

**Refusal Report
Official Plan, Zoning, Applications
359-377 Roehampton Avenue**

Date:	December 21, 2006
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 22-St Paul's
Reference Number:	File No. 05 195762 STE 22 OZ

SUMMARY

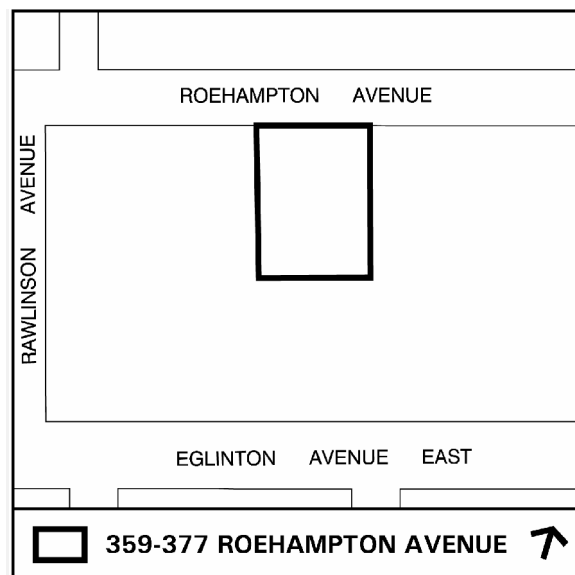
An application has been submitted to permit the construction of a 27 unit, 3½ storey residential apartment building comprised of four blocks at 359-377 Roehampton Avenue. Construction of the proposed development would require demolition of the 3 detached buildings containing a total of 9 dwelling units, of which 8 are rental units. The applicant has appealed the application to the Ontario Municipal Board on October 20, 2006.

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

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct the City Solicitor to advise the Ontario Municipal Board (the "OMB") that the City of Toronto requests the OMB to refuse the application for Official Plan and Zoning By-law Amendment No. 05 195762 STE 22 OZ;
2. the City Solicitor, the Chief Planner and



Executive Director and any other appropriate staff be authorized and directed appear at the OMB hearing in support of the City's position as set out in Recommendation 1 of this report; and

3. the Chief Planner and Executive Director be requested to hold an information meeting in the community to discuss the application and to notify owners and tenants within 120 metres of the site and Ward Councillor that the application has been appealed.

FINANCIAL IMPACT

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

ISSUE BACKGROUND

Site History

On October 21, 2005 Michael Vaughan, on behalf of Roehampton Birch Properties Inc. submitted an application for Official Plan and Zoning By-law amendments to permit the construction of a multi-unit condominium apartment building containing a total of 27 dwelling units.

The plans and accompanying materials were circulated to City Departments and appropriate outside agencies for their comment. In advance of receiving comments back from the circulation, a Preliminary Planning Report was sent to Toronto and East York Community Council. A number of issues were raised in that report. Council adopted that report and its recommendations, one of which directed the Planning Division to hold a community consultation meeting.

Planning staff met with the applicant to discuss the major issues of rental replacement, siting of buildings and massing prior to holding a community meeting. The community consultation meeting was held in the neighbourhood on February 1, 2006.

Planning staff initiated subsequent discussions with the applicant in attempts to resolve the issues raised in the Preliminary Report and at the community meeting. The discussions proved unsuccessful and the applicant appealed to the Ontario Municipal Board on October 20, 2006 on the grounds that City Council had failed to make a decision.

No hearing date has been set.

Proposal

The applicant proposed to amend the Official Plan and Zoning By-law for 359-377 Roehampton Avenue to permit the construction of a multi-unit condominium apartment building containing a total of 27 dwelling units.

The proposed 3½ storey (11.18 metre) apartment building is comprised of four blocks, 1 block containing 6 units, and the other three blocks containing 7 units. Two of the four blocks have frontage on Roehampton Avenue, and the remaining two are located behind on the back half of the lot. All blocks are served by a common underground parking garage accessed from Roehampton Avenue providing a total of 48 parking spaces. (See Attachments 1 to 5)

Construction of the proposed development would require demolition of the one single family dwelling and two four-plex rental buildings which contain a total of 8 two-bedroom rental units. One of the units

is considered affordable as the rent is well below the average market rents for two bedroom units in the City and the remaining units are all considered to be mid-range as defined in the Official Plan.

Site and Surrounding Area

The 0.22 hectare site is located east of Mount Pleasant Avenue, north of Eglinton Avenue East at 359-377 Roehampton Avenue. The site is currently occupied by 3 detached buildings. Uses in the vicinity can be described as follows:

North: 2-3 storey residential buildings
South: 13 storey residential apartment
East: 2-3 storey residential buildings
West: 2-3 storey residential buildings

Provincial Legislation

In reviewing these applications, consideration must be given to the in-force provisions and requirements of the Planning Act, and the 2005 Provincial Policy Statement.

Planning Act

Section 2(j) of the Planning Act calls for municipalities to address the adequate provision of a full range of housing. The Provincial Policy Statement directs that all planning jurisdictions provide for a full range of housing types and densities to meet projected demographic and market requirements of current and future residents by a variety of means. Both rental and affordable rental housing are required to meet the needs of many existing and future residents of the City of Toronto.

