

181 Nugget Avenue – Rezoning Application – Refusal Report

Date:	September 23, 2009
To:	Scarborough Community Council
From:	Director, Community Planning, Scarborough District
Wards:	Ward 41 – Scarborough-Rouge River
Reference Number:	08 232406 ESC 41 OZ

SUMMARY

This application was made on or after January 1, 2007 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

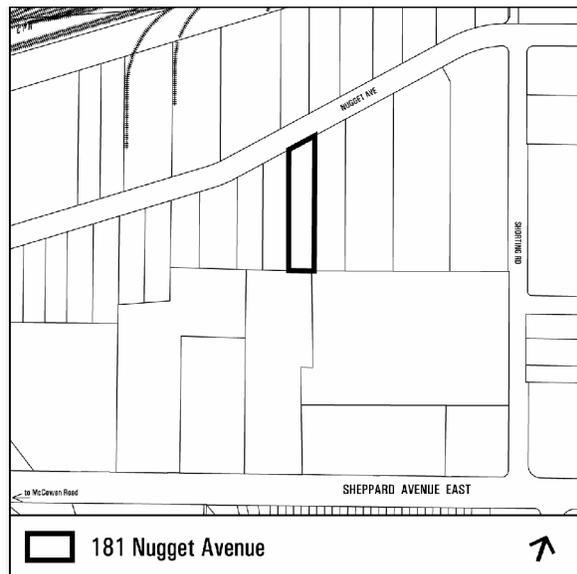
The applicant has filed a zoning by-law amendment application to permit a place of worship in the existing vacant industrial building at 181 Nugget Avenue. The land use proposed does not provide adequate on-site parking, poses health and safety risks, and generates land use compatibility concerns with the existing heavy industrial businesses in the area.

This report reviews and recommends refusal of the application to amend the zoning by-law.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the proposed Zoning By-law Amendment Application for the reasons outlined in this report.



2. Should the zoning by-law amendment application be appealed to the Ontario Municipal Board, the City Solicitor and City staff be authorized to attend the Ontario Municipal Board hearing in support of Council's refusal.

DECISION HISTORY

Pre-Application Consultation

Planning staff met with the applicant for pre-application consultation meetings in the summer and fall of 2008. The applicants informed staff during these consultations that they had already purchased the subject property with the intention to use it as a place of worship. Among other matters, staff advised the applicants that the proposed use was not in compliance with the current zoning permissions on the site. Staff also indicated there were concerns about the location of such a sensitive land use within the interior of an industrial area given the impacts industrial operations might have on the proposed use. In addition, staff advised the applicants of concerns regarding the effect of the proposed use on current and future industrial uses in the area. The applicants were advised that a zoning amendment application would be necessary if they wished to proceed. Complete application submission requirements were identified.

ISSUE BACKGROUND

Proposal

The application contemplates converting an existing vacant industrial building into a place of worship. The applicant proposes to renovate and make minor exterior alterations to the 1,272 m² (13,692 ft²) concrete structure to accommodate the new use. The submitted plans and supporting materials indicate that the place of worship will consist primarily of a worship area, fellowship hall and associated office areas. The applicant proposes to have vehicular traffic flow through the site in primarily a one way orientation with one way drive aisles proposed at the west and east end of the site, respectively. The proposal contemplates the provision of 79 parking spaces (including 6 handicapped spaces) on site, facilitated partly by the construction of a new paved parking area towards the rear of the site. The applicant also proposes the retention of the two existing accesses onto Nugget Avenue. (Refer to Attachment 1)

Site and Surrounding Area

The subject site is approximately 4,682 m² (50,397 ft²) in size, and generally rectangular in shape. The site is currently occupied by a vacant single storey industrial building approximately 1,272 m² (13,692 ft²) in size. The structure was previously used as a warehousing facility. The site is located on Nugget Avenue east of McCowan Road and west of Shorting Road.

North: Industrial Uses along the north side of Nugget Avenue which abut the Canadian Pacific Railway and Marshalling Yard to the rear (north). The lands are zoned Industrial (M) and Special Industrial (MS).

South: Industrial Uses immediately to the south. The lands are zoned Industrial (M).

East: Existing multi-tenanted industrial building adjacent to site. The lands are zoned Industrial (M) and General Industrial (MG).

West: Existing Industrial Uses (manufacturing facility). The lands are zoned Industrial (M) and General Industrial (MG).

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 PPS supports the objective of ensuring that there is adequate employment opportunities for City residents and continued growth of the City's assessment base. It requires that Official Plans, protect and preserve employment lands for current and future uses. The conversion of employment lands to non-employment uses is permitted only after a comprehensive municipal review, which is a review based on population and employment growth projections. It considers alternative directions for growth and identifies opportunities for intensification and redevelopment. The review must show that the lands are not needed for employment uses over the long term and there is a need for conversion to non-employment uses.

On June 16, 2006, the Growth Plan for the Greater Golden Horseshoe came into effect. 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 and to be consistent with the Provincial Policy Statement.

The Growth Plan for the Greater Golden Horseshoe sets out policies for the protection of employment lands to ensure the economic vitality of the Greater Golden Horseshoe. It also clarifies and strengthens the application of the PPS as it applies to Employment lands. Where there is conflict between the PPS and the Growth Plan, the Growth Plan prevails.

Key policies in the plan include:

- Providing for an appropriate mix of employment uses including industrial, commercial and institutional uses

- Providing opportunities for a diversified economic base, including maintaining a range of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses
- Planning for, protecting and preserving employment areas for current and future uses.
- Ensuring the necessary infrastructure is provided to support current and forecasted needs.

Official Plan

The subject lands are identified as ‘Employment Districts’ on Map 2 ‘Urban Structure’ in the Official Plan. Lands within an Employment District should be protected and promoted exclusively for economic activity in order to: attract new and expand existing employment clusters that are key to Toronto’s competitive advantage; develop quality Employment Districts that are globally competitive locations for national and international business and offer a wide choice of sites for new business; nurture Toronto’s economic base; create and sustain well paid stable, safe and fulfilling employment opportunities for all Torontonians.

The subject lands are designated as ‘Employment Areas’ as shown on Map 22 ‘Land Use Plan’. Policy 4.6.2 indicates that within Employment Areas, places of worship, recreation and entertainment facilities, business and trade schools and branches of community colleges or universities may locate only on major streets as shown on Map 3. Nugget Avenue is identified as a major street on Map 3 in the Official Plan.

On May, 6, 2009, the Planning and Growth Management Committee requested that City Planning review certain ‘Employment Areas’ policies, including Policy 4.6.2 which allows places of worship in ‘Employment Areas’ along major streets on Map 3. The review is to assess the impact this use has on the prime economic function of ‘Employment Areas’. This review is currently underway.

Staff have reviewed the proposed development for conformity with the Official Plan designation and to ensure consistency with all applicable Official Plan policies.

Zoning

The General Provisions section of the Employment Districts Zoning By-law 24982, Clause (V) Section 23 contains regulations for ‘Places of Worship in Zones other than the ‘Place of Worship’ Zone’. The provisions identify a number of streets within Employment Districts where the places of worship can locate that are outside the ‘Place of Worship’ zone. Nugget Avenue is not one of these streets.

The Employment Districts Zoning By-law No. 24982 indicates that two zoning categories apply to the subject lands. The northerly end of the site is designated Industrial Zone (M) while the southerly end of the site is designated General Industrial Zone (MG). The Industrial (M) zoning category permits uses such as Day Nurseries, Educational and Training facility uses, industrial uses, offices (excluding medical and dental offices), places of worship and recreational uses. The General industrial Zone (MG) allows the same uses permitted under the Industrial zoning category and adds outdoor storage as a permitted use.

A zoning amendment would be necessary to give the zoning permissions for the proposed place of worship on Nugget Avenue.

Site Plan Control

The subject lands are not currently under site plan control. The site should be designated a site plan control area should Scarborough Community Council approve the application.

Reasons for Application

The two existing zoning categories applying to the subject lands generally allow for places of worship. However, the general provisions section of the Employment Districts Zoning By-law #24982 does not allow places of worship at this location as Nugget Avenue is not an identified street where places of worship are permitted. A site specific zoning by-law amendment would be necessary to permit a place of worship at this location.

Community Consultation

A community consultation meeting was held on June 1, 2009. As directed by the Scarborough Community Council, planning staff gave notice for the community consultation meeting to every landowner and resident within 500 metres of the subject site. City Planning staff, the Ward Councillor and 46 members of the public attended the meeting. The concerns raised during the meeting and in subsequent correspondence related to the adequacy of on site parking for the proposed place of worship, the potential hazards created by increased vehicular traffic in the area and the effect a place of worship would have on limiting business expansion and local business-to-business interaction due to a place of worship being “non-employment”.

