The Report identified planning issues related to the adjacent elevated Canadian National (CN) railway line and the required setback (30 metres from the property line with mitigating measures that are acceptable to CN). In October, 2006, the Appellant appealed the official plan amendment and zoning by-law amendment applications to the OMB because the City failed to make a decision on the applications within ninety days.

## **COMMENTS**

On February 16, 2007, after receiving staff comments, the Appellant submitted a revised application of 12 three-storey live/work units and four industrial units with 21 parking spaces. The Appellant revised the proposal to include the following: a reduction of four live/work units (from 16 units to 12 units), improving pedestrian access, parking configuration, driveway width, landscaping and direct entrances. Appropriate agencies, including Canadian National Railways and City Divisions are currently evaluating the revised submission. On April 27, 2007, the applicant submitted three studies and site plans responding to concerns raised by CN staff. These studies are currently under review by CN staff. City staff is continuing to work with the Appellant in an effort to resolve outstanding issues. The revised proposal is illustrated in Attachments 1 through 4 and is described in this report.

## **Site Description**

The Lands are located just south of Queen Street East, east of Broadview Avenue, on the east side of Saulter Street, which is primarily a residential street. Abutting uses include:

- Immediately to the east of the Lands is an elevated CN railtrack;
- The properties to the north, south and west sides are residential;
- Further south on Saulter Street is a small parkette on the east side of Saulter Street.

The Lands are approximately 4,064 square metres and contain buildings that had been used for light industrial purposes. The industrial use ceased approximately three years ago and the buildings have been vacant since that time.

## **Provincial Policy Statement**

The applicable Provincial Policy Statement (PPS) sets out matters of provincial interest related to land use planning and development. 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 have regard to the PPS.

## **Official Plan**

The policies of the Official Plan for the former City of Toronto and Metro Plan apply to the Lands. The Official Plan for the former City of Toronto designates the Lands as Restricted Industrial Areas, which permits light industrial uses that are compatible with

adjacent residential uses. Section 2 of the former City of Toronto's Official Plan includes policies relating to Development Adjacent to Rail Corridors that state that in considering applications for development adjacent to railways, Council shall seek to ensure that appropriate safety measures such as setbacks, berms and security fencing are provided to the satisfaction of the City in consultation with the appropriate railways (Policy 2.27a).

The City's new Official Plan designates the area as Employment Areas, which are areas of business and economic activity. Residential uses are not permitted. In order to permit residential uses on these Lands, the proposal would require a modification to the Official Plan. The Employment Area where the Lands are located is not shown as an *Employment District* on the Official Plan's Map 2, Urban Structure.

### **Zoning**

The zoning on the Lands is I2 D3, which permits a variety of industrial uses up to a density of 3.0 times the area of the lot. Residential uses are not permitted. The height limit is 18.0 metres.

### **Site Plan Control**

This proposal is subject to Site Plan Approval under Section 41 of the Planning Act. The Appellant has not submitted an application for Site Plan Approval.

### **Tree Preservation**

The Appellant has filed a declaration indicating that there are no trees with a diameter of 30 cm or more on the Lands or adjacent to the property. Through the Site Plan Approval process, the Appellant will be required to provide tree protection notes and graphics on the Landscape Plan for all trees that meet the City's criteria for protection.

### **Reasons for the Application**

Residential (i.e., live/work) uses are neither permitted in the Restricted Industrial Area designation, nor under the I2 D3 zone. To permit residential uses, the proposal requires an application to rezone the Lands and to amend the former City of Toronto Official Plan.

### **CN Rail Mitigation Measures**

CN staff reviewed the proposal and advised the Appellant of CN's concerns on March 3, 2006. These concerns included:

#### **Noise Impact Study (dated October 26, 2005)**

- CN standard minimum noise barrier along the property line of 5.5 metres has not been provided;
- Proposed noise attenuation measures need to be clearly shown;
- Barrier height applied in the Noise Impact Study was not described in the report; and
- CN standard minimum setback requirement of 30 metres from the property line has not been addressed.

### **Vibration Impact Study (dated October 26, 2005)**

- Measurement locations within the Vibration Impact Study should be clearly shown; and
- Other Vibration Impact Study method concerns.

### **Structural Study (dated October 26, 2005)**

- CN standard minimum setback requirement of 30 metres from the property line has not been addressed, CN will consider moderate reductions, as low as 25 metres from the property lines, provided that the minimum setback aligns with some sort of practical, physical internal separation;
- Structural information/plans required with respect to separating the existing industrial units from the proposed new live/work units; and
- Plans to clearly show the extent of the proposed berm.

Based on comments received from CN, on April 27, 2007, the Appellant submitted additional technical studies supporting their application and responding to CN's concerns. CN staff is currently reviewing the recently submitted information. Planning staff is supportive of the revised application but this support is subject to CN being satisfied with the protective and mitigation measures to be implemented by the Appellant on the Lands with respect to the proximity of the Lands to the rail corridor.

### **Common Elements**

The Appellant has not confirmed to staff whether the proposed development will be under single ownership (standard condominium corporation, a co-operative or a single rental property owner) or as a common elements condominium. Should the proposed development become a condominium, the Appellant will be required to clearly delineate the common elements on the plans.

### **Built Form and Setbacks**

The proposal is to convert most of the existing industrial buildings on the Lands to live/work units. The built form and setbacks are compatible with the existing built form and context on Saulter Street. Staff raised concerns regarding rooftop terraces and the potential for overlook onto adjacent properties. The Appellant has addressed these concerns by applying acceptable terrace setbacks from the buildings' edge.

### **Private Streets**

The City's Development Infrastructure Policy and Standards (DIPS) includes design standards for private streets. Private streets must have a minimum width of 8.0 metres for two-way traffic with parking permitted on one side. The maximum number of units fronting onto the private should not exceed 10 units. The proposal includes a private street labelled "Fire Route" that measures 6.0 metres, with parking on one side and 1.5 metre sidewalks on either side of the street. This private street is acceptable at this location, given that the proposal is a renovation of existing buildings and is less than the maximum of ten units fronting onto a private street. With respect to the other DIPS

standards, this application does not meet all the standards but it is dealing the renovation of existing buildings and also that the application predates the adoption of DIPS.

### **Access and Parking**

Access to the Lands is provided by a one-way private street extending east off Saulter Street and connecting to Strange Street. Fire Services staff raised concern over the width of the proposed fire access route. The Appellant modified the proposal to address staff's concerns. The 6.0 metre fire route is acceptable. At the south portion of the property, the Appellant proposes to widen the existing right-of-way off Saulter Street to 6.0 to provide access to the proposed industrial units. This right-of-way will be shared with residents of properties fronting on Saulter Street to access their parking.

The Appellant proposes to provide a total of 21 parking spaces, which includes 3 spaces for the use of visitors.

### **Servicing**

The City will collect solid waste for the residential (live/work) component of the proposed development. A separate garbage/recycling storage will be secured through the Site Plan Approval process to facilitate the private collection of non-residential solid waste.

### **Parkland Dedication**

The Appellant proposes to convey a 371 metres squared parcel of land in order to satisfy the parkland dedication requirements for this development. This parcel of land abuts the CN rail line and would expand the rear (east part) of Saulter Street Parkette. Parks, Forestry and Recreation staff are currently reviewing this proposed arrangement. Should the Parks, Forestry and Recreation staff accept the land conveyance, there are a number of conditions that staff will secure through the Site Plan Approval process.

### **Toronto Green Development Standard**

The Appellant has not submitted the Toronto Green Development Standard Checklist because the application was filed before the adoption of the Green Development Standard and because the application involves the renovation of existing buildings.

### **Other Issues**

Should other issues arise from the review of the revised proposal, Planning staff will endeavour to work with the Appellant to resolve them prior to the OMB Hearing.

## **Development Charges**

It is estimated that the Development Charges for the proposed development will be \$99,456.00. This is an estimate only. The actual charges are assessed and collected upon issuance of the building permit.

