

15 – 27 Beverley Street – Zoning By-law Amendment – Refusal Report

Date:	June 3, 2010
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 20 – Trinity-Spadina
Reference Number:	09 133546 STE 20 OZ

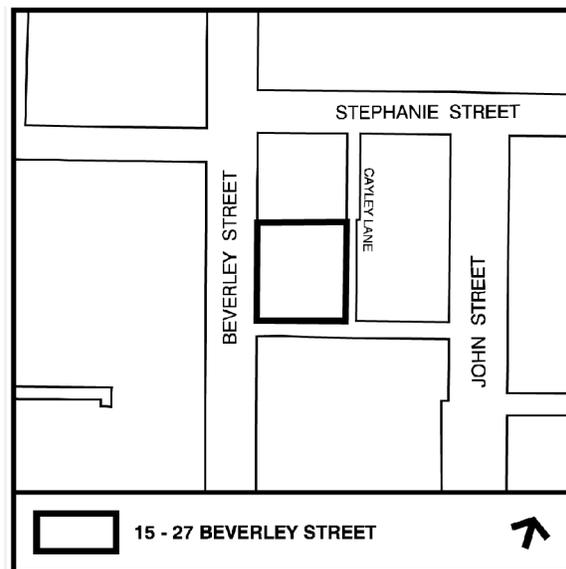
SUMMARY

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 proposes an 11-storey residential building at 15-27 Beverley Street. Townhouses with separate entrances are proposed along Beverley Street at the base of a 3-storey podium with a residential building above. Access for parking and loading is located off the public lane at the south side of the site. The proposal involves the demolition of existing buildings on the site, including all of the residential rental dwelling units, with no replacement rental housing to be provided.

This report reviews and recommends refusal of the application to amend the Zoning By-law for the following reasons:

- The height is inappropriate and transition in scale between the proposed building and the residential area to the north is inadequate given the area context;
- The proposal does not comply with the angular plane requirements within the Zoning By-law for the north elevation;
- The applicant did not propose any



- replacement of the existing residential rental dwelling units together with similar rents and other related matters or an acceptable plan for tenant relocation and assistance and no application under Section 111 of the City of Toronto Act 2006 respecting rental housing was filed;
- The applicant did not address the heritage attributes of the existing buildings.

The applicant submitted revised plans on May 5, 2010 to address staff's concerns. Although the revisions did address some of staff's concerns, issues related to the angular plane on the north elevation and the residential rental dwelling replacement are still unresolved. It is staff's intention to continue working with the applicant to try to resolve the remaining issues.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the application for 15-27 Beverley Street as currently proposed.
2. City Council authorize the City Solicitor and other appropriate City staff to oppose any future appeal of Zoning By-law Amendment Approval Application No.09-133546 STE 20 OZ.
3. City Council direct staff to continue to negotiate with the applicant to amend the application in accordance with the conditions outlined in this report.
4. City Council direct that the applicant be advised to submit an application to demolish six (6) residential rental housing units under Municipal Code chapter 667 in order that City Council's decisions on both the planning application and the rental demolition applications can be made at the same time.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

There are no previous applications or decisions related to the subject property.

Pre-Application Consultation

A number of pre-application consultation meetings were held with the applicant to discuss several significant issues including built form, rental housing, and heritage. At that time, staff informed the applicant that the application was not supportable in its current form for the following reasons:

Height – the proposed height of 14 storeys (41metres) was not appropriate for the site and the context. In addition, the transition between the subject site, designated as *Mixed Use* in the Official Plan, and the properties to the north designated as *Neighborhoods* was

inadequate. The revised plans submitted on May 5, 2010 reduced the overall height to 32.2 metres.

Rental Housing – City staff determined that there were 6 residential rental dwelling units in the related buildings on the consolidated site and thus the By-law provisions on rental housing demolition under Section 111 of the *City of Toronto Act 2006* (Municipal Code Chapter 667) and the Official Plan housing policy requiring the replacement of the rental dwelling units in any new development applied. However, the application did not propose replacement of the residential rental dwelling units or an acceptable tenant relocation and assistance plan, and no application under Section 111 of the *City of Toronto Act 2006* was filed.

Heritage – two of the existing buildings on-site are historically listed and the proposal did not address the heritage attributes of these buildings.

Despite staff comments that the proposal was not supportable as proposed, the application was submitted in its current form in May, 2009.

ISSUE BACKGROUND

Proposal

A revised application was submitted on May 5, 2010. The current application proposes a 7,560 square metre, 11 storey (32.2 metre) residential building at 15-27 Beverley Street. The proposed density is 6.44 times the area of the lot. Townhouses with separate entrances are located at-grade along Beverley Street at the base of a 3-storey podium, with a residential building above. Access for parking and loading is located off the public laneway at the south side of the site. Seventy parking spaces (including visitor spaces) and 84 bicycle parking spaces are provided in a three level underground parking garage. The proposal involves the demolition of all the existing buildings on the site, including all of the residential rental dwelling units, with no replacement rental housing to be provided, no acceptable tenant relocation assistance, and no retention of the listed heritage buildings.

Site and Surrounding Area

The site is located on the east side of Beverley Street, north of Queen Street West. The site area is 1,173 square metres and is currently occupied by the following uses:

Address	No. of Residential Rental Units	Description/Comments
15 Beverley	1	2-storey rowhouse dating from 1858, listed on the Inventory of Heritage Properties
17 Beverley	1	2-storey rowhouse, dating from 1858
19 Beverley	1	2-storey rowhouse, dating from 1858
21 Beverley	1	2-storey commercial/residential building with commercial at grade and residential above

27 Beverley	2	3-storey building listed on the Inventory of Heritage Properties
Total	6 units	

In addition to the residential uses, some of the buildings on the subject property contained commercial and/or light industrial uses. The following buildings surround the subject property:

North: six 3-storey rowhouses, and 2 semi-detached houses fronting on Stephanie Street. On the north side of Stephanie Street is a 24-storey residential tower built in 1969.

