

**3520 Danforth Ave – Zoning and Site Plan Applications - Request for Direction Report**

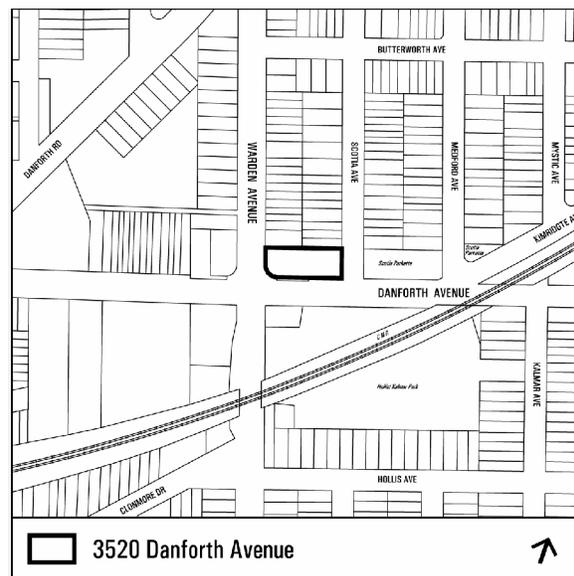
<b>Date:</b>	January 22, 2009
<b>To:</b>	Scarborough Community Council
<b>From:</b>	Director, Community Planning, Scarborough District
<b>Wards:</b>	Ward 35 – Scarborough Southwest
<b>Reference Number:</b>	06 199459 ESC 35 OZ and 06 199460 ESC 35 SA

**SUMMARY**

The applicant has appealed the zoning by-law amendment and site plan control applications for a 12-storey, 126 unit residential-commercial mixed use building at 3520 Danforth Avenue to the Ontario Municipal Board (OMB). The applicant is seeking a settlement of the issue and has made a “without prejudice” submission featuring a 7-storey, 95 unit residential-commercial mixed use building. The applications were made prior to the enactment of the new provisions of the Planning Act and the City of Toronto Act, 2006. The applicant and an area resident have also appealed the Danforth Avenue Study Zoning By-law Number 104-2008, enacted by Council on January 30, 2008, as it applies to this site only.

The purpose of this report is to seek Council’s direction on the appeals. The OMB has scheduled a 5-day hearing to begin on March 2, 2009.

The proposed 7 storey, 95 unit building is generally in keeping with the vision and direction for development in this area established by the Danforth Avenue Study approved by City Council in January of 2008. Accordingly, it is recommended that the City Solicitor be directed to support a settlement of the “without prejudice” submission, subject to addressing the outstanding issues and concerns outlined in



this report.

## **RECOMMENDATIONS**

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### **The City Planning Division recommends that City Council:**

1. Direct the City Solicitor to oppose the original 12-storey proposal at the upcoming Ontario Municipal Board (OMB) hearing.
2. Direct the City Solicitor to support a settlement at the upcoming OMB hearing, based upon the “without prejudice” submission illustrated in Attachments 1, 2, 3 and 4 with the following features and conditions:
  - a) maximum of 7 storeys as illustrated on the elevation drawings
  - b) stepping of heights at the north side of the building to minimize shadow impacts on the neighbourhood to the north, as illustrated on the massing drawings
  - c) elimination of balconies in the stepped section of the north wall to reduce overlook of the neighbourhood to the north, as illustrated on the elevation drawings and on the massing drawing
  - d) provision of a common outdoor terrace facing northward from the 6<sup>th</sup> floor, with appropriate screening to prevent overview of the neighbourhood to the north
  - e) balconies to have opaque glass screens to reduce overlook
  - f) minimum of 95 parking spaces, with 19 for visitors and commercial customers
  - g) restaurant uses limited to a total gross floor area of no more than 150 square metres (1,615 square feet)
  - h) applicant to provide free TTC Metropasses for one year to each purchaser of a “car-free” unit
  - i) applicant to agree to a Construction Management Plan in accordance with relevant City regulations, to minimize and mitigate construction impacts on neighbouring properties and City streets
  - j) applicant to enter into the City’s standard site plan control agreement addressing matters such as CN Rail’s noise requirements, waste management plan, stormwater management, servicing, loading areas, road widenings, streetscape and landscaping improvements, improved traffic control measures on Scotia Avenue, traffic signal timing optimization and related costs, and any other matters that arise from the detailed technical review of the site plan submission.
3. Direct the City Solicitor to request that the OMB withhold its order with respect to the zoning by-law amendment until such time as the City and the applicant have executed the necessary site plan control agreement and the City has received the associated financial securities.

### **Financial Impact**

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

## **DECISION HISTORY**

The subject property is located within the study area of the Danforth “Avenue” Study. The Avenue study focussed on lands between Victoria Park Avenue and Medford Avenue (just east of Warden Avenue). The Final Report for the Avenue Study was considered at a public meeting of Scarborough Community Council on January 15, 2008. The report and its recommendations were endorsed, and they were implemented as Official Plan Amendment No. 42 and amending Zoning By-law No. 104-2008 by City Council on January 30, 2008. Urban Design Guidelines were also adopted by City Council to guide development along Danforth Avenue.

The owners of 3520 Danforth Avenue filed the only appeal against the Official Plan amendment. The zoning by-law amendment was appealed by the owners of 3520 Danforth and by one area resident. Since that time the property ownership of 3520 Danforth Avenue has changed and the new owners assumed the appeals made by the previous owner. In June 2008, the new owner, 1579669 Ontario Inc. (Liberty Developments), appealed Council’s failure to deal with the rezoning application for the proposed development of the lands at 3520 Danforth Avenue. In July 2008, they also appealed their site plan control application. All appeals have been consolidated at the OMB.

The OMB has held two prehearing conferences on these appeals. The first was held on September 22, 2008 and the second on December 3, 2008.

Prior to the December 3, 2008 prehearing conference, 1579669 Ontario Inc. withdrew their appeal of OPA No. 42, and their appeal of Zoning By-law No. 104-2008 except as it applies to the lands at 3520 Danforth Avenue. The area resident’s appeal of Zoning By-law No. 104-2008 was also withdrawn as it pertains to all lands affected by the by-law except those lands at 3520 Danforth Avenue. Consequently OPA No. 42, respecting the Danforth Avenue Study, is now in effect. The Danforth Avenue Study Zoning By-law (No. 104-2008) is also now in effect for all lands with the exception of 3520 Danforth Avenue.

On March 2, 2009 a 5-day hearing will begin on the outstanding appeals to Zoning By-law No. 104-2008 as it affects the lands at 3520 Danforth, and the appeals to the rezoning and site plan control applications for those lands.

## **ISSUE BACKGROUND**

On December 21, 2006, Weston Consulting Group, on behalf of the owner, Icon Developments Ltd. submitted a rezoning application and site plan control application for the 0.1976 hectare (0.48 acre) property at 3520 Danforth Avenue. The application proposes to rezone the property from “Highway Commercial (HC) Zone” to an appropriate zone category that would permit the development of a 12-storey mixed-use residential-commercial building. The details of the proposed development are included in the following table.

The Preliminary Report on the original proposal was considered by Scarborough Community Council on March 27, 2007, and the report can be found at the following

link: <http://www.toronto.ca/legdocs/mmis/2007/sc/bgrd/backgroundfile-2161.pdf>.

Community Council directed that a Community Consultation meeting be scheduled once the applicant had submitted all of the necessary supporting material, including, in particular, a sun-shadow study and grading plans. This information was never provided for the 12-storey (37.5 metre + 6.3 metre mechanical penthouse) building proposal. Consequently, the original application did not proceed to a Community Consultation Meeting.

In October 2008, the new owners submitted a “without prejudice” development proposal. The development proposal which is the subject of this report has been revised as a result of numerous “without prejudice” discussions between Planning staff, the applicant, and in response to concerns raised at the community consultation meeting. On January 16, 2009 the applicant submitted further revisions to the site plan drawing based on on-going discussions between Planning staff and the applicant. The drawings illustrated in Attachments 1 to 4 reflect the further revisions. The revised proposal attempts to address concerns of staff and the community, and takes into account the Danforth Avenue Urban Design Guidelines.

This revised proposal is for a 7-storey, 25.5 metre high building containing 95 residential dwelling units comprised of 77 one-bedroom units, ranging in size from 53.9 square metres (580 square feet) to 71.7 square metres (771 square feet), 17 two-bedroom units, ranging in size from 71.2 square metres (766 square feet) to 96.1 square metres (1,034 square feet) and 1 three-bedroom unit, 118.5 square metres (1,275 square feet) in size. The proposal also includes 367 square metres (3,950 square feet) of ground floor commercial space and 237 square metres (2,550 square feet) of indoor residential amenity space, including both a meeting room and fitness room. A lobby for the residential uses is also proposed on the ground floor. The overall number of parking spaces proposed is 95, this includes 90 underground spaces and 5 at-grade spaces located to the north of the building. The building is stepped and notched at the north façade and results in single loaded corridors for the top two floors, with reduced overall floor areas for each floor above the fourth floor.

The following table compares the major details of the original proposal with the revised “without prejudice” proposal, and the Danforth Avenue Study By-law.

	<b>Original Proposal</b>	<b>Revised Proposal</b>	<b>Danforth Avenue Study By-law (under appeal for this site)</b>
Total GFA	11,773 sq. m. (FSI 6.23)	7,850 sq. m. (FSI 4.16)	6,605.6 sq. m. maximum (FSI 3.5)
Residential GFA (# units)	11,219 sq. m. (126)	7,483 sq. m. (95)	
Commercial GFA	553.2 sq. m.	367 sq. m.	
No. of storeys	12 (with stepping to 8, 4 and 2 storeys) +	7 (with stepping to 4 storeys along the	7 maximum + mechanical

	mechanical penthouse	north façade of the building) + mechanical penthouse	penthouse (with 45 degree angular plane)
Building Height	37.5 m + 6.3 m mechanical penthouse	21 m + 4.5 m mechanical penthouse	23 m + 4.5 m mechanical penthouse maximum
Total Parking	106 (102 in 3-level underground)	95 (90 in 2-level underground)	99 spaces (minimum)

## Site and Surrounding Area

The subject lands are 0.1976 hectares (0.48 acres) in size, and currently support a vacant single-storey commercial building. The existing one-storey building and associated parking lot was formerly operated as a fast-food restaurant, and more recently a used car dealership. The existing building is proposed to be demolished. The site is rectangular in shape with approximately 68 metres of frontage on Danforth Avenue, and a shallow lot depth of approximately 27 metres. It is bordered by Warden Avenue to the west, Danforth Avenue to the south and Scotia Avenue to the east. The topography of the site is flat, and lands at the Warden Avenue/Danforth Avenue intersection have a higher physical elevation than the surrounding area.

The Danforth Avenue Study Final Report, prepared by Urban Strategies Inc., who were the consultants retained by the City to complete the first two of three phases of the Danforth Avenue Study, identified the Danforth Avenue and Warden Avenue intersection as one of five precinct areas within the study corridor. These areas were intended as areas of slightly higher intensification which respond to unique characteristics along the Avenue. This precinct area was identified as a place where a prominent node of mixed-use development should be created with commercial at grade and residential uses above. This location at the eastern end of the study area will serve both to anchor the Avenue and as a gateway to and from the study area.

The subject lands are located along the commercial frontage of Danforth Avenue, and are bordered to the north by an established residential neighbourhood. The following uses surround the site:

North: one and two-storey residential dwellings.

East: Scotia Avenue Parkette, and one and two-storey residential dwellings, CNR tracks.

South: used-car dealership, and at the lands at the south-west corner of the Warden/Danforth intersection, a gas station and associated car wash, CNR tracks.

West: single-storey commercial plaza, a two-storey strip commercial plaza facing Danforth Avenue, and residential dwellings facing Warden Avenue.

## **Provincial Policy Statement and Provincial Plans**

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

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

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

## **Official Plan**

The City of Toronto Official Plan designates the property Mixed Use Areas. These areas will absorb most of the anticipated increase in retail, office and service employment in Toronto in the coming decades, as well as much of the new housing. These areas are made up of a broad range of commercial, residential and institutional uses, in single use or mixed use buildings, as well as parks and open spaces and utilities.

In Mixed Use Areas, Section 4.5.2, sets out that development will, among other things:

- create a balance of high quality commercial, residential, institutional and open space uses that reduces automobile dependency and meets the needs of the local community;
- provide for new jobs and homes;
- locate and mass new buildings to provide a transition between areas of different development intensity and scale as necessary to achieve the objectives of the Official Plan, through such means as providing appropriate setbacks and/or a stepping down of heights, particularly towards lower scale Neighbourhoods;
- locate and mass new buildings so as to adequately limit shadow impacts on adjacent Neighbourhoods, particularly during the spring and fall equinoxes;
- locate and mass new buildings to frame the edge of streets and parks with good proportion and maintain sunlight and comfortable wind conditions for pedestrians on adjacent streets, parks and open spaces;
- create an attractive, comfortable and safe pedestrian environment
- have access to nearby schools, parks, community centres, libraries and childcare
- take advantage of nearby transit services
- provide good site access and circulation and an adequate supply of parking for residents and visitors;
- locate and screen service areas, ramps and garbage storage to minimize the impact on adjacent streets and residences; and,

- provide indoor and outdoor recreation amenity space for building residents in every significant multi-unit residential development.

The Plan also contains policies for developments in Mixed Use Areas that are adjacent to or close to Neighbourhoods. In this case, the subject lands abut a Neighbourhoods designation. These policies are outlined in Section 2.3.1 Healthy Neighbourhoods.

Developments in the Mixed Use Areas will:

- be compatible with those Neighbourhoods;
- provide a gradual transition of scale and density as necessary to achieve the objectives of the Plan through stepping down of buildings towards and setbacks from those Neighbourhoods;
- maintain adequate light and privacy for residents in those Neighbourhoods; and
- attenuate resulting traffic and parking impacts on adjacent neighbourhood streets so as not to significantly diminish the residential amenity of those Neighbourhoods.

Intensification of land adjacent to neighbourhoods will be carefully controlled so that neighbourhoods are protected from negative impact.

