

**2 O'Connor Drive, 2, 6, and 12 Fernwood Gardens –  
Official Plan Amendment & Rezoning Applications and  
Demolition under Municipal Code Chapter 667 - Refusal  
Report**

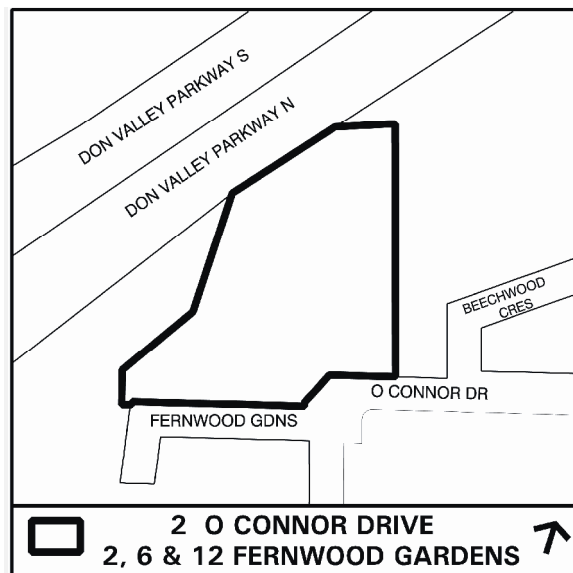
<b>Date:</b>	October 23, 2009
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 29 – Toronto-Danforth
<b>Reference Number:</b>	08 232246 STE 29 OZ

**SUMMARY**

These applications were made on or after January 1, 2007 and are subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

These applications propose to develop the site at 2 O'Connor Drive, 2, 6, and 12 Fernwood Gardens with a 4-storey, 65-unit, private residential-care and assisted living facility. The Taylor House, also known as “Fernwood”, located at 2 O’Connor Drive, will be preserved and incorporated into the development proposal. All other buildings on the site will be demolished, including three buildings containing 36 residential rental units that are not proposed to be replaced.

A Rental Housing Demolition and Conversion application under Section 111 of the *City of Toronto Act* (Chapter 667 of the Municipal Code) has been made and is reviewed concurrently with the Official Plan and Zoning By-law Amendment applications.



This report reviews and recommends refusal of the applications to amend the Official Plan, Zoning By-law and Site Plan Control, as well as the application for demolition of residential rental units under Municipal Code 667 for the reasons outlined in the Staff Report.

## **RECOMMENDATIONS**

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

1. City Council refuse the proposed Official Plan Amendment, Zoning By-law Amendment, and Site Plan Control applications;
2. City Council refuse the Rental Housing Demolition and Conversion application under Section 111 of the *City of Toronto Act* (Chapter 667 of the Municipal Code);
3. In the case that the applications are appealed to the Ontario Municipal Board, the City Solicitor and City staff be authorized to appear before the Ontario Municipal Board in support of City Council's refusal; and
4. In the case that the applications are appealed to the Ontario Municipal Board, the Chief Planner and Executive Director be requested to hold an information meeting in the community, notifying owners within 120 metres of the site, the tenants at 2, 6, and 12 Fernwood Gardens, and the Ward Councillor.

### **Financial Impact**

The recommendations in this report have no financial impact.

## **ISSUE BACKGROUND**

### **Proposal**

The applicant proposes to develop the site at 2 O'Connor Drive, 2, 6, and 12 Fernwood Gardens with a 4-storey, 65-unit, private residential-care and assisted living facility. Accessory uses such as a chapel, administrative offices, one residential suite, three guest suites, and multipurpose rooms are also proposed. The Sisters of St. Joseph currently hold a private hospital licence for 35 private hospital beds, which forms part of this application. The private hospital license will be transferred from the Morrow Park property at 3377 Bayview Avenue to the 2 O'Connor Drive development.

The Taylor House, also known as "Fernwood", will be preserved and integrated into the development proposal. The Taylor House ("Fernwood") is listed in the City of Toronto's *Inventory of Heritage Properties*. With the exception of the Taylor House ("Fernwood"), all other buildings on the site are to be demolished. The applicant has not proposed to replace the 36 residential rental units that are contained within three, 2½-storey walk-up apartment buildings.

The applicant proposes to construct an “S”-shaped, 4-storey building on the site. The buildings curvilinear form relates to the ravine edge at the north end of the site. The development would have an overall gross floor area of 7,128m<sup>2</sup>. The site has an overall site area of 17,479 m<sup>2</sup>, of which, approximately 8,075m<sup>2</sup> is below top-of-bank. The City’s Official Plan policies state that area below the top-of-bank may not be used to calculate permissible density or to satisfy parkland dedication requirements. Based on the Official Plan policies, the site area for this project is 9,404m<sup>2</sup>, resulting in a proposed density of 0.76 times the lot area. The application seeks to provide 45 parking spaces, both above and below grade, and one loading space at the western edge of the site. The overall height of the proposed building would be 18.4 metres (see Attachments 1-4).

### **Site and Surrounding Area**

The subject site consists of four properties: 2 O’Connor Drive, 2, 6, and 12 Fernwood Gardens. The overall site is a consolidation of an existing institutional site that fronts on to O’Connor Drive and 3 apartment properties fronting on Fernwood Gardens.

The subject site currently contains a 2-storey seniors care facility with a gross floor area of 4,408m<sup>2</sup>, and three, 2 ½ –storey walk-up apartment buildings, each containing 12 rental units. The site is bound by O’Connor Drive and Fernwood Gardens to the south, the Don Valley Parkway to the north and west, and low density residential to the east.

Development in the vicinity of the subject site consists of the following:

North: The northern portion of the site is steeply sloped ravine land, which forms part of the Don Valley Corridor. Immediately north of the site is the Don Valley Parkway.

West: Immediately west of the site is the Don Valley Corridor and the Don Valley Parkway.

East: Immediately east of the site is low density residential development, in the form of single detached dwelling units.

South: The area immediately south of the south consists of low-rise rental apartment buildings on Fernwood Gardens.

### **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.

Section 1 of the PPS calls for the wise management of change and support for strong, liveable and healthy communities. Section 1.4.3 requires that planning authorities provide for an appropriate range of housing types and densities to meet projected requirements of current and future residents, by establishing targets for the provision of housing affordable to low and moderate-income households and permitting and facilitating all forms of housing.

Where demolition of rental housing is proposed, among other matters, Section 2(h) of the *Planning Act* addresses the orderly development of safe and healthy communities, and Section 2(j) focuses on the adequate provision of a full range of housing.

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.

Section 3.1 of the Growth Plan states that "In the case of housing, there is an underlying societal need for affordable housing in many municipalities that is heightened by growth pressures."

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**

### **Land Use Designation**

The City of Toronto Official Plan designates the subject site "*Neighbourhoods*". "*Neighbourhoods*" are considered physically stable areas made up of residential uses in lower scale buildings such as detached houses, semi-detached houses, duplexes, triplexes and townhouses, as well as interspersed walk-up apartments that are no higher than 4-storeys.

Parks, low scale local institutions, home occupations, cultural and recreational facilities and small-scale retail, service and office uses are also provided for in "*Neighbourhoods*". The Plan identifies "*Neighbourhoods*" as established areas that are physically stable, in which development will respect and reinforce the existing physical character of the neighbourhood. Particular aspects of physical character are identified including: patterns of streets, blocks and lanes; lot size; heights, massing, scale and dwelling type of nearby residential properties; prevailing building types, or predominant forms of development in the neighbourhood; and, prevailing patterns of rear and side yard setbacks and landscaped open space.

In addition, Policy 4.1.7 of the Official Plan states the proposals for intensification of land on major streets in "*Neighbourhoods*" are not encouraged by the policies of the Plan. Broadview Avenue and O'Connor Drive are identified major streets on Map 3 of the

Official Plan. Where a more intense form of residential development than that permitted by existing zoning on a major street in a “*Neighbourhood*” is proposed, the application will be reviewed in accordance with the development criteria policies contained in Section 4.1.5 of the Plan, having regard to both the form of development along the street and its relationship to adjacent development in the “*Neighbourhood*”.

### **Housing**

The Official Plan provides for a full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods. The City has well-established practices set out for the protection of rental housing in the case of redevelopment. Policy 3.2.1.6 provides that applicants proposing to demolish 6 or more residential rental units, except where all rents are above mid-range, are required to replace the rental units with the same number, size and type of rental housing units and maintain them with similar rents as are existing on the site. Tenant assistance, including the right to return to replacement units, is also required. If the rental units are not replaced, the policy states that such applications that result in the loss of six or more units will not be approved.

