



REPORT FOR ACTION

5, 7 and 9 Dale Avenue Official Plan and Zoning Amendment Applications Request for Direction - Supplementary Report

Date: July 25, 2018
To: City Council
From: Chief Planner and Executive Director, City Planning
Wards: Ward 27 – Toronto Centre-Rosedale

SUMMARY

On November 10, 2017 the applicant appealed the Official Plan Amendment and Zoning By-law Amendment applications to the Local Planning Appeal Tribunal (LPAT), citing Council's failure to make a decision on the application within the prescribed timelines of the Planning Act. A pre-hearing for these matters was held on May 23, 2018, and a hearing is scheduled for March 11-22, 2019.

At its meeting on July 4, 2018 Toronto and East York Community Council forwarded both staff reports (items TE34.44 and TE34.45) relating to 5, 7 and 9 Dale Avenue to City Council without recommendation and requested the Chief Planner and Executive Director, City Planning to report directly to City Council with any recommendations based on the deputations and further discussions with the applicant.

As requested, City Planning reviewed the discussion at Community Council and met with the applicant where the applicant presented revised plans to address concerns raised in the staff reports.

Staff have reviewed a with prejudice settlement offer (dated July 20, 2018) and conducted a further review of applicable policies and guidelines. Planning staff are satisfied that the revisions address staff's outstanding concerns and this report provides clarity to the matters discussed at Community Council and updated recommendations with respect to the appeal before the Local Planning Appeal Tribunal.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning recommends that:

1. City Council direct City staff to continue discussions with the applicant, and authorize the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning, to support a with prejudice settlement offer as described in this report (dated July 25, 2018)

from the Chief Planner and Executive Director, City Planning, and set out in Attachments 2 to 6 to this report.

2. City Council authorize the City Solicitor and the Chief Planner and Executive Director, City Planning to continue to work with the owner on the final form of the By-laws to be presented as part of a settlement at the Local Planning Appeal Tribunal.

3. City Council authorize the City Solicitor and the Chief Planner and Executive Director, City Planning to prepare and finalize a settlement, based on the following:

a. The Parties agree to request the Local Planning Appeal Tribunal to withhold its final Order until the following events occur:

i. The owner shall submit revised plans, drawings and perspectives to reflect the with prejudice settlement offer outlined in this report (July 25, 2018) from the Chief Planner and Executive Director, City Planning.

ii. The owner shall provide revised plans, drawings and studies to reflect the outstanding requirements outlined in the Engineering and Construction Services memos of October 17, 2017 and March 15, 2018, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the Chief Engineer and Executive Director, Engineering and Construction Services.

iii. The owner agrees to pay for and construct any improvements to the municipal infrastructure in connection with the site servicing report, as accepted by the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that upgrades to such infrastructure are required to support this development.

iv. The owner provides a detailed Conservation Plan, prepared by a qualified heritage consultant, to the satisfaction of the Senior Manager, Heritage Preservation Services.

4. In the event that a settlement as set out in recommendation above is reached between the City and the owner, City Council authorize the City Solicitor and appropriate City Staff to attend the Local Planning Appeal Tribunal hearing on this matter in support of the with prejudice settlement offer.

5. City Council authorize the City Solicitor and other City staff to take any necessary steps to implement the recommendations above.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

At its meeting on July 4, 2018, Toronto and East York Community Council with respect to the report (June 22, 2018) from the Director, Community Planning, North York District titled "5, 7 and 9 Dale Avenue - Official Plan Amendment and Zoning Amendment Applications - Request for Direction Report " (Item TE34.44, File No. 16 202229 STE 27 OZ) and the report (June 13, 2018) from the Director, Urban Design titled "Demolition of Three Heritage Properties in the South Rosedale Heritage Conservation District - 5, 7, and 9 Dale Avenue" forwarded the items to City Council without recommendation and requested the Chief Planner, Executive Director, City Planning to report directly to City Council with any recommendations based on the deputations and further discussions with the applicant.