Built Form policies of the Official Plan, contained in Section 3.1.2, recognize that future development will be built on infill and redevelopment sites, and these policies will guide future development so that it will fit in and respect and improve the character of the surrounding area. Among other things, the policies include:

- Massing new buildings to frame adjacent streets and open spaces in a way that respects the existing and/or planned street proportion;
- Creating appropriate transitions in scale to neighbouring existing and/or planned buildings for the purpose of achieving the objectives of the plan;
- Providing for adequate light and privacy;
- Adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas; and
- Minimizing any additional shadowing and uncomfortable wind conditions on neighbouring parks as necessary to preserve their utility;
- That every significant new multi-unit residential development will provide indoor and outdoor amenity space for residents of the new development. Each resident of such development will have access to outdoor amenity spaces such as balconies, terraces, courtyards, rooftop gardens and other types of outdoor spaces.

## **Zoning**

The subject property is zoned Highway Commercial (HC). Permitted uses include commercial uses of the following natures: those which necessitate their location adjacent to a major traffic artery and may require channelization of off-street parking, and do not require large areas of sustained off-street parking; or those which are not suited to locations in shopping centres; or those which perform a specialized commercial function and may require limited processing of a product but are not essentially industrial in character, and shall include uses such as automobile sales, service and maintenance uses

(excluding auto body repair and/or auto wrecking yards), fraternal organizations, funeral homes, hotels and motels, places of worship, professional and business offices, recreational uses and specialized commercial uses.

The implementing zoning by-law for the Danforth Avenue Study, Zoning By-law No. 104-2008, which is under appeal for this property and not in effect, would have the effect of zoning this property Commercial-Residential Zone (CR) and is described in further detail in the following section.

### **Danforth Avenue Study**

The subject property is located within the study area of the Danforth “Avenue” Study. The study created a vision for revitalization and enhancement of the segment of Danforth Avenue located between Victoria Park Avenue and Medford Road. The vision for this Avenue is intended to guide development over a 20 to 25 year horizon, and seeks to create a vibrant, transit oriented, mixed-use main-street with building heights of at least 2 storeys and ranging up to 4, 7 or 10 storeys. Further information on the Avenue Study can be found at the Danforth Avenue Study web page, on the City’s web site <http://www.toronto.ca/planning/danforth.htm>.

Official Plan Amendment (OPA) No. 42 amends an existing area specific policy, No. 120, and divides the area to which the policy applies into two specific areas, Area A and Area B. In Area A, the original policy No. 120 remains unchanged. In Area B, which includes much of the Danforth Avenue Study area, the policies were amended to prohibit service stations, used car sales lots and public garages within the Mixed Use Areas designation. They also direct pursuing the realignment of the Danforth Avenue and Danforth Road intersection, encourage publicly owned and operated municipal parking lots provided by the Toronto Parking Authority, and direct the establishment of Urban Design Guidelines for the study area to provide detailed guidance on the design and organization of the built environment along the corridor.

Zoning By-law No. 104-2008, as it applies to the subject property would rezone the lands from Highway Commercial (HC) to Commercial-Residential Zone (CR). The Commercial-Residential Zone (CR) permits a range of commercial, residential, and institutional uses, as well as municipal parking lots, and prohibits automotive sales, service and maintenance uses, automobile service stations, mechanical or automatic car washes, auto sales rooms, single family dwellings, two family dwellings, multiple family dwellings, duplexes and split level dwellings. Residential dwelling units are permitted only on or above the second storey above grade unless located more than 18 metres from Danforth Avenue. A holding provision has also been included, which permits a reduced level of development on the site until a servicing study has been accepted by the City and recommended improvements have been implemented or financially secured.

Some of the performance standards of Zoning By-law 104-2008 that would be applicable to this site after the lifting of the holding provision, include the following:

- Minimum building setback from Danforth Avenue: 0 m , maximum 3 m

- Minimum building setbacks of 1.5 m for the top two floors from Danforth Avenue
- Minimum building height of 2 storeys, and maximum permitted building height of 7 storeys (23 metres) plus additional height permissions for mechanical penthouses (4.5 m in height) once a holding provision has been removed, which is subject to the satisfactory review of a servicing study, and that any recommended improvements have been implemented, or financially secured
- Minimum development density of 1.0 times the area of the lot or parcel, maximum 3.5 times the area of the lot or parcel
- Minimum building setbacks of 7.5 m from various abutting zones
- Main wall building setbacks of 1.5 m from streets other than Danforth Avenue
- Minimum first floor floor-to-ceiling height of 4.5 metres
- Prohibits parking in any street yard abutting Danforth Avenue
- Establishes the use of the 45 degree angular plane to further regulate the height of buildings abutting lower density residential zones
- Establishes the requirement for a minimum width of a building's front wall (70% of the lot frontage) along Danforth Avenue
- Minimum 1.5 m landscaping strip immediately abutting "S" or "T" zones
- Minimum requirement of 0.5 bicycle parking spaces per dwelling unit
- Requires a minimum level of municipal services to be in place prior to the use of lands for the uses outlined in the by-law.

While the proposed development can generally be viewed as implementing the Danforth Avenue Study's vision for new development along Danforth Avenue, it does not conform entirely to the zoning set out in Zoning By-law No. 104-2008. The applicant is seeking adjustments to the regulations as they pertain to proposed density, 45 degree angular plane, first storey floor to ceiling height, setbacks for the uppermost two storeys from Danforth Avenue, proposed building setbacks from lot lines, and proposed setbacks of the underground structures from streets.

The applicant has responded to Planning staff's requests that consideration be given to increasing the proposed building setback along the Warden Avenue frontage by increasing the main portion of the wall setback to 1.1 metres, and to the request to reduce the overall mechanical penthouse height to 4.5 metres by modifying their proposal accordingly.

The applicant has also submitted a servicing study that has been reviewed by Technical Services Division staff, who find that it is satisfactory to support the proposed rezoning application.

### **Site Plan Control**

The property is subject to site plan control approval. A site plan application, file number 06 199460 ESC 35 SA, has been submitted and is being reviewed by staff. It has been appealed to the Ontario Municipal Board as a result of the City's failure to approve it within the time allocated by the Planning Act.

## **Tree Preservation**

A tree preservation report has been submitted by the applicant. The report indicates that there are three trees located on the site, one of which is protected by the City's Tree By-law. Each of the existing trees is in direct conflict with the proposed construction and as a result all trees are proposed to be removed. An application to destroy or remove a tree has not yet been made by the applicant.

## **Reasons for the Application**

The purpose of this application was to rezone the lands from Highway Commercial (HC) to an appropriate category to permit and regulate the development of the proposed mixed-use building. Notwithstanding the City's subsequent rezoning of the property pursuant to the Danforth Avenue Study, the site specific application continues to be necessary, as the City-initiated by-law did not fully provide for the proposed development.

## **Community Consultation**

A community consultation meeting was held on November 13, 2008. This meeting was attended by the local Councillor, City Planning and Legal Division staff, the applicant and their representatives and approximately 26 members of the public. The Ward Councillor had also convened a meeting between the applicant and the residents most directly impacted by the proposed development, during the previous week.