The exception is if, in Council’s opinion, the supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents. The factors to be considered for a healthy rental market include whether there have been significant net gains in the supply of rental housing, if the overall rental apartment vacancy rate for the City has been at or above 3 percent for the preceding four consecutive years, and if the proposal may negatively affect the supply or availability of rental units, affordable units or units suitable for families, either in the City, or in a neighbourhood of the City.

In addition, at its meeting of August 5 and 6, 2009, City Council approved the recommendations for its 10-year Affordable Housing Action Plan, including recommendation 30, which deals with the preservation of existing affordable rental housing. Recommendation 30 (b) reads “... consistently applying the Official Plan housing policies and the City of Toronto conversion/demolition by-law to prevent the loss of rental housing when property owners apply for City approvals”.

### **Heritage**

Section 3.1.5 of the Official plan speaks to Heritage Resources within the City of Toronto. The Plan states that heritage resources on properties listed on the City’s *Inventory of Heritage Properties* will be conserved. Development adjacent to properties on the City’s *Inventory of Heritage Properties* will respect the scale, character, and form of the heritage buildings and landscapes.

### **Natural Heritage**

Section 3.4 of the Plan contains policies related to the Natural Environment. The Plan identifies that a careful assessment of impacts of new developments in areas near the natural heritage system is required. The plan identifies that the City’s natural environment should not be compromised by growth, insensitivity to the needs of the environment or neglect. Proposals for development will be required to assess their

impact on the natural environment by restoring, enhancing and extending the natural heritage system, natural features and their functions.

## **Zoning**

A general exemption in Section 12 of the former Borough of East York Zoning By-law 6752, as amended, permits the erection of a “Bed Care Unit” addition not exceeding 2-storeys in height above grade, nor 1,960 m<sup>2</sup> of gross floor area, at the Ina Grafton Gage Home located at 2 O’Connor Drive. The addition is not permitted to be located closer than 6 metres to any lot line, and is required to provide 25 off-street parking spaces which are setback 7.6 metres from any lot line.

The apartment buildings and 2, 6, and 12 Fernwood Gardens pre-date the East York Zoning By-law, and as such, are legal non-conforming uses. These properties are zoned R1C in the former Borough of East York Zoning By-law 6752, as amended. The R1C zone category permits single detached dwellings with a maximum height of 8.5 metres, a minimum lot frontage of 6.0 metres, and a maximum lot coverage of 35%.

## **Site Plan Control**

The development is subject to a Site Plan Control Application. An application for Site Plan Control has been reviewed concurrently with the Official Plan and Zoning By-law Amendment Applications.

## **Ravine and Natural Feature Protection**

The subject site is in an area subject to Ravine and Natural Feature Protection By-law. In addition, this site is also partially located within the area regulated by the Toronto and Region Conservation Authority under Regulation 166/06.

## **Tree Preservation**

The application seeks to remove a number of trees as part of their development proposal. An Arborist Report/Tree Preservation has been reviewed by various City departments.

## **City of Toronto Act, Section 111: Rental Housing Demolition and Conversion**

Section 111 of the *City of Toronto Act, 2006* authorizes Council to regulate the demolition and conversion of residential rental properties in the City. By-law No. 885-2007 (also known as the Rental Housing Demolition and Conversion By-law), which established Chapter 667 of the Municipal Code, was enacted by City Council on July 19, 2007.

The By-law makes it an offence to demolish the whole or any part of a residential rental property where there are six or more dwelling units, unless approval has been granted for a Section 111 permit for the demolition. In addition, approval of related planning applications, such as a rezoning, should be conditional upon the applicant receiving a Section 111 permit. City Council may impose conditions on the approval of the Section

111 permit, which typically involve the replacement of rental housing and assistance to any tenants affected by the proposed demolition. The conditions are based on the Official Plan policies and established practices the City has in place when considering rental housing demolition. City Council's decisions on the refusal or approval of a Section 111 permit are not subject to appeal to the Ontario Municipal Board.

If the demolition of rental housing is approved under Municipal Code 667, approval to issue a demolition permit for residential buildings under Municipal Code 363 and section 33 of the *Planning Act* is also required.

### **Reasons for Applications**

An Official Plan Amendment is required if the rental housing units are not being replaced according to the rental housing policy within the Plan. In addition, an Amendment is required to permit the proposed setback from the top-of-bank, to permit the building typology proposed, to alter the existing physical character of the "*Neighbourhood*", and the non-conformance with the development criteria contained within Section 4.1.5 of the Plan.

A Zoning By-law Amendment is required to allow the use, height, scale and intensity of development proposed as part of this development application.

An application under Municipal Code Chapter 667 is required in order to obtain a permit to allow the demolition of the rental housing. City Council usually considers an application under Municipal Code Chapter 667 at the same time it considers any related application for the developments, such as for amendments to the Official Plan and Zoning By-law.

### **Community Consultation**

A Community Consultation Meeting was held on March 26, 2009 at the East York Community Centre. Approximately 15 members of the public were in attendance at this meeting.

Issues discussed at the meeting included:

- The provision and location of parking;
- The location of loading, garbage and service areas;
- Whether sufficient (sewer) capacity exists to service the proposal;
- The preservation of the heritage building (Taylor House "Fernwood");
- The demolition and replacement of rental dwellings at 2, 6, and 12 Fernwood Gardens;
- Setbacks, erosion control measures, and restoration of lands adjacent to the top-of-bank;

- Public access to the valley lands;
- An explanation of the planning process; and
- The anticipated timing of demolition and construction.

### **Tenant Consultation Meeting**

City Planning staff hosted a meeting on Thursday March 26, 2009 for tenants living at 2, 6, and 12 Fernwood Gardens. Planning staff described the City's policies and practices when considering applications that involve the demolition of rental housing.

Staff advised the tenants that the redevelopment and demolition, if approved, was not imminent given the planning process still to be completed. If approval was to be recommended, staff explained that it is the City's policy to require a Tenant Relocation and Assistance Plan as a condition of approval, including extended notice before having to vacate for demolition and financial assistance that exceeds the requirements of provincial legislation. The right to return to replacement rental housing is an important part of the relocation provisions. Tenants in attendance noted that some had lived in the buildings for many years, some for several decades, and that all of the apartments were small and had generally affordable rents. Tenants were generally concerned about finding other accommodation they could afford, and liked their neighbourhood, especially being on a small, quiet street with other small, low-rise rental buildings like theirs.

### **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**

### **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.

Section 4.5 of the Provincial Policy Statement states that the official plan is the most important vehicle for implementation of the PPS. Municipal official plans are required to identify provincial interests and set out appropriate land use designations and policies. The Provincial Policy Statement also requires that municipal official plans provide clear, reasonable and attainable policies to protect provincial interests and direct development to suitable areas.



The assessment of the housing issues involved in this application is informed by several sections of the PPS. Section 1 calls for the wise management of change and support for strong, liveable and healthy communities. Section 1.4.3 requires that planning authorities provide for an appropriate range of housing types and densities to meet projected requirements of current and future residents, by establishing targets for the provision of housing affordable to low and moderate-income households, and permitting and facilitating all forms of housing. The PPS also establishes a definition of affordable rental housing, with which the City's Official Plan definition is consistent.

The proposal is not consistent with the Provincial Policy Statement (PPS) and the Growth Plan for the Greater Golden Horseshoe. The demolition of 2, 6, and 12 Fernwood Gardens without replacement will cause a further decline of 36 affordable rental units, some of which have housed longer-term tenants who are seniors. An essential part of the City's affordable housing strategy is to maintain and replenish the existing private rental housing supply, recognizing that most of the City's affordable rental units are in the private rental sector. Development that is at the expense of affordable rental housing, causing the displacement of both the tenants and much needed rental housing from the community does not represent good planning, and represents a limitation of the full range of housing needed in the City.

The proposal does not meet the requirements for orderly development, wise management of change, the need for affordable and rental housing, nor the need for healthy and liveable communities to meet the needs of current and future residents, and as such, is not consistent with the Provincial Policy Statement (PPS) and the Growth Plan for the Greater Golden Horseshoe.

## **Land Use**

The subject site is designated "*Neighbourhoods*" in the Official Plan. "*Neighbourhoods*" are considered physically stable areas and are not areas where significant growth is anticipated. Development in established "*Neighbourhoods*" is required to respect and reinforce the existing physical character of the neighbourhood, including, but not limited to, size and configuration of lots; heights, massing, scale and dwelling type of nearby residential properties; prevailing building types; setbacks of buildings from streets; and the conservation of heritage buildings, structures, and landscapes.