Pursuant to Section 3 of the Planning Act, Council is required to make decisions on planning matters that are consistent with the Provincial Policy Statement, 2005.

Provincial Policy Statement

The Provincial Policy Statement provides policy direction on matters relating to land use planning that are of provincial interest. It is issued under the authority of Section 3 of the Planning Act. The 2005 version applies to all matters or proceedings commenced on or after March 1, 2005. As the subject application was submitted in October of 2005 and accordingly is subject to the Provincial Policy Statement, 2005.

Relevant provisions, include Policy 1.4.3 which sets forth the responsibility of planning authority's to provide for an appropriate range of housing types to meet projected requirements of current and future residents of the regional market area.

City of Toronto Act, 2006

It should be noted that the new *Stronger City of Toronto for a Stronger Ontario Act, 2006*, (Bill 53) was given royal assent on June 12, 2006 and is expected to be given proclamation in January 2007. In it the City has received specific authority with regard to regulating rental housing properties. Section 111 of the provincial legislation is intended to affirm and enhance the City's ability to prohibit and regulate the

conversion and demolition of residential rental properties. Bill 53 demonstrates the Province's acknowledgement of the importance of protecting the City's scarce rental housing stock.

Official Plan

The site is currently designated as a "Neighbourhood" in the Official Plan. Neighbourhoods are considered stable areas made up of residential uses in lower scale buildings such as detached and semi-detached houses, duplexes, triplexes, townhouses, and interspersed walk-up apartments.

Policy 5 of Section 4.1 states that development in established Neighbourhoods will respect and reinforce the physical patterns and character of the Neighbourhoods, with particular regard to, among other things:

- a) heights, massing, scale and type of dwelling unit;
- b) size and configuration of lots;
- c) prevailing building type(s);
- d) setbacks of buildings from the street; and
- e) prevailing patterns of rear and side yard setback and landscaped open space.

Policy 5 further states that no change will be made through rezoning, minor variance, consent or other public action that is out of keeping with the physical character of the neighbourhood. The prevailing building type is the predominant form of development in the neighbourhood.

The Plan also contains policies for infill development on properties within established neighbourhoods that vary from the local pattern in terms of lot size, configuration and orientation. Infill development is to be compatible with the physical character of the surrounding neighbourhood and provide adequate privacy, sunlight and sky views for new and existing buildings. It will front onto public streets where possible and service areas will be appropriately screened. In addition, the built form policies of the Plan state that new development will be located and organized to fit harmoniously into existing and/or planned context and will limit impacts on neighbouring streets, parks, open spaces and properties.

The Official Plan encourages a full range of housing, in terms of form, tenure, and affordability across the City, and seeks to maintain and replenish housing stock. Replacing rental housing in the public interest and demolished units must be replaced with units of comparable type and size, as well as similar rents charged at the time of the application. The policies also require an acceptable tenant relocation and assistance plan.

Specifically, the Official Plan Section 3.2.1 Housing Policy 6 states that:

New development that would have the effect of removing all or a part of a private building or related group of buildings, and would result in the loss of six or more rental housing units will not be approved unless:

- a) all of the rental housing units have rents that exceed mid-range rents at the time of application, or
- b) in cases where planning approvals other than site plan are sought, the following are secured:

- i) at least the same number, size and type of rental housing units are replaced and maintained with rents similar to those in effect at the time the redevelopment application is made;
 - ii) for a period of at least 10 years, rents for replacement units will be the rent at first occupancy increased annually by not more than the Provincial Rent Increase Guideline or a similar guideline as Council may approve from time to time; and
 - iii) an acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement units at similar rents, the provision of alternative accommodation at similar rents , and other assistance to lessen hardship, or
- c) in Council’s opinion, the supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents. This decision will be based on a number of factors, including whether:
- i) rental housing in the City is showing positive, sustained improvement as demonstrated by significant net gains in the supply of rental housing including significant levels of production of rental housing, and continued projected net gains in the supply of rental housing;
 - ii) the overall rental apartment vacancy rate for the City of Toronto, as reported by the Canada Mortgage and Housing Corporation, has been at or above 3.0% for the preceding four consecutive annual surveys;
 - iii) the proposal may negatively affect the supply or availability of rental housing or rental housing sub-sectors including affordable units, units suitable for families, or housing for vulnerable populations such as seniors, persons with special needs, or students, either in the City, or in a geographic sub-area or a neighbourhood of the City; and
 - iv) all provisions of other applicable legislation and policies have been satisfied.

Yonge-Eglinton Secondary Plan

The site is located within the Yonge-Eglinton Secondary Plan area. However, there are no additional policies in this Plan which relate to the site or the proposed development.

Zoning

The site is zoned R1S Z0.6 with a maximum permitted height of 9 metres (See Attachment 7). This zone permits detached, semi-detached, duplex and semi-detached duplex housing types to a maximum gross floor area of 0.6 times the area of the lot.

Site Plan Control

The property is subject to site plan control. No application for site plan control has yet been submitted.