ISSUE BACKGROUND

The subject site, comprised of three properties (5, 7 and 9 Dale Avenue), is designated Neighbourhoods, is located partially in a ravine, and is located in the South Rosedale Heritage Conservation District (HCD).

The HCD designation By-law (115-2003) was the result of the South Rosedale HCD Study (2002) undertaken by ERA Architects. The Study contains a rating system by which all properties within the HCD are categorized based on their actual or potential national or provincial significance (Category A), their city-wide significance (Category B), and their contribution to the heritage character and context of the neighbourhood (Category C), as well as unrated buildings that do not meet the other categories. The Study categorizes all three of the properties in the "C" category.

The South Rosedale HCD Study allows for the possible demolition of "C" category buildings (Section 5.3.4. B). The guideline states "Demolition of buildings in the "C" category is generally considered appropriate only if the proposed replacement building, as shown in the issued building permit, is equally able or more able to contribute to the heritage character of the district and is acceptable under these guidelines and the zoning by-law."

Heritage Preservations Services (HPS) staff in City Planning opposed the demolition of the three buildings, because (1) the application requires a Zoning By-law amendment; and, (2) the proposed single-building was not acceptable under the guidelines, specifically relating to the Streetscape Heritage Character (Section 4.2.2) of the guidelines, because of its insufficient permeability and its visual impact on the landscape setting when viewed from the street. The full rationale is provided in the report (June 13, 2018) from the Director, Urban Design titled "Demolition of Three Heritage Properties in the South Rosedale Heritage Conservation District - 5, 7, and 9 Dale Avenue".

Community Planning staff found the proposal to be acceptable with respect to conformity with the Neighbourhoods policies in the Official Plan and the Toronto and

Region Conservation Authority (TRCA) and Ravine and Natural Features Protection (RNFP) staff were satisfied with the proposed restoration and conveyance of ravine lands.

However, given HPS concerns regarding acceptance under the South Rosedale HCD Study guidelines regarding demolition of the "C" category buildings, the final determination was to oppose the Official Plan and Zoning By-law Amendment applications at 5, 7 and 9 Dale Avenue and the demolition of the three buildings.

Separately, in response to a nomination (on January 19, 2018) to consider individual designation of the property at 7 Dale Avenue under Part IV of the Ontario Heritage Act (the property was designed by notable modernist architect Gordon Sinclair Adamson and prominent landscape architects Dunington-Grubb and Stenesson) HPS staff also looked to the South Rosedale HCD Study for guidance and determined that the property located at 7 Dale Avenue meets the criteria for a "B" category building.

COMMENTS

Toronto and East York Community Council raised many questions looking for clarity as to Staff's recommendation to oppose the appeal before the LPAT. The reasons for opposing are found in the HPS report, including (1) the need for a zoning amendment application and (2) the proposal was not acceptable under the guidelines, specifically relating to the Streetscape Heritage Character (Section 4.2.2) of the guidelines, as summarized above.

In my opinion, it is the first of the two factors (the need for a Zoning By-law amendment) which is the cause of some confusion.

The Study contemplates the demolition of Category "C" Properties. Section 5.3.4.B of the Study reads – "Demolition of buildings in the "C" category is generally considered appropriate only if the proposed replacement building, as shown in the issued building permit, is equally able or more able to contribute to the heritage character of the district and is acceptable under these guidelines and the zoning by-law."

Since the By-law's enactment, replacement buildings in South Rosedale with existing "C" category buildings have been permitted in some instances even if the proposal required some form of relief from the Zoning By-law. While all of the criteria should be considered, in some instances an application may be approved if relief from the Zoning By-law, which otherwise is determined by the City to be appropriate, is being sought.

In this instance, HPS Planning staff found that the original proposal did not sufficiently conserve the heritage attributes found in Section 4.2.2 "Streetscape Heritage Character" of the Study and was therefore neither equally or more able to contribute to the heritage character of the district. For example, the replacement building would have significant visual impact on the landscape setting when viewed from the street and it would negatively affect the HCD's park-like setting.