At these meetings the applicant presented their "without prejudice" revised 7-storey proposal to the public. The comments and concerns raised by area residents about the proposal have been considered during the review of the project and relate generally to the following matters:

- Concerns about the compatibility of height and density with the established, low density, stable residential neighbourhood, particularly as it relates to loss of sunlight and sky view, shadowing of existing homes, loss of privacy relating to overlook from the proposed building into private rear yard amenity space, and loss of enjoyment of their homes;
- Concerns about the impact of the proposed development on traffic infiltration, on street parking, and increased air pollution from automotive exhaust;
- Concerns about the impact of construction, both from a nuisance perspective and for the potential damage to the structural integrity of nearby homes;
- Concerns about the impact of garbage handling for the proposed building on the existing adjacent homes;
- Requests for the project to conform to a 45 degree angular plane from the property line of adjacent residential dwellings to the north;
- Concerns about the adequacy of on-site parking;
- Concerns about the potential degrading of property values;
- Concerns about the ability of existing infrastructure to support the development;
- Concerns about the potential for increased noise and crime.

There were also some positive comments expressed about the development, including that this will be the first new building within the Danforth Avenue Study area and that it represents significant investment and exciting and positive change for the area.

## **COMMENTS**

The following section discusses the original proposal and the “without prejudice” proposal, and staff’s assessment of revised proposal.

### **Land Use**

The site is currently occupied by a vacant one-storey commercial building with a surface parking lot in front and to the east side of the building. Its most recent use was as a used car sales operation, which would not be allowed under By-law No. 104-2008. This zone permits a wide range of commercial and institutional uses, but does not allow automotive uses, nor does it allow stand-alone residential uses. The mix of residential and commercial uses proposed by the applicant is consistent with the Commercial-Residential Zone (CR) Zoning set out in By-law No. 104-2008 (the by-law implementing the Danforth Avenue Study).

### **Provincial Policy Statement and Provincial Plans**

The proposal is consistent with the PPS, as it provides for intensification and redevelopment within built up areas, including brownfield sites, and promotes use of infrastructure and public service facilities efficiently and cost effectively, and by supporting energy efficiency and improved air quality through compact development patterns and providing a mix of employment and housing uses.

The proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe by intensifying within a built-up area, and by reducing the use of automobiles by contributing to the development of a mixed-use, transit supportive, pedestrian friendly urban environment.

### **Urban Design – Introduction**

The Danforth Avenue Urban Design Guidelines and Concept Plan are adopted by City Council and give guidance on the design and organization of the built environment along the study corridor between Victoria Park Avenue and Medford Avenue. The guidelines include specific recommendations on site planning, building massing and design, and public realm improvements.

On issues such as building height, orientation, exceptions to 45 degree angular plane, site landscaping and servicing, and parking and access, the proposed building generally conforms to the Danforth Avenue Urban Design Guidelines and Concept Plan.

The massing of the new building does not conform to some of the detailed guidelines set out in the “Massing of New Mid Rise Developments” section of the Urban Design Guidelines, such as minimum ground floor height and stepbacks at the upper floors, but is generally in keeping with the intent of the guidelines.

The proposed streetscape improvements generally meet the streetscape improvement guidelines, and staff have requested modifications to the plans that would be consistent with the approved and implemented Streetscape Improvement Plan for this area, which affected lands west of Warden Avenue to Victoria Park Avenue. Further revisions to these plans are expected, and the details of the improvements, such as the location of the new transit shelter, are still to be finalized in consultation with relevant City and agency staff.

### Site Characteristics and Considerations

The subject property is one of the most challenging lots within the Danforth Avenue Study corridor. It is located at one of the key intersections identified through the Study, where a more intense form of development is encouraged, yet it is the second most shallow of all lots fronting Danforth Avenue. The lot depth of 27 metres provides limited opportunities for setbacks and step-backs, and presents a significant challenge on achieving the objectives of intensification and adequate transition at the same time.

The height, massing, privacy and shadow impacts of the proposed development are of primary concern to residents within the surrounding residential neighbourhood.

Many of these issues were identified in the Preliminary Report that staff prepared for the original 12-storey proposal. A sun/shadow study, among other materials, was requested from the applicant to allow assessment of the impact of the development. This material was not provided, and the application did not proceed beyond the Preliminary Report stage. The new owners of the subject lands were advised that these issues were of concern to the community and to staff and have developed the “without prejudice” revised plan in response.

Staff have worked with the applicant to explore various design alternatives. The “without prejudice” submission has substantially improved the performance of the proposal. Key urban design issues such as the 45 degree angular plane, building height and scale, transition to the adjacent low rise residential area, view and privacy, and shadow impacts are discussed in more detail in the following sections.

#### 45 degree angular plane

The Danforth Avenue Study implements a 45 degree angular plane regulation, to augment standard height and setback regulations and, in combination ensure reasonable transition to adjacent low density residential neighbourhoods and to limit shadow and privacy impacts. The proposed building mass with the step-backs does not meet the 45 degree angular plane from the north property line.

The 45 degree angular plane, however, is a general tool, which cannot take into account all the possible range of contextual circumstances. Urban Strategies, the City’s Danforth Avenue consultant specifically recommended that the 45 degree angular plane not be

applied along Danforth Avenue as it would be overly restrictive on many of the shallower sites, and preclude achievement of the overall “Avenue” built form objectives.

The City chose, however, to implement the 45 degree angular plane as a baseline regulation. The adopted Urban Design Guidelines, then allowed exceptions to the angular plane to be considered, subject to a detailed assessment of sun and shadow impacts and view and privacy impact. These exceptions are only to be considered at specified key locations along Danforth Avenue, of which Danforth and Warden is one. Discussion of these considerations is contained in the following sections.

### Height

The proposed building height is 21 metres, plus a 4.5 metre tall mechanical penthouse, which is situated at the west end of the building, closest to Warden Avenue. The overall number of stories has been reduced to 7 storeys from the 12 storeys proposed in the original application and the 14 storeys marketed by the previous owner. The proposal also includes 4, 5 and 6-storey building elements.

The overall height and number of storeys fall within the limits set out in Zoning By-law No. 104-2008, which allowed for a maximum height of 23 metres, and an additional 4.5 metres for the mechanical penthouse. The overall building height proposed is 2 metres lower than that contemplated by By-law 104-2008.

The proposed building has good proportion relative to both Danforth Avenue and Warden Avenue which both have right-of-way widths of 27 metres at this location. The building is at a less than 1:1 relationship with the right-of-way widths.

### Transition

The building has been designed to be notched and to step back along the north facade. The stepped back design serves to provide transition in scale to the low-rise residential dwellings to the north, mitigate overlook, as well as reduce the shadow impacts.

As currently proposed, the building mass is largely a rectangular form to the top of the fourth storey. After that the easternmost two-thirds of the building steps back at the 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> floor, at various locations. The western third of the building also steps back at the 7<sup>th</sup> floor.

As the result of the step-backs, the building setbacks from the north property line vary from a minimum of 6.0 metres at the ground floor level, to a maximum of 15 metres at the middle portion of the building at the 7<sup>th</sup> floor.

### Views and Privacy

In addition to the step-backs described above, other architectural and landscape features are provided to further mitigate overlook.