East: a 5-storey commercial building and to the northeast is a 4-storey residential building, both fronting on John Street.

South: a public lane and a 7-storey residential building.

West: a residential building built in 2000 which ranges from 9-storeys (25 metres) to the top of the roof at its south end to 4 storeys at its north end.

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. 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 2 of the *Planning Act* identifies matters of provincial interest to which those making decisions under the *Act* shall have regard. Most relevant when considering the issues raised by the demolition of rental housing are Section 2(h), which addresses the orderly development of safe and healthy communities, and Section 2(j), which focuses on “the adequate provision of a full range of housing.”

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 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. The Growth Plan provides that municipalities

will have Official Plan policies and a strategy to achieve the intensification targets in the Growth Plan, achieving a range and mix of housing.

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 site is designated as *Mixed Use* in the City of Toronto Official Plan.

The Toronto Official Plan is available on the City's website at:

www.toronto.ca/planning/official_plan/introduction.htm.

The Official Plan implements the intent of the provincial planning policy framework, providing for a full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods. The policies identify intensification and infill as the way to make gains in new housing supply, while preserving and replenishing existing housing stock. Replenishing strategies include the replacement of rental housing stock to be demolished.

Planning interventions, such as protecting existing rental housing, are required when market trends would not result in a healthy mix of housing. Specifically, in policy 3.2.1.6 applicants proposing to demolish six or more residential rental dwelling units, except where all rents are above mid-range, are required to replace the rental units and to provide tenant relocation and assistance to affected tenants. This application is subject to these policy requirements

Zoning

The site is split zoned both I1 D1 and R3 Z1.0. The I1 D1 zoning permits a range of non-residential uses to a maximum density of 1 times the area of the lot. The R3 Z1.0 zoning permits residential uses to a maximum of 1 times the area of the lot. The height limit is 12 metres for the entire site.

Site Plan Control

A site plan application has not been submitted for the site.

Section 111 of the *City of Toronto Act, 2006*

The five related residential buildings involved in this application at 15 – 27 Beverley Street contain a total of six residential dwelling units at least one of which comprises rental housing. Accordingly, an application to demolish rental housing is required to be submitted to the City pursuant to Section 111 of the *City of Toronto Act, 2006* (Chapter 667 of the Municipal Code). In addition, amongst other matters, the owner would need a permit pursuant to Chapter 667 of the Municipal Code in order to demolish the buildings.

The By-law makes it an offence to demolish a residential rental property or a related group of buildings where there are six or more residential dwelling units of which at least one is a residential rental unit, unless approval has been granted for a Section 111 permit for the demolition. In addition, it requires that an application under the By-law be submitted without delay when a related planning application, such as a zoning amendment, has been submitted. Any planning approval in such matters should be conditional upon, amongst other matters, the applicant obtaining a Section 111 permit. City Council may impose conditions on the approval of a section 111 permit, which typically involve the replacement of the rental housing and assistance to any tenants affected by the proposed 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.

The applicant in this matter disputes the number of residential dwelling units and thus the applicability of Chapter 667 of the Municipal Code to their application. A Declaration of Use and Screening Form under Chapter 667 was submitted by the applicant identifying only five dwelling units of which all were rental units on the site, claiming that no application under 667 was required. However, research by City planning staff and site visits conducted by the City planning and legal staff have found that the five subject buildings contain a total of six residential dwelling units all of which comprise rental housing. These conclusions were discussed with the applicant prior to submission of their application to amend the Zoning By-law. An application for Rental Housing Demolition and Conversion, and the required supporting documents, is required to be submitted.

Reasons for Application

An amendment to the Zoning By-law is required to permit the scale and density of the building requested for the site.

Since the applicant did not incorporate the replacement of the six residential rental dwelling units in the application, an application to amend the Official Plan would also be required, pursuant to policy 3.2.1.6.

Community Consultation

In addition to the meetings held with the applicant, several pre-application community consultation meetings with the Ward Councillor were held on the following dates:

Date	Presentation	Comments/Concerns
Feb.9, 2009	14 storey proposal as applied for.	Concerns expressed about the proposed height and massing.
July 15, 2009	Revised scheme.	Staff were not in attendance.
August 15, 2009	Landscaping plans for Beverley Street; a diagram showing the vantage points from which the upper floors of the building would be visible.	Appreciation for the proposed landscaping at grade. Continued concerns expressed about the proposed height and massing.

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

Planning Act, Provincial Policy Statement, and Provincial Plans

The proposal is generally consistent with the PPS except in the area of housing policy and the rental housing matters. The redevelopment of this site for residential purposes is in keeping with the intent of the PPS. The residential use adjacent to public transit, cultural institutions, and amenities is consistent with the goals of the PPS.

However, to conform to the matters of provincial interest in Section 2 of the Planning Act, and the direction provided by the PPS, this kind of residential intensification should also provide for the orderly development of safe and healthy communities, and the adequate provision of a full range of housing. It should incorporate the wise management of change and support for strong, liveable and healthy communities, and help to meet projected housing requirements of current and future residents. It cannot be said that this application conforms to these important directions, as the intensification would result in the loss of long-term rental housing in the community which has been provided on this property for many decades and the dislocation of tenant households, when it is possible to replace the rental housing in the proposed redevelopment and provide relocation assistance.

The proposal generally conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe other than for the housing policy concerns arising from the specific intensification proposed, as it proposes intensification within a built-up urban area near a higher-order transportation system, namely the subway and streetcar system.