As requested by Toronto and East York Community Council, Planning staff met with the applicant and discussed the abovementioned concerns. The applicant responded with a with prejudice settlement offer (July 20, 2018) that incorporates the following revisions:

- Retaining the "tea house", planting beds and garden walls, and as much of the historic landscape and landscaping features as possible in the rear yard of 7 Dale Avenue to be used as a common outdoor amenity space, subject to the approval of TRCA and RNFP staff. Planning staff have begun discussions with the TRCA regarding these modifications;
- Retaining as much of the historic landscape and landscaping features at the front of the property as possible, such as the front yard boundary wall-planter, iron railings and gates;
- Extending the front yard planters in a form that does not replicate but responds sympathetically to the existing planters;
- Removing front yard outdoor patios and two pedestrian walkways to increase the amount of soft yard landscaping;
- Landscaping the new front and rear yards in a form that is sympathetic to the design principles of the existing landscaping;
- Reusing existing paving materials for the front entrance walkway, the emergency walkway from the west half of the building, and rear terraces;
- Increasing the west side yard setback for the front portion of the building to a minimum of 2.5 metres to allow sufficient space for 6 inch caliper, 25 foot tall beech trees to be planted along the west side wall;
- Continuing the west side yard beech trees into the front yard to further screen the building from the public realm;
- Removing balcony encroachments into the 3.6-metre gap between the two halves of the building to increase visual permeability into the ravine; and
- Decreasing the depth of the 1-storey portion of the building connecting the two halves of the building and making the north and south walls fully transparent to further enhance the visual permeability into the ravine.

The with prejudice settlement offer responds to the concerns raised by HPS and satisfies the guidelines regarding the demolition of the three Category "C" buildings.

The with prejudice settlement offer responds to the concerns raised by conserving elements of the heritage landscape and modifying the building to increase the amount of soft landscaping on the site and views through the two wings of the building.

In addition to concerns with the proposal, Staff have received correspondence from the community identifying concerns regarding precedents within South Rosedale and other HCDs in the City. It is important to note that of 20 in force HCDs in Toronto, there are only two other HCDs which have a similar rating system and guidelines as the South Rosedale HCD, and they include North Rosedale and Blythwood Road. The remaining HCDs in the City were either designated after 2005, and incorporate different standards and new best practices or they do not include a rating system and demolition guidelines as found in the South Rosedale HCD.

Furthermore, permitting a 4-storey apartment building in a Neighbourhood is only appropriate when it satisfies the policies of the Official Plan. In this case, given the existing character along the south side of Dale Avenue, which includes apartment buildings, and the proposed design and built form as described in the report (June 22, 2018) from the Director, Community Planning, North York District and modified as described in this supplementary report, an apartment building is appropriate. This is an uncommon condition within South Rosedale and in other areas of the City and is reviewed closely on a contextual basis when it does occur.

Based on the changes in the with prejudice settlement offer, HPS staff have concluded that the demolition of 5, 7 and 9 Dale Avenue and the replacement building are acceptable. As such, City Planning has determined that the proposal to demolish and replace the existing heritage buildings has regard for the matters of provincial interest under the Planning Act, is consistent with the PPS and does conform with the Growth Plan with respect to matters of heritage conservation.

Re-evaluation of 7 Dale Avenue

Following a nomination on January 19, 2018 to individually designate the property at 7 Dale Avenue under Part IV of the Ontario Heritage Act (prepared by Letourneau Heritage Consulting Inc.) and an evaluation by HPS, staff looked to the South Rosedale HCD Study for guidance.

Section 4.2 of the Study states that "evaluations were based on existing documentation. Evaluations could change as additional information becomes available..." HPS staff felt the appropriate response within the existing regulatory framework was to reassess the 7 Dale Avenue property as from Category "C" to Category "B", given that two prominent architectural firms were involved in its design, Gordon Adamson and Dunington-Grubb and Stenesson, landscape architects.