## **CONTACT**

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Email: [rkallio@toronto.ca](mailto:rkallio@toronto.ca)

## **SIGNATURE**

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Anna Kinastowski, City Solicitor

## **ATTACHMENTS**

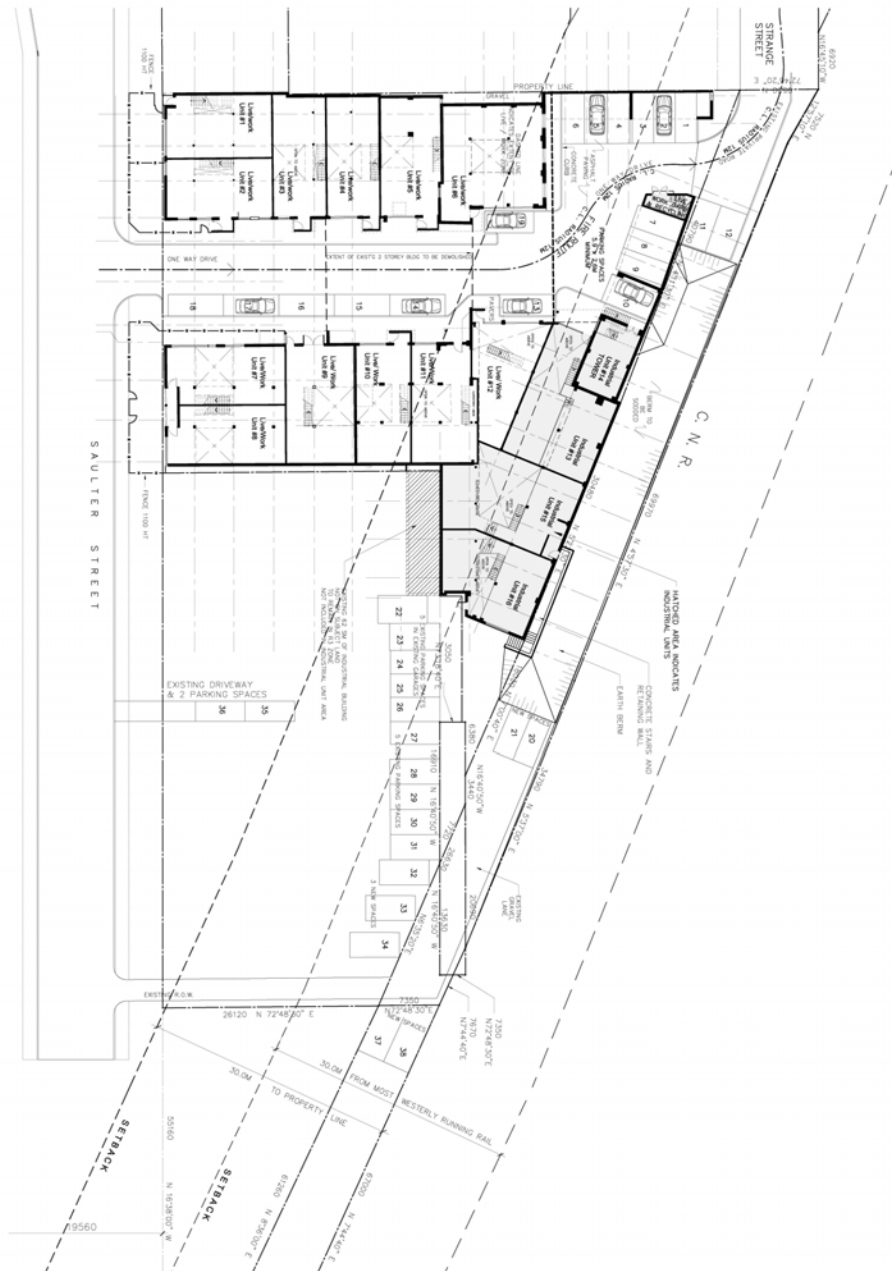
Appendix "A"  
Attachment 1: Site Plan  
Attachment 2: Elevations  
Attachment 3: Elevations  
Attachment 4: Landscape Plan  
Attachment 5: Zoning  
Attachment 6: Former City of Toronto Official Plan

## APPENDIX “A”

1. Revised application submitted February 16, 2007 containing therein the following:
  - a. 12 three-storey live/work units and 4 industrial units in existing buildings
  - b. private street labelled “Fire Route” with a minimum width of 6.0 metres, with parking on one side and 1.5 metre-wide sidewalks on both sides of the street
  - c. conveyance of a 371 m<sup>2</sup> parcel of land for parkland dedication, if required by Parks, Forestry and Recreation unless cash-in-lieu is required
  - d. prior to approval of the official plan and zoning by-law amendments, Appellant required to submit to the Executive Director, Technical Services, documentation and revised drawings for review and acceptance
  - e. Information confirming whether the proposed development will be under a single ownership (standard condominium corporation, a co-operative or a single rental property owner) or a common elements condominium. For common elements condominium, the common elements have to be clearly delineated on the plan
  - f. A site servicing study to determine the storm water runoff, sanitary flow and water supply demand resulting from this development and to demonstrate how this site can be serviced and whether the existing municipal infrastructure is adequate
  - g. Provide and maintain 21 parking spaces which includes three spaces for visitors
  - h. Provide and maintain all parking spaces in accordance with the dimensional requirements of Zoning Bylaw No. 438-86, save and except for parallel parking spaces which must be a minimum of 2.6 metres wide by 6.7 metres long
  - i. Provide space within the development for the construction of any transformer vaults, Hydro and Bell maintenance holes and sewer maintenance holes required in connection with the development
  - j. Provide for any improvements to the municipal infrastructure in connection with the site servicing review, should it be determined that upgrades are required to the infrastructure to support this development, according to the site servicing review accepted by the Executive Director, Technical Services and sign a letter of undertaking to carry out the work
  - k. Such other conditions or requirements as may be required by Technical Services or any other City Division