The Healthy Neighbourhood policies within the Official Plan identify that some physical change will occur over time in neighbourhoods as enhancements, additions and infill housing on individual sites. A cornerstone policy in the Plan is to ensure that new development in neighbourhoods respects the existing physical character of the area, reinforcing the stability of the neighbourhood. Policy 1, under Section 2.3.1 states that "*Neighbourhoods*" are considered physically stable areas. Development within "*Neighbourhoods*" will be consistent with this objective, and will respect and reinforce the existing physical character of buildings, streetscapes, and open space patterns in these areas.

The Official Plan policies contained within Section 4.1 speak to the “*Neighbourhoods*” and how development within this designation is anticipated to occur. The development criteria policies within Section 4.1 direct how development is to fit into the “*Neighbourhoods*”, in particular when it is located in a stable residential area. Policy 5 identifies that development in “*Neighbourhoods*” is to respect and reinforce the existing physical character of the neighbourhood, and identifies that no changes would be made through any public action that is out of keeping with the physical character of the neighbourhood. In addition, Policy 5 identifies that prevailing building type is to be considered the predominant form of development in the neighbourhood.

The Official Plan identifies that prevailing building type as the residential uses permitted in the Zoning By-law which are intended to establish the benchmark for what is to be permitted in the future. In this case, the apartment buildings on Fernwood Gardens are legal non-conforming uses, as the current zoning for these buildings only permits single detached dwellings. Policy 4 within Section 4.1 identifies that apartment buildings legally constructed prior to the approval date of the plan are permitted in “*Neighbourhoods*”.

The 2 O’Connor Drive site is larger than many sites in the immediate neighbourhood, but large sites are not unusual along a ravine. The site contains an institutional use and this use is vacating the site. The 2, 6 and 12 Fernwood Garden properties are on the table land and relate directly to the other apartment properties that make up all of Fernwood Gardens (see Attachment 5).

The existing neighbourhood context consists of low-density residential uses in a variety of building typologies, ranging from single detached dwellings to small walk-up apartment buildings and includes the 2-storey care facility at 2 O’Connor Drive which is behind the walk-up apartment buildings. The southern boundary of the site is located on Fernwood Gardens, which is a small residential cul-de-sac that is comprised primarily of 2½-storey walk-up apartment buildings. Archival records indicate that the apartment buildings were built in the 1950’s as part of a planned development for the area. The proposed development addresses the ravine and provides a visual connection to the ravine from the new building, but in doing so, the proposal modifies the existing physical character of the neighbourhood by eliminating the prominent building type and character of Fernwood Gardens.

Given the planned context noted, and the role of the site in the low-density residential neighbourhood, the application has been assessed for compatibility with, and impacts on, the adjacent low-density neighbourhood. Staff have concerns with the proposal’s possible impact on the stability of the neighbourhood. The current configuration of the care facility locates the western portion of the building behind the walk-up apartment buildings at 2, 6 and 12 Fernwood Gardens. This reinforces the physical character of the street. The proposed consolidation of three large lots and the removal of the apartment buildings from the existing neighbourhood context is not consistent with the Official Plan policies.

Section 4.1.9 of the “*Neighbourhoods*” policies outlines what is required in order to consider infill development on properties that vary from the local pattern in terms of size, configuration and/or orientation in established “*Neighbourhoods*”. Staff did not evaluate this application under these policies. The development site includes the north side of Fernwood Avenue. This is a consolidation of lots within the neighbourhood and counter to the “*Neighbourhoods*” policies. The proposed development is not contained on a property that varies from the local pattern.

## **Built Form and Urban Design**

The applicant indicates that the Sisters of St. Joseph purchased 2 O’Connor and 2 Fernwood Gardens and then purchased 6 and 12 Fernwood Gardens in order to ensure that there was adequate tableland to accommodate their new facility.

The proposed 4-storey curvilinear building is located between the ravine edge and a landscaped private open space. The Design Brief submitted in support of the application speaks to how this development proposes to provide a visual access from the street and the surrounding neighbourhood through to the ravine. The buildings curvilinear form relates directly to the undulating ravine edge and the glazed lobby spaces are intended to provide panoramic views of the ravine and beyond.

The Planning Rational submitted by the applicant as part of this application, states that the proposed building has been designed to provide a transition between the valley land to the north and the public street system to the south. The height and setbacks respect the existing and planned street proportions. The applicant has used generous setbacks to transition between the existing neighbourhood and the proposed development. It is proposed that 2, 6 and 12 Fernwood Gardens be replaced with a line of street trees with open space beyond and that the existing Taylor House (“Fernwood”) be retained.

Policy 3 (a) identifies that new development will be massed to fit harmoniously within its existing and/or planned context, and will limit its impacts on neighbouring streets, parks, and open spaces by massing buildings to frame adjacent streets and open spaces in a way that respects the existing and/or planned street proportions. In addition, Policy 4 identifies that new development will be massed to define the edges of streets, parks, and open spaces at good proportion.

The applicant proposes to construct an “S”-shaped building, where the curvilinear form of the building relates to the ravine edge. Much attention has been paid to the relationship of the building to the ravine edge and the panoramic views from the building beyond the ravine edge. Urban Design staff have reviewed the proposal, and from their perspective, the applicant’s proposal to locate and mass the building with significant setbacks from the street places the new building in a ravine setting and brings the ravine landscape to the edge of Fernwood Gardens. The relationship of the new building to Fernwood Gardens is compromised by three vehicular access points, a driveway with layby parking and a loading area off Fernwood Gardens. This new landscape relies on the use of quality paving materials and details as well as extensive planting to create an

acceptable edge along Fernwood Gardens. The applicant's landscape plan will begin to create an improved setting for the historic Taylor House ("Fernwood"). Although the proposal does not frame the adjacent streets in a way that is comparable to the existing street conditions, from the perspective of Urban Design staff, the proposal is acceptable for this particular ravine location.

## **Rental Housing**

The applicant is not proposing to replace any of the 36 rental units as part of this development. At the time of the application, 2, 6, and 12 Fernwood Gardens contained three, 2 ½ storey walk-up apartment buildings, containing 3 bachelor apartments with approximately 320 square feet each and 33 one-bedroom apartment units with approximately 455 square feet each. At the time of application, 17 units were occupied. All of the apartments are affordable rental units.

Official Plan policy 3.2.1.6 provides that this kind of demolition will not be approved unless in Council's opinion, the supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents. Council has not declared that rental housing supply and availability has returned to a healthy state. Rental housing supply has not increased on a net basis for many years.

The proposal to redevelop the subject lands without any replacement rental housing is contrary to the City's Official Plan. Affordable rental units will be lost as a result of this proposal, and tenants will lose their homes and may not be able to remain in their community.

Planning implications exist if the redevelopment of the subject site is approved without the replacement of the 36 rental units. The market will not likely replace 36 rental units with a range of affordable rents in this area. The mix of housing tenures and affordability in the area will shift away from rental and affordable housing. The loss of these rental units will reduce the number of rental units in Toronto, and limit choices for tenants who already live in, or would like to live in, this part of the City. In addition, the low-rise rental housing character of the street will change, and one may anticipate that other rental apartment owners on Fernwood Gardens may seek opportunities to redevelop their rental housing properties.

## **Replacement of Rental Units**

The staff review of the application was premised on the goal of trying to accommodate a development proposal for renewal of a site with an outdated seniors care facility, without causing undue harm to tenants or the supply of rental housing, nor create a negative impact on the surrounding stable neighbourhoods. Staff does not think that it is necessary to lose 36 rental units to accommodate the applicant's objectives.

The original lands of the former seniors care facility accommodated 110 beds, related offices and accessory uses, and 12 rental units (in one of the three apartment buildings

proposed for demolition). The new private residential-care and assisted living facility proposed as part of this application is for only 65 beds or rooms plus accessory uses. Even if the proposal's improvements over the former facility and today's higher standards for a residential care facility necessarily result in a lower number of beds and rooms being built, it should be possible to do so within the original site without needing to demolish the existing rental building containing 12 units. Compounding the rental housing issue is the recent purchase by the current owner of two adjoining private rental buildings that contain the other 24 rental housing units proposed for demolition. This results in the size of the development lands being expanded, while reducing the number of beds/rooms to 65 plus accessory uses but with no rental units, from the former use that accommodated 110 beds plus accessory uses as well as 36 rental units.

