

80 Crescent Road – Zoning Application Directions and Refusal Report

Date:	August 23, 2007
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward No.– 27, Toronto Centre-Rosedale
Reference Number:	File No 06-147390 STE 27 OZ

SUMMARY

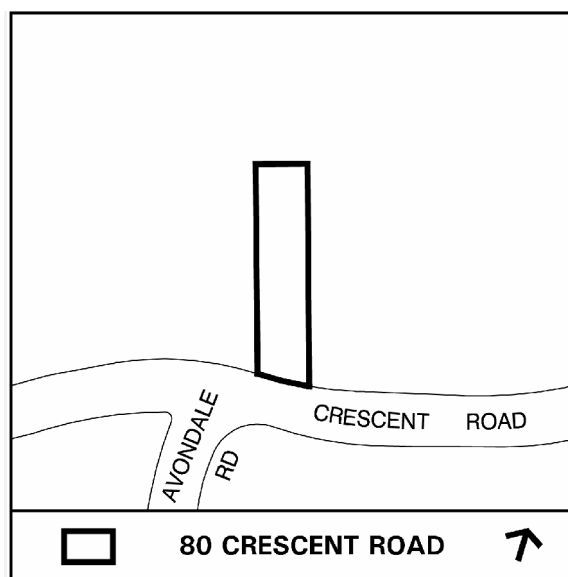
This report reviews and recommends refusal on an application to amend the Zoning By-law to permit the replacement of a four car garage at the rear of the existing converted house with a 2-storey and basement “house behind a house” with one parking space and a new detached three car garage. Further, this report directs City staff to oppose the Ontario Municipal Board appeal and referral made by the applicant.

City staff are of the opinion that this proposal also requires an Official Plan Amendment.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse Zoning By-law Amendment Application No. 06 – 147390 STE 27 OZ for 80 Crescent Road.



2. City Council direct the City Solicitor and other appropriate City staff, to oppose the Ontario Municipal Board appeal and referral made by the applicant on Application No. 06-147390 STE 27 for 80 Crescent Road.
3. That the Chief Planner and Executive Director, City Planning, be requested to hold an information meeting in the community to discuss the application and to give notice to landowners and residents within 120 metres of the site.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

Proposal and Background

An application to amend the Zoning By-law was submitted June 16, 2006. The application is for the replacement of a four car garage at the rear of an existing converted house with a two storey and basement “house behind a house”. The proposed dwelling house will have one parking space and a detached three car garage, constructed at the rear of the existing house, all to be accessed by a mutual driveway. The four dwelling units in the existing converted house are proposed to be reduced to three by the elimination of the basement unit.

The proposed new “house behind a house” will have a gross floor area of 246.1 square metres. The two significant Black Walnut trees abutting the existing four car garage are proposed to be retained. (Refer to Attachment No. 8 for Project Data Sheet)

On August 10, 2006 City Planning staff met with the applicant to discuss the project and the possible need for an Official Plan Amendment. On August 16, 2006, City Planning staff advised the applicant, that an Official Plan Amendment would be required and that an Official Plan Amendment and Rezoning sign should be posted on the front lawn, prior to the September 13, 2006 Community Council meeting.

The applicant filed a letter dated September 7, 2006 to City Clerks which City Planning staff received only three working days prior to the September 13, 2006 Community Council meeting, requesting a deferral with no indication of rationale. Community Council however, adopted the Preliminary Planning report, dated August 22, 2006 which recommended that a community meeting be held and notice be given to the nearby owners.

The community meeting was not scheduled as the applicant failed to respond to staff's requests to file an Official Plan Amendment application, pay the application fee and amend the lawn sign providing notice of the application.

The applicant filed an appeal on June 18, 2007 to the Ontario Municipal Board, based on the City's failure to make a decision on the application within 120 days. No Ontario Municipal Board hearing date has been set yet.

Site and Surrounding Area

The 976.6 square metre site is located one and half blocks east of Yonge Street, on the north side of Crescent Road. The site accommodates a large converted house, containing four dwelling units with a rear four car garage, accessed by a mutual driveway.

Uses and structures surrounding the site include, to the:

North: a 2 ½ storey detached dwelling building with a rear two car garage at (97 Roxborough Street East)

South: a three storey apartment building at the south-east corner of Avondale Road and Crescent Road (75 Crescent Road)

East: abutting the site is a large house with landscaped rear yard at (82 Crescent Road); and

West: abutting the site is a large converted house with a rear two car garage with a mutual driveway for (76 and 78 Crescent Road). There is also a rear garage, converted into a dwelling unit with a roof deck and an enclosed parking space.

Provincial Policy Statement (2005)

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 proposed development was reviewed within the context of the Provincial Policy Statement, specifically as it relates to managing change and directing land use to achieve efficient development and land use patterns. 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.

Official Plan Policies

Former City of Toronto Official Plan

The site was designated Low Density Residence Area under the City of Toronto Official Plan, at the time of the application in June of 2006. Low Density Residence Areas are regarded as stable and no changes to be made which are out of keeping with the physical character of such areas. New residential developments, with a gross floor area of up to 1.0 times the area of the lot, are permitted provided appropriate regard is had for the effect of such buildings upon the stability and general residential amenity and physical character of the Residence Area and surrounding areas.