Reasons for Application

Official Plan Amendment

An amendment to the Official Plan would be required since the proposal does not meet the policies of the neighbourhood designation, specifically size of lot; prevailing building type; setbacks of buildings from the street; prevailing patterns of rear and side yards setbacks and landscaped open space; and provision of indoor amenity space. Further, the proposal does not address the housing policies related to rental replacement.

Zoning By-law Amendment

An amendment to the Zoning By-law would be necessary because:

- (i) the proposed use of an apartment building is not permitted in a R1S district;
- (ii) the proposed density of 1.24 times the area of the lot exceeds the permitted maximum density of 0.6 times the area of the lot,
- (iii) the proposed building height of 11.18 metres exceeds the height limit of 9.0 metres.
- (iv) the proposal requires a minimum of 7 visitor parking spaces, whereas only 4 are proposed;
- (v) the proposal requires a minimum of 54 square metres of indoor residential amenity space and 54 square metres of outdoor residential amenity space. No indoor or outdoor space is proposed;
- (vi) the proposal requires a minimum of 16 bicycle parking spaces for the occupants of the building and 4 visitor bicycle parking spaces. No bicycle parking spaces are proposed;
- (vii) the by-law requires a building on an inside lot to have a minimum front lot line setback of 8.1 metres, whereas the proposed is setback 5.3 metres;
- (viii) the by-law requires a building to have a minimum rear yard setback of 7.5 metres, whereas the proposed rear yard setback is 3.62 metres;
- (ix) the by-law limits a building to a maximum depth of 14.0 metres, whereas the proposed depth is 50.56 metres; and
- (x) the by-law requires exterior walls of a building or structure that face each other to have a minimum facing distance of 11.0 metres, whereas the proposed building will have a distance of 8.54 metres between 'block 1 and 2' and 6.57 metres between 'block 3 and 4'

Community Consultation

A community consultation meeting was held on February 1, 2006, with approximately 100 residents and the Ward Councillor attending. Concerns expressed at the meeting included:

- compatibility of proposal with neighbourhood;
- height and mass of proposed building is too great;

- shadowing, privacy and overlook from rear units;
- concerns with potential increase in amount of traffic;
- loss of rental units;
- concerns that the proposed building would set a negative precedent for future developments.

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

Neighbourhood Structure and Character

This application was reviewed in the context of the City's Official Plan policies dealing with intensification and infill development. New housing stock is encouraged through intensification and infill, yet it must be consistent with the entire context of the Plan and the specific neighbourhood context of the proposal.

Specifically, Policy 1 of Section 2.3.1 and Policy 5 of Section 4.1 of the Official Plan require that new or infill development respects and reinforce the existing character of the neighbourhood with regard to stated criteria.

The neighbourhood and the proposed development can be characterized as follows:

- 2-3 storey single family residential homes on a single lot, whereas the applicant is proposing an apartment type development with 4 blocks located on a single lot. (Attachment 7)
- lot size and frontages on the south side of Roehampton Avenue between Rawlinson Avenue and Cardiff Road are generally in the range of 300-1,000 square metres and 5-12 metres respectively, whereas the subject lot has a area of 2,707 square metres and a frontage over 36 metres.
- residential buildings fronting onto public streets with entrances clearly visible having direct access from the public sidewalk, whereas the proposal would see over half (14 of 27) of proposed dwellings having no direct relationship between the public street and their primary entrances (Attachment 1 and 7).
- sizable landscaped rear yard, whereas the applicant has proposed development within the rear yard.

The proposal would not be in keeping with what currently exists in the area and possibly create a negative precedent for future development.

Rental Replacement

As the applicant does not propose to replace the existing rental housing this proposal does not meet the Official Plan housing policies. The applicant has offered a cash-in-lieu contribution of \$100,000, however, this is inconsistent with the intent of the policies with respect to the rental replacement, especially when the ability exists to replace the units on site.

It is only possible to demolish rental housing without replacement when the rental housing market has been determined to have reached a healthy state as outlined in OP policy 3.2.1.6 (c). The determination

of a healthy rental market should be based on evidence that the City’s supply of rental housing has been experiencing net gains, consistently higher vacancy rates and the proposal will not negatively affect a rental housing sub-sector.

Supply of Rental Housing

Almost all new housing produced in Toronto in recent years has been ownership, while the total amount of rental housing units has decreased slightly over the same period. There are fewer primary rental units in Toronto in 2005 than in 1996 (see Table 1). From the previous year alone, (2004 to 2005), the City had 1,482 fewer rental units. Though there has been a modest increase in the number of newly constructed private and assisted rental units, these have been outstripped by the loss of a greater number of rental units despite the City’s strong policies on protection of rental housing.