## Attachment 1: Site Plan



### Site Plan

53 - 65 Saultier Street

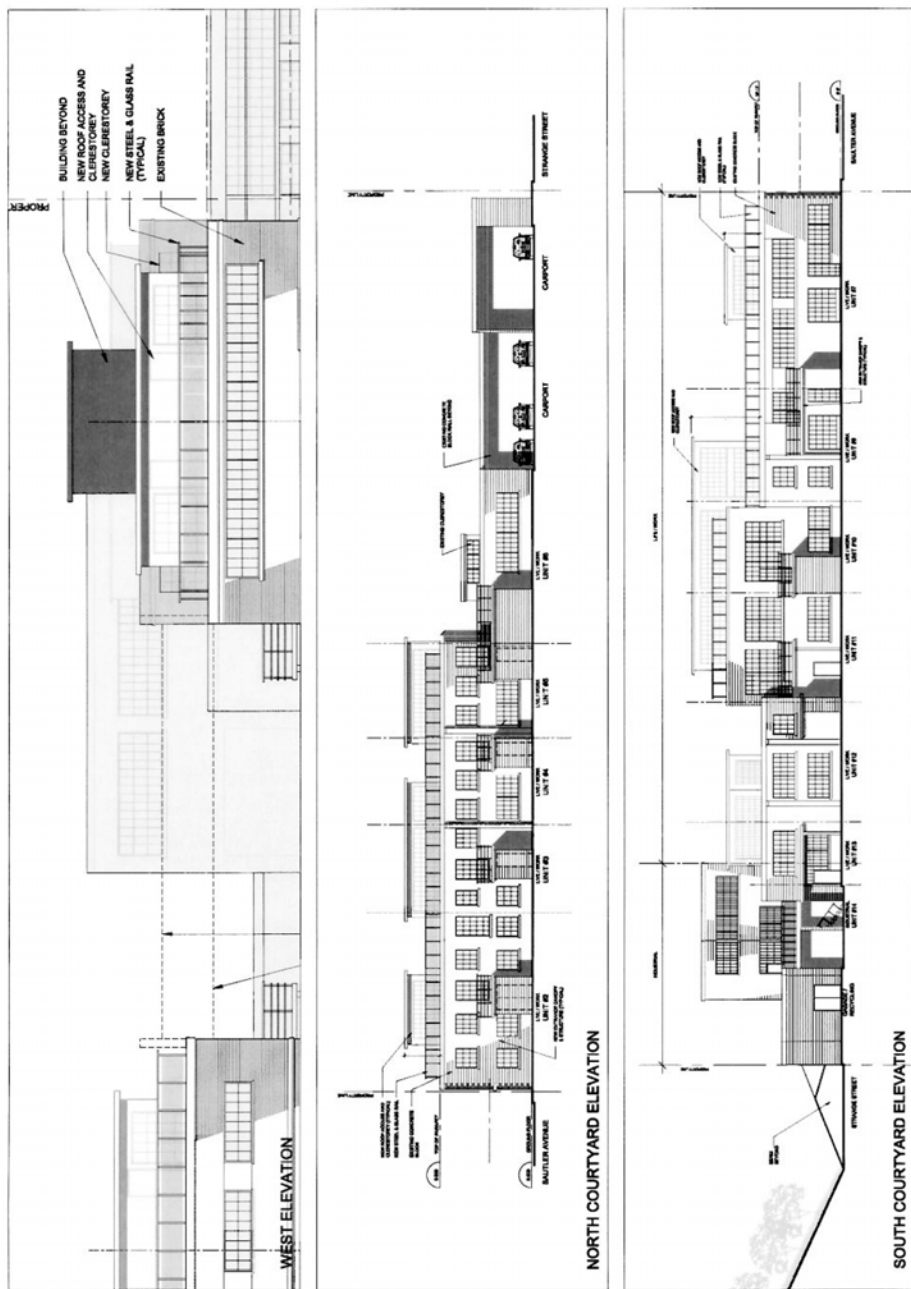
Applicant's Submitted Drawing

Not to Scale  
03/06/07



File # 04\_169574

## Attachment 2: Elevations



## Elevations

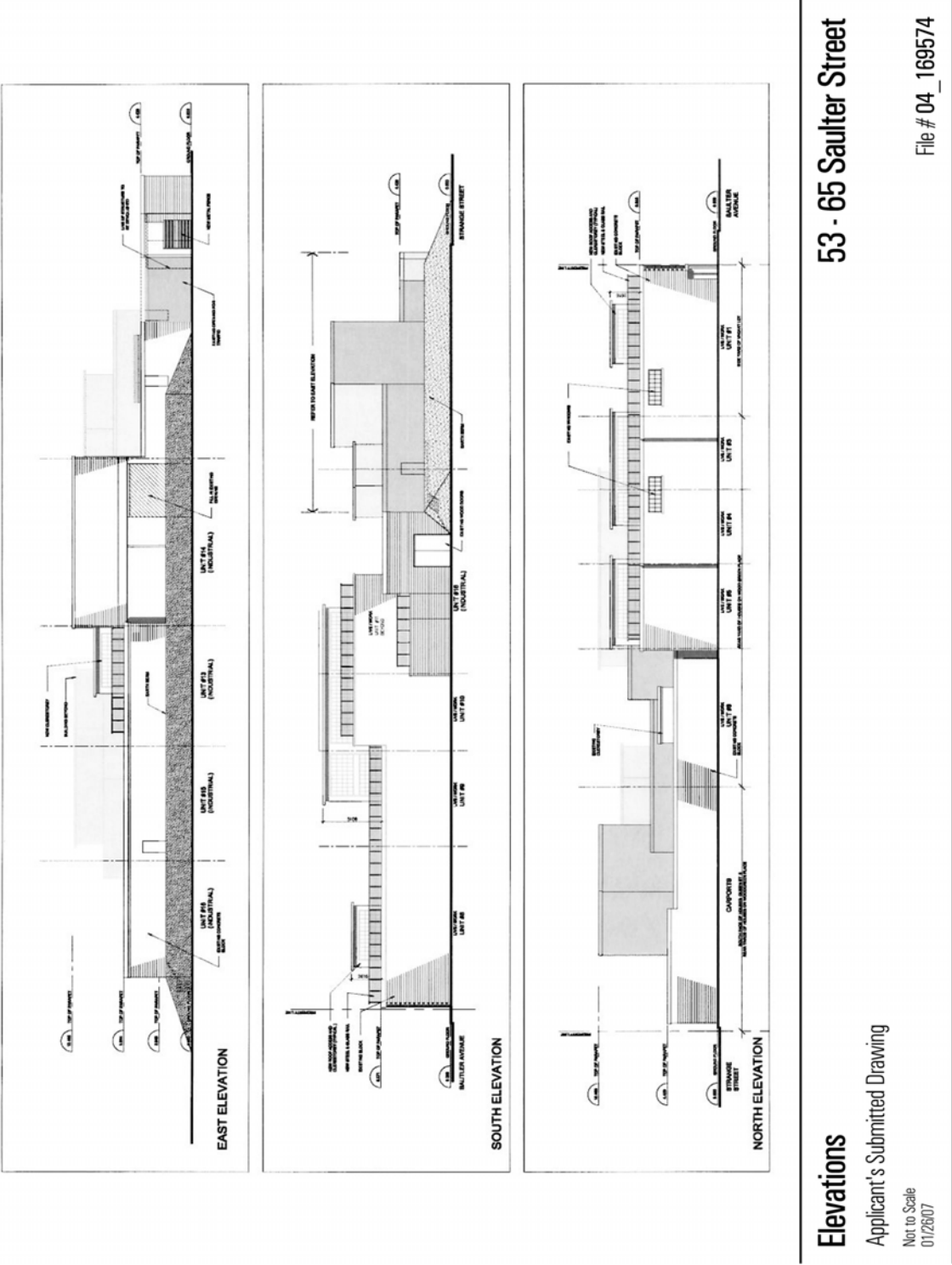
Applicant's Submitted Drawing

Not to Scale  
01/26/07

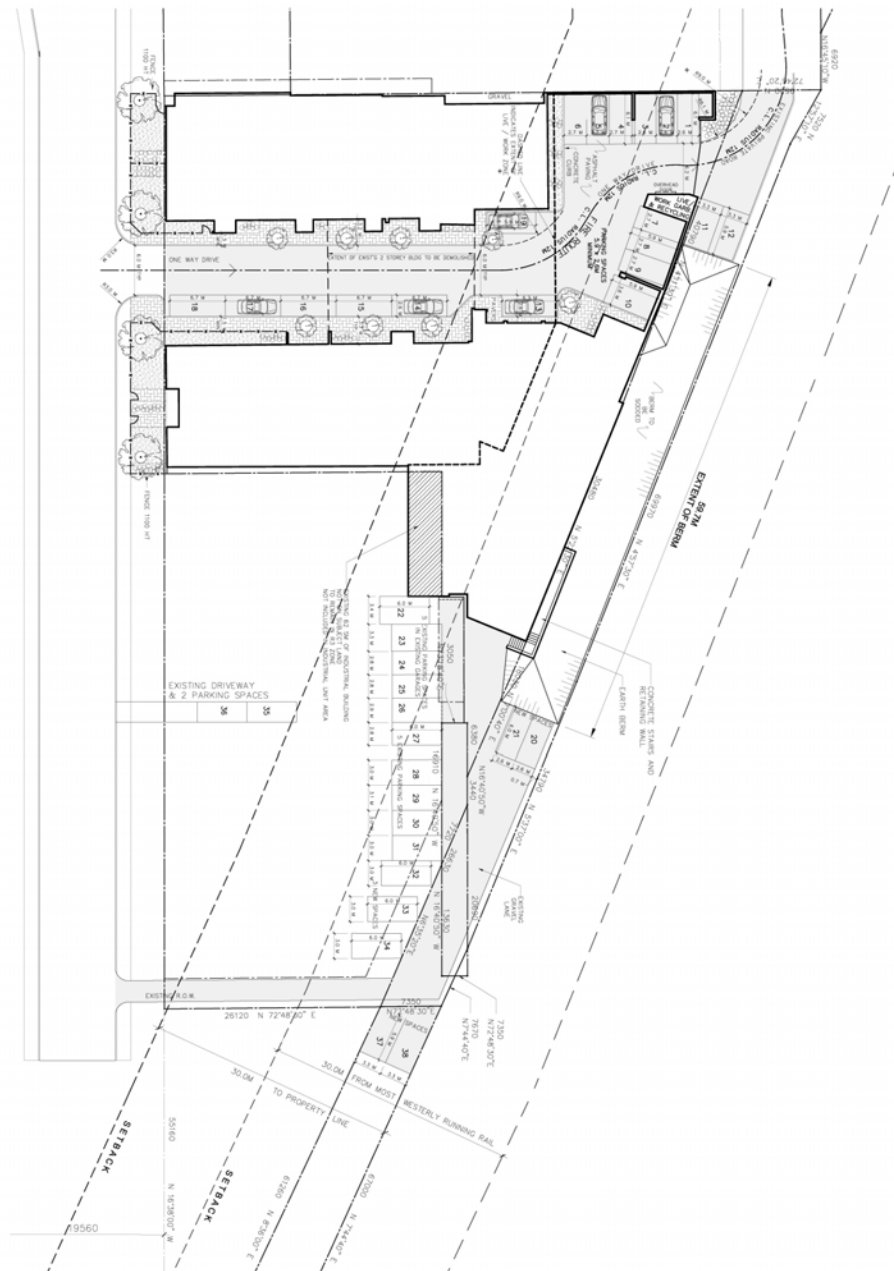