Section 12.5 (d) of the Plan contains a number of policies to ensure that development in a Low Density Residence Area protects and enhances the existing residential neighbourhood and has regard for maintaining, amongst others, the following elements of neighbourhood structure and character:

- (1) the pattern of streets, lanes and blocks, lot size, frontage and depth characteristics;
- (2) the location and pattern of public and private open spaces and topographical features;
- (3) the scale of development with respect to the height and massing of buildings;
- (4) the siting of buildings in relation to the size and configuration of the lots;
- (5) the relationship between the public street, front yards and primary building entrances
- (6) the relation between the rear wall of buildings and rear yard open spaces; and
- (7) the nature of streetscape as defined by landscaping, sidewalks, boulevards and roads.

Section 3 of the Plan contains a number of Built Form policies which empowers Council to encourage a high quality of urban design for new buildings and structures which harmonize with neighbouring development, by ensuring that:

- (a) the siting and massing of new buildings is appropriate and in relation to neighbouring development.
- (b) the maximum density limits, in concert with other built form and siting controls, result in appropriate building mass.
- (c) the building entrances are located and designated in a manner that enhances the public realm and for reasons of public safety and convenience are clearly visible and located on public street frontage.

In addition, Section 6.15 outlines that although it shall be Council's objective to encourage Residential Intensification, as defined in the Provincial Policy Statement, it is important that the development of new housing units through new construction,

conversion or infill shall be considered within the intent of the land use policies and regulations contained in the Plan.

New Toronto Official Plan

In November 2002 City Council adopted a new Official Plan for the City of Toronto that was approved with modifications, by the Minister of Municipal Affairs and Housing in March 2003. The Minister's decision was appealed by 180 appellants, including appeals of the entire Plan, but no appeals were received related to 80 Crescent Road.

After a lengthy process at the Ontario Municipal Board, the Board issued a decision bringing the new Official Plan into force on July 6, 2006 except for several policies related to housing policies, Section 37 and floodplain special policy areas.

As well, the Chair and Executive Vice-Chair of the Ontario Municipal Board turned their minds to which classes of properties would be 'grandfathered' and where the predecessor municipal Official Plan would still be applicable. These included properties that had been filed and sites with applications where the statutory public meeting had taken place prior to July, 2006. However, the Official Plan for the City of Toronto was brought into force for the property at 80 Crescent Road in July 2006 and is the Official Plan that is applicable to this application. At the time of the application for this site in June 2006, the Board had already indicated the imminent bringing into force of the Official Plan, and copies of the draft order were widely circulated among the many solicitors and law firms that were party to the Ontario Municipal Board hearing on the Official Plan. At no time did the solicitor for 80 Crescent Road appear before the Board panel dealing with the new Official Plan with regard to this property.

The site is designated Neighbourhoods by the Official Plan. The policies for Neighbourhoods are very similar to the policies in the former City of Toronto Official Plan except that rather than 'having regard' for maintaining key elements of existing neighbourhood character, new development must 'respect and reinforce' that existing character. Neighbourhoods are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached house, duplexes, triplexes, townhouses and interspersed walkup apartments. Policy 5 of Section 4.1 states that development in established Neighbourhoods will respect and reinforce the physical character of the neighbourhood with particular regard to:

- (1) pattern of streets blocks and lanes;
- (2) size and configuration of lots;
- (3) heights, massing, scale and dwelling type of nearby residential properties;
- (4) prevailing building type(s); and
- (5) prevailing patterns of rear and sideyard setbacks and landscaped open space.

Policy 4.1.9 of the Plan contains policies for infill development within established neighbourhoods that vary from the local pattern in terms of lot size, or configuration and orientation. The Plan states these are typically lots which were formerly used for non-residential uses or were passed over in the first wave of urbanization. Because of the site

configuration and orientation, it is possible to provide the same site standards and patterns of development as exists in the surrounding neighbourhood. The policy is not applicable to the existing lot at 80 Crescent Road as it is an existing developed property with a lot orientation, configuration and size that reflects the characteristics of the surrounding neighbourhood.

The Built-Form policies in Section 3.1.2 provide “good neighbour” criteria to ensure that new development is organized and located to fit with its existing and/or planned context.

Policy 5 further states that no changes will be made through rezoning, minor variances, consent of 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 applicant did not apply for an Official Plan Amendment. However, after a review by City Planning staff it was determined and stated in the Preliminary Report that an Official Plan Amendment was required. The applicant however, did not file the appropriate application, payment or change the signage on the subject site.

Zoning

The zoning that applies to the property is R1 Z0.6. The R1 zoning includes development standards related to the maximum permitted gross floor area, setbacks, landscaped open space, front lot lines and building heights. The maximum permitted density is 0.6 times the area of the lot and the maximum permitted height is 10 metres.

Section 4.11 of By-law 438-86 is specifically intended to prohibit the ‘house behind a house condition’ being proposed by the applicant. Section 4.11 (b) states that no person shall erect or use a residential building in the rear of another building. Section 4.11 (c) states that no person shall erect or use a building in front of another building as to produce the condition of a residential building in the rear of another building. Section 4.11 (a) states that one cannot erect or use a residential building unless it has a minimum 3.5 metre frontage on a road.

Site Plan Control

This application does not require Site Plan approval.

Reasons for Application

The proposal for a second house on the property is not in keeping with the predominant physical character of this portion of the South Rosedale neighbourhood and therefore requires an Official Plan Amendment.

The proposal to construct a second detached house on the lot is not permitted by the Zoning By-law and the proposed density exceeds the maximum permitted density of 0.6

times the area of the lot by 0.33 times coverage, for a total density of .93 times the area of the lot.

The second rear house generates a number of non-conformities, including a reduction in rear and side yard setbacks, for a building over 17 metres in depth.