The applicant's proposal and subsequent revisions reviewed by staff have never attempted to protect or replace any of the 36 rental housing units. City staff asked the applicant to examine ways to include replacement rental housing in a revised proposal. One option is to retain all three apartment buildings, fitting the new facility into the lands occupied by the former facility. In addition to meeting the important housing objectives of the Official Plan and the Provincial Planning Framework, it would maintain the character and scale of Fernwood Gardens.

Another option that staff was willing to explore was accepting a decreased number of rental units as part of a revised proposal. This could be achieved by demolishing only the one apartment building at 2 Fernwood Gardens that faces on to both Broadview Ave and Fernwood Gardens and that was part of the lands owned by the previous facility and originally purchased by the current owner. This would result in a more limited impact on Fernwood Gardens by retaining the two other apartment buildings that are further down the street. In the alternative, if two or even all three of the apartment buildings were to be demolished at the western end of the subject lands, a revised proposal could accommodate replacement rental building on the east portion of the site.

The applicant has not been willing to propose any revisions that would incorporate the staff suggestions for retaining or replacing the rental housing.

### **Applicant's Position on Rental Replacement**

The applicant has identified that the following housing initiatives should be considered as part of this application as it relates to the rental demolition:

- *Fontbonne Place*: 18 affordable one-bedroom rental apartments for single women;
- *WRP Neighbourhood Housing*: 38 affordable ownership housing units;
- *Nazareth House*: transition housing for women living in danger of physical, emotional, or sexual abuse, or women with psychological/psychiatric issues, recovering substance abusers, or single pregnant women. Housing provided for up to 11 women and 4 newborns.

- *Morrow Park*: currently occupied by the Sisters of St. Joseph, contains a school and a residence building that has about 200 rooms/beds, a portion of which include nursing care.

Staff does not support the suggested linking of involvement in previous housing initiatives to making planning decisions on a current application, especially when it involves the loss of a significant amount of affordable rental housing.

The applicant has suggested in their most recent supporting documents that rental replacement should not be required as there will be a net gain of some types of affordable housing if considering the combination of this new proposed development with the old site the Sisters of St. Joseph occupy and are selling. Their submission acknowledges that the resulting accommodation is not the type of affordable rental housing that the Official Plan policies and the by-law on Rental Demolition and Conversion are concerned with. Staff does not support the claim that this application will result in any net gain of affordable housing.

The Morrow Park site located at 3377 Bayview Avenue in the former City of North York, currently occupied by the Sisters of St. Joseph, contains a school and a residence building that has about 200 rooms/beds, a portion of which include nursing care. The purchaser of that site is a college which intends to continue the residence use of the current residence building, though will not be providing nursing care. The college has advised staff that they currently have no plans for expansion of the potential capacity of 200 residence rooms/beds, but in the longer term if demand rises may consider an application to modify or demolish the building. Thus, the current type of use will generally be maintained, with no net gain of residence beds or affordable housing on the Morrow Park site.

The combined area of the subject lands was occupied by a long term care facility with 110 beds and 36 affordable rental apartments, and will be replaced only with a 65 bed facility. Thus, the current institutional and care facility use will be maintained on this site, though with no net gain of rooms/beds. On a net basis, it could be viewed that this represents a net loss of 77 residential units (a combination of beds and rental units) on the subject lands. (Unrelated to this application and the move by the applicant from Morrow Park to the subject lands, the former Ina Grafton Gage facility had sold its site and moved to a new building on Warden Avenue.) The effect of the development proposed by the applicant will be to replace one use (long term care) with a similar use, but with reduced numbers, and to eliminate and not replace another use: affordable rental housing.

The applicant has suggested that the 12 rental units in the apartment building at 2 Fernwood Gardens, formerly connected to the previous facility, should not be counted in the City's assessment of the loss of rental housing units. The documentation provided by the applicant does not support the case for exemption. Purchased at some point by the United Church and administered by the previous facility (Ina Grafton Gage Home), for a period of time occupancy was available to members of the public on condition that they were seniors and had incomes and assets below a certain threshold. However, in recent years these apartments appear to have functioned as conventional rental housing, they

were rented to non-seniors, and there is no indication that occupancy in the past was in any way connected to institutional uses or linked to assisted care. Rents in all three buildings, including the two former private rental buildings, are currently affordable in part due to the age and condition of the buildings, as well as the small size of the apartments.

### **Comparison with other applications**

Council has supported a recent application by Women's College Hospital for the re-development of their site with new public hospital facilities, involving the demolition of an existing rental apartment building without requiring replacement. A modest contribution to the Capital Revolving Fund for Affordable Housing was provided as cash-in-lieu of replacement, and secured as a section 37 contribution. To date, the applicant for 2 O'Connor has not offered a cash-in-lieu contribution.

There are a number of important differences between the Women's College Hospital application and this development proposal. The former is a public hospital site, and the redevelopment was serving an important public purpose. The rental building had formed part of the Hospital's land holdings for many years, and due to the relatively small size of the Hospital's lands in their downtown location, was essential for the Hospital expansion. The O'Connor proposal involves smaller, not an expanded number of rooms/beds compared to the former facility, is for the aging members of this religious congregation, and a new facility could be designed that does not require the loss of rental housing. The O'Connor owners only recently purchased the two (2) adjacent private rental buildings in order to further enlarge the size of the original facility's lands.

If cash-in-lieu were to be considered for this application, the City's policies are that it should generally be accepted where only a small number of rental housing units were involved, and/or where the full number of replacement units cannot be accommodated on the site. Given the options for accommodating either the existing rental buildings or their replacement on site, cash-in-lieu of replacing 36 rental units is not recommended. The amount of cash-in-lieu per unit not replaced is calculated by the Affordable Housing Office in consultation with City Planning, based on the public subsidy costs if the City were to replace the affordable rental units by funding a new project elsewhere. Based on the unit mix for these 36 apartments, the average amount would be \$111,500 per unit.

### **Tenant Relocation and Assistance**

The City's Official Plan policy 3.2.1.6, and established City practices also require that the City secure with the owner "an acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement units at similar rents, the provision of alternative accommodation at similar rents, and other assistance to lessen hardship."

The applicant has prepared a tenant relocation and assistance plan which is generally reasonable but in staff's opinion has some components that require improvement. Although not yet approved by the City, tenants resident at the time of application were notified by the applicant of the proposed assistance, and the willingness of the applicant

to provide that assistance to tenants leaving since then but prior to approval of the demolition. The major problem with the plan is the lack of replacement rental units, and therefore the permanent disruption of their occupancy with no right to return to their homes.

An appropriate tenant relocation and assistance plan will depend on whether the rental units are to be replaced. The amount of the assistance if the permanent loss of affordable rental housing is involved will be higher than if replacement housing will be provided. Once a final decision has been made on the redevelopment and the issue of replacement rental units, staff could work with the applicant to finalize the tenant assistance plan. As currently proposed, staff cannot support the current tenant relocation and assistance plan.

## **Heritage**

The heritage building that exists on the site was originally built for John Taylor, the eldest son of George Taylor, owner of the Taylor Paper Mill at Todmorden Mills. John Taylor was a co-founder of the Don Valley Brick works. Robert L. Patterson, a manufacturer of print type, purchased the property in 1903 and lived in the house, now called “Fernwood” until 1930 when it was sold to the United Church of Canada for conversion into the Ina Grafton Gage Home for the Aged. The home was established with funds donated by Sir William Gage in memory of his wife Ina Grafton Gage.

The house was designed by a leading Toronto architect, D.B.Dick (1846-1928) in the Queen Anne style. The house, built in 1885, was located on a 10-acre parcel at the eastern edge of The Don River Valley. It was located at the northern terminus of Broadview Avenue, a significant route following the east edge of the Don River Valley and a road associated with the early development of East York. The front façade of the house still provides an important view terminus at the north end of Broadview Avenue. The John Fred Taylor House, also known as “Fernwood”, was listed on the Corporation of the Borough of East York Inventory of Historical Buildings in 1982. The property was initially placed on the Corporation of the Borough of East York’s Inventory of Historical Buildings in September 1982. The 1982 listing report notes the association with the Taylor and Patterson families and the significance of the architecture, including the excellent workmanship, important architectural features on the front façade and the intact interiors. Toronto City Council formally adopted the Borough’s inventory onto the Toronto Inventory of Heritage Properties in September 2006 following municipal amalgamation. This inventory was approved by Toronto City Council to be added to the City Inventory of Heritage Properties in 2006.

