

5830 Bathurst Street - Application under Funeral, Burial and Cremation Services Act, 2002 - Decision Report - Approval

Date: April 21, 2023

To: North York Community Council

From: Director, Community Planning, North York District

Wards: Ward 6 - York Centre

Related Planning Application Number: 21 222665 NNY 06 SA

SUMMARY

The applicant proposes to construct a three-storey addition to the existing three-storey mausoleum at the Westminster Cemetery. The application also proposes 6 parking spaces, including 1 accessible parking space.

The proposed addition to the existing mausoleum is part of a seven-phase Master Plan that envisions the development of six new mausoleums and a new administration and funeral visitation centre. The Master Plan would also see the extension of the private road network and parking facilities to serve the new buildings south and east of the subject site. Connections for pedestrians and cyclists are planned throughout the site with access to the City-owned trail east of the site and Finch Corridor Recreational Trail to the south. This proposal is Phase 4 of the Master Plan.

The application requires City Council consideration under the Funeral, Burial and Cremation Services Act, 2002 (the "*FBCS Act*") and is subject to site plan approval under the *City of Toronto Act, 2006*. Matters related to the establishment, alteration and expansion of cemeteries, burial sites and crematoriums are addressed under the *FBCS Act* and *Ontario Regulation 30/11* (the "*Regulation*"). The *FBCS Act* requires the registrar's consent together with the approval of the local municipality for a proposal to establish, alter, or increase the capacity of a cemetery. The applicant is required to obtain the City's approval, prior to requesting approval from the registrar. The *FBCS Act* also specifies that a local municipality that receives such a request shall grant the approval if, in the municipality's opinion, it is in the public interest.

Council's approval is not an approval under the *Planning Act* or *City of Toronto Act*, but rather the *FBCS Act*.

City of Toronto By-law 580-2009 does not delegate to the Chief Planner the authority to make findings of public interest on behalf of the municipality under the *FBCS Act*. Therefore, the determination and approval must be made by City Council.

The proposal is also subject to Site Plan Control and is under review by City Planning. Approval of this application will be granted separately.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council find that the request to propose a three-storey addition to an existing three-storey mausoleum contemplated in File No. 21 222665 NNY 06 SA, at the Westminster Cemetery located at 5830 Bathurst Street is in the public interest and approve the application under the *Funeral, Burial and Cremation Services Act, 2002* and *Ontario Regulation 30/11*.
2. City Council direct that the City Clerk publish notice of Council's decision in Recommendation 1 in accordance with the *Funeral, Burial and Cremation Services Act, 2002*.
3. City Council direct that the City Clerk provide notice of Council's decision in Recommendation 1 to the Registrar and to the applicant under the *Funeral, Burial and Cremation Services Act, 2002*, together with supporting materials, including a copy of the Report of the Director, Community Planning North York District, dated April 21, 2023.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

PROPOSAL

Proposