

80 Crescent Road – Official Plan Amendment and Zoning Application - Final Report

Date:	March 6, 2008
To:	Toronto and East York Community Council
From:	Acting Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	File Nos. 08 110532 STE 27 OZ and 06-147390 STE 27 OZ

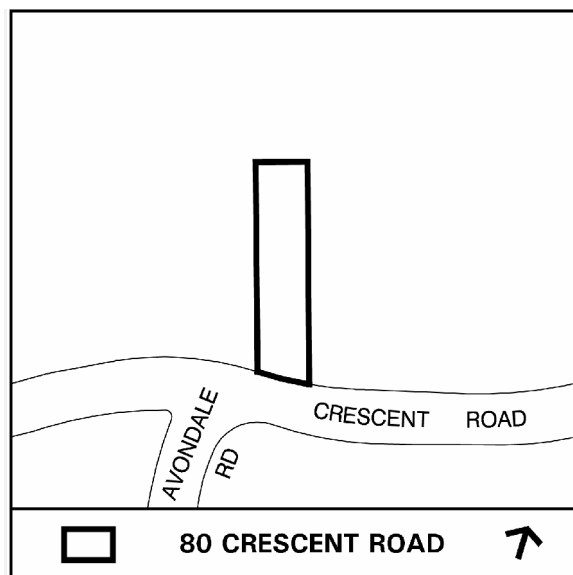
SUMMARY

This report reviews and recommends refusal on an application to amend both the Official Plan and 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 recommends that City Council request the Ontario Municipal Board to consolidate the Official Plan Amendment refusal with the adjourned Zoning appeal hearing.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse Official Plan Amendment Application No. 08 110532 STE 27 OZ and request the Ontario Municipal Board consolidate this application with the hearing for Zoning By-law Amendment No. 06 147390 STE 27 OZ application for 80 Crescent Road.



2. City Council direct the City Solicitor and other appropriate City staff, to continue to oppose Zoning application No. 06-147390 STE 27 at the Ontario Municipal Board and any appeal of Official Plan Amendment No. 08 110532 STE OZ that may be consolidated with the Zoning hearing for 80 Crescent Road.

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 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.

An Ontario Municipal Board hearing was held on November 26, 2007. At that hearing a motion to adjourn was filed by the City based on City Planning staff's affidavit which explained the application's non-compliance with the in-force Official Plan.

The applicant's argument that the existing garage was a coach house was not accepted as an existing coach house expansion or as contemplated in the Rosedale By-law. Rather the Board accepted the City's evidence that the structure was built as a garage in 1948 based on a photocopy of the issued building permit.

The Board recognized in its decision that 80 Crescent Road was not grandfathered so as to permit the Applicant to avoid the necessary amendment to the in-force Official Plan. The Board also noted there is uncontraverted evidence before it that the City had clearly communicated this information to the Applicant in writing and that an amendment to the in-force Official Plan would be required.

The Board noted in its memorandum of oral decision delivered on November 26, 2007 that the City has demonstrated throughout the documentary evidence relevant policies of the in-force Official Plan that clearly prohibit the type of application the Applicant has made. Therefore, the Board granted the City's motion to adjourn the hearing *sine die* as the requisite Official Plan appeal was not before the Board.

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 1/2 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 Coach House with one dwelling unit with a roof deck and an enclosed parking space.

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 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

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 as stated earlier in this report. Therefore, it is being reviewed under the in-force Official Plan. 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.

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 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 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 pattern of rear and sideyard setbacks and landscaped open space.

Policy 4.1.0 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 available 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 change 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.

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 a 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 0.26 times coverage, for a total density of .86 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.

City Planning staff held a community information meeting on October 18, 2007 at Rosedale Presbyterian Church with approximately 20 residents in attendance including the solicitor and a planner representing the owner. City Planning staff outlined the current application and the planning process. The neighbours expressed their concerns with the impact of the proposed second house at the rear of the property.

Both the abutting neighbour to the north and the Rosedale Residents Association were represented by solicitors at the Ontario Municipal Board hearing held on November 26, 2007. The surrounding neighbours continue to be in strong opposition to this application.

A new lawn sign was erected in February 2008 at 80 Crescent Road by the applicant to indicate that an Official Plan Amendment application has been submitted to the City.

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 originally in the context of the City's former and the in-force Official Plan policies dealing with intensification and infill development. New

housing stock is encouraged through intensification and infill, yet it must be appropriate and general fit the existing physical character of the neighbourhood.

The City of Toronto's in-force Official Plan has policies with respect to protecting neighbourhoods with respect to physical change. Policy 1 of Section 2.3.1 states that development in Neighbourhoods will be consistent and respect and reinforce the existing physical character of buildings, streetscapes and open spaces in these areas. Policy 5 of Section 4.1, Neighbourhoods lays out development criteria that 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, 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 sent that may, over time, change the character of this well established neighbourhood in terms of prevailing pattern and intensity of development.

(b) 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 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 level of sky views for residents of the existing dwellings to the north.
- (c) Prevailing building types, setback of buildings from the street, patterns of rear and sideyard setbacks and landscaped open space

The prevailing building type in the neighbourhood is two-storey detached dwellings with 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 dwelling is a two storey building with very minimal side and rear yard setbacks and no 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 0.86 times coverage the density of the proposed development exceeds the maximum density of 0.6 times coverage permitted by the Zoning By-law. An analysis of the proposal has revealed that it would create conditions that are not supportable and contrary to the Official Plan. Therefore, an increase in density above 0.6 times coverage could not be supported.

Sun, 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 Service 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 vehicles 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. Urban Forestry staff has requested the submission of a revised proposal which eliminates the basement level floor plan of the proposed rear house. Urban Forestry staff are also requiring the submission of a Tree Preservation Methodology by the applicant and a Certified/Registered Consulting Arborist which considers the impact of construction on the two existing Black Walnut trees for their review.