Land Use

The use of the site as a residential condominium is an appropriate use, consistent with the Official Plan and Zoning By-law. The proposal consists of bachelor units (5), one-bedroom units (45), and two-bedroom units (41) for a total of 91 residential units. There is no commercial or retail space proposed within the project.

Density, Height, Massing

The Zoning By-law establishes a 12 metre height limit for this site and surrounding properties. The residential condominium located directly across the street at 18 Beverley Street (The Phoebe) is 25 metres to the top of the building with a 5 metre high mechanical penthouse. This proposal was approved through a rezoning process and is governed by By-law 1997-0626.

The height of the proposed building is 11 storeys (32.2 metres) which is approximately 2 storeys higher than the existing building at 18 Beverley Street, which is predominantly 8

storeys tall with a 9 storey portion at the southern end of the property and steps down to 4 storeys (14.5 metres) towards the *Neighbourhood*.

The increased height proposed for this site as compared to its adjacent buildings to the north should be mitigated by stepping down to the lower scale neighbourhood to the north of the property in compliance with an angular plane. Staff has considered a configuration that permits a 45-degree angular plane for heights above 12 metres. This angular plane provides a more permissive massing than is typically required by the Zoning By-law between MCR and R zones as the 12 metre vertical measurement of the angular plane is located one property to the north where the 'I' zone currently ends. A separation distance of 7.5 metres is typically enforced between MCR and R zones as per the Zoning By-law.

Level 8 (identified on the submitted plans as level 7), and levels 9 and 10 (identified on the submitted plans as levels 8 and 9) encroach within the angular plane and should be revised to comply with the angular plane requirement.

A building with massing in compliance with the angular plane minimizes the impact of height on the properties to the north of the subject property. Because the proposed building projects into the angular plane, the upper floors are more visible to adjacent properties and create overlook and privacy concerns. The architectural "twisting" of the upper levels further emphasize the height of the building on adjacent properties.

In order to better understand the impact of the building's form on its immediate context, staff has inserted the proposed building within the City's three-dimensional model to examine how the building's massing interacts with its context (Attachment 7). The renderings indicate that massing in compliance with the angular plane would give the appearance of a predominantly five storey building; the proposal presents a building mass that is ten storeys tall to the backyards of the adjacent residential properties to the north. If the 9th and 10th floors are shifted further south or cut back to comply with the angular plane, the building's impact on adjacent properties is greatly reduced.

Staff recommends that the applicant revise the 8th, 9th and 10th floors (identified on the submitted plans as levels 7, 8 and 9) to comply with the angular plane on the north side of the property. All levels above the podium should comply with the 5.5 metre minimum setback to the property line for primary windows facing the lot line. Side-yard overlook should be eliminated to the north Neighbourhood by locating living rooms to face west, east and south to the lanes or street.

Sun and Shadow Impacts

As compared to the as-of-right permissions, the proposed building adds additional shadows to properties located within the *Neighbourhood* designation to the north. These impacts would be reduced if the proposed building complied with the angular plane requirements.

Heritage

The subject property contains two heritage buildings that are listed on the City of Toronto's Inventory of Heritage Properties, adopted by City Council on February 25, 2009. The property at 15 Beverley Street (Samuel Caplan House) is one of the earliest houses built on the street (circa 1858) and exhibits contextual value on Beverley Street. In addition, the building contains associative value for its connections to the internationally recognized architect, Frank Gehry. This listed structure in conjunction with the contiguous two unlisted character structures at 17 and 19 Beverley Street constitutes an intact ensemble of simple 1858 row houses.

The property at 27 Beverley Street (James Kelly House) has design value as a representative example of an early 20th century house form building. Both buildings are linked visually and historically to Beverley Street and the Grange neighbourhood.

Heritage Preservation Services staff recommend that the mitigation strategy should better address the retention of the listed heritage buildings on the subject property. A revised Heritage Impact Statement that addresses staff's concerns should be submitted for review prior to approval of the application.

Rental Housing

In applying the City's Official Plan housing policies and specifically policy 3.2.1.6, as well as Municipal Code Chapter 667, approval of the applicant's proposal requires replacement of the six residential rental units to be demolished.

A Declaration of Use and Screening Form under Chapter 667 and a Housing Issues Report was submitted by the applicant identifying only five rental units on the site, claiming that no application under 667 was required. However, research by City planning staff, documentation from former tenants and current residents, and site visits conducted by the City planning and legal staff have found that the five subject buildings contain a total of six residential rental dwelling units. These conclusions were discussed with the applicant prior to submission of their application to amend the Zoning By-law and on several occasions during the application review.

An application for Rental Housing Demolition and Conversion, and the required supporting documents, is required to be submitted.

Since the applicant did not incorporate the replacement of the six residential rental dwelling units in the application, an application to amend the Official Plan would also be required, pursuant to policy 3.2.1.6.

A Tenant Relocation and Assistance Plan is also a requirement. There are currently 5 tenant households of which at least 3 would be considered eligible for receiving assistance by the owner under a City-approved plan.

Staff do not support the applicant's proposal as currently submitted. The applicant should meet the Official Plan policy requirements in 3.2.1.6. By eliminating 6 residential rental

housing units and failing to provide an acceptable Tenant Relocation and Assistance Plan, including the right to return to a replacement unit, the condominium development is exclusively focusing on a type of market housing that is already in ample supply at the expense of tenant households and a type of housing that the provincial policy framework and the City's Official Plan seeks to protect.

Over a period of at least the previous 10 years, rental housing completions in Toronto have averaged only about 5 percent of all new residential units constructed. At 95 percent of all completions, new housing for owners dominates the market. There are many locations in Toronto where new condominium apartments are being constructed on sites that do not involve the demolition of existing rental housing.