Community Consultation

Community Council at its meeting of September 13, 2006 adopted the Preliminary Report, dated August 22, 2006 that recommended scheduling a community consultation meeting and giving notice to neighbours within 120 metres of the subject site. The applicant was requested to file an Official Plan Amendment application and change the notice signage that was required to be posted on the property to indicate the full extent of the application. A community meeting was not held as the applicant did not respond to correspondence from the City with respect to these matters prior to a community meeting being held.

Planning staff have received a number of calls from the abutting neighbours raising concerns about the possible impact of the proposal in terms of being out of character with the neighbourhood, shadowing impact, loss of privacy and impact on the existing two Black Walnut trees. Planning staff has also been provided with a petition from all the abutting neighbours that they oppose the proposal. The local residents association has advised that it is also in opposition to the application.

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 former and new Official Plan policies dealing with intensification and infill development. New housing stock is encouraged through intensification and infill, yet it must be appropriate and generally fit the existing physical character of the neighbourhood.

As previously discussed, the former City of Toronto Official Plan requires Council to have specific regard for enhancing existing residential neighbourhoods. Policy 12.5 subsection (a) lays out principles that stipulate that these areas shall be regarded as stable and that no changes will be made through zoning or other public action which is out of keeping with the physical character of the area. The new Official Plan contains similar wording in Policy 1 of Section 2.3.1 and in Policy 5 of Section 4.1. In addition, both Official Plans contain a list of development criteria to ensure that development in

Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood.

The proposed development does not respect or reinforce the existing physical character of the neighbourhood including among other matters, as it relates to the following:

(a) Pattern of streets, blocks and lanes

The subject property is located in an established low density residential neighbourhood that is primarily made up of two-storey detached dwellings. Residential properties front onto public streets, have yards to the rear of the dwelling and typically have mutual driveways that lead to rear garages. A few existing “coach houses” that pre-date the zoning by-law have been converted to residential use over time, including the conversion of the existing garage at the rear of 76/78 Crescent Road. However, this is the exception on Crescent Road and Roxborough Street East which backs on to the subject site.

By creating a new dwelling at the rear of 80 Crescent Road, a precedent will be set that may, over time, change the character of this well established neighbourhood in terms of the prevailing pattern and intensity of development.

(b) Lot size and configuration

If the applicant decides in the future to sever the rear portion of 80 Crescent Road, the new rear lot will differ from those existing in the area in terms of size and configuration. This will alter the pattern of rear yards and landscaped open spaces in the neighbourhood as this property would have no front yard adjacent to a street and no rear yard as it abuts the adjacent property to the north with less than a 2 metre separation distance from the property line.

(c) Height, massing, scale and dwelling type of nearby properties

The predominant character of this neighbourhood is low density residential properties fronting onto public streets. The majority of lots in the neighbourhood do not have a second dwelling house located to the rear of the property. There are a small number of exceptions which are predominantly existing “coach houses” that have been occupied for many years.

Intensification within established neighbourhoods is to be undertaken in a sensitive manner so that the privacy and enjoyment of both new and surrounding residential properties are not compromised. The replacement of an existing 4 car garage with a two-storey and basement dwelling in the rear yard is incompatible with the established pattern of development in the neighbourhood and is not appropriate intensification for the following reasons:

- (i) the location and orientation of the master bedroom window and garage roof terrace will create the potential for overlook onto adjacent properties rear yards and deck area, creating privacy concerns;
 - (ii) the height and location of the proposed dwelling in combination with the reduced setbacks will create additional shadowing to the adjacent properties; and
 - (iii) an adequate condition of sky views depends on such things as siting, massing and landscaping. The proposed “house behind a house” buildings setbacks, is not sufficient to provide the same levels of sky views for residents of the existing dwellings to the north.
- (d) Prevailing building types, setback of buildings from the street, patterns of rear and side yard setbacks and landscaped open space

The prevailing building type in the neighbourhood is two-storey detached dwellings with and some low rise apartment buildings fronting on the existing streets. The proposed “house behind a house” will have no street frontage and will be hard to locate even with proper signage. The proposed building is a two storey building with very minimal side and rear yard set backs and no landscaped open space for the second dwelling and very limited landscaped open space for the existing building. This would not be in keeping with the character of the majority of properties that exist in the surrounding area.

Density

At 0.93 times coverage the density of the proposed development exceeds the maximum density of 0.6 times coverage permitted by the Zoning By-law.

Section 12.5 (b) of the former City of Toronto Official Plan permits Council to pass by-laws for up to 1 times density in Low Density Residence Areas provided that appropriate regard is had for the effect of such buildings upon the stability, general residential amenity and physical character of the area. As discussed above, an analysis of the proposal has revealed that it is not in keeping with the policies of the former (or new) Official Plan. Therefore, an increase in density above 0.6 times coverage could not be supported.

Shadow

A review of the proposed building and its location at the rear of the site reveals that it will have some shadow impact at least on the rear yards of 95A, 97 and 99 Roxborough Street East and possibly beyond in the spring and fall. Shadow studies need to be undertaken by the applicant’s architect to determine the full extent and duration of the shadows on June 21 and September 21 in the morning and afternoon at one hour intervals. The issue of shadow impact needing to be resolved was raised in the Preliminary Report, dated August 22, 2006.

Fire Safety

Works and Emergency Services in their comments of October 13, 2006 requested the submission by the applicant of plans showing the location of a fire hydrant within 90 metres of the building face(s) required to face a street and the distance from the rear proposed building to a fire vehicle being no more than 45 metres. To date these plans have not been submitted.