Single loaded corridors are provided on the 6<sup>th</sup> and 7<sup>th</sup> floor. On these two levels, most of the units are oriented towards Danforth Avenue, Scotia Avenue, and Warden Avenue, without individual windows facing north.

Balconies for the units along the north façade are restricted to only the units at the eastern and western ends of the building. Balconies are not proposed for the remaining units in the centre of the building between floors 2 through 4.

A 1.5 metres landscape strip with a row of deciduous trees is proposed along the north property line to provide additional mitigation, and to contribute to the City's objective to increase its tree canopy.

A green roof landscape feature is proposed along the edge of the rooftop terrace on the 6<sup>th</sup> floor, to provide screening and to keep the residents from getting to the edge and looking down at the properties on the north. Details of this feature will be confirmed by staff as part of the final detailed review of this application.

### Shadow Impacts

Staff reviewed the sun/shadow analysis provided by the applicant, and focused on the impacts on 453 Warden Avenue and 2 Scotia Avenue, the two immediate neighbouring properties most affected by the shadows of the building. The applicant's shadow studies indicated that at the September and March equinoxes there are very limited shadow impacts on the properties north of 453 Warden Avenue and 2 Scotia Avenue that would be created by the 7-storey building as currently proposed.

At the September and March equinoxes, the two adjacent properties are partially impacted by the shadows of the proposed building. The northern halves of the two back yards have sun exposure in the morning and afternoon. The eastern façade of 453 Warden Avenue has partial sun exposure in the morning, while the western façade of 2 Scotia Avenue has partial sun exposure in the afternoon.

The issue of sun/shadow impacts was a key concern of staff in “without prejudice” discussions held with the applicant prior to their submission of the 7-storey stepped and notched building design. The applicant had previously contemplated an 8-storey building that was largely a rectangular built form, with only the top floor stepped in slightly from the lower floors. The shadow impacts of this design were farther reaching, impacting a greater number of nearby properties. In response to the concerns raised by staff, the applicant proposed a notched and stepped back 8-storey building. Staff continued to express concerns about the shadow impacts of this improved proposal, and, in response, the applicant agreed to reduce the height to 7 storeys, while maintaining the notched and stepped back design.

Notwithstanding the substantial improvements achieved, staff continue to have some concerns that the southern half of the rear yard of 2 Scotia Avenue is shadowed until 3:00

in the afternoon at the September and March equinoxes. The south half of the rear yard at 2 Scotia Avenue contains the outdoor amenity area for the property, while the north half contains a large garage and the driveway leading to it. Accordingly, even though there is, at the equinoxes, a fair bit of sun exposure on the property, prior to 3:00 p.m. little of it is on the actual amenity area. Given the layout of the lot and house, there are limited opportunities to establish outdoor amenity where there is greater sun exposure.

At 453 Warden Avenue, the rear yard amenity area is located on the northern half of the property, and it will receive meaningful sun in both the morning and afternoon at the equinoxes. The primary shadowing of the property will be on the driveway and on the roofs of the garage and the dwelling. This shadow impact is considered to be acceptable.

At the June equinox, the proposed building produces very minimal shadow impacts on either of the neighbouring properties.

#### Stepbacks from Danforth Avenue

The Urban Design Guidelines and zoning by-law no. 104-2008 stipulate that the top two floors of any building 5-storeys in height or taller should be setback an additional 1.5 metres from Danforth Avenue, in relation to the setback of the first floor. In this case, the applicant has proposed a stepback along the Danforth Avenue façade of the building for the top (7<sup>th</sup>) floor only. Staff are satisfied with this design, as it allows additional massing at the front of the building where there are no concerns regarding shadow or transition, rather than the back of the building which has been stepped back and notched to mitigate impacts on the adjacent residential neighbourhood.

#### Setback from Warden Avenue

The Urban Design Guidelines and zoning by-law no. 104-2008 stipulate that the main wall of any building fronting or abutting any street other than Danforth Avenue shall be 1.5 metres. Staff have requested that the applicant consider providing this setback along the Warden Avenue frontage of the building, and they have responded by increasing the setback from 0 m to 1.1 metres along the majority of the wall facing Warden Avenue. The corner of the building still has a 0 m setback closer to the Warden Avenue and Danforth Avenue intersection, as a consequence of stepping the ground floor to address the corner-rounding. Staff are satisfied that the proposed setback will enable further streetscape features, and will pursue these features through the continued review of the proposal.

### **Urban Design - Conclusion**

Planning staff are of the opinion that, overall, the proposed building is acceptable in the unique context of the subject site. For some aspects of the proposed building, the shadow impacts on the adjacent property at 2 Scotia Avenue in particular, planning staff would have required the proposal to be further improved if additional lot depth were available, or if the site were not at a key location within the Avenue Study. Many aspects of the building fully implement the intent of the Danforth Avenue Urban Design Guidelines,

and on balance it is considered to be a positive first step towards achieving the City's objectives for this section of Danforth Avenue.

### **Traffic Impact, Parking and Access**

A total of 95 parking spaces, including 5 surface parking spaces and 90 underground spaces, located in two-levels, are proposed. Vehicular access into the site is proposed from Scotia Avenue. This driveway is also proposed for access to and from the proposed two-level underground parking garage, and to the one-way driveway which is proposed along the north section of the site. A right-out only exit is proposed onto Warden Avenue, as an existing median on Warden Avenue prevents left turns at this location.

Bicycle parking is proposed both at grade and in the underground parking garage. Twenty outdoor spaces are proposed north of the underground parking ramp, and a total of 53 spaces are proposed in two separate bicycle storage lockers on the first level of the underground parking garage. The Danforth Avenue Study Zoning By-law 104-2008 established a minimum bicycle parking requirement of 0.5 spaces per dwelling unit. The proposed bicycle parking exceeds this requirement.

A Traffic and Parking Study has been submitted by the applicant in support of the proposed development. The study makes recommendations on parking supply, traffic impacts of the development and potential signal timing improvements. The study concludes that the traffic generated by this development can be accommodated by the existing street network, but that modifications to the signal timings should be considered to ensure efficient operations. No physical improvements are required to the existing roadways to accommodate the development. The report also includes recommendations regarding distribution of the proposed 95 parking spaces between resident, visitor and commercial uses. Specifically it proposes that 24 spaces should be designated for visitors and retail use only, including the 5 surface parking spaces and 19 of the underground spaces closest to the parking entrance.

The study has been reviewed by Transportation Services and Transportation Planning staff. Transportation Services staff have reviewed the on-site driveway and curb requirements, and the overall traffic impacts of the proposed development on the surrounding road network, and subject to some minor technical modifications, are satisfied with the recommendations of the study. In response to concerns raised by area residents, staff have also requested that the applicant consider improving the traffic control measures on Scotia Avenue just north of the subject site, where vehicular movements are restricted to one-way southbound only. Some possible improvements have been discussed with the applicant, but a preferred design approach has not yet been confirmed. Staff will continue to pursue this as part of the ongoing review of this application.