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

Official Plan

The subject lands are located within an ‘Employment Districts’ as indicated on Map 2 ‘Urban Structure’ in the Official Plan. The policies indicate that lands that fall within the ‘Employment Districts’ should be protected and promoted exclusively for economic

activity in order to; maintain and grow the City's tax base, attract new and expand existing employment clusters that are key to Toronto's competitive advantage; develop quality 'Employment Districts' that are globally competitive locations for national and international business and offer a wide choice of sites for new business; nurture Toronto's economic base; create and sustain well paid stable, safe and fulfilling employment opportunities for all Torontonians.

This is a vibrant area with significant economic activity. The area contains clusters of a number of different types of industrial businesses. In 2008, there was over 170 establishments and more than 2000 employees along Nugget Avenue between Markham Road and McCowan Road which indicates the area is a healthy economic district. A place of worship is not directly supportive of the primary employment function of the area.

The subject site is also located in an 'Employment Areas' land use designation as illustrated on Map 22 'Land Use Plan'. Policy 4.6.2 indicates that within 'Employment Areas', places of worship, recreation and entertainment facilities, business and trade schools and branches of community colleges or universities may locate only on major streets as shown on Map 3. The Official Plan recognizes that these uses may be accommodated on large sites fronting on major roads with good access only when a site specific planning analysis concludes that the use would be appropriate at that location. The Plan states that places of worship among other uses can adversely affect, or be affected by, businesses there. Places of worship can also draw large numbers of worshippers from broad catchment areas and can have a serious impact on local traffic movement. Special locational limitations are needed for such uses.

Nugget Avenue has been identified as a major street on Map 3 "Right of Way Widths Associated with Existing Major Streets" in the Official Plan, although it is classified as a minor arterial in the hierarchy of roads under the road classification system recently updated by City Council on June 19, 20 & 22, 2007.

The Official Plan provides that places of worship may locate on major streets. Nugget Avenue is a major street in the Official Plan and therefore a place of worship can be considered through a rezoning. A detailed zoning analysis of the appropriateness of the use at this location is found in the following sections.

Land Use Compatibility

As noted in the discussion above respecting the Official Plan places of worship may locate on major streets. Through the rezoning process for this change in use details of the applicant's request have been reviewed.

The subject lands are located within close proximity to a number of existing heavy industrial users such as StefcO Ltd, Automatic Coating Ltd, Simba Powder Coating, Ellesmere Fabricators Ltd, New China Trading Ltd, Foam and Fibre Company Ltd and Vienna Meat Products Ltd. The operations associated with the aforementioned industry include, steel mill works, semi-conductor fabrication, steel powder and liquid coating and

wholesaling of grocery goods. The industrial processes associated with these businesses and others in the area emit dust, noise, and odours and therefore the subject lands are not a suitable location for a place of worship.

Permitting a place of worship in the interior of an active and well established employment area may not only detract from the quality of this existing industrial area but may also discourage other industrial operators from moving into the area. Once lands are lost to economic activity through, for example, conversion to a more sensitive use, i.e. place of worship or other community facilities, it is almost impossible to return them to employment uses.

An existing shared access at the west end of the subject lands is currently used by the adjacent industrial operator and is intended to be utilized for the proposed place of worship. The application submission materials indicate that the membership of the religious group that is the intended user of the subject property includes 90 'youth', 50 of which are children under 12 years of age. The Scarborough Transfer Station (1 Transfer Place), located just east of the site, generates heavy trucking traffic along with the trucking associated with the industrial operations along Nugget Avenue based on site visits. The shared access poses concerns related to potential on site conflicts in view of the existing truck circulation and movement patterns associated with the adjacent site (171 Nugget Avenue). The adult and child pedestrians that will be drawn into the area by the proposed use raises concerns related to possible pedestrian and truck traffic conflicts.