**Table 1
Primary Rental Housing: Changes to Supply
City of Toronto 1996-2005**

	1996	2001	2002	2003	2004	2005	Change 1996-2005
Number of Primary* Rental Housing Units	350,861	350,311	349,343	351,681	349,630	348,148	-2,713

Source: CMHC Rental Markey Survey, special data request
Prepared by: City of Toronto Planning, March 21, 2006

* Primary rental housing is purpose-built rental housing with 3 or more self-contained units, apartment and row units, private and assisted. However, CMHC also includes in the data on total rental units, condominium registered rental buildings where 50% or more of the units are rented and there is a rental office on site. This data does not include rooming houses, group homes, residential care facilities and secondary rental housing such as individual rented houses, duplexes, secondary suites in houses, and condominium rental units.

It is not unusual to see fluctuations up and down from one year to the next as occurred in the most recent period from 2001 – 2005. But the expectation is that over time there would be increases in the supply of primary rental housing to help the City continue to meet population growth and rental demand. Clearly this has not been the case and therefore the rental housing market which is described 3.2.1.6 (c) has not been reached.

Vacancy Rates

Vacancy rate is just one factor which should be considered in evaluating the health of the rental market. Planning decisions involving the loss or provision of rental housing must be concerned with both the current and future needs of the residents of the City. So while the City of Toronto’s vacancy rates, as reported by the Canada Mortgage and Housing Corporation (CMHC) have been above 3.0% as described in 3.2.1.6 (b), we have been experiencing a downward trend in vacancy rates over the past two years, and the most recent CMHC Rental Housing Report, December 2006 predicts that they will continue to decline.

Rental Housing Subsectors

This site is located within Zone 3 of the Toronto Census Metropolitan Area (CMA) which of the 17 Toronto CMA zones, has the second lowest vacancy rate of 1.9%, well below the overall City vacancy rate of 3.3% (CMHC Rental Housing Report, December 2006). This geographic rental submarket therefore has additional pressures and any loss of rental units would negatively affect the availability of rental housing for this neighbourhood.

It should also be noted that rental units with both mid-range and affordable rental units are of particular importance for the City. The loss of units in both these rent ranges, when the overall supply of rental housing is not increasing, tends to reduce the number of rental units with affordable rents. Increased demand for a shrinking supply of units tends to result in higher rents.

Density

The Zoning By-law limits the residential floor area for the site to a maximum of 1,307 square metres or 0.6 times the area of the lot, whereas the applicant's proposal is 2,707 square metres or 1.2 times the area of the lot. This excess density results directly in other deficiencies respecting setbacks and limiting distances.

Siting and Location of Open Space

The proposal is inconsistent with the setbacks and pattern of landscaped open space associated with the surrounding stable residential neighbourhood. Homes oriented towards the street with sizable landscaped rear yards is the typical condition found in the neighbourhood, whereas the proposal to locate two blocks of units behind two other blocks of units commonly referred to as a house behind a house, is not in keeping with the character of the area.(Attachment 1)

The proposed building does not provide adequate setbacks as required but the Zoning By-law. In particular, whereas a minimum rear yard setback of 7.5 metres is required, 3.6 metres is proposed, and whereas a minimum setback of 8.1 metres from the front lot line of a building on an inside lot is required, 5.3 metres is proposed.

Intensification within established neighbourhoods is to be undertaken in a sensitive manner so that the privacy and the enjoyment of both new and surrounding residential properties are not compromised. New development is to fit harmoniously into its existing planned context to limit its impacts on neighbouring open spaces and properties.

The siting of the proposed 4 blocks on the site with 8.54 metres and 6.57 metres between each block of units does not satisfy the required minimum separation distance between principal windows of 11.0 metres. In addition, the rear buildings are setback a distance of 5.3 metres from the east lot line, and 4.7 on the west lot line. A setback of 7.5 metres is required for a building with a depth greater the 14 metres from the front lot line. This has the potential to create a negative impact with respect to overlook and privacy between the proposed buildings, and the neighbouring properties.

Shadow, Privacy and Overlook

Adequate privacy, natural light and views depend upon such things as the building type, dwelling unit location in a building, built form context, setbacks and landscaping. The siting of the proposed buildings; the lack of appropriate setbacks and the location and orientation of proposed window openings will all negatively impact the privacy, and residential amenity for residents located immediately to the east and west of the proposed development. There are a number of elevated private decks which will also have a negative impact on privacy.

Planning staff are of the opinion that the proposed development, specifically the 2 blocks located at the rear will cause negative shadow impacts for the adjoining properties located to the east and west.

Tree Preservation

The site is subject to the Private Tree By-law which regulates injury or removal of privately owned trees which measure 30cm or more in diameter as measured at 1.4 metres above ground level. An arborist report and tree preservation plan were submitted for review and it was determined that numerous trees on and off the subject site meet the criteria for protection under the Private Tree By-law. Urban Forestry Services do not concur with the removal of 12 trees on the applicant's property, as it would result in a loss of mature trees and canopy cover.

Traffic Impact and Parking

Due to the limited number of dwelling units (27) the applicant has not been required by Works and Emergency Services to submit a Traffic Impact and Parking Study.

The applicant is proposing to provide 48 parking spaces which far exceeds the minimum required under the zoning by-law.