The City has recently completed a city-wide review of parking standards in association with the City of Toronto Zoning By-law project, and a visitor parking standard of 0.15 spaces per unit has been recommended by the City's consultant. In Scarborough, typically 0.2 visitor parking spaces per unit have been required. In this case, the visitor

parking supply will be expected to accommodate residential visitors plus commercial customers. Parking standards within the Oakridge Community Zoning by-law would otherwise require 4 parking spaces for the commercial component. It is recommended that a total of 0.2 parking spaces per dwelling unit be allocated for visitors and commercial tenants. This will allow a resident parking space to be allocated to all but 19 of the dwelling units. The applicant has agreed to provide a free TTC Metropasses for a one year period for each unit purchased without a parking space. Overall, staff find the applicant's proposed 95 space parking proposal to be supportable.

The ongoing Kingston Road Transit Environmental Assessment has identified this segment of Danforth Avenue for improved transit services. As a result, the Planning and Growth Management Committee, at its meeting of November 13, 2008, has directed City staff to bring forward an official plan amendment to identify Danforth Avenue from Kingston Road to Victoria Park Avenue and the portion of Victoria Park Avenue between Danforth Avenue and Victoria Park Subway Station as a Surface Transit Priority Segment on Map 5 of the Official Plan. This report can be found at the following link: <http://www.toronto.ca/legdocs/mmis/2008/pg/bgrd/backgroundfile-16559.pdf>.

This would mean that bus or light rail technology transit system may operate in dedicated lanes along this segment of Danforth Avenue, within the existing 27 metre right of way. Public right of way space will be limited as a result, particularly within 60 metres of intersections, such as Danforth and Warden, where a transit stop is planned. This will mean that limited space will be available for amenities such as sidewalks, street lighting and trees. The Environmental Assessment will continue with public input in the upcoming months.

For the proposed development at 3520 Danforth, the ground floor commercial space has been set back from the streetline approximately 1.5 metres (5 feet), and this will serve to augment the constrained pedestrian realm, if the higher order transit facility is implemented in the future.

### **Recreational Amenity Space**

The revised proposal illustrates 237 square metres (2,550 square feet) of indoor amenity space at the ground floor level comprised of a meeting room and a fitness room, adjacent to the lobby of the building. Outdoor amenity space is provided in the form of private balconies for some, but not all units, within building. To address the need for outdoor amenity space for all residents as set out the Official Plan, the applicant has proposed a roof terrace on the north side of the building accessible from the 6<sup>th</sup> floor. A landscape feature is proposed at the edge of the terrace to prevent overlook onto the residential neighbourhood to the north.

Balconies are proposed for all units bordering a public street. However, for the units along the north façade of the proposed building, balconies have been restricted to only the end units facing north on the east and west edge of the building. Specifically for floors 2 through 4 on the east end (Scotia Avenue) of the building, and floors 2 through 6 on the west end (Warden Avenue). In order to mitigate issues of overlook to the existing

detached residential dwellings to the north, balconies are not proposed for the remaining units in the centre of the building between floors 2 through 4. Opaque balcony guards have been requested to further mitigate overlook. Staff are supportive of the proposed balconies, as they have been designed to reduce overlook and meet the outdoor amenity space objectives of the Official Plan.

It should be noted that at the Community Consultation meeting local residents asked that all balconies on the north side be deleted from the plans. The applicant indicated a willingness to delete the balconies if asked to do so by the City. Staff believe that treating these balconies with opaque guards will adequately mitigate the community's privacy concerns, while maintaining an outdoor amenity space for the residents of the units.

### **Density**

The proposed development has a floor space index (f.s.i.) of 4.16. This has been reduced from the originally proposed f.s.i. of 6.23, but still exceeds the maximum f.s.i. set out in By-law 104-2008 of 3.5. Staff are satisfied that the proposed density is appropriate for the site, based on the detailed review of building massing as well as transportation and servicing impacts.

### **Zoning Performance Standards**

As indicated, the proposed development does not meet with all of the performance standards set out in the appealed zoning by-law no. 104-2008. Through the detailed review of the built form and urban design components of the project, staff are supportive of the proposed performance standards contemplated by the development as illustrated in the Site Plan and Elevation drawings, Attachments 1, 2, and 3. A more detailed review of these plans is recommended, and a detailed zoning by-law amendment will be developed for consideration at the OMB.

The zoning standards varying from those resulting from the Danforth Avenue Study will be as follows:

- a reduction in the permissible height to 21 metres from the 23 metres allowed by By-law 104-2008
- a reduction in the required parking to reflect the 95 spaces proposed and ensure an appropriate allocation for the commercial space and visitors
- an increase in the allowable density to 4.16 times the area of the lot from the 3.5 times allowed by By-law 104-2008
- a maximum limit on the amount of restaurant space at 150 m<sup>2</sup>
- a reduction in the minimum building setback for the main wall of the building from Warden Avenue to 1.1 metres from the 1.5 metres required by By-law 104-2008 and further reductions for that portion of the stepped portion of the main wall closest to the Warden Avenue and Danforth Avenue intersection
- replacing the 45 degree angular plane with a suitable regulation reflecting the proposed step backs of floors 5 through 7

- requiring only the uppermost storey to be stepped back from Danforth Avenue, as opposed to the 2 storeys required by By-law 104-2008
- a reduction in the minimum floor to ceiling height of the ground floor to 3.9 metres
- a reduction to the minimum building setback abutting “S” or “T” zones to 6.0 metres
- a reduction to 0 m for the setback of the underground structure from streets, and
- any other matters that arise as a result of the ongoing technical review of the proposal.

It is recommended that the City Solicitor be directed to request that the OMB withhold its order with respect to the zoning by-law amendment until such time as the City and the applicant have executed the necessary site plan control agreement and the City has received the associated financial securities.

### **Site Plan Considerations**

Discussions with the applicant are ongoing to resolve the remaining issues with the application. Staff propose to continue to work with the applicant to finalize the details of a settlement. The OMB should be requested to withhold its order on the Site Plan application to allow the City and the applicant to enter into a Site Plan Control Agreement and address any other pre-conditions of approval identified through the technical review of the revised submission(s). Further technical review of the revised drawings provided by the applicant on January 19, 2009 is also required. The Site Plan Agreement will include matters such as CN Rail’s noise requirements, waste management plan, stormwater management, servicing, loading areas, road widenings, streetscape and landscaping improvements, improved traffic control measures on Scotia Avenue, traffic signal timing optimization and related costs, and any other matters that arise from the detailed technical review of the site plan submission.

The site plan agreement should also address matters related to Construction Management. This will ensure that concerns raised by area residents related to construction impacts are appropriately mitigated and controlled. There are several City By-laws in place to address issues related to construction management. These by-laws include the Noise By-law, which among other matters includes regulations concerning the operation of construction equipment. Vibration from construction activity is regulated by a by-law which includes regulations concerning vibration caused by construction activity, a public communications and complaint protocol, and studies to be completed, as well as pre-construction consultation and monitoring program with property owners and occupants within the zone of influence. The Idling Control By-laws limit vehicle idling to no more than three minutes in a given 60 minute period.

### **Parkland**

The Official Plan contains policies to ensure that Toronto’s system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Toronto Official Plan shows the local parkland provisions across the City. The lands which are the subject of

this application are in an area with 0.00 to 0.42 hectares of local parkland per 1,000 people. The site is in the lowest quintile of current provision of parkland. This site is in a parkland priority area, as per Alternative Parkland Dedication By-law 1420-2007.