The Ministry of Environment Land Use Planning Policy guidelines are to be applied in the land use planning process to prevent or minimize future land use problems due to the encroachment of sensitive land uses on industrial uses. Guideline D-1 (formerly policy 07-03) 'Land Use Compatibility Guidelines', and Guideline D-6, and 'Noise Assessment Criteria in Land Use Planning Publication' LU-131 were considered in the review of this application. A place of worship is considered a 'sensitive land use' in the guidelines. The D1 and D6 guidelines indicate that industrial land uses and sensitive land uses are normally incompatible due to possible adverse effects on sensitive land uses created by industrial operations in close proximity. The guidelines indicate that a sensitive land use should not be permitted unless impacts from industrial activities can be mitigated to the level of trivial impact (i.e no adverse effects). The guidelines indicate that among other matters an adverse effect is the impairment of the quality of the natural environment for any use that can be made of it, the impairment of the safety of any person, the loss of enjoyment of normal use of the property and the interference with the normal conduct of business. The nature of the existing industry and the proposed land use could create circumstances where adverse effects are experienced requiring mitigation to acceptable levels based on Ministry standards. As such the introduction of this sensitive land use should not be supported.

Existing Zoning by-law and Draft New Zoning By-law

The existing zoning for the lands to the north of Nugget Avenue allow the most noxious of industrial uses permitted under the Employment Districts Zoning By-law 24982. The

(MS) Special Industrial Use zoning category permits all the uses permitted under the MG General Industrial Zone and also adds chemical manufacturing, processing or warehousing and metal, mineral or ore smelting. The typical noxious characteristics associated with the uses permitted under the current surrounding zoning categories (noise, dust and odour) create future land use incompatibility concerns. The Sunrise Propane incident in August 2008 highlights the continued need for land use planning to consider the impacts of various industrial operations on sensitive land uses.

The draft new city wide zoning by-law is complete, has been posted on the City's website and the public consultation is currently underway. In the new by-law 'Places of worship' are not listed as a permitted use in residential zones and employment zones. The heaviest industrial zoning category permitted in the city, (Employment-Heavy Industrial, EH), applies to lots directly across the street from the subject site in the by-law. The new by-law also contains new provisions requiring separation distances for industrial uses that involve the storage or use of certain chemicals from sensitive land uses. The presence of a place of worship at this location could result in prospective industrial business requiring the use of chemicals not being permitted in the area due to the failure to meet separation distance requirements under the new by-law. The new zoning by-law recognizes the hazards/dangers posed by the interface of places of worship and industry and addresses this through physical separation. A place of worship at this location would be too close to existing and future industry given the direction of the new draft zoning by-law.

Traffic Impact, Access, Parking

The proposed use at this location creates concerns related to potential conflicts between existing truck traffic on Nugget Avenue and future vehicular and pedestrian traffic associated with a place of worship.

As discussed previously, the proposed place of worship would share an access at the west end of the site with an industrial use resulting in potential conflicts on site.

With respect to parking, the applicant submitted a site plan which indicates that 79 parking spaces can be accommodated on site. Based on site statistics provided, the proposal requires 98 parking spaces to be provided on site applying the required rate of parking for places of worship in the current zoning by-law. The proposal has a current parking shortfall of 19 spaces. The site plan identifies 13 parking spaces on the adjacent property (Highland Feather Manufacturing Inc.) as part of the required parking. In addition, compliance with the required fire access route would result in a further reduction of the on-site parking supply.

The new draft zoning by-law contains new parking provisions for places of worship. Based on the submitted plans it appears the proposed use would require more than 125 parking spaces under the new draft zoning by-law.

Based on submitted plans it appears that there is insufficient space on the subject lands to accommodate required parking given the requirements of the Design Guidelines for 'greening' surface parking.

Economic Impact

The Economic Development, Culture & Tourism Division, Business Retention & Expansion section opposes the requested Zoning By-law amendment. They cite a number of reasons for opposition to the proposal including the need to retain lands within employment districts for potential economic activity. Business Retention & Expansion also commented that there exists potential for land use conflicts to create complaints and non-compliance for employers with government regulations thus reducing the economic health of the area and impacting expansions and reinvestment in the area.