Indoor Amenity Space

The proposal is deficient in terms of the amount of residential amenity space provided. The Zoning By-law requires 54 square metres of indoor amenity space, whereas none is proposed. The Official Plan also requires that every new significant multi-unit residential development provide indoor amenity space. The Zoning By-law defines a significant building as one with 20 or more dwelling units. The indoor amenity space is to be provided in a multi-purpose room containing a kitchen and a washroom. These rooms are typically used for a variety of important social and recreational purposes.

Conclusion

The proposal is inconsistent with policies and permissions outlined in the Official Plan and Zoning By-law which require that new developments fit their context and do not negatively impact lower scale neighbourhoods. The proposal is also inconsistent with specific policies relating to the preservation of rental housing. Staff therefore recommend that City Council refuse the application.

CONTACT

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SIGNATURE

Gary Wright, Director
Community Planning, Toronto and East York District

ATTACHMENTS

Attachment 1: Site Plan

Attachment 2: Elevations

Attachment 3: Elevations

Attachment 4: Elevations

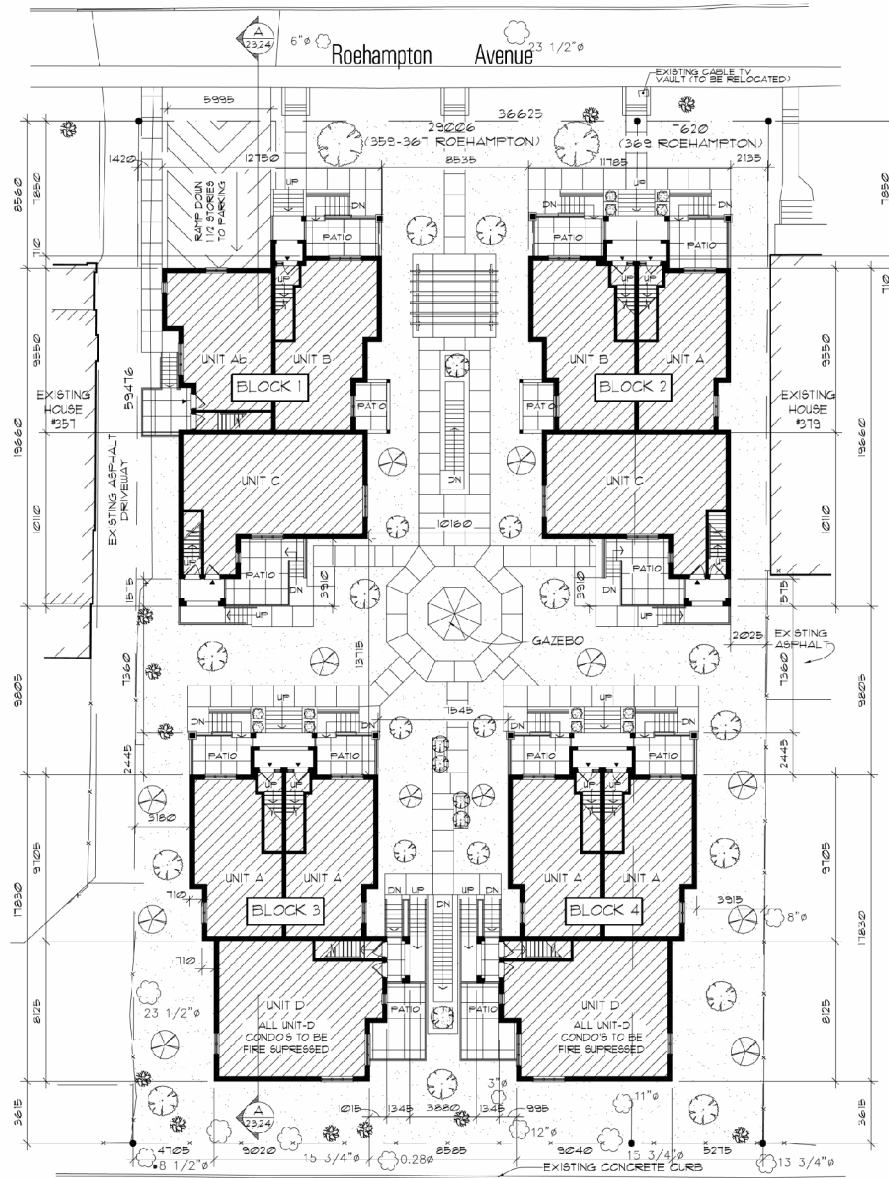
Attachment 5: Elevations

Attachment 6: Official Plan

Attachment 7: Zoning

Attachment 8: Application Data Sheet

Attachment 1: Site Plan



Site Plan

Applicant's Submitted Drawing

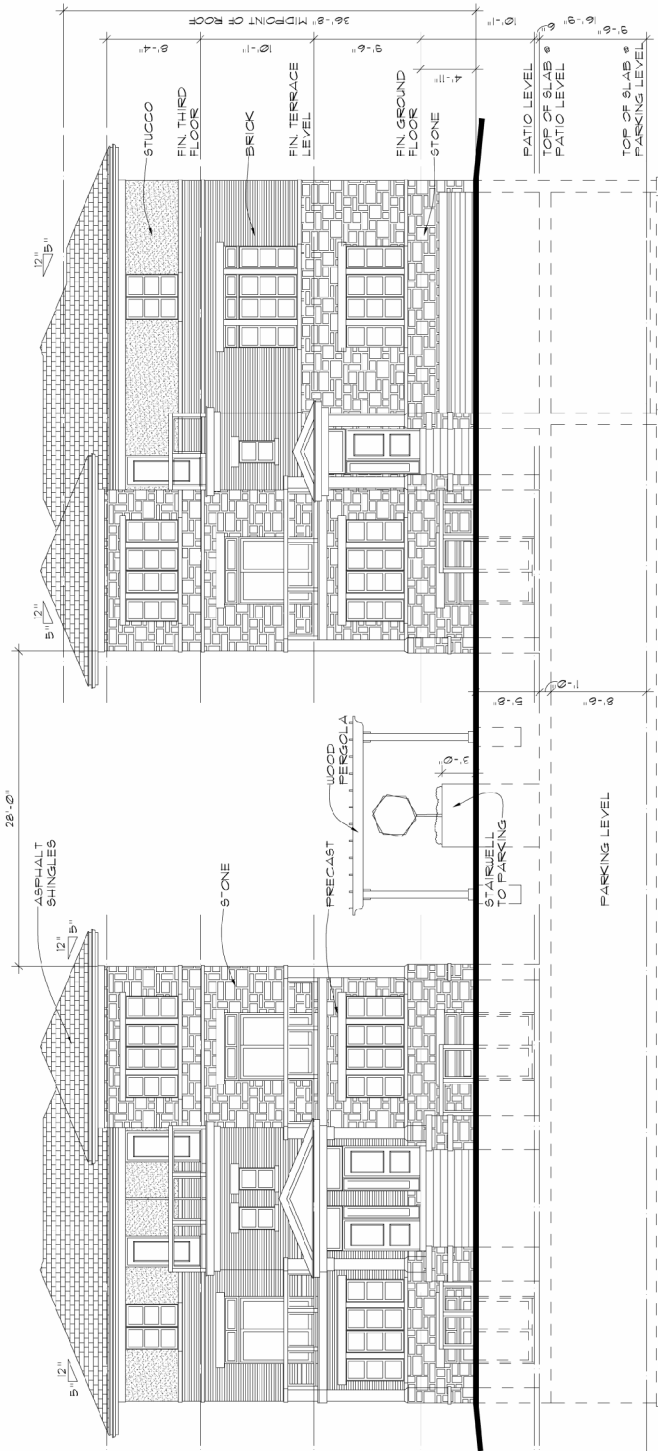
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10/28/05

359-377 Roehampton Avenue

File # 05_195762

Attachment 2: Elevations



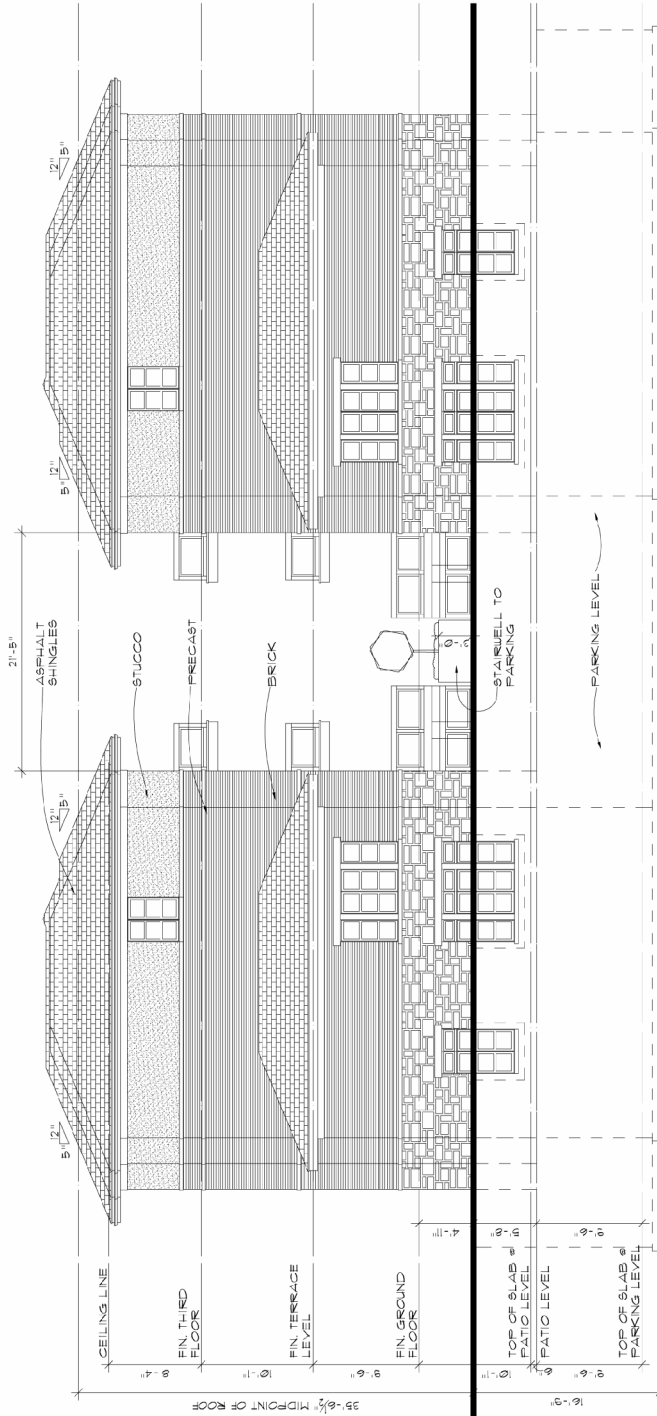
North Elevations
 Applicant's Submitted Drawing