HPS staff have reviewed the “Revised Heritage Impact Statement, dated August 20 2009 for the John F. Taylor House, prepared by E.R.A Architects Inc., as well as heritage conservation plans and elevations for the heritage house, by E.R.A. Architects and development plans and landscape plan prepared by Shim-Sutcliffe Architects Inc. date stamped received by City Planning Division August 27, 2009.



The proposal is to demolish existing wings added to the Taylor house in the 1941, 1955 and 1970, and to demolish the three apartment buildings on the north side of Fernwood Gardens in order to construct the private residential-care and assisted living facility that would be located to the west of the Taylor House (“Fernwood”). The new private residential-care and assisted living facility would be linked to the Taylor House (“Fernwood”) with a one storey glass enclosed walkway. The heritage house would be rehabilitated for use as part of the private residential-care and assisted living facility as a guest residence and meeting room space. The new four-storey private residential-care and assisted living facility follows the edge of the valley in an elongated “S” shape with a circular chapel extending out the north side. The residents rooms would all have views of the valley to the north.

Within this proposal, the Taylor House (“Fernwood”) would be preserved, rehabilitated and partially restored. Missing or demolished elements on the east, west and south facades would be restored, with the original materials and finishes on the exterior and interior being preserved. With the demolition of the wings on either side, and partial restoration of some missing features, the Taylor House (“Fernwood”) would regain its appearance as a single residential estate. Views from the south would be preserved, with views of the east and west facades becoming available once again. All of the alterations and conservation work proposed follow the Parks Canada Guidelines for the Conservation of Historic Places in Canada.

This proposal would result in the preservation and enhancement of the heritage character of the Taylor House (“Fernwood”). The existing heritage attributes require conservation work that would be completed as part of the proposal. The applicant proposes to reinstate some of the missing and altered original features on the exterior and interior that were removed when the house was converted into an seniors care facility in the 1940s. With appropriate landscape design in the area to the front of the Taylor House (“Fernwood”), public views of the house would be improved and appreciation of the original character enhanced. The current landscape plan does not differentiate the heritage area directly in front of the heritage building. The landscape plan for this project should ensure that principle views of the house from Broadview Avenue looking north and from O’Connor Drive looking west be preserved and enhanced. The front entrance should be reinforced with a walkway leading to the street, and any proposed plantings should frame the principle and south façade.

Heritage Preservation Staff have visited and researched the listed site and have determined that it warrants designation under Part IV, section 29 of the Ontario Heritage Act. HPS Staff have determined that it meets the provincially regulated criteria for designation under the categories of design, associative and contextual cultural heritage values. The attributes identified in the designation include exterior and interior elements as well as views to the property and some associated landscape elements. A separate report recommending designation will be forwarded to the Toronto Preservation Board.

## **Natural Heritage System**

Section 3.4 of the Official Plan contains policies that are intended to protect the City's natural environment and resources. The subject site forms part of the natural heritage system as identified on Map 9 of the Official Plan. Policy 12 requires that all proposed development in or near the natural heritage system be evaluated to assess the developments impact on the natural heritage system. The applicant has submitted a natural heritage impact study as part of this application.

The subject site includes table land and valley slope associated with the Don River. Policy 8, identifies that developments are required to be setback at least 10 metres, or more if warranted by the severity of existing or potential natural hazards, from top-of-bank, valleys, ravines and bluffs; and from other locations where slope instability, erosion, flooding or other physical conditions present a significant risk to life or property. In addition, Policy 9 identifies that land below the top-of-bank, or other hazard lands, may not be used to calculate permissible density in the zoning by-law to satisfy parkland dedication requirements. The topography of the site is such that a majority of the site is below the top-of-bank and as such, the 10-metre setback from the stable top-of-bank can not be achieved by the proposal.

The existing siting of the Ina Grafton Gage facility has minimal regard for the ravine and the natural heritage system. The existing condition on the site has paved the ravine edge, and extended the surface parking lot and loading area into close proximity with the top-of-bank. The development proposal for the private residential-care and assisted living facility will rectify the existing site condition, and improve the ravine edge. The proposal has been modified so that the building, surface parking and amenity areas have been repositioned beyond the long-term stable top of slope line, and outside of the erosion hazard line. The Toronto Regional Conservation Authority (TRCA) has concluded that a 6-metre structural setback from the long-term stable top-of-slope line is acceptable in this instance, as it would maintain future erosion access allowances with the exception of the western wing of the development. The western wing of the proposed new building will be located approximately 3-metres from the stable-top-of-slope line. TRCA staff have identified that they are satisfied that the revised development limit meets the goals and objectives of the TRCA's Valley and Stream Corridor Management Program.

## **Traffic, Servicing and Loading**

The Built Form policies within the Official Plan speak to the location and organization of vehicular parking, access and service areas. Policy 2 in Section 3.1.2 of the Plan states that new developments will locate and organize vehicular parking, access, service areas and utilities to minimize their impact on the property and on surrounding properties, and to improve the safety and attractiveness of adjacent streets, parks and open spaces by: using shared service areas where possible; consolidating and minimizing the width of driveways and curb cuts across the public sidewalk; integrating services and utility functions within buildings; and limiting parking between the front face of the building

and the public street or sidewalk. This property abuts a ravine, and as such, the restoration of the ravine has also been an objective when reviewing the development application. The applicant has identified that the access, loading, parking and servicing area is proposed in the front and side yard in order to protect and restore the ravine edge.

The applicant has revised their proposal to have three access points on Fernwood Gardens and one access point on O'Connor Drive. The provision of this number of access points is not ideal, and generally is not encouraged with new development applications (see Attachment 1). The original proposal provided two access points from Fernwood Gardens, with the west most driveway curbcut having a width of 22.2 metres. Staff had encouraged the reduction of the west driveway curb-cut to a width which is keeping with City standards for two-way driveways. The applicant identified that due to the configuration of the loading/service area and the underground parking area, this was not an option. Staff is of the opinion that the provision of two separate entrance points, each with curb-cut widths of approximately 9.0 metres is an improvement upon the single, 22.2 metre wide curb-cut. Planning staff are of the opinion that this is a site-specific circumstance, which should not be replicated in future development proposals.

The Official Plan identifies that new developments should integrate services and utility functions within buildings where possible. The intent of this policy is to protect and enhance the public realm. The current proposal places all the service and loading functions and the western limit of the site. The applicant proposes to screen the loading and service area with year-round landscaping. Although the loading area cannot be seen from O'Connor Drive/Broadview Avenue, the provision of the surface loading space and loading area within the neighbourhood, across the street from the rental apartment buildings is a concern for staff. Staff has suggested that the loading and service area be integrated into the design of the building, and internalized which would mitigate possible conflicts which may arise from the current configuration proposed.

The applicant proposes to provide 45 parking spaces to serve this project. The parking configuration is as follows: twenty-one parking spaces will be surface parking spaces located at the eastern limit of the site, two handicap parking spaces will be located within the circular lay-by in front of the entrance to the care facility, two surface parking spaces will be adjacent to the loading area at the western limit of the site, with the remaining twenty-one spaces to be located underground. A space within the underground garage has been allocated for the storage/parking of 12 bicycles. The middle driveway off Fernwood Gardens is intended to provide access to the underground parking garage. The applicant's traffic consultant has identified that 46 parking spaces are required to service this proposal. Technical Services staff concur with the consultants recommendations, and as such, the applicant is required to provide 1 additional parking space on this site to accommodate the parking demand.

## **Toronto Green Standard**

The applicant has indicated that they will incorporate a number of sustainable development strategies to address the performance measures identified in the Toronto Green Standard.

Some of the sustainable development initiatives incorporated into this development include:

- underground storage of stormwater in a cistern for reuse for landscape irrigation;
- a green roof is proposed atop of the chapel, with light coloured roofing proposed for the remainder of the newly constructed building;
- use of geothermal to heat and cool the building;
- the provision of parking spaces for carpooling and car sharing;
- the provision bicycle parking spaces; and
- energy efficiency of 40% better than Model National Energy Code for Buildings.

## **Open Space/Parkland**

Parks, Forestry & Recreation are unable to provide comments regarding cash-in-lieu of parkland dedication requirements that may be applicable for this proposal. A determination of use under this By-law has yet to be confirmed.

Toronto Regional Conservation Authority have indicated that the land below the TRCA staked Top-of-Bank line be placed into public ownership, and conveyed to the TRCA for a nominal sum. As per the Official Plan policies, the lands below Top-of-Bank would not be used to satisfy the parkland dedication requirements.

## **Development Charges**

It is estimated that the development charges for the residential dwelling rooms would be \$220,455.00. This is an estimate. The actual charge is assessed and collected upon issuance of the building permit by the Buildings Division.