CONTACT

Jeffery Sinclair, Assistant Planner
Tel. No. 416-396-7685
Fax No. 416-396-4265
E-mail: jsincla@toronto.ca

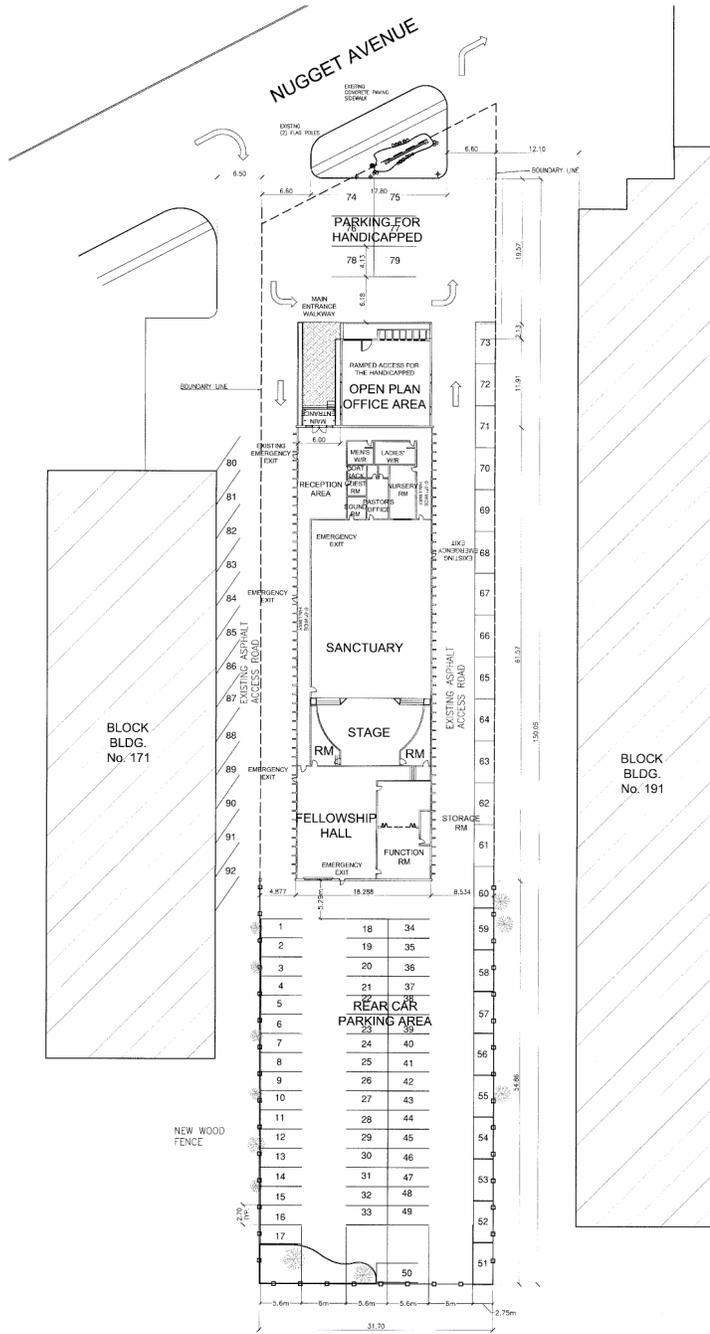
SIGNATURE

Allen Appleby, Director
Community Planning, Scarborough District

ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: Elevations (a), (b), (c)
Attachment 3: Zoning
Attachment 4: Application Data Sheet