CONTACT

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SIGNATURE

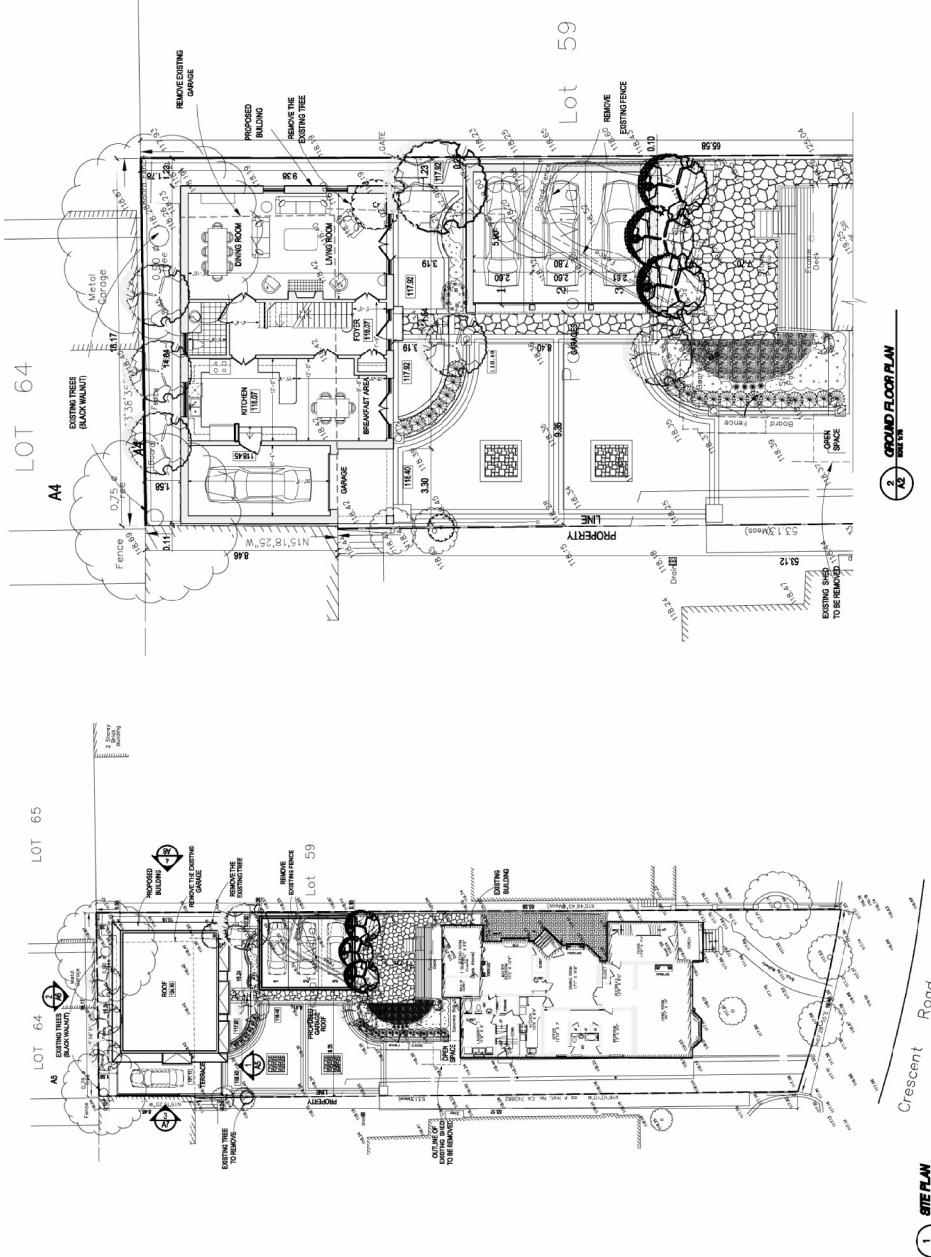
Raymond David, Acting Director
Community Planning, Toronto and East York District

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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: In-Force Official Plan
Attachment 6: Zoning Map
Attachment 7: Project Data Sheet