## **Conclusion**

This report recommends refusal of the application due to the key concerns raised in this report. The key concerns include retention or replacement of the affordable rental housing, the consolidation of residential lots, and the removal of apartment buildings from the planned context of Fernwood Gardens. The proposal in its current form is contrary to the Official Plan and is not consistent with the provincial planning framework.

## **CONTACT**

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## **SIGNATURE**

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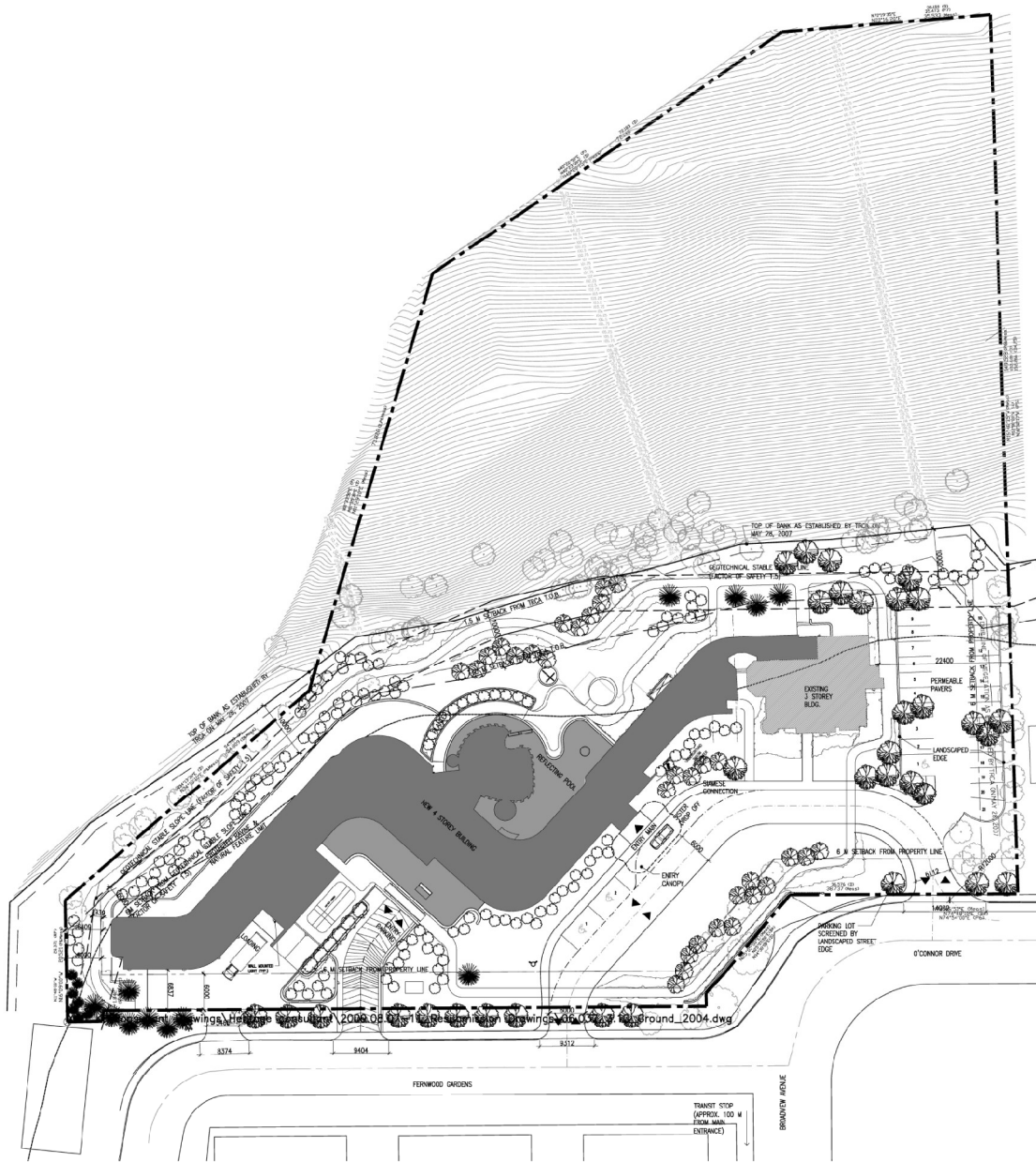
Raymond David, Director  
Community Planning, Toronto and East York District

(P:\2009\Cluster B\pln\teycc26220134036.doc) - smc

## **ATTACHMENTS**

Attachment 1: Site Plan  
Attachment 2: Elevations (1)  
Attachment 3: Elevations (2)  
Attachment 4: Elevations (3)  
Attachment 5: Zoning  
Attachment 6: Official Plan  
Attachment 7: Application Data Sheet

# Attachment 1: Site Plan



## Site Plan

Applicant's Submitted Drawing

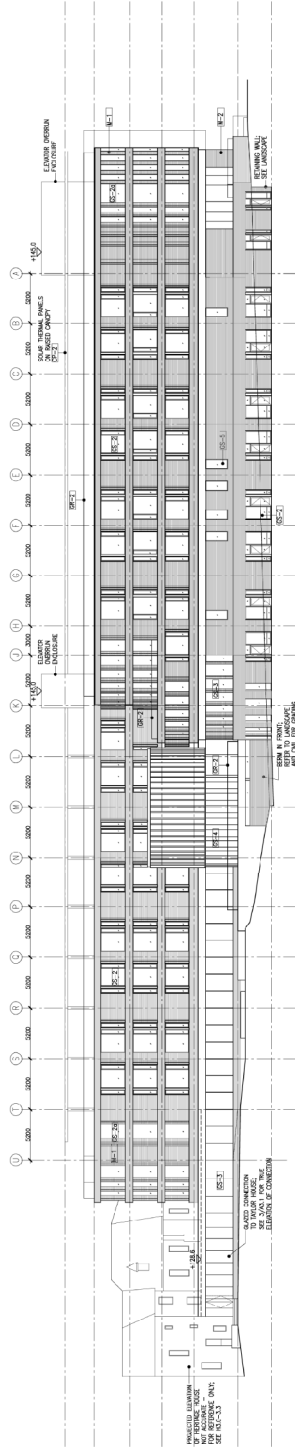
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10/05/2009

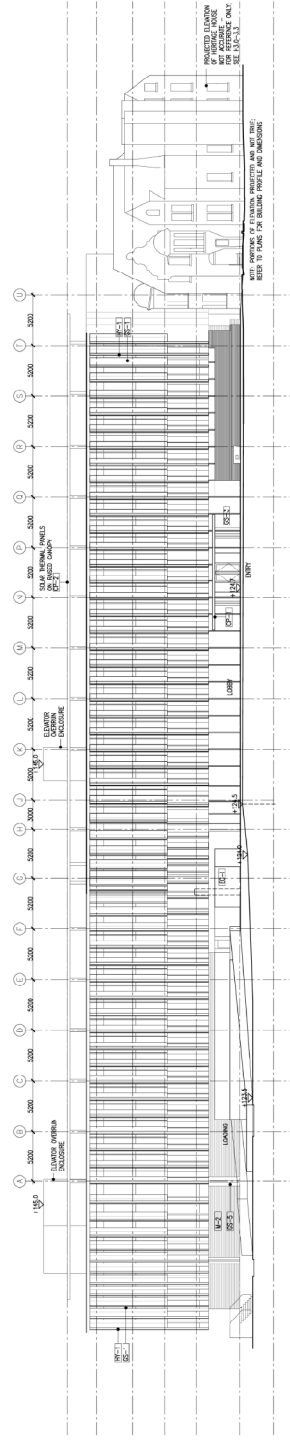
## 2 O'Connor Drive and 2, 6 & 12 Fernwood Gardens