Site Servicing Plan

Works and Emergency Services also requested, in their comments of October 13, 2006, the submission of a Site Servicing plan showing any existing and proposed services for the site. To date this study has not been submitted.

Tree Protection

An on-site review by Urban Forestry staff of the two large Black Walnut trees at the rear of the property has confirmed that they may be negatively impacted by the proposed building. Specifically, the building may require the removal of the lower branches of the crown. A detailed tree preservation methodology with appropriate plans would need to be developed to confirm whether and how the trees can be adequately protected. The plans submitted to date only show the distance from the proposed basement foundation walls to the trees.

Conclusions

The proposal to construct a new 2 storey house behind the existing 2 ½ storey dwelling at 80 Crescent Road is inconsistent with the neighbourhood policies of the former and the new Official Plans and does not represent good planning. Specifically, the proposed siting, built form, and landscaped open space characteristics of the development are not consistent with the prevailing character of the area. The proposal results in overdevelopment of the site and the reduction of residential amenity for adjacent properties. It is recommended that City Council refuse the rezoning application and authorize the City Solicitor and other appropriate staff to oppose the Ontario Municipal Board appeal as referred by the applicant.

CONTACT

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SIGNATURE

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

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ATTACHMENTS

Attachment 1: Site Plan

Attachment 2: Basement and Second Floor Plan

Attachment 3: West Elevations and Section A-A

Attachment 4: East, South and North Elevations

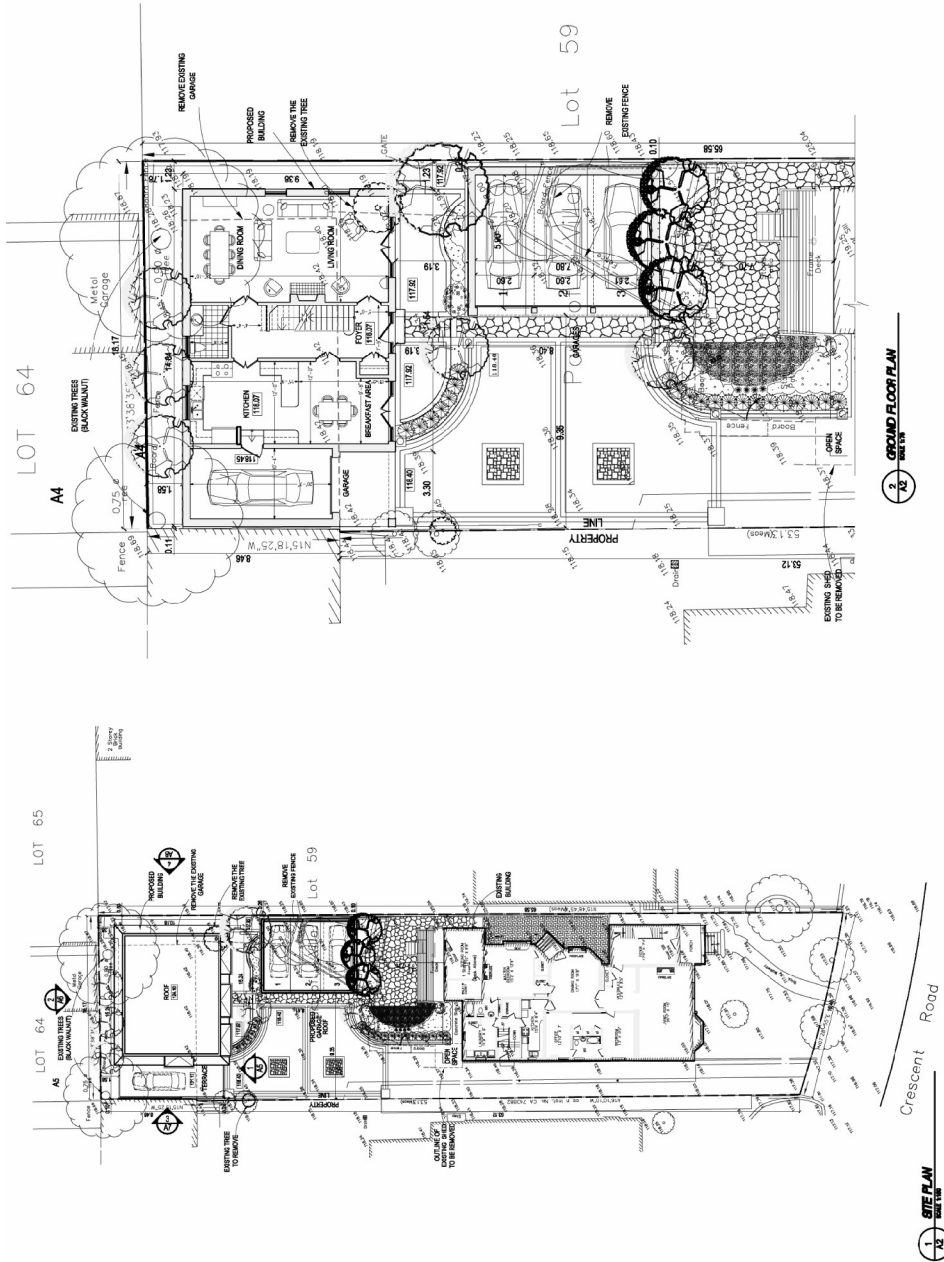
Attachment 5: Former City of Toronto Official Plan