Not to Scale
 10/28/05

359-377 Roehampton Avenue

File # 05 195762

Attachment 3: Elevations

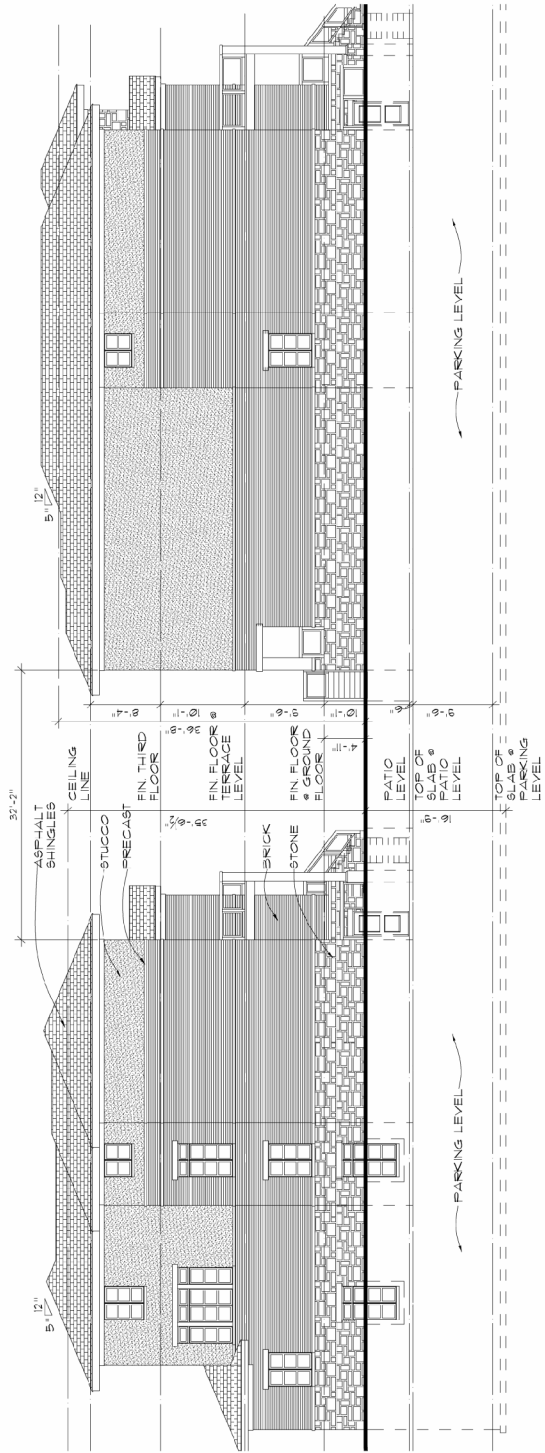


South Elevations
 Applicant's Submitted Drawing

Not to Scale
 10/28/05

359-377 Roehampton Avenue
 File # 05 195762

Attachment 4: Elevations



359-377 Roehampton Avenue

East Elevations
 Applicant's Submitted Drawing

File # 05 195762

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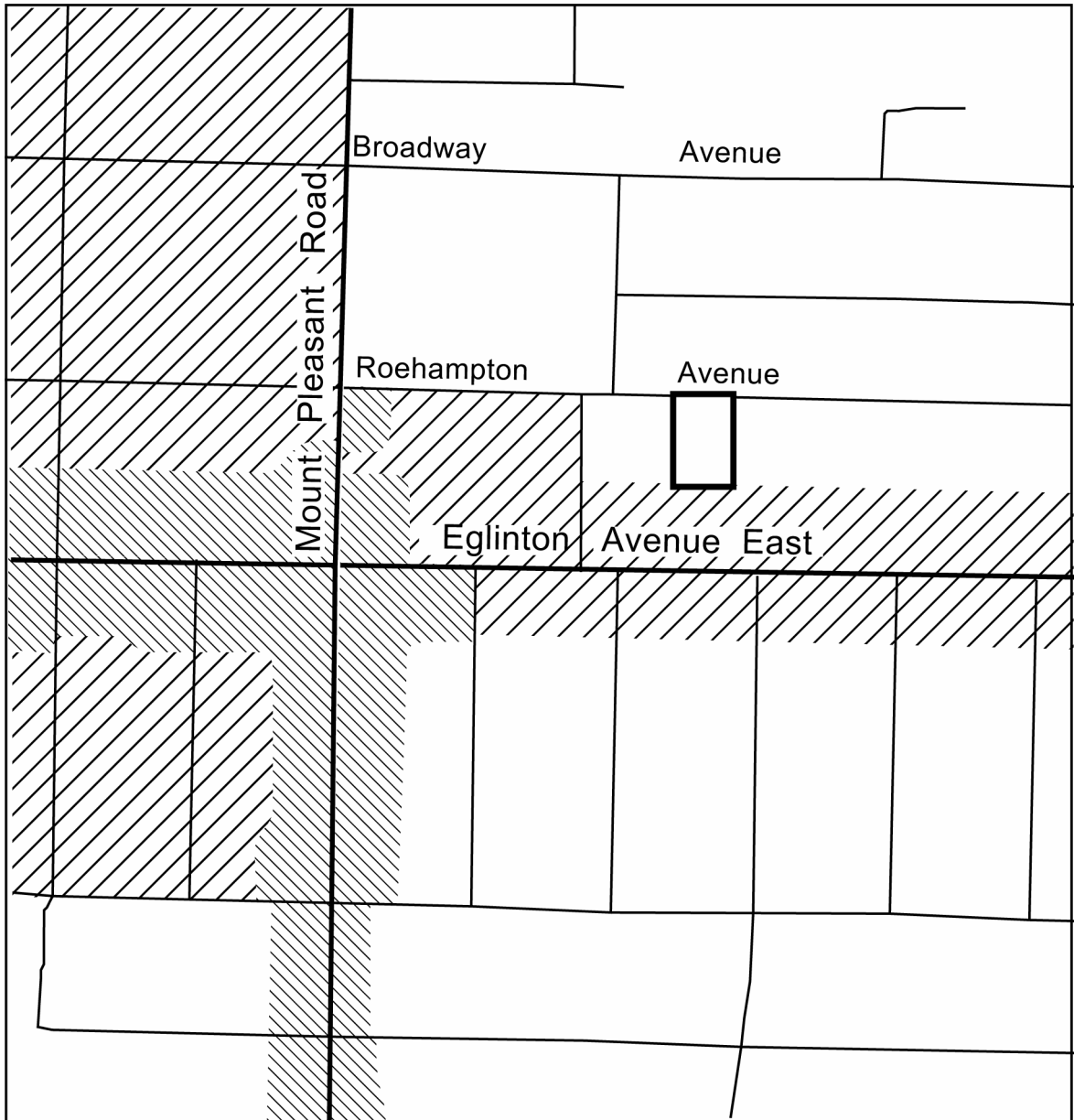
Attachment 5: Elevations



West Elevations
 Applicant's Submitted Drawing
 Not to Scale
 10/28/05

359-377 Roehampton Avenue
 File # 05 195762

Attachment 6: Official Plan



TORONTO City Planning Division
Official Plan

359-377 Roehampton Avenue

File # 05_195762

-  Site Location
-  Neighbourhoods
-  Apartment Neighbourhoods
-  Mixed Use Areas


 Not to Scale
 12/20/06

Attachment 7: Zoning



Toronto City Planning
Division
Zoning

359-377 Roehampton Avenue

File # 05_195762

- R1 Residential District
- R2 Residential District
- R4A Residential District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 10/27/05 - EM

Attachment 8: Application Data Sheet

APPLICATION DATA SHEET

Application Type	Official Plan Amendment & Rezoning	Application Number:	05 195762 STE 22 OZ