File # 08\_232246

## Attachment 2: Elevations (1)



**Northwest Elevation**



**Southeast Elevation**

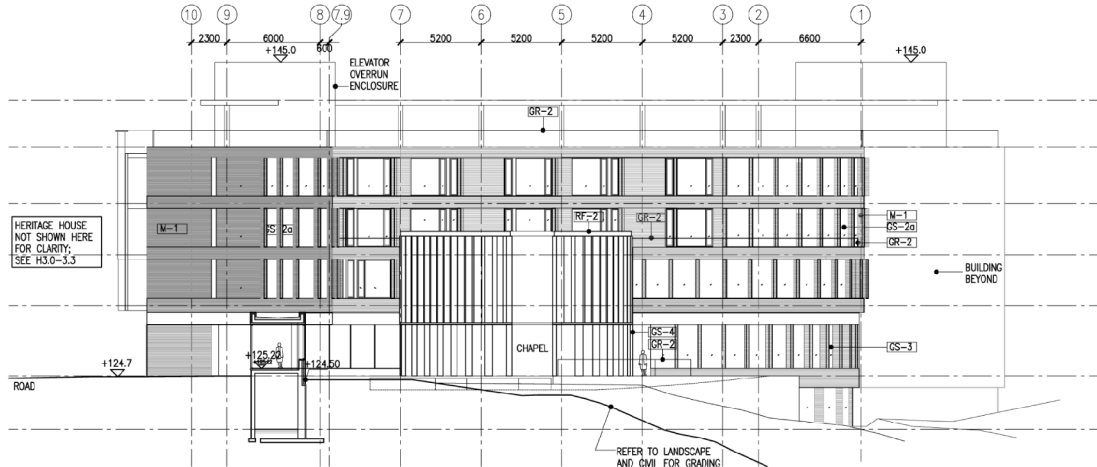
## 2 O'Connor Drive and 2, 6 & 12 Fernwood Gardens

File # 08\_232246

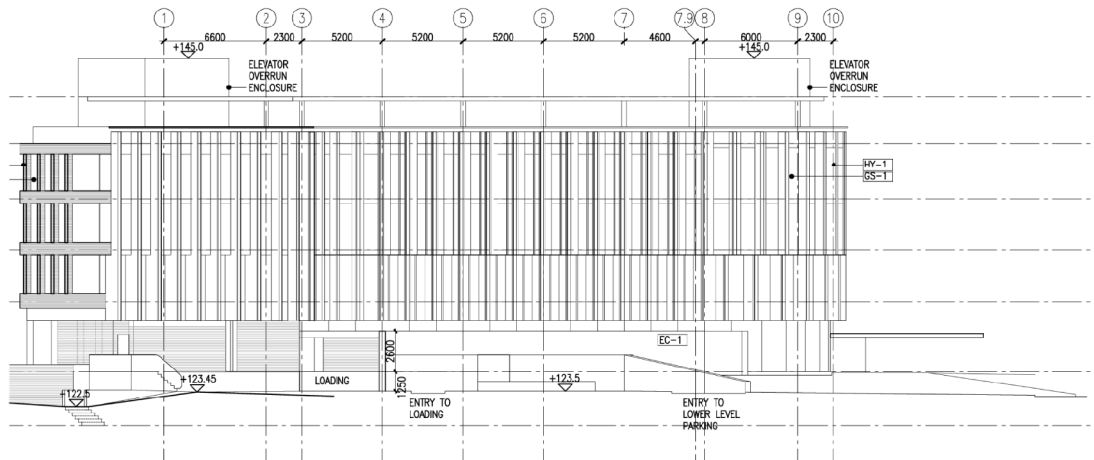
**Elevations**  
Applicant's Submitted Drawing

Not to Scale  
10/05/2009

## Attachment 3: Elevations (2)



**Northeast Elevation**



**Southwest Elevation**

### Elevations

Applicant's Submitted Drawing

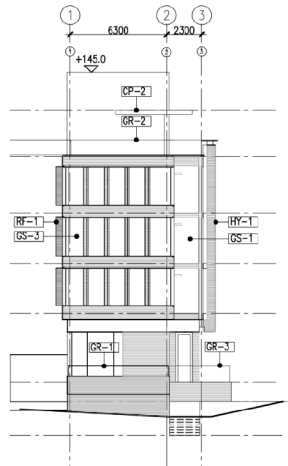
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10/05/2009

**2 O'Connor Drive and  
2, 6 & 12 Fernwood Gardens**

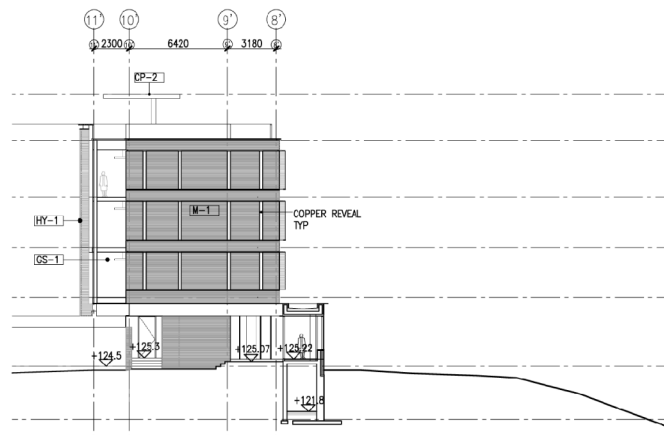
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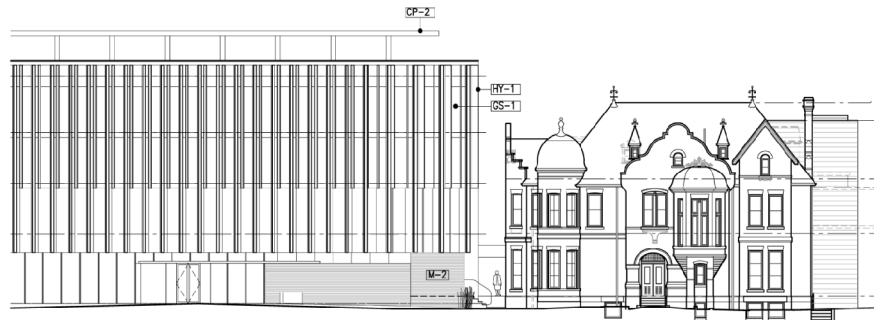
## Attachment 4: Elevations (3)