Section 4.2 of the Study further states that "it is anticipated that a procedure would be implemented for additional review and evaluation of properties by Heritage Preservation Services when necessary." As stated in the report from the Director, Urban Design (June 13, 2018) no such procedure currently exists.

HPS staff will request that additional research be conducted on future "C" category buildings proposed for demolition. Applicants will be required to provide a cultural heritage resource assessment that evaluates the properties, using the rating criteria set out in the South Rosedale HCD Study.

CONCLUSION

As requested, City Planning reviewed the discussion at Community Council and met with the applicant where the applicant presented revised plans to address concerns raised in the staff reports.

The proposal has been reviewed against the policies of the Planning Act, PPS (2014), the Growth Plan (2017), the Toronto Official Plan and the South Rosedale Heritage Conservation District. Staff are of the opinion that the proposal has regard for matters of provincial interest in section 2 of the Planning Act, is consistent with the PPS, and conforms with the Growth Plan with respect to heritage matters. Further, the proposal is in keeping with the intent of the Official Plan, particularly as it relates to Heritage policies, and meets the South Rosedale Heritage Conservation District guidelines.

Planning staff are satisfied that the revisions address staff's outstanding concerns and this report provides clarity to the matters discussed at Community Council and updated recommendations with respect to the appeal before the Local Planning Appeal Tribunal.

In the context of a settlement in discussion with the applicant, City Planning staff recommends that Council direct City staff to continue discussions with the applicant, and authorize the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning, to support a with prejudice settlement offer at the LPAT.

CONTACT

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SIGNATURE

Gregg Lintern, MCIP, RPP
Chief Planner and Executive Director
City Planning

ATTACHMENTS

Attachment 1: Location Map

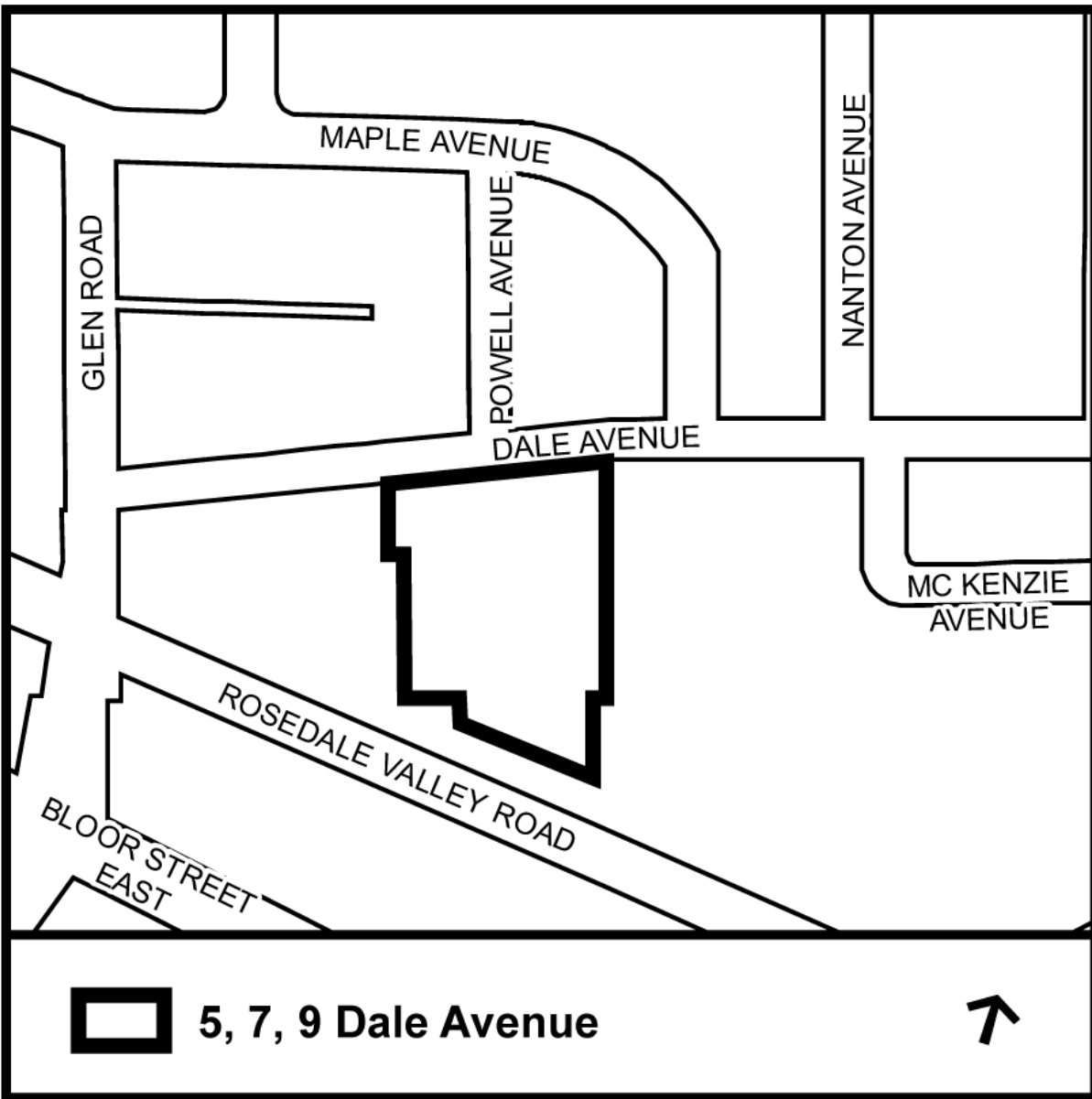
Attachment 2: Revised Proposal - Site Plan with Modifications Highlighted