Details	OPA & Rezoning, Standard	Application Date:	October 21, 2005
Municipal Address:	359 ROEHAMPTON AVE, TORONTO ON		
Location Description:	PL 639 PT LT27 **GRID S2201		
Project Description:	To construct a an apartment building comprising of 27 condominium apartment with a common underground parking garage.		

Applicant:	Agent:	Architect:	Owner:
MICHAEL VAUGHAN			INAUGURAL-SOURCE INC

PLANNING CONTROLS

Official Plan Designation:	Site Specific Provision: 202-80
Zoning: R1S Z0.6	Historical Status:
Height Limit (m): 9	Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq. m):	2178.3	Height:	Storeys:	3	
Frontage (m):	36.6		Metres:	11.18	
Depth (m):	59.5				
Total Ground Floor Area (sq. m):	755.4				Total
Total Residential GFA (sq. m):	2707.1		Parking Spaces:	48	
Total Non-Residential GFA (sq. m):	0		Loading Docks	0	
Total GFA (sq. m):	2707.1				
Lot Coverage Ratio (%):	34.7				
Floor Space Index:	1.24				

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

			Above Grade	Below Grade
Tenure Type:	Condo			
Rooms:	0	Residential GFA (sq. m):	2707.1	0
Bachelor:	0	Retail GFA (sq. m):	0	0
1 Bedroom:	8	Office GFA (sq. m):	0	0
2 Bedroom:	17	Industrial GFA (sq. m):	0	0
3 + Bedroom:	2	Institutional/Other GFA (sq. m):	0	0
Total Units:	27			

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