The application proposes 95 residential units on a site of 0.2 hectares. At the alternative rate of 0.4 hectares per 300 units specified in By-law 1420-2007, the parkland dedication would be 0.1266 hectares. However, a cap of 10% applies and hence the parkland dedication would be 0.02 hectares (200 square metres).

The applicant is required to satisfy the parkland dedication through a cash-in-lieu payment. Satisfying the parkland requirement through the actual dedication of land is not practical given the small size of the parcel. Also, the proposed development is located adjacent to a City owned park. The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit. This parkland payment is required under Section 42 of the Planning Act, and is required as a condition of the building permit application process.

## **Schools**

The Toronto District School Board has advised that there is insufficient capacity at the local secondary school to accommodate students anticipated from this proposed development and others in the area. This comment was provided in response to the original 126 unit development proposal. The TDSB did not provide comments on the revised 95 unit proposal. The TDSB has requested that the applicant enter into an agreement to erect and maintain signs on the property warning that students may be accommodated in facilities outside the area, and further to include similar warning clauses in all offers of purchase and sale of residential units.

The Toronto Catholic District School Board and the French Language School Boards did not provide comments.

## **Toronto Green Development Standard**

The applicant has completed a Green Development Standard Checklist on a “without prejudice” basis. The application addresses these objectives in various ways including not exceeding the minimum parking requirements of the zoning by-law, shared use of parking among land uses that have different peaking characteristics, providing secure bicycle storage for long term parking, public transit accessibility, adherence to the Bird Friendly Development Guidelines, green roof features, reducing heat island effects by providing a combination of shading and light coloured materials for at least 50% of all hardscape surfaces, stormwater management control measures, and rainwater harvesting.

## **Conclusions**

The Danforth Avenue Study seeks to revitalize and promote investment in this section of Danforth Avenue, and to create a mixed-use, pedestrian friendly, urban environment. The Official Plan promotes intensification of underutilized lands in Mixed Use Areas while locating and massing of new buildings to provide a transition between areas of different development intensity and scale, particularly toward Neighbourhoods. After

Careful consideration of these objectives, this development proposal is considered to be appropriate and is recommended for acceptance as a settlement, subject to ongoing further review as described in the body of the report.

## **CONTACT**

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E-mail: areaney@toronto.ca

## **SIGNATURE**

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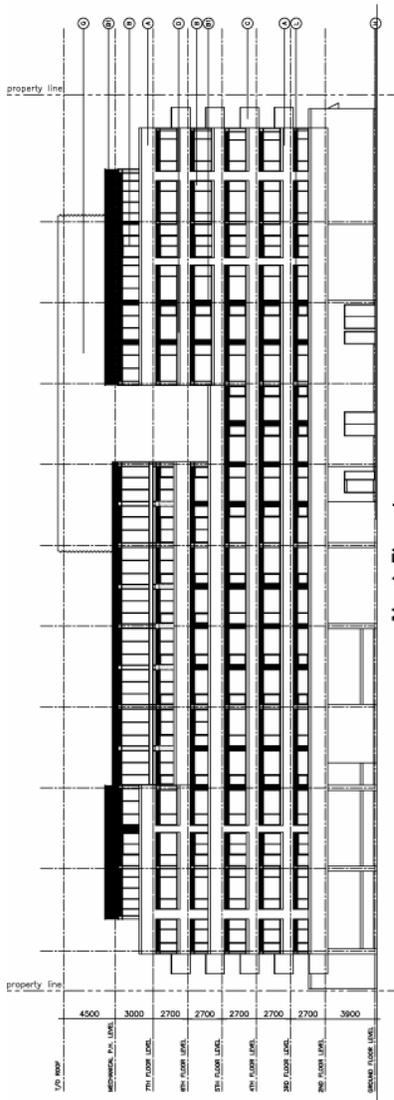
Allen Appleby, Director  
Community Planning, Scarborough District

## **ATTACHMENTS**

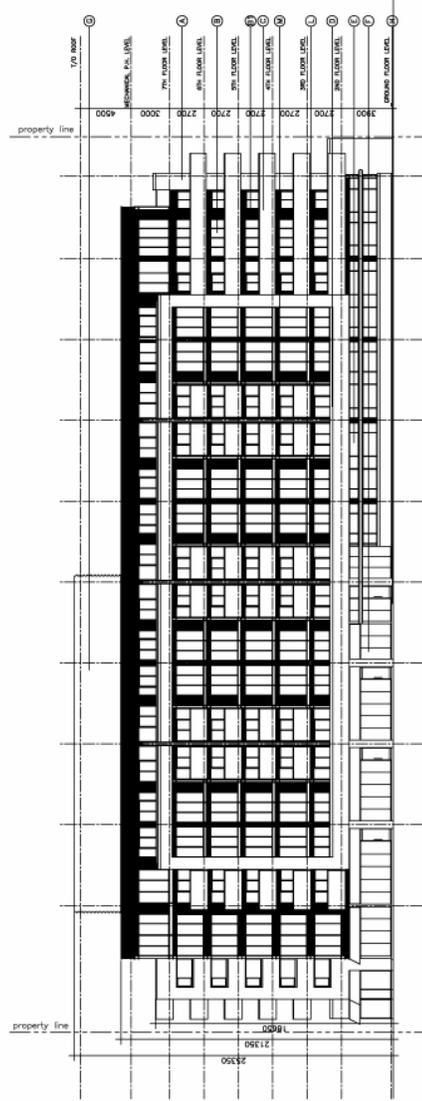
Attachment 1: Site Plan  
Attachment 2: Elevations (North and South)  
Attachment 3: Elevations (East and West)  
Attachment 4: Building Massing  
Attachment 5: Application Data Sheet