The intent of the Official Plan and the provincial planning framework is to encourage intensification where it is appropriate and maintains the intent of the Official Plan, including the protection of rental housing and ensuring a full range of housing. In this context, good planning and the City's policies require that if new condominium development is approved, it should be in conjunction with the replacement of the 6 existing rental units.

Staff has concluded that the size of the proposed condominium can accommodate 6 rental units. In certain circumstances, the City will consider cash-in-lieu of replacement. If it were to be considered, the amount of the contribution would be based on the public subsidy cost to provide the equivalent number and type of rental units as affordable rental units, and the funds would be directed to the Capital Revolving Fund for Affordable Housing.

If rental units are not to be replaced in the development, an acceptable Tenant Relocation and Assistance Plan would need to provide a higher amount of assistance than if replacement units are provided, in recognition that tenants entering the market would experience higher accommodation costs on a permanent, not just a temporary, basis.

A Section 111 permit is required before demolition can proceed. City Council makes the decisions on approving or refusing such permits, or approving a permit with conditions dealing with such matters as replacement of rental housing and tenant assistance, and Council's decisions are not appealable to the OMB.

Staff are recommending that approval of a revised proposal would be considered when the applicant has met the following conditions:

- The submission of a complete application under Municipal Code 667 for the demolition of the 6 residential rental units
- The replacement of the 6 rental housing units with the same unit mix
- The provision of a Tenant Relocation and Assistance Plan
- In the event that a cash-in-lieu contribution is to be considered, an amount based on the City's guidelines that represents the public subsidy cost for the City to provide for the development of 6 new rental units of the same unit mix

Traffic Impact, Access, Parking

Technical Services provided comments in their memorandum dated August 24, 2009. The applicant is proposing to include 70 parking spaces whereas the Zoning By-law requires 55 parking spaces. Technical Services has advised that although the proposed number of parking spaces complies with the Zoning By-law requirements, the amount provided is less than the estimated demand based on surveys of other condominium projects in the downtown area. The parking space ratios that Technical Services is asking for are:

Bachelor Units	0.3 spaces per unit
1-Bedroom Units	0.7 spaces per unit
2-Bedroom Units	1.0 spaces per unit
3+ Bedroom Units	1.2 spaces per unit
Visitor Spaces	0.06 spaces per unit

Vehicular access to the site is via a public lane flanking the south side of the site and is acceptable to Technical Services. A Type G loading space is consistent with the estimated requirement of the Zoning By-law.

Servicing

Technical Services has reviewed the Functional Servicing Report and found that the report is generally acceptable. The results of the fire hydrant testing are still required prior to final sign-off.

Urban Forestry

Urban Forestry, Tree Protection and Plan Review staff have reviewed the plans and arborist report submitted with the application and determined that they are generally acceptable with the following exception. The tree located along the north property line (identified as Tree No. 1 in the arborist report) is an adequate distance away from the north property line of the subject property and as such, can be retained and afforded adequate protection. Staff recommends that the applicant contact Urban Forestry staff to finalize all tree protection matters.

Open Space/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 local parkland provisions across the City. The lands which are the subject of this application are in an area with 0.42 to 0.78 hectares of local parkland per 1,000 people. The site is in the second lowest quintile of current provision of parkland. The site is in a parkland priority area, as per the Alternative Parkland Dedication By-law 1420-2007.

The application proposes 91 residential units on a total site area of 0.1173 hectares (1,173 square metres). At the alternative rate of 0.4 hectares per 300 units specified by By-law 1420-2007, the parkland dedication would be 0.1506 hectares (1,506 square metres).

However, a cap of 10% applies and hence the parkland dedication for the development would be 0.1173 hectares (117.3 square metres).

The applicant proposes to satisfy the parkland dedication requirement through cash-in-lieu. This is appropriate as an on-site parkland dedication requirement of 0.1173 hectares (117.3 square metres) would not be of a usable size and the site would be encumbered with below-grade parking.

The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit.

Toronto Green Standard

A Green Development Standard checklist was submitted with the application identifying compliance with 25 of the Green Development Standards. The applicant also indicated that they would be seeking LEED certification of the building (level to be determined.)

Development Charges

It is estimated that the development charges for this project would be \$548,683.00. This is an estimate. The actual charge is assessed and collected upon issuance of the building permit.

Conclusion

The redevelopment proposal does not represent a form of residential intensification that is appropriate or maintain the intent of the City's Official Plan. An acceptable proposal will:

- Provide an appropriate transition in scale and angular plane between the proposed building and the residential area to the north of the subject property.
- Provide for the replacement of the rental housing and an acceptable Tenant Relocation and Assistance Plan.
- Address the listed heritage buildings on the subject property.