Attachment 1: Site Plan



Site Plan

Applicant's Submitted Drawing

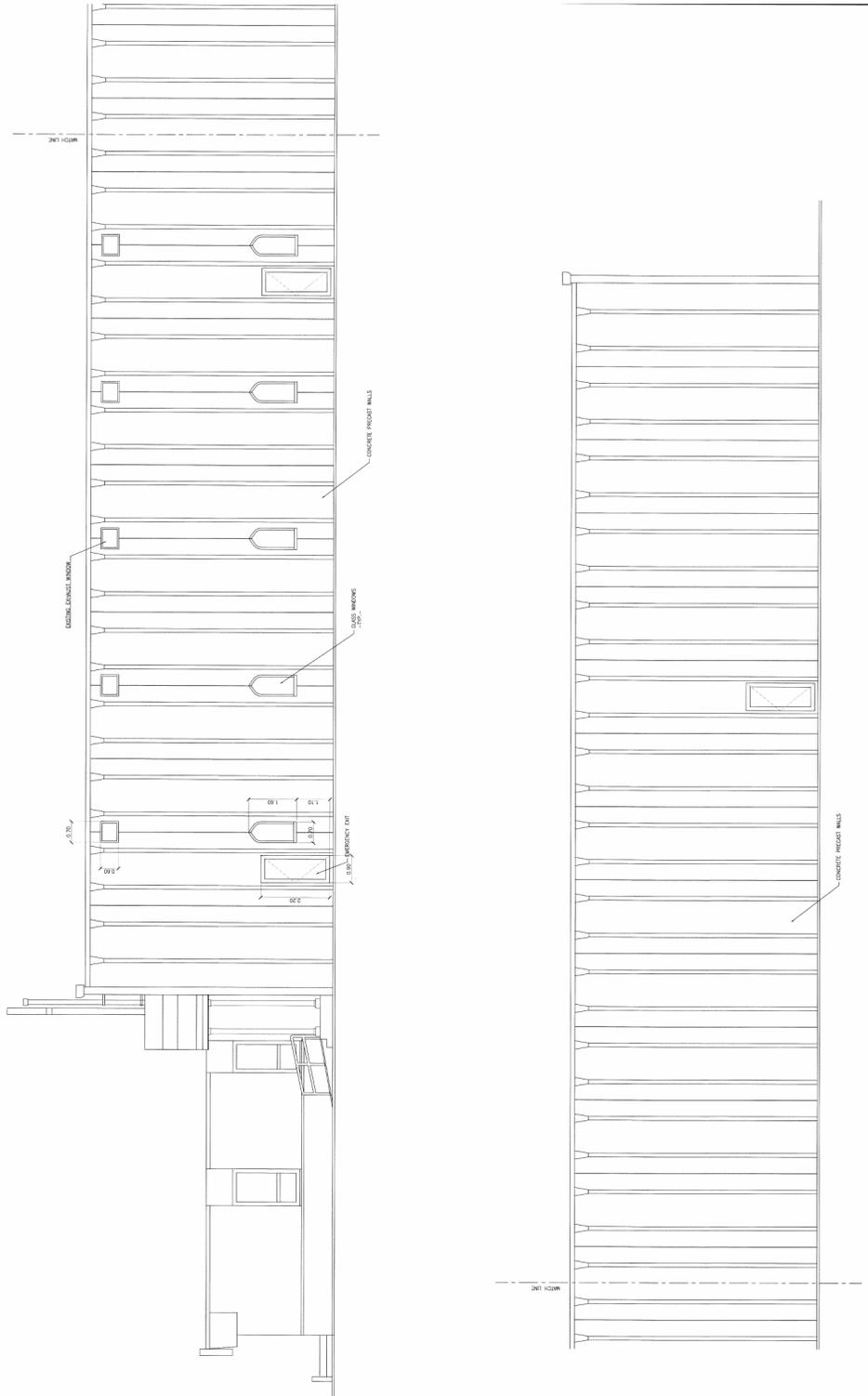
Not to Scale
03/23/09



181 Nugget Avenue

File # 08-232406 OZ

Attachment 2: Elevations