Attachment 6: New Official Plan

Attachment 7: Zoning Map

Attachment 8: Project Data Sheet

Attachment 1: Site Plan



Site Plan and Ground Floor Plan

Applicant's Submitted Drawing

Not to Scale
08/14/06



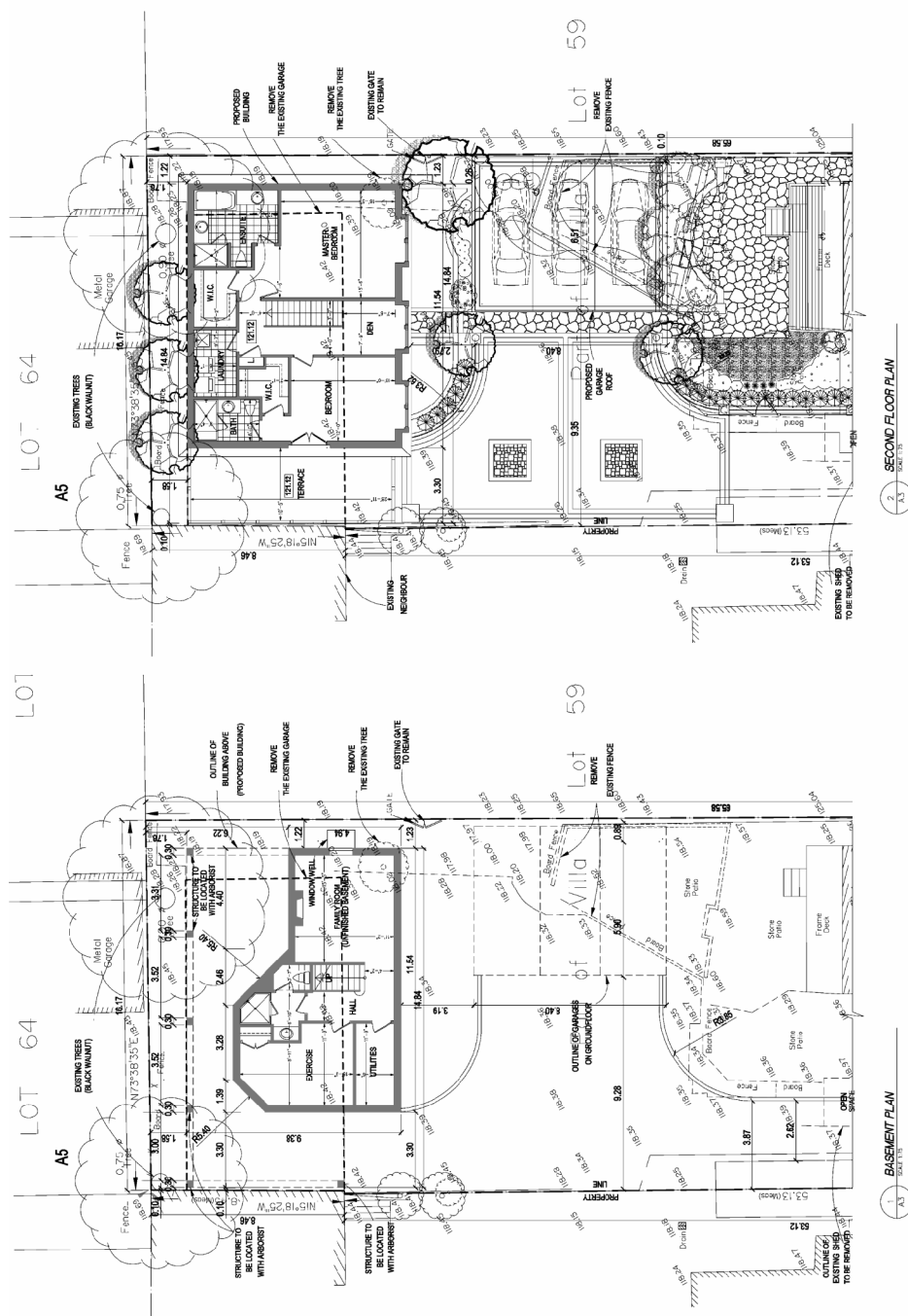
80 Crescent Road

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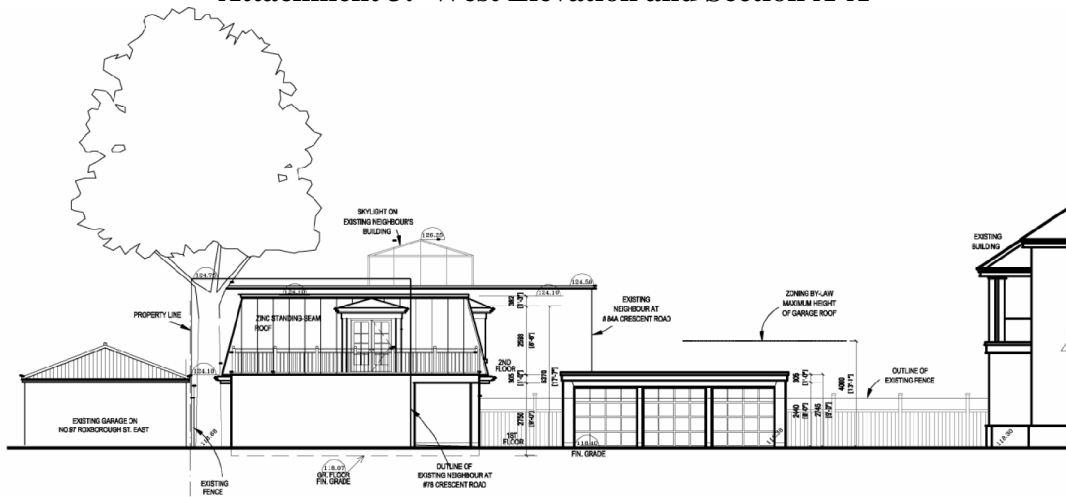
Basement and Second Floor Plan