Attachment 3: Revised Proposal - Site Plan

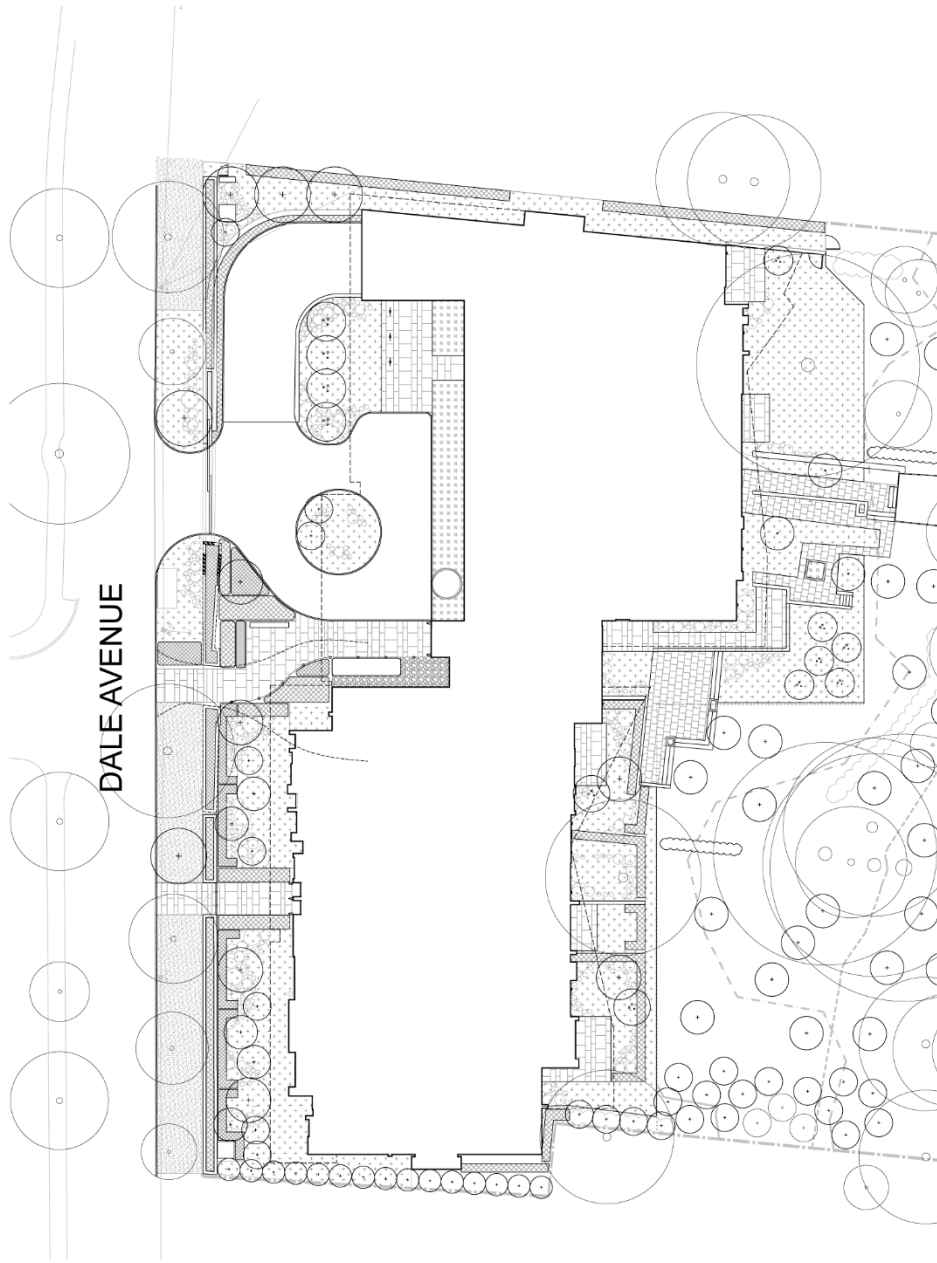
Attachment 4: Revised Proposal - North Elevation