Attachment 1: Site Plan



80 Crescent Road

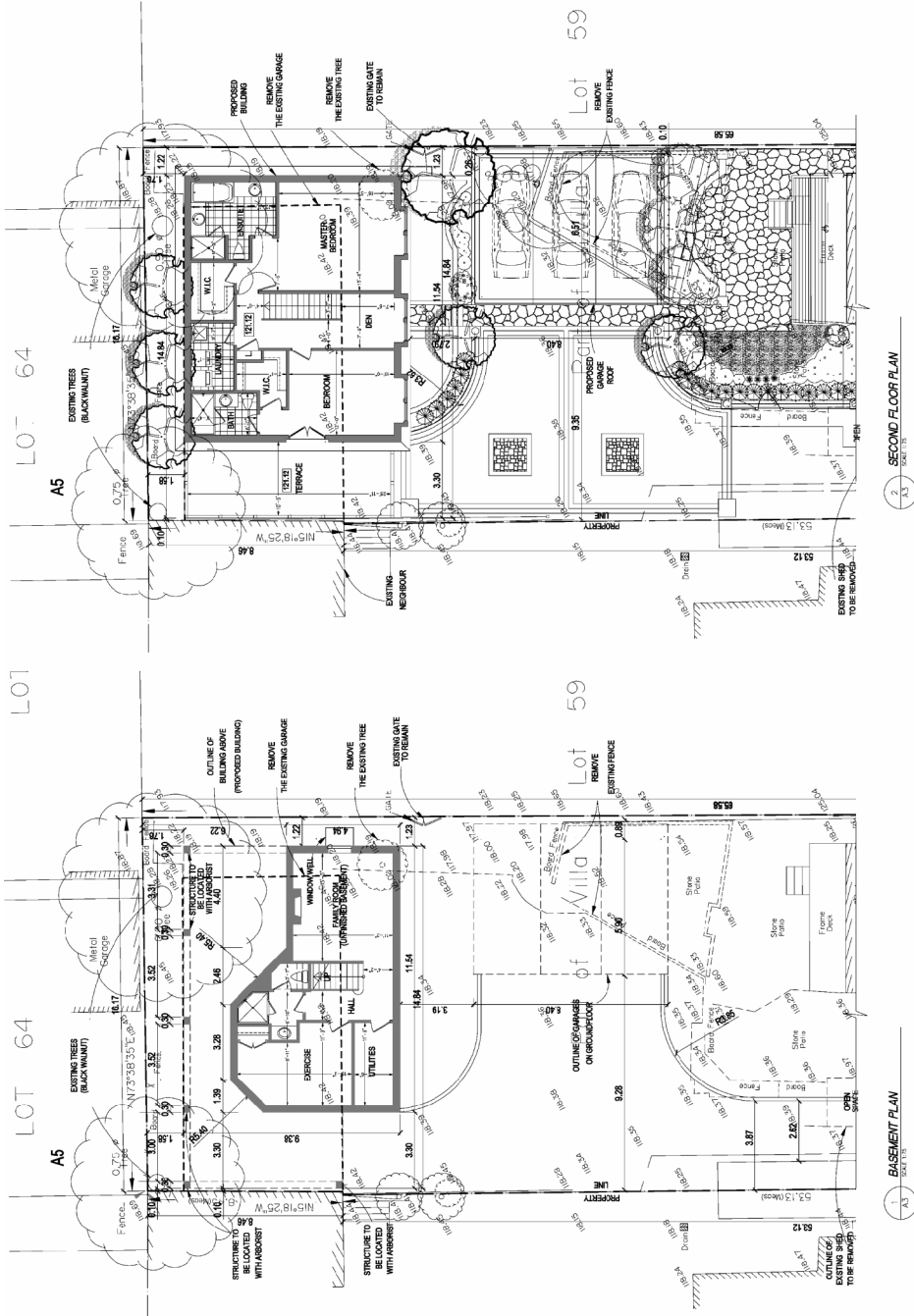
Site Plan and Ground Floor Plan

Applicant's Submitted Drawing

Not to Scale
08/14/06

File # 06_147390

Attachment 2: Basement and Second Floor Plan



80 Crescent Road