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SIGNATURE

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

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ATTACHMENTS

Attachment 1: Site Plan

Attachment 2: West Elevation

Attachment 3: East Elevation

Attachment 4: North Elevation

Attachment 5: South Elevation

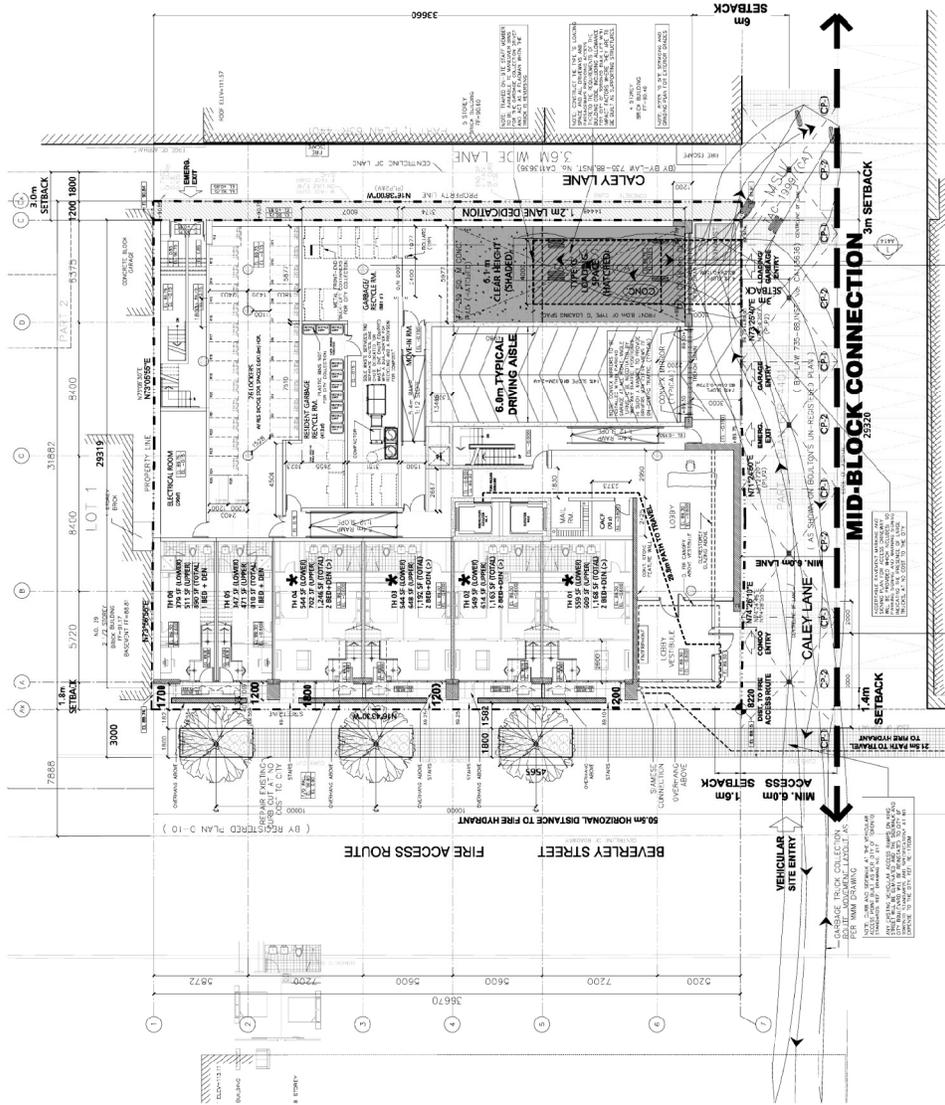
Attachment 6: Zoning Map

Attachment 7: Massing Model Views

Attachment 8: Angular Plane