Attachment 5: Revised Proposal - West Elevation

Attachment 1: Location Map



Attachment 3: Revised Proposal - Site Plan



5, 7 & 9 Dale Avenue

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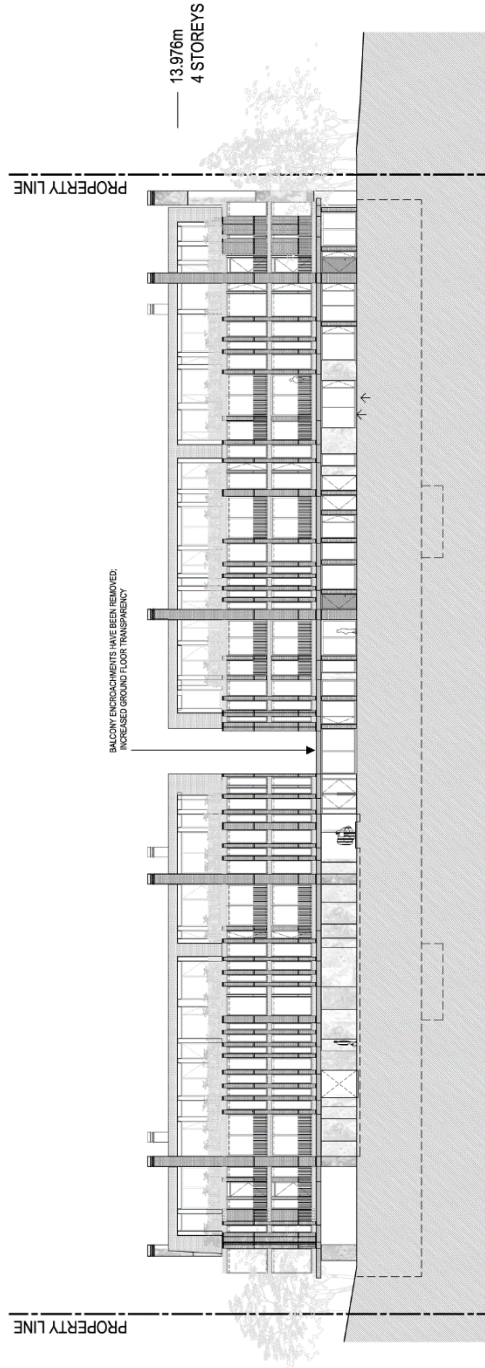
Revised Proposal - Site Plan