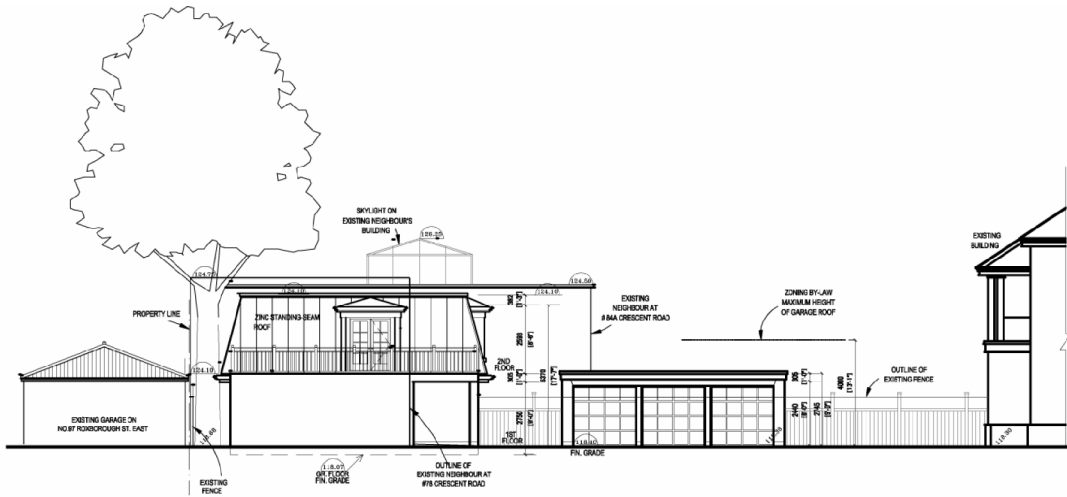
Basement and Second Floor Plan

Applicant's Submitted Drawing

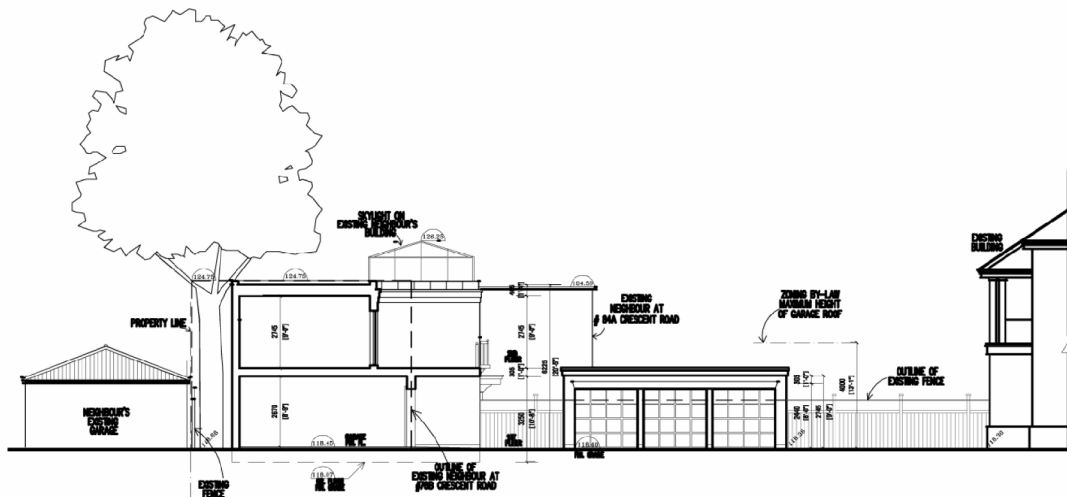
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Attachment 3: West Elevation and Section A-A