Attachment 9: Application Data Sheet

Attachment 1: Site Plan



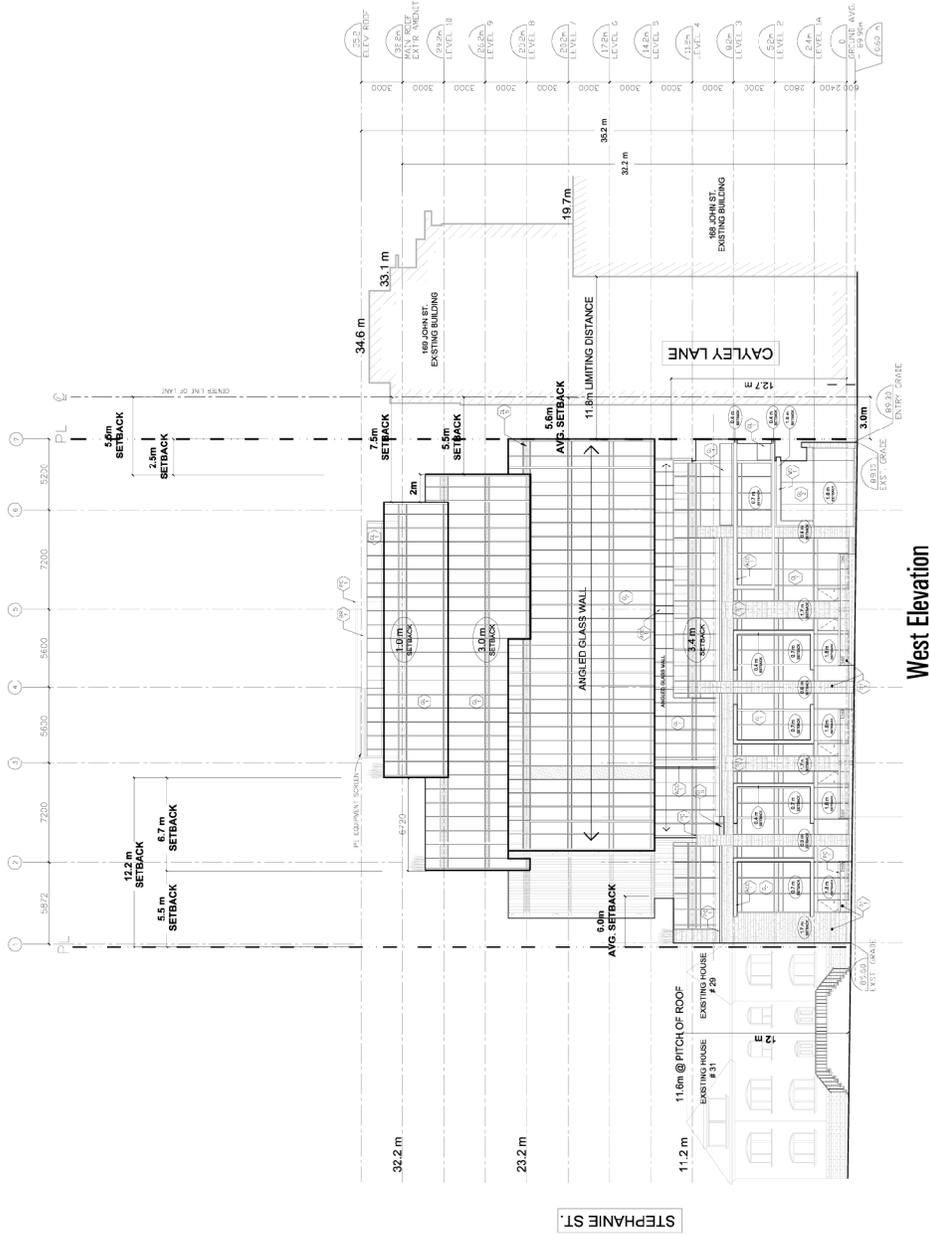
15-27 Beverley Street

Ground Floor Plan
 Applicant's Submitted Drawing

Not to Scale
 05/11/2010

File # 09_133546

Attachment 2: West Elevation



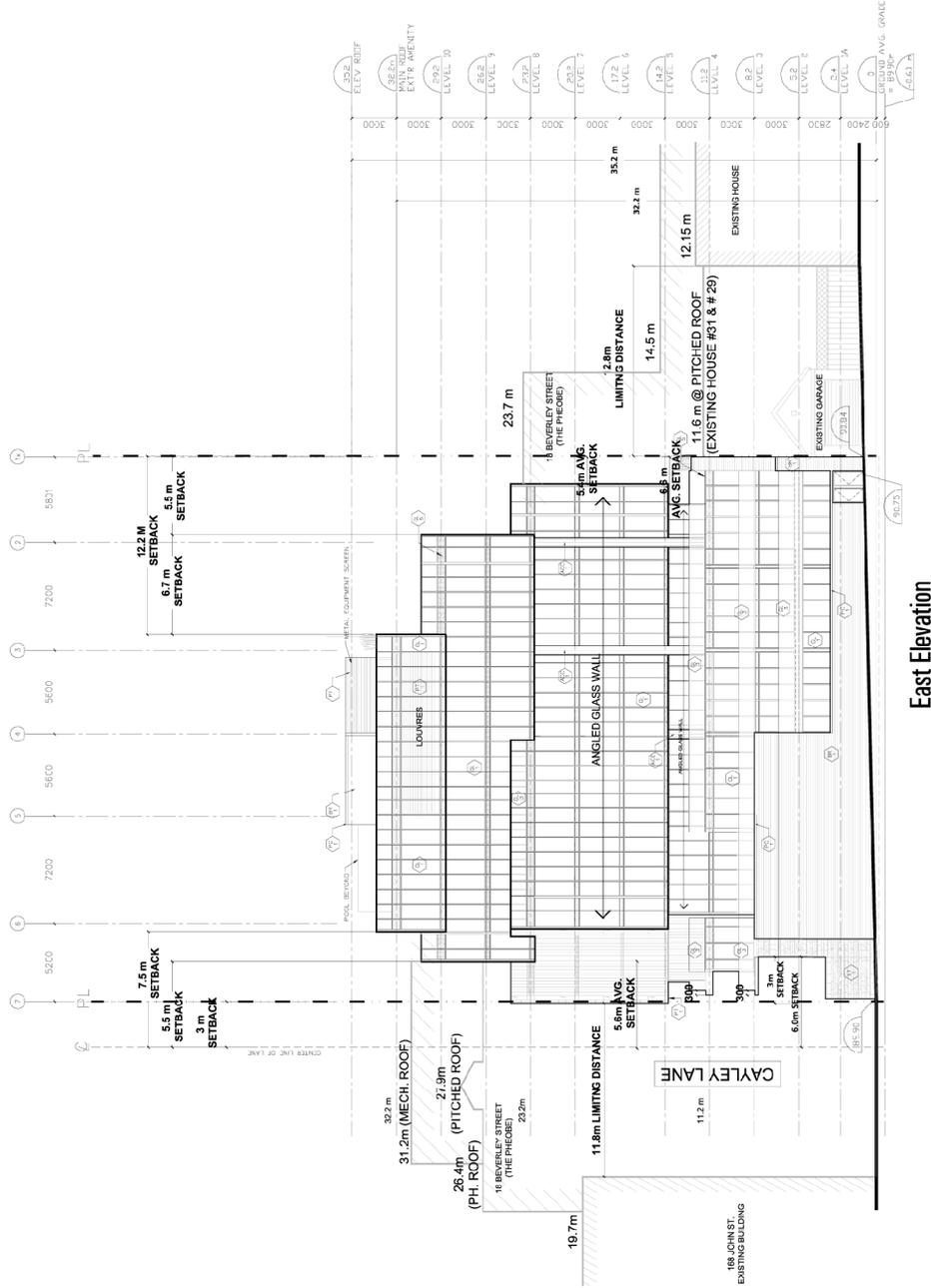
15-27 Beverley Street

Elevations
Applicant's Submitted Drawing

Not to Scale
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File # 09_133546