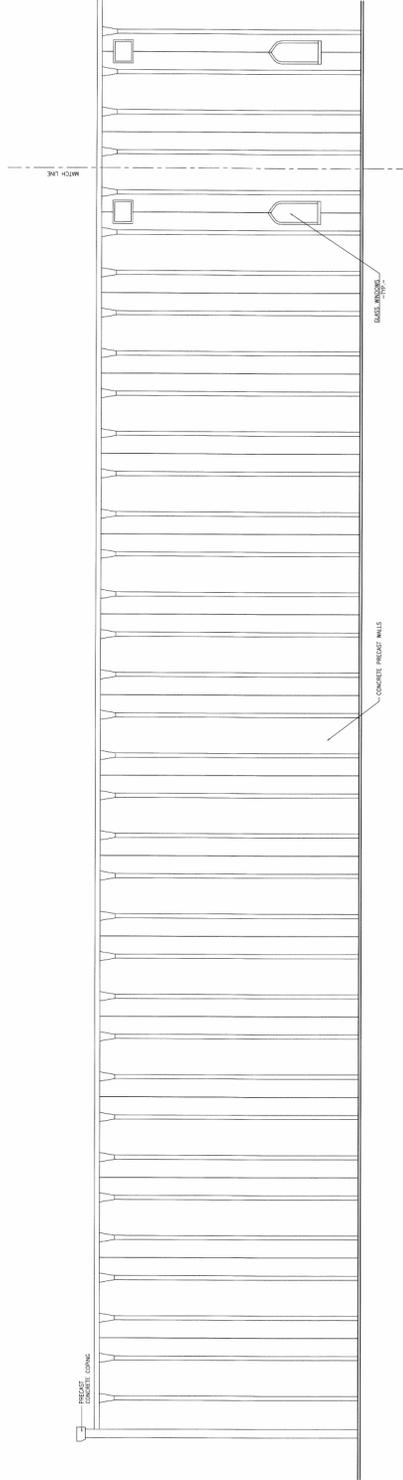
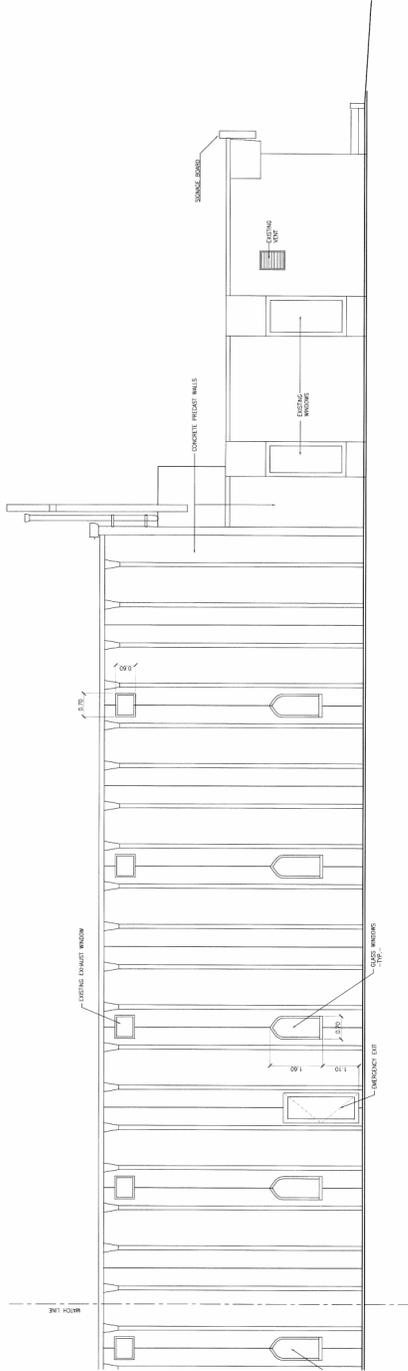
181 Nugget Avenue

Elevation - West
Applicant's Submitted Drawing

Not to Scale
03/23/09

File # 08-232406 0Z

Elevations (b)