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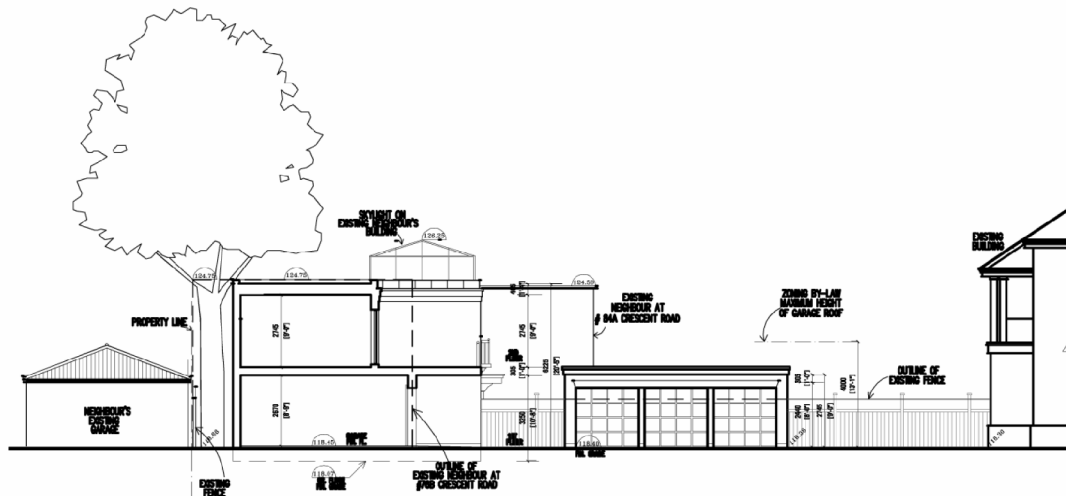
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Attachment 3: West Elevation and Section A-A



1
A5 WEST ELEVATION
SCALE 1:100



2
A5 SECTION A-A
SCALE 1:100

West Elevation and Section A-A

80 Crescent Road

Applicant's Submitted Drawing

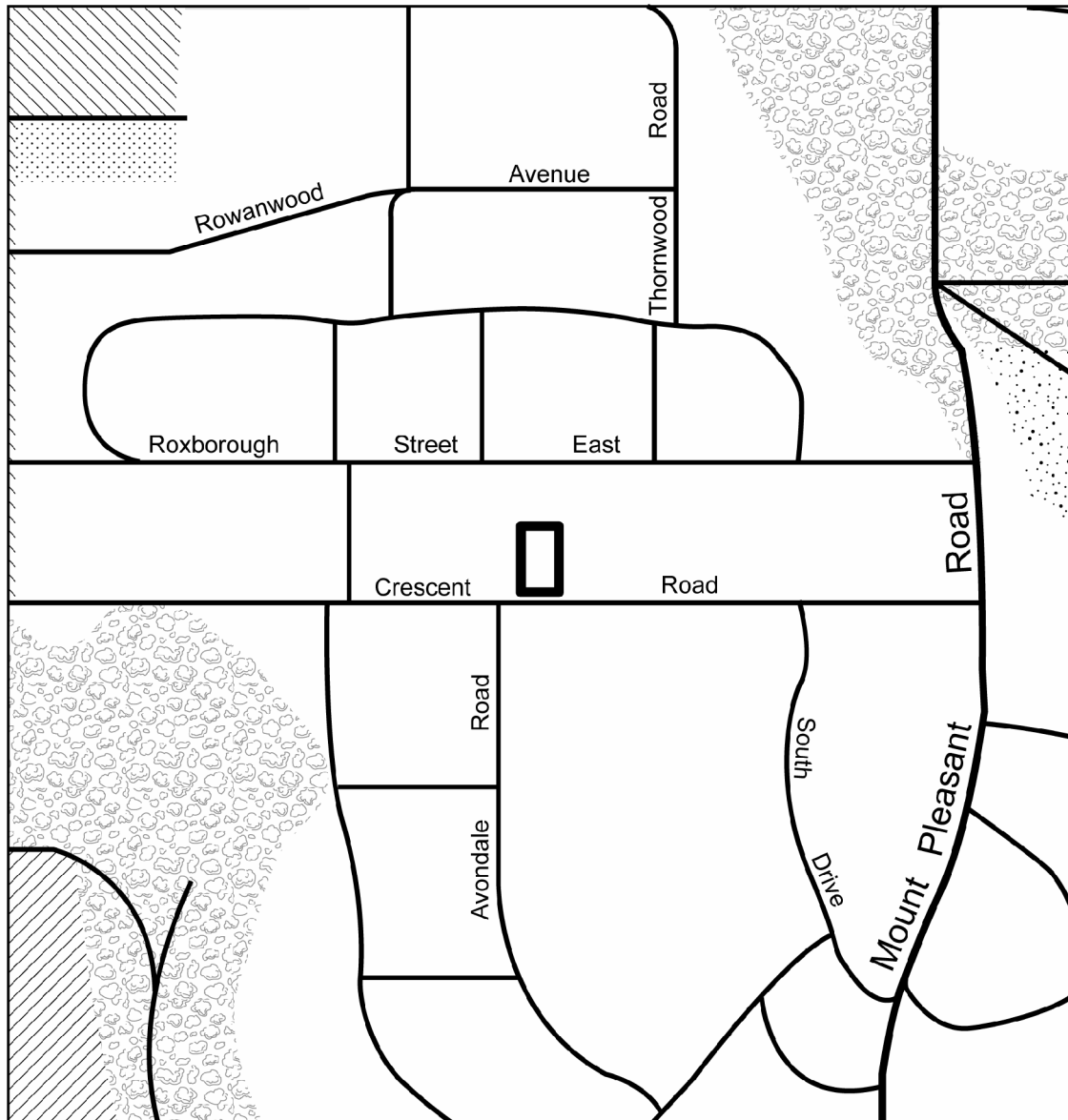
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2 SOUTH ELEVATION
A6 SCALE 1/100