**53 - 65 Saulters Street**

File # 04\_169574

Attachment 3: Elevations



## Attachment 4: Landscape Plan



## Landscape Plan

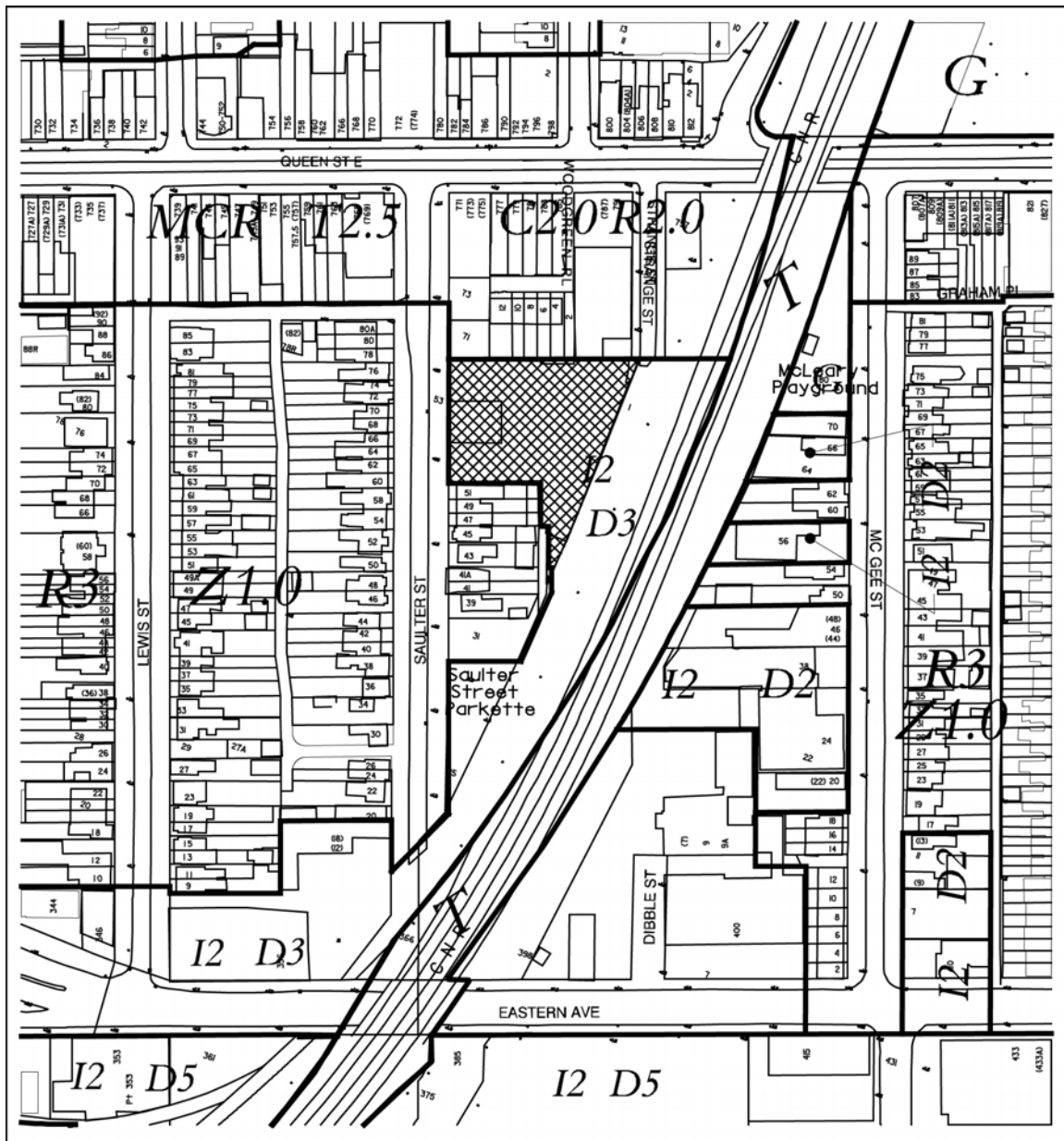
Applicant's Submitted Drawing

Not to Scale  
02/26/07

53 - 65 Saulter Street

File # 04\_169574

## Attachment 5: Zoning



**Toronto** Urban Development Services  
Zoning