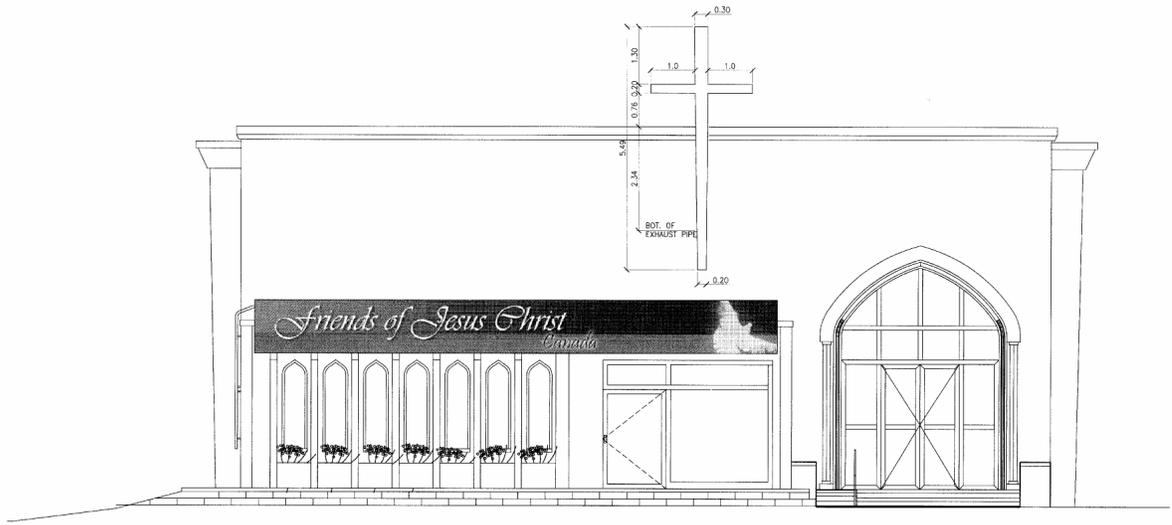
181 Nugget Avenue

Elevation - East
 Applicant's Submitted Drawing

Not to Scale
 03/23/09

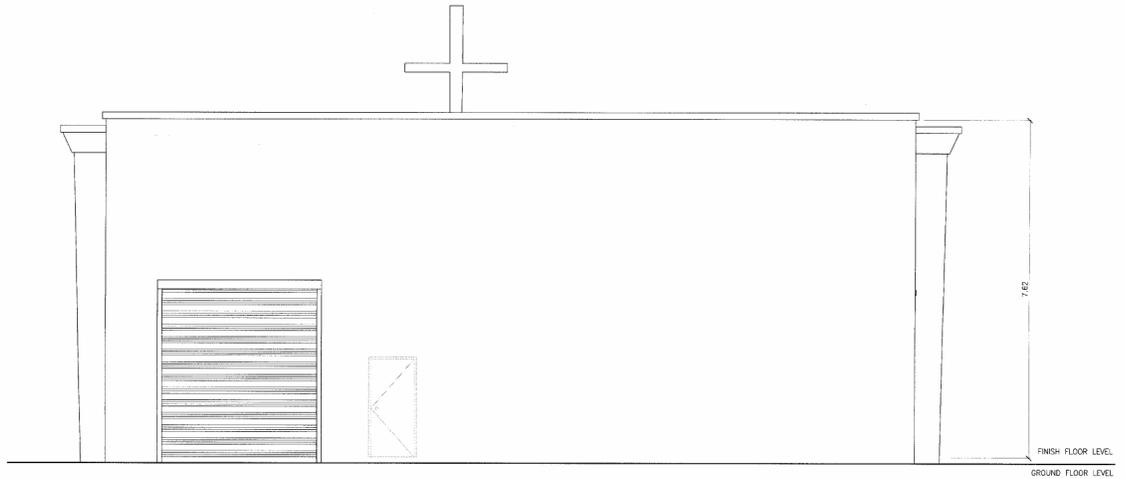
File # 08-232406 0Z

Elevations (c)



NORTH SIDE ELEVATION

SCALE: 1:50



SOUTH SIDE ELEVATION

SCALE: 1:50

Elevations - North and South

181 Nugget Avenue

Applicant's Submitted Drawing

Not to Scale
03/23/09



File # 08-232406 0Z

Attachment 4: Application Data Sheet

Application Type	Rezoning	Application Number:	08 232406 ESC 41 OZ
Details	Rezoning, Standard	Application Date:	December 31, 2008

Municipal Address: 181 NUGGET AVENUE

Location Description: PL M1415 PT BLK B RP 66R6524 PT 1 RESOLUTION 25% SEPARATE **GRID E4107

Project Description: The applicant proposes to convert an existing single storey industrial building on a 4682 m2 lot into a 1272m2 Place of worship. The site is in an 'Employment Areas' designation in the Official plan and is currently zoned M & MG(Industrial, General Industrial). Two existing accesses to the site are proposed to be retained. The proposal contemplates providing 79 parking spaces.

Applicant:	Agent:	Architect:	Owner:
TECK UY			Friends of Jesus Christ, Canada

PLANNING CONTROLS

Official Plan Designation:	Employment Areas	Site Specific Provision:
Zoning:	M & MG	Historical Status:
Height Limit (m):		Site Plan Control Area: No

PROJECT INFORMATION

Site Area (sq. m):	4682	Height:	Storeys:	1
Frontage (m):	0		Metres:	7.6
Depth (m):	0			
Total Ground Floor Area (sq. m):	1272.34			Total
Total Residential GFA (sq. m):	0		Parking Spaces:	79
Total Non-Residential GFA (sq. m):	1272.34		Loading Docks	0
Total GFA (sq. m):	1272.34			
Lot Coverage Ratio (%):	27.2			
Floor Space Index:	0.27			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

			Above Grade	Below Grade
Tenure Type:				
Rooms:	0	Residential GFA (sq. m):	0	0
Bachelor:	0	Retail GFA (sq. m):	0	0
1 Bedroom:	0	Office GFA (sq. m):		0
2 Bedroom:	0	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	1272.34	0
Total Units:	0			

CONTACT:	PLANNER NAME:	Jeffery Sinclair, Assistant Planner
	TELEPHONE:	416-396-7685