3 NORTH ELEVATION
A6 SCALE 1/100

Attachment 5: Former City of Toronto Official Plan



TORONTO City Planning
Division
Official Plan

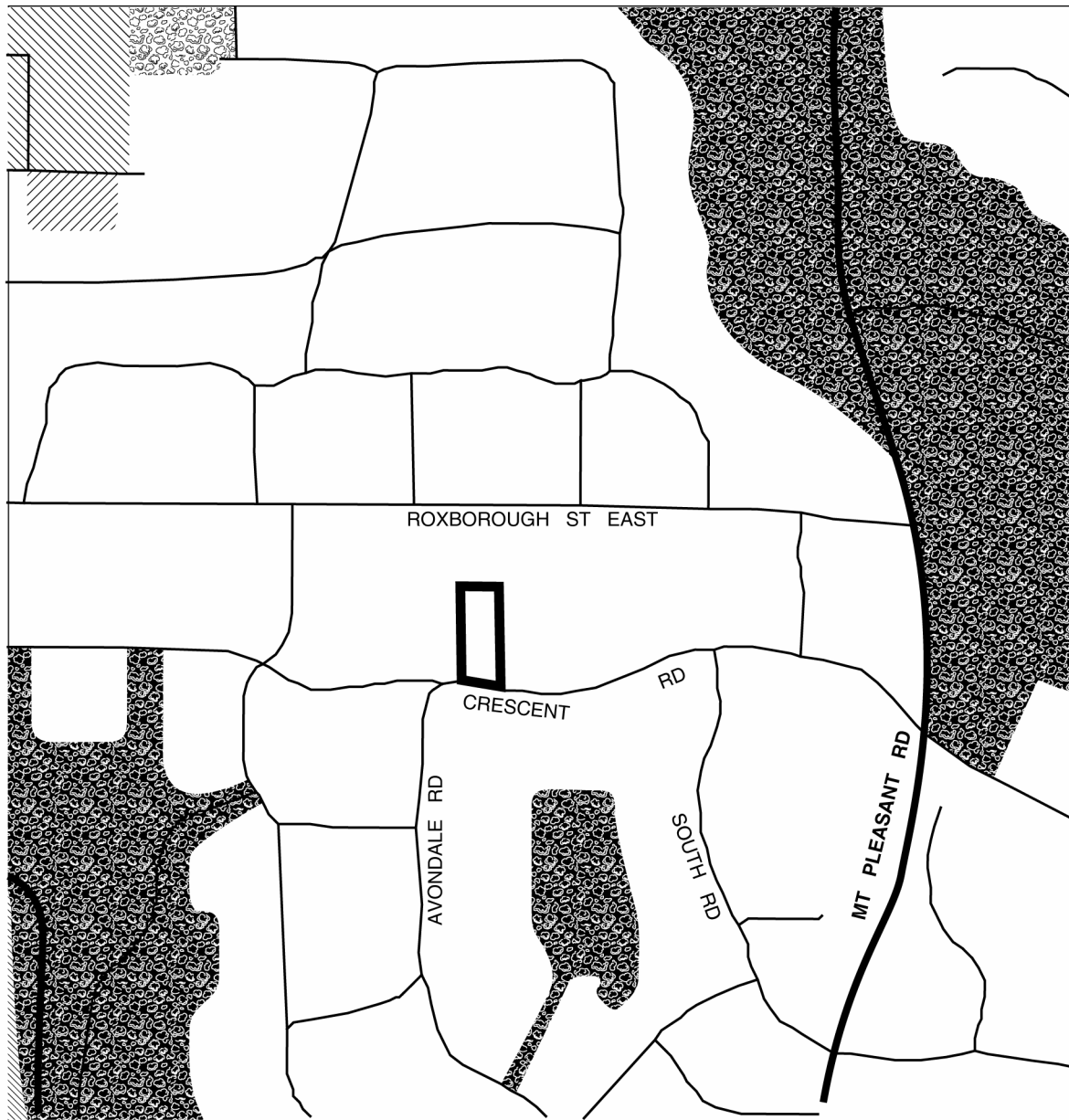
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- | | |
|--|---|
| Site | Medium Density Mixed Commercial - Residential Areas |
| Low Density Residence Areas | Open Space |
| High Density Residence Areas | Natural Areas |
| Low Density Mixed Commercial - Residential Areas | |