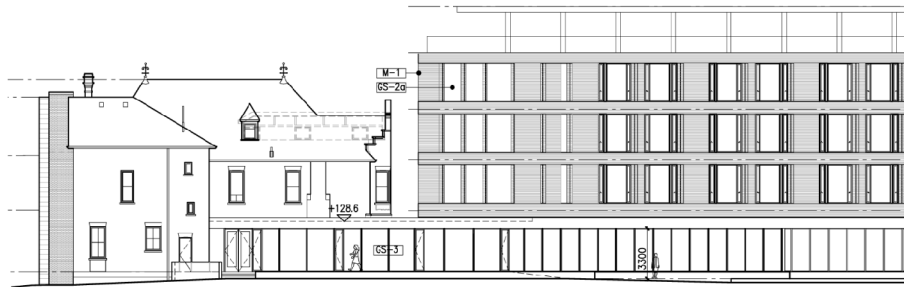
West End True Elevation



East End True Elevation



Projected South Elevation



True Elevation of Heritage Connection

### Elevations

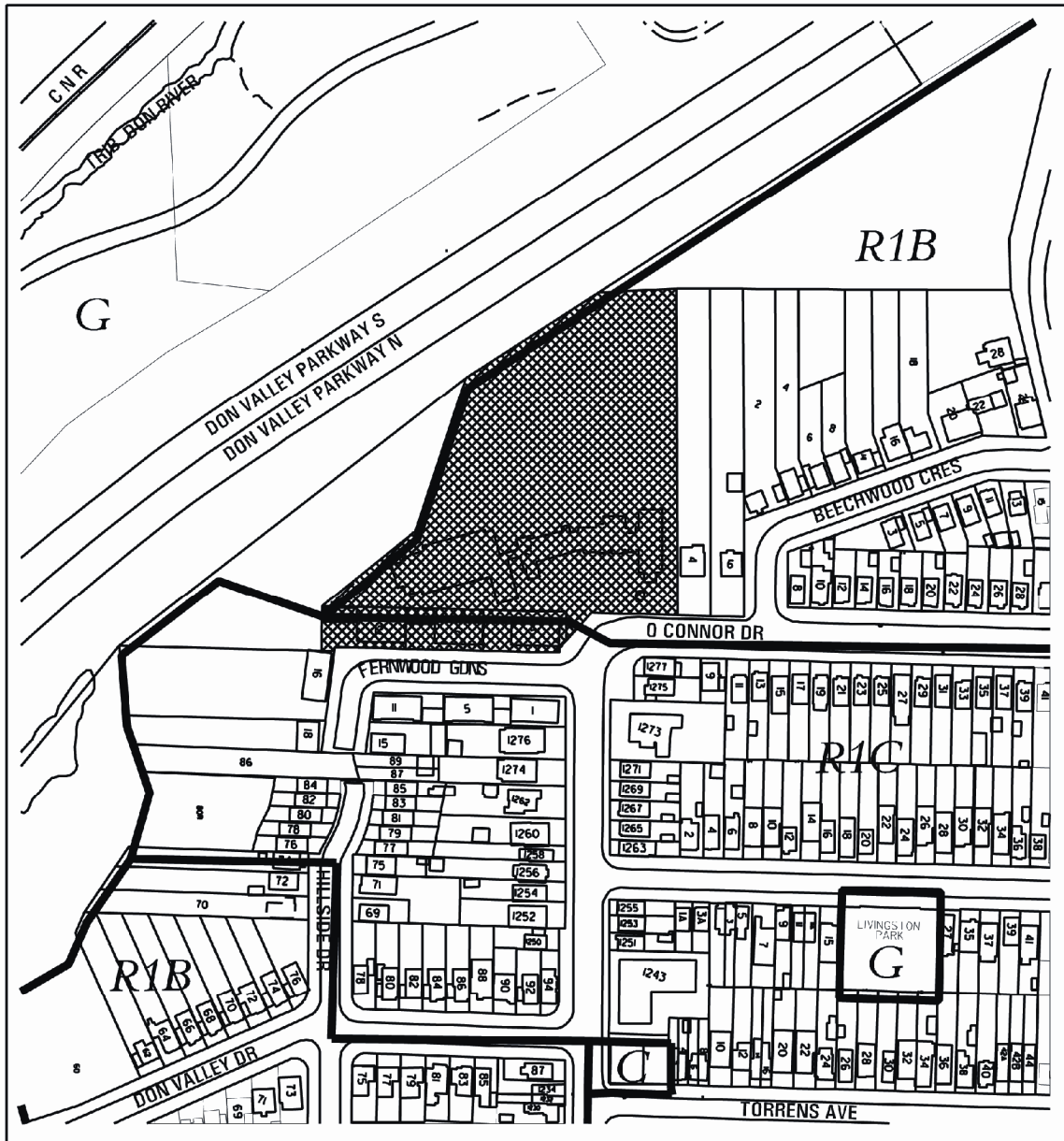
Applicant's Submitted Drawing

Not to Scale  
10/05/2009

2 O'Connor Drive and  
2, 6 & 12 Fernwood Gardens

File # 08\_232246

# Attachment 5: Zoning



**TORONTO** City Planning  
Zoning

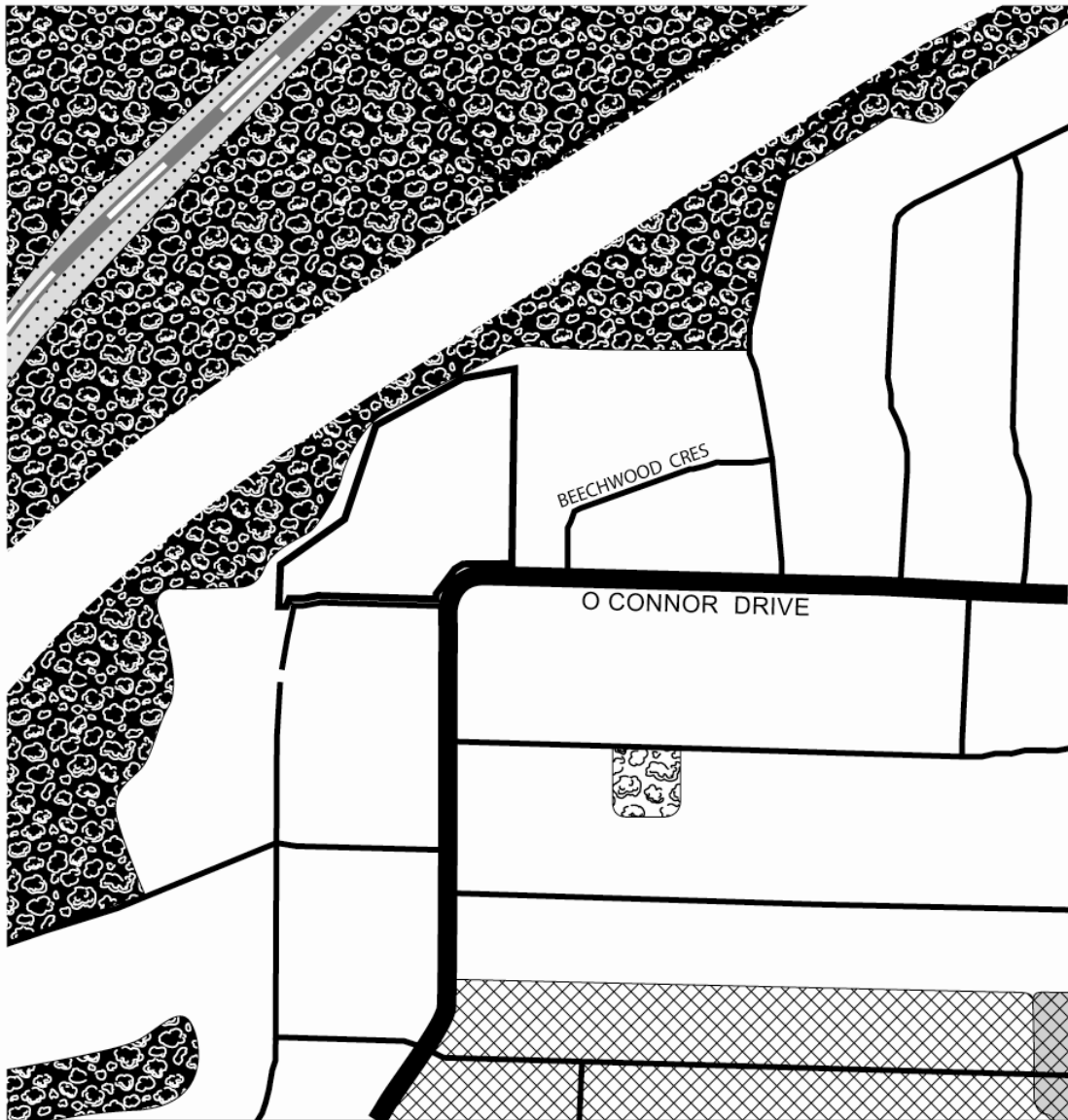
2 O Connor Drive & 2, 6 and 12 Fernwood Gardens

File # 08\_232246

- R1B Low Density Residential
- R1C Low Density Residential
- C Commercial
- G Conservation

↑  
Not to Scale  
Zoning By-law 1916 as amended  
Extracted 01/06/09 - MH

## Attachment 6: Official Plan



 **TORONTO** City Planning  
Official Plan

2 O Connor Drive  
2, 6 and 12 Fernwood Gardens

File # 08\_232246

 Site Location	 Natural Areas	 Utility Corridors
 Neighbourhoods	 Parks	
 Apartment Neighbourhoods		
 Mixed Use Areas		

  
Not to Scale  
01/06/09

## Attachment 7: Application Data Sheet

Application Type	Official Plan Amendment & Rezoning	Application Number:	08 232246 STE 29 OZ
Details	OPA & Rezoning, Standard	Application Date:	December 30, 2008

Municipal Address: 2 O'CONNOR DR  
 Location Description: CON 2FB PT LT14 PT LT15 \*\*GRID S2902  
 Project Description: OPA and Rezoning - redevelopment of property 30 assisted living suites, 35 private hospital beds, 3 guest suites and one chaplin suite

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
Stikeman Elliott LLP			Ina Grafton Gage Home

### PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:	12.1.29
Zoning:	R1C	Historical Status:	Listed
Height Limit (m):	8.5	Site Plan Control Area:	Y

### PROJECT INFORMATION

Site Area (sq. m):	8021	Height:	Storeys:	4	
Frontage (m):	173		Metres:	18.4	
Depth (m):	0				
Total Ground Floor Area (sq. m):	1870				<b>Total</b>
Total Residential GFA (sq. m):	0		Parking Spaces:	45	
Total Non-Residential GFA (sq. m):	7128		Loading Docks	0	
Total GFA (sq. m):	7128				
Lot Coverage Ratio (%):	23.3%				
Floor Space Index:	0.88				

### DWELLING UNITS

### FLOOR AREA BREAKDOWN (upon project completion)

			Above Grade	Below Grade
Tenure Type:				
Rooms:	69	Residential GFA (sq. m):	0	0
Bachelor:	0	Retail GFA (sq. m):	0	0
1 Bedroom:	0	Office GFA (sq. m):	0	0
2 Bedroom:	0	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	6518	610
Total Units:	69			

**CONTACT: PLANNER NAME: Marian Prejel, Planner**  
**TELEPHONE: (416) 392-9337**