**53 Saulters Street**

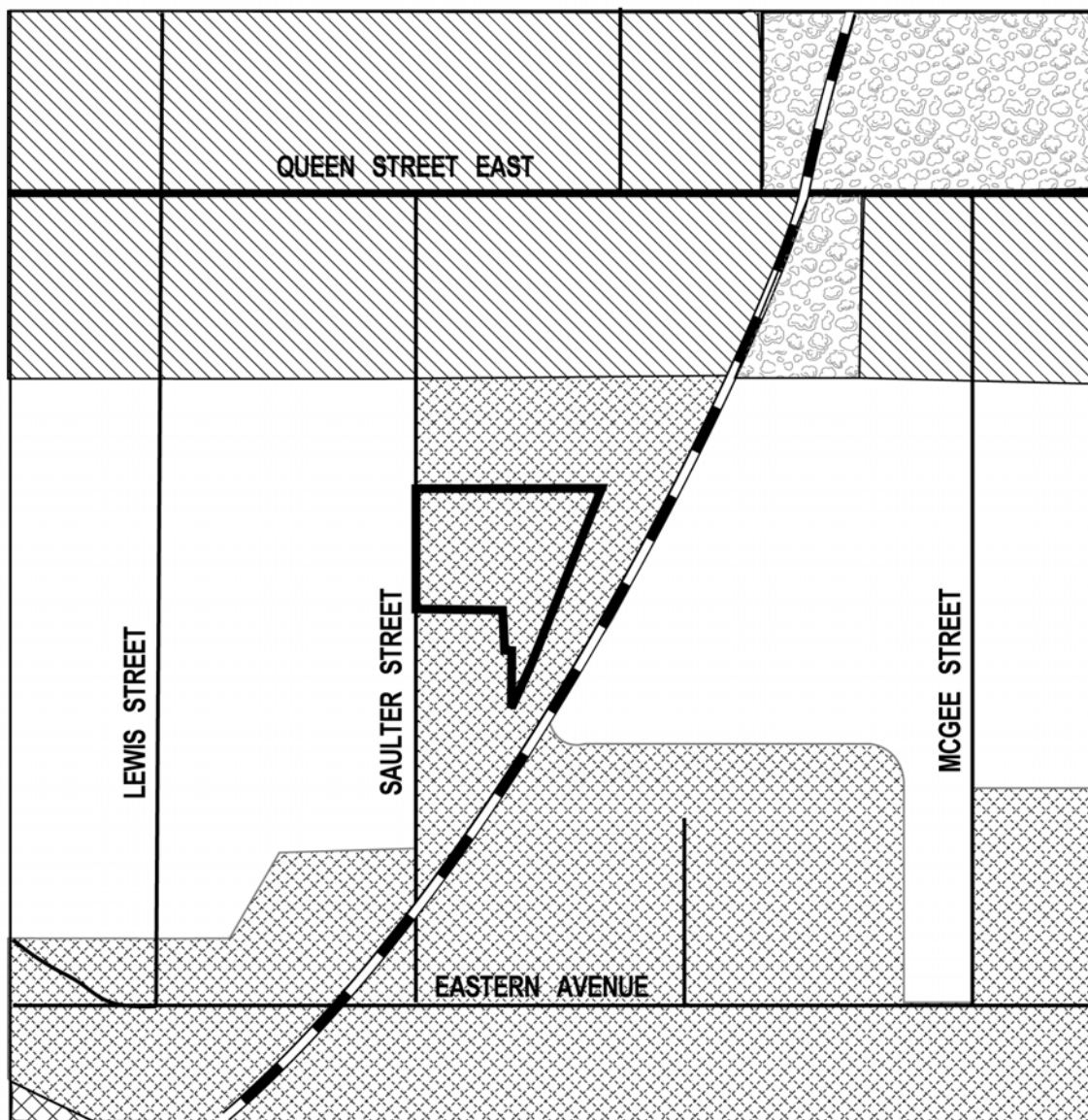
File # 04\_169574

- G Perks District
- R3 Residential District
- MCR Mixed-Use District
- I2 Industrial District
- I3 Industrial District



Not to Scale  
Zoning By-law 438-86 as amended  
Extracted 10/14/04 - NRS

# Attachment 6: Former City of Toronto Official Plan



**Toronto** Urban Development Services  
Official Plan

53 Saulters Street

File # 04\_169574

- |  |                             |
|--|-----------------------------|
| Site   | Restricted Industrial Areas |
| Low Density Residence Areas                    | General Industrial Areas    |
| Low Density Mixed Commercial-Residential Areas | Open Space                  |

↑  
Not to Scale  
10/18/04