## Attachment 2: Elevations (North and South)



North Elevation



South Elevation

### Elevations

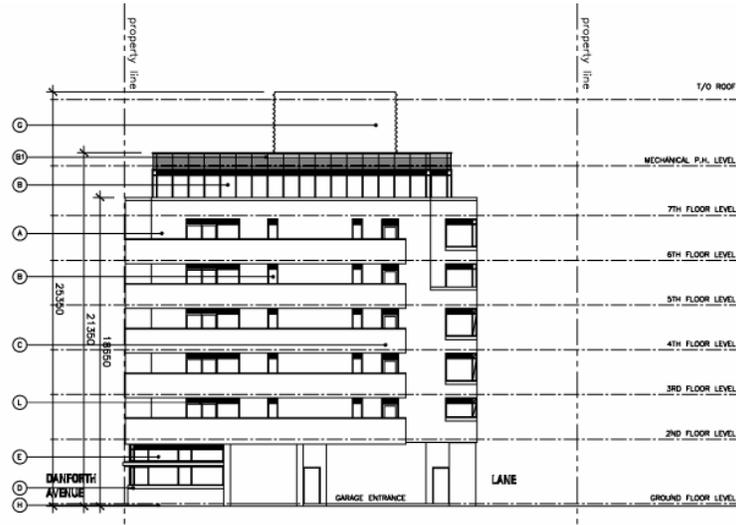
Applicant's Submitted Drawing

Not to Scale  
01/20/09

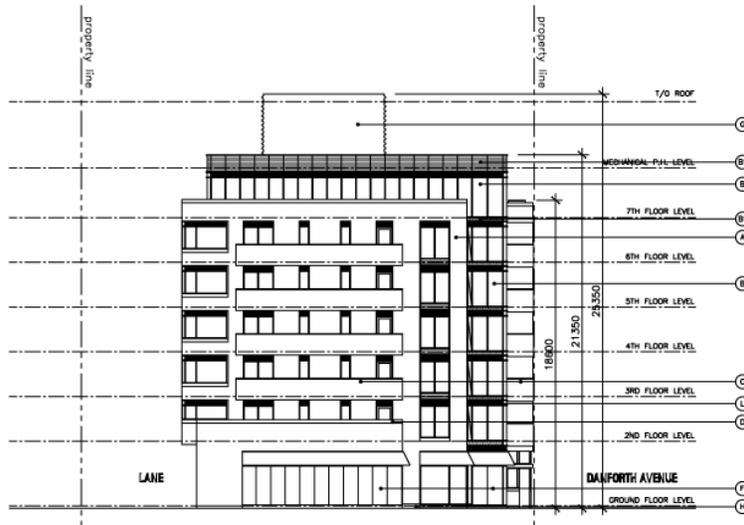
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File # 06-199459 0Z; 06-199460 SA

### Attachment 3: Elevations (East and West)



East Elevation



West Elevation

## Elevations

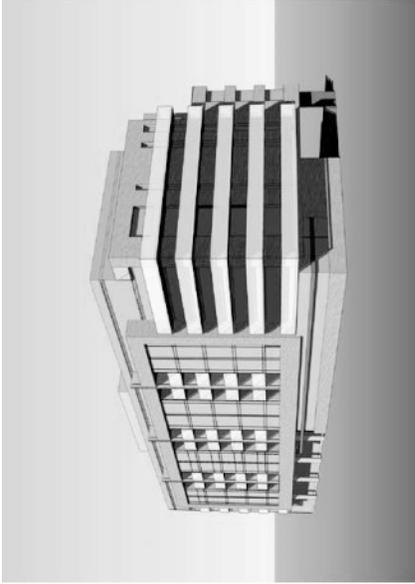
Applicant's Submitted Drawing

Not to Scale  
01/20/09

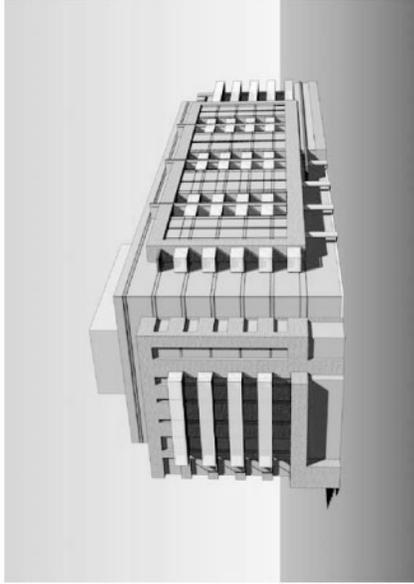
## 3520 Danforth Avenue

File # 06-199459 OZ; 06-199460 SA

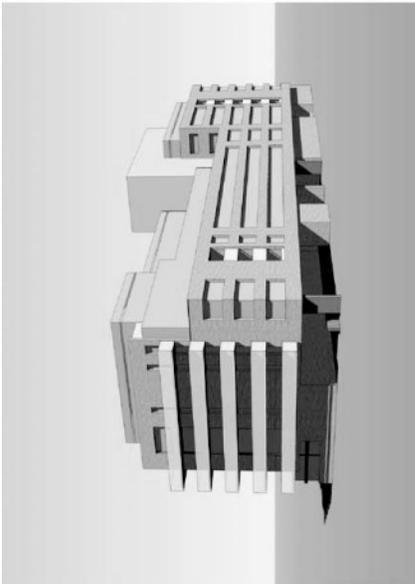
## Attachment 4: Building Massing



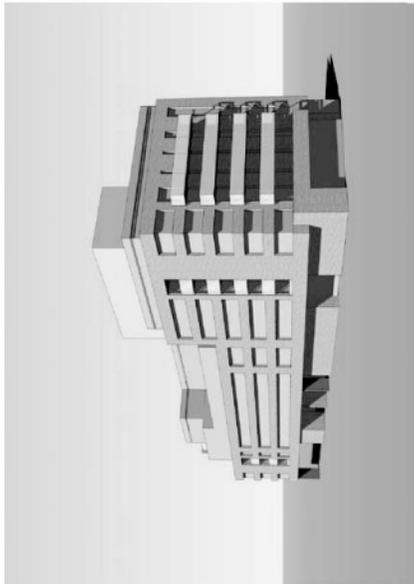
South East View



South West View



North East View



North West View

### Massing

Applicant's Submitted Drawing

Not to Scale  
01/20/09

3520 Danforth Avenue

File # 06-199459 OZ; 06-199460 SA

## Attachment 5: Application Data Sheet

Application Type	Rezoning and Site Plan	Application Number:	06 199459 ESC 35 OZ
Details	Rezoning, Standard	Application Date:	06 199460 ESC 35 SA December 21, 2006

Municipal Address: 3520 DANFORTH AVE

Location Description: PLAN 1808 LOTS 14 & 15, PT LOTS 13, 16, 17 \*\*GRID E3507

Project Description: Revised (Without Prejudice) Submission: The application proposes the development of a mixed use (residential/commercial) building having a total gross floor area of 7,850 sq. m. The commercial component comprises 367 sq. m., and is located on the ground floor of the proposed building. The residential component comprises 7,483 sq. m.. A total of 95 residential units are proposed, and the overall building height is 21 m (7 storeys) plus a 4.5 m mechanical penthouse on the western section of the building. A total of 95 parking spaces are proposed, including 90 residential parking spaces in 2 levels of underground parking, and 5 at-grade spaces.

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
WESTON CONSULTING GROUP	BRATTY & PARTNERS, LLP (BARRY HOROSKO)	STONE McQUIRE VOGT	1579669 ONTARIO INC

### PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	
Zoning:	HC-Highway Commercial	Historical Status:	
Height Limit (m):		Site Plan Control Area:	Y

### PROJECT INFORMATION

Site Area (sq. m):	1976	Height:	Storeys:	7
Frontage (m):	27		Metres:	25.5
Depth (m):	68			
Total Ground Floor Area (sq. m):	0			<b>Total</b>
Total Residential GFA (sq. m):	7483.1		Parking Spaces:	95
Total Non-Residential GFA (sq. m):	367		Loading Docks	1
Total GFA (sq. m):	7850			
Lot Coverage Ratio (%):	0.71			
Floor Space Index:	4.16			

### DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	0
1 Bedroom:	77
2 Bedroom:	17
3 + Bedroom:	1
Total Units:	95

### FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	7483	0
Retail GFA (sq. m):	367	0
Office GFA (sq. m):	0	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	0	0

<b>CONTACT:</b>	<b>PLANNER NAME:</b>	Andrea Reaney, Senior Planner
	<b>TELEPHONE:</b>	(416) 396-7023