1 WEST ELEVATION
SCALE 1:100



2 SECTION A-A
SCALE 1:100

West Elevation and Section A-A

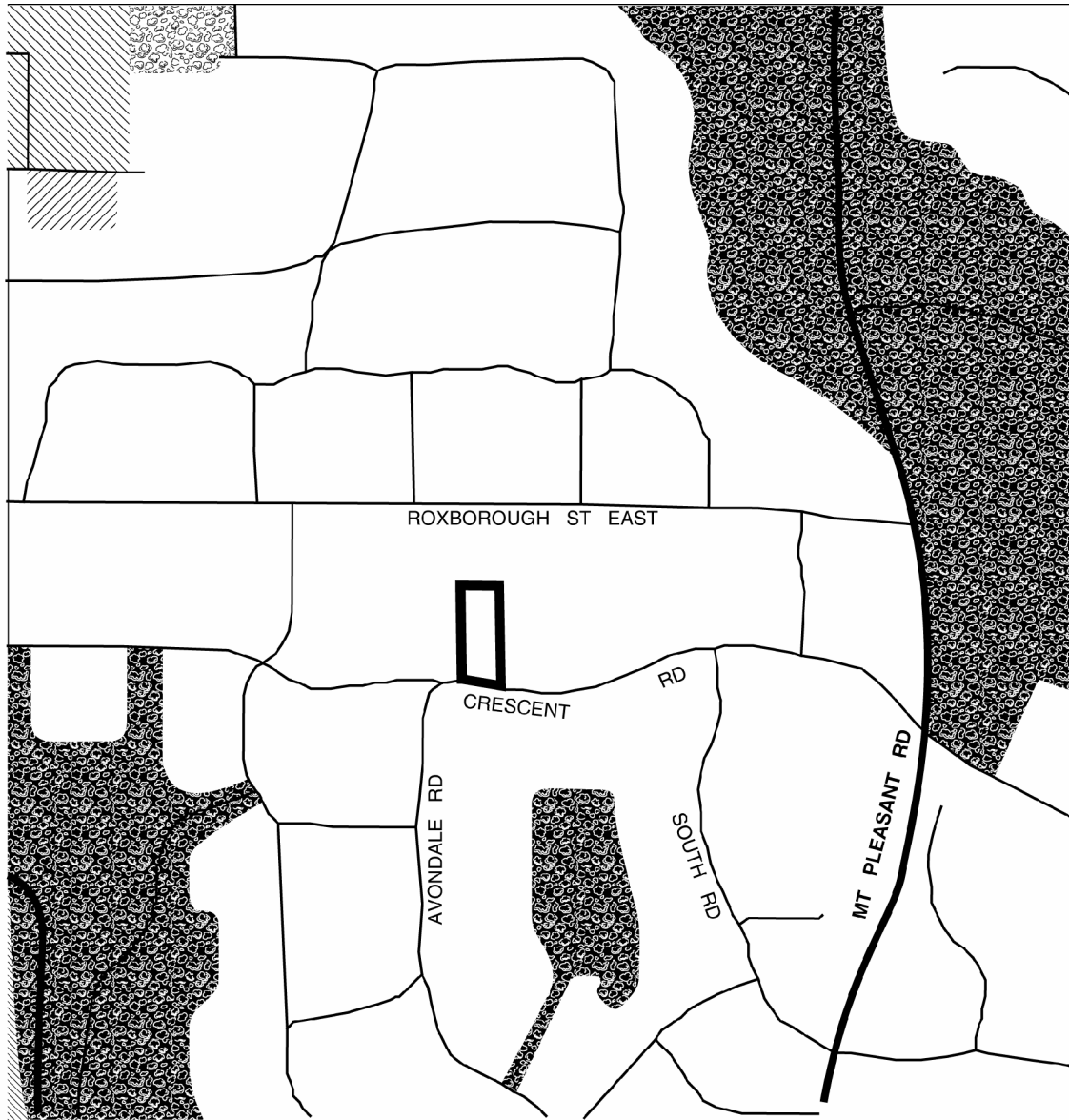
80 Crescent Road

Applicant's Submitted Drawing

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File # 06_147390

Attachment 5: In-force Official Plan



TORONTO City Planning
Division
Official Plan

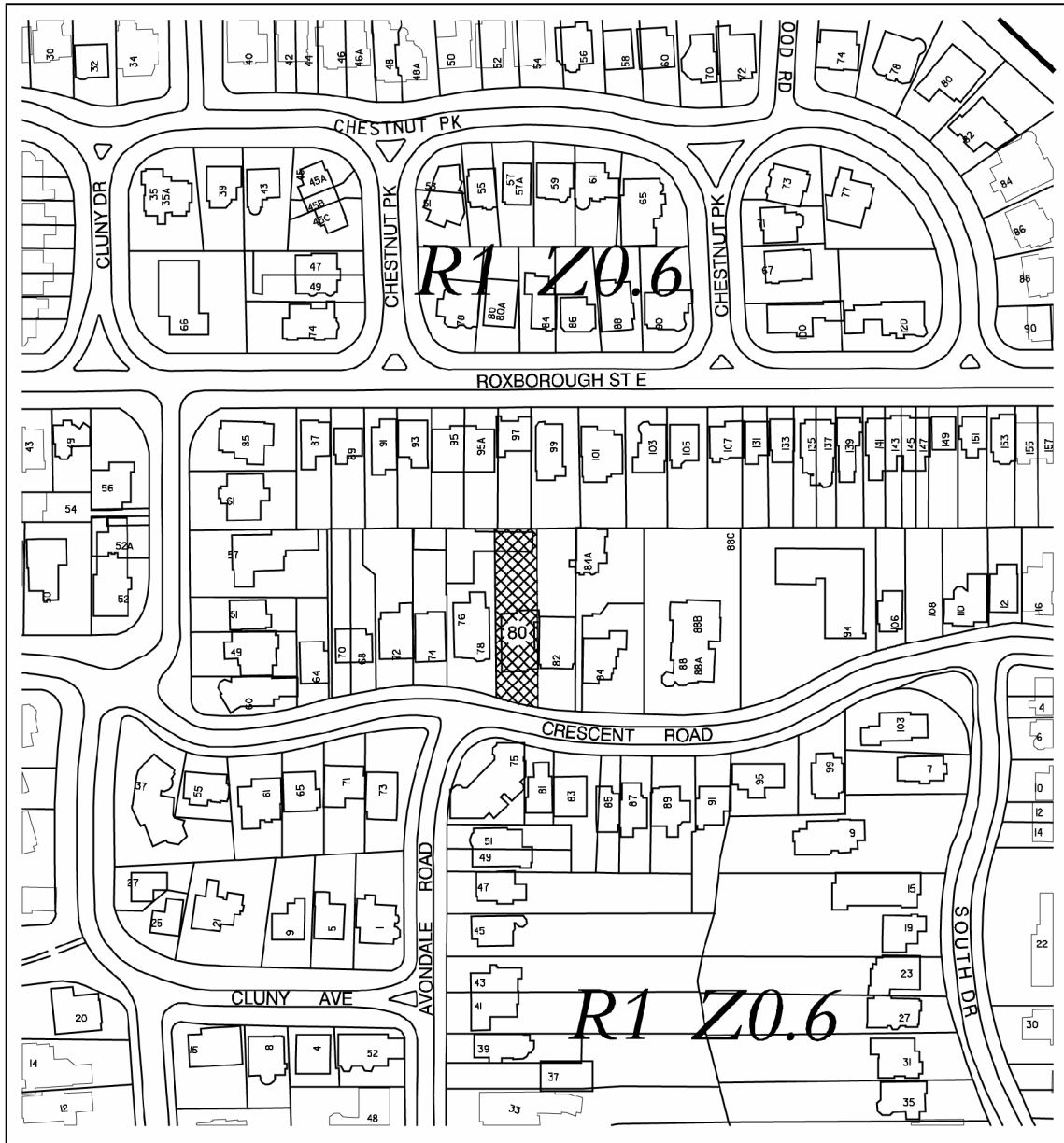
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Not to Scale
08/14/06

Attachment 6: 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 7: Application Data Sheet

Application Type	Official Plan Amendment	Application Number:	08 110532 STE 27 OZ
Details	OPA, Standard	Application Date:	February 11, 2008

Municipal Address: 80 CRESCENT RD
 Location Description: PL 104 PT VILLA LT59 WITH & SUBJ TO ROW **GRID S2704
 Project Description: Proposed detached dwelling on the same lot as an existing SFD to remain.

Applicant:	Agent:	Architect:	Owner:
WALKER NOTT DRAGICEVIC AND ASSOCIATES			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):	360			Total
Total Residential GFA (sq. m):	840.6		Parking Spaces:	4
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	840.6			
Lot Coverage Ratio (%):	36.9			
Floor Space Index:	0.86			

DWELLING UNITS

Tenure Type:	
Rooms:	0
Bachelor:	0
1 Bedroom:	4
2 Bedroom:	4
3 + Bedroom:	0
Total Units:	4

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Residential GFA (sq. m):	840.6	840.6	0
Retail GFA (sq. m):	0	0	0
Office GFA (sq. m):	0	0	0
Industrial GFA (sq. m):	0	0	0
Institutional/Other GFA (sq. m):	0	0	0

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