Attachment 3: East Elevation



15-27 Beverley Street

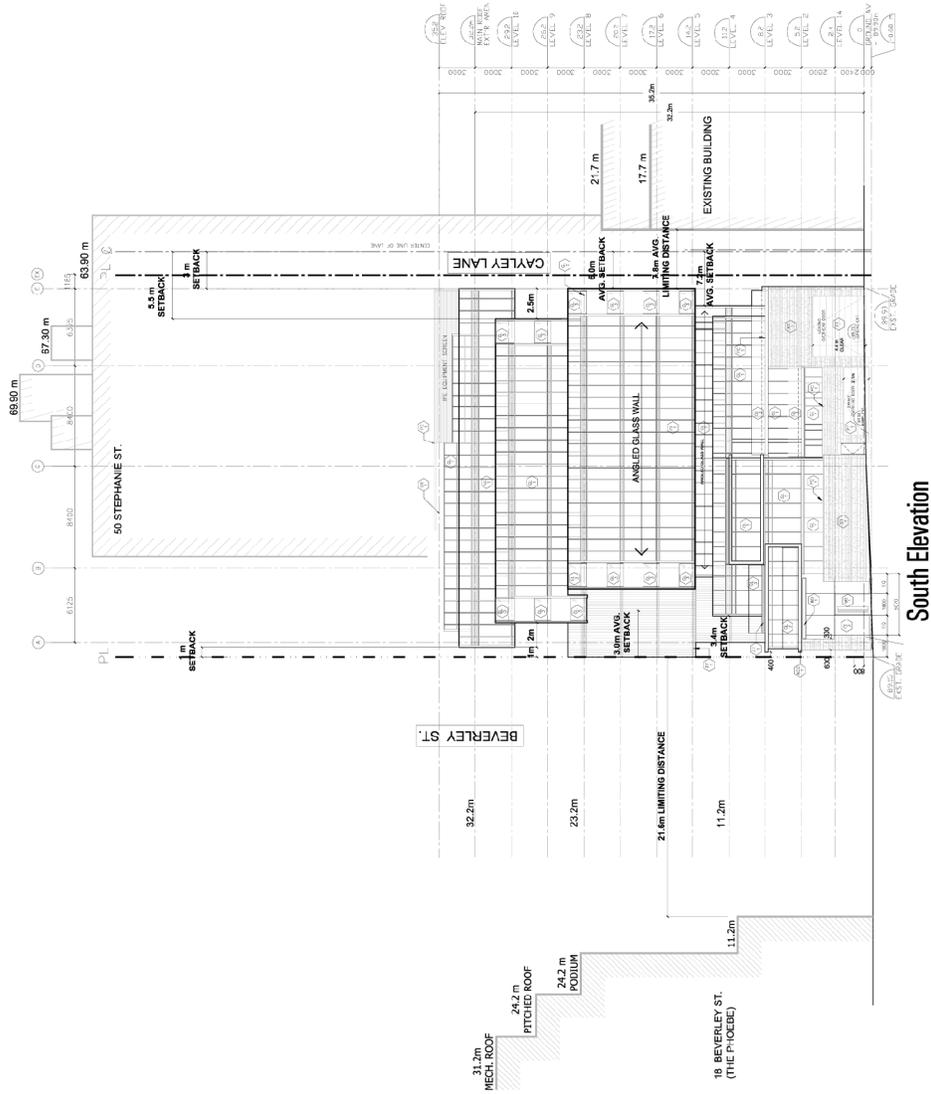
Elevations

Applicant's Submitted Drawing

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05/11/2010

File # 09_133546

Attachment 5: South Elevation



15-27 Beverley Street

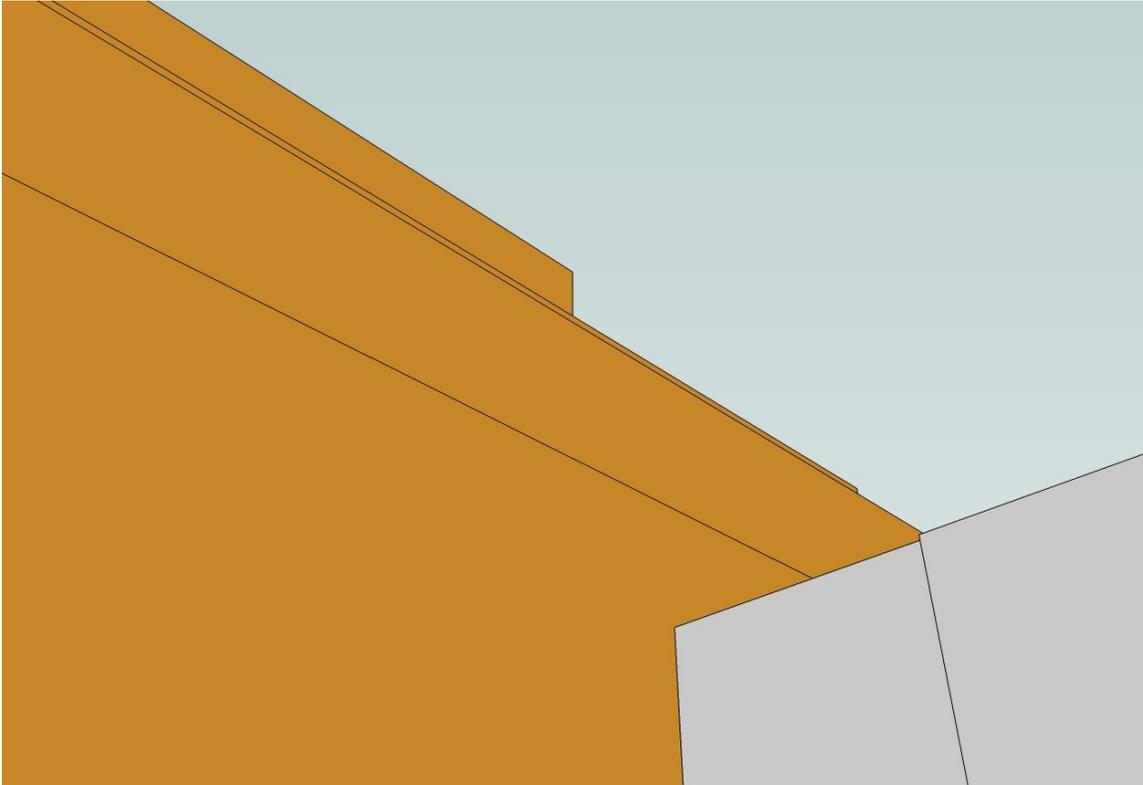
Elevations
Applicant's Submitted Drawing