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Not to Scale
08/08/07

Attachment 6: New Official Plan



Toronto City Planning
Division
Official Plan

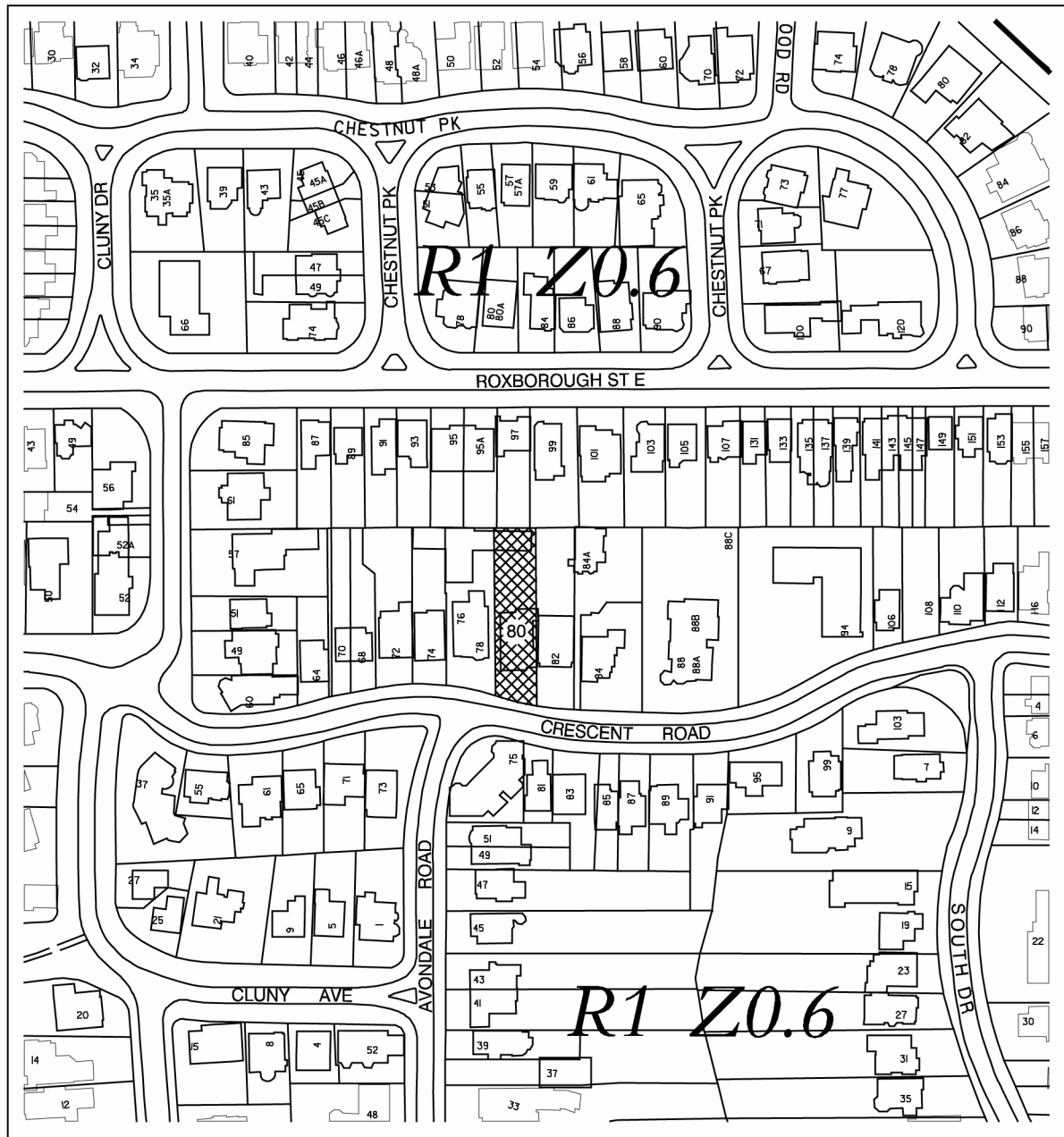
80 Crescent Road

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Attachment 7: Zoning Map



Toronto City Planning
Division
Zoning

80 Crescent Road

File # 06_147390

R1 Residential District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 07/24/06 - DR

Attachment 8: Project Data Sheet

Application Type	Rezoning	Application Number:	06 147390 STE 27 OZ
Details	Rezoning, Standard	Application Date:	June 16, 2006
Municipal Address:	80 CRESCENT RD, TORONTO ON		
Location Description:	PL 104 PT VILLA LT59 WITH & SUBJ TO ROW **GRID S2704		
Project Description:	Replace the existing garage at the rear of existing converted house with a 2-storey coach house for a separate dwelling unit.		

Applicant:	Agent:	Architect:	Owner:
WALKER NOTT DRAGICEVIC ASSOCIATES LIMITED (WENDY NOTT)		TURNER FLEISCHER ARCHITECTS INC.	ELIZABETH JOHNSON

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:
Zoning:	R1 Z0.6	Historical Status:
Height Limit (m):	10	Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq. m):	976.6	Height:	Storeys:	2	
Frontage (m):	16.45		Metres:	6.2	
Depth (m):	65.58				
Total Ground Floor Area (sq. m):	435				Total
Total Residential GFA (sq. m):	913.47		Parking Spaces:	4	
Total Non-Residential GFA (sq. m):	0		Loading Docks	0	
Total GFA (sq. m):	913.47				
Lot Coverage Ratio (%):	44				
Floor Space Index:	0.93				

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:			Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	913.47	0
Bachelor:	0	Retail GFA (sq. m):	0	0
1 Bedroom:	0	Office GFA (sq. m):	0	0
2 Bedroom:	4	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	4			

CONTACT:	PLANNER NAME:	Barry Brooks, Senior Planner
	TELEPHONE:	416-392-1316