Applicant's Submitted Drawing

Not to Scale
07/24/2018



Attachment 4: Revised Proposal - North Elevation



5, 7 & 9 Dale Avenue

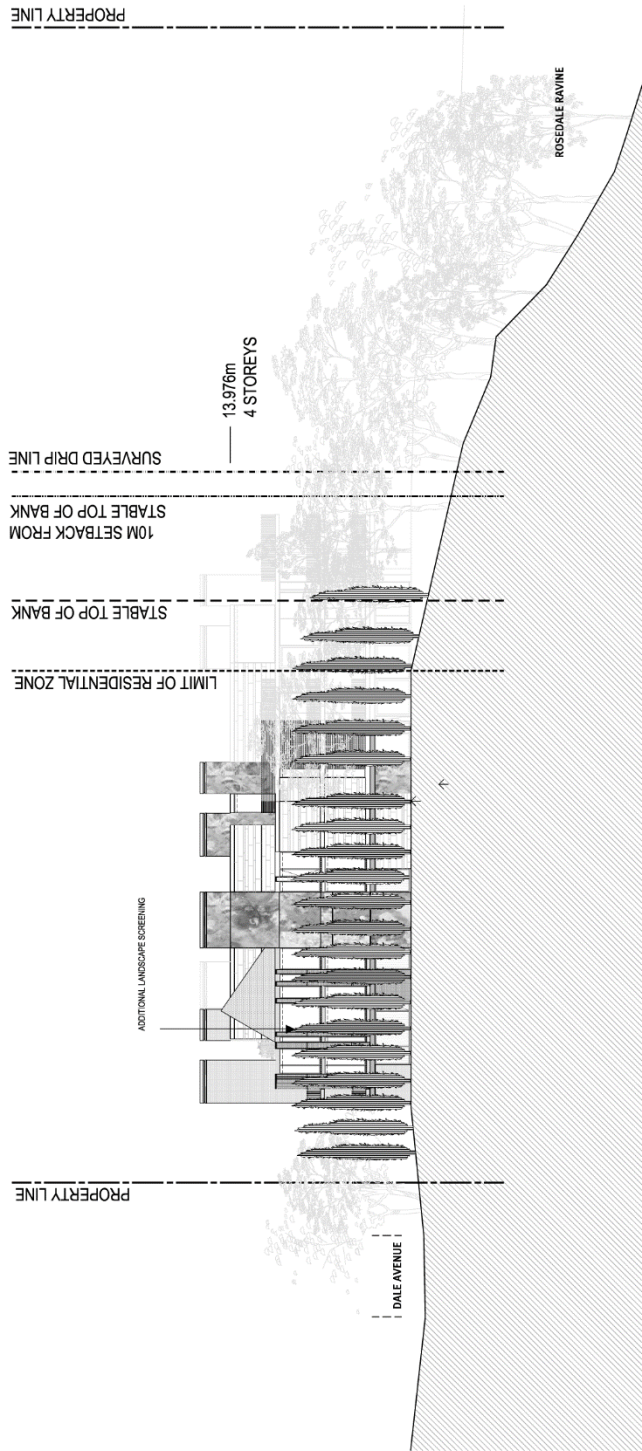
Revised Proposal - North Elevation

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Not to Scale
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File # 16 202229 STE 27 0Z

Attachment 5: Revised Proposal - West Elevation



5, 7 & 9 Dale Avenue

Revised Proposal - West Elevation

Applicant's Submitted Drawing

Not to Scale
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