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File # 09_133546

Attachment 7: Massing Model Views

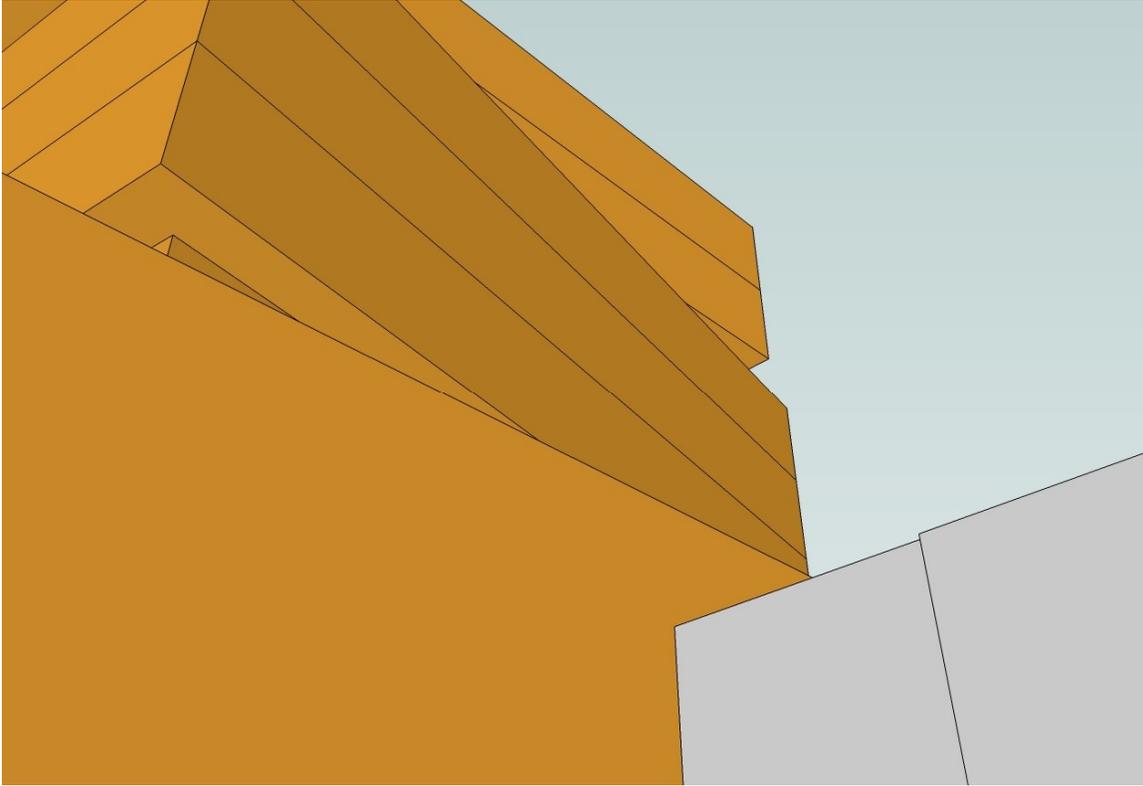
These views are taken from the rear yard of the properties to the north of subject site.



Massing Model View No. 1 Full Compliance with the Angular Plane

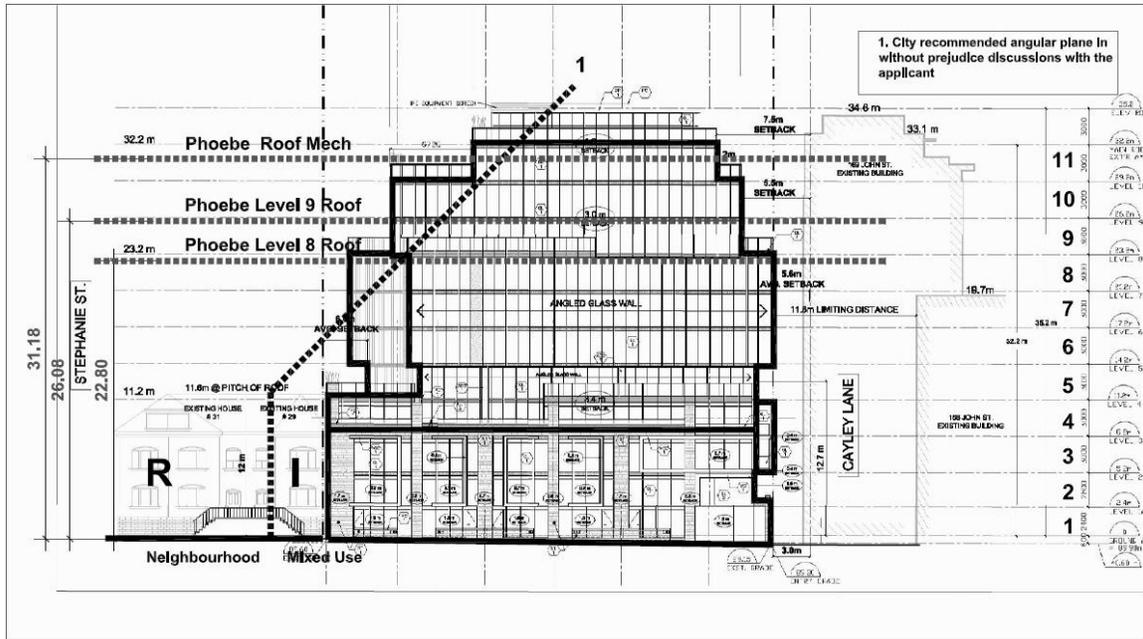
Attachment 7: Massing Model Views

These views are taken from the rear yard of the properties to the north of subject site.



Massing Model View No. 2- Applicant's Revised Submission

Attachment 8: Angular Plane



West Elevation (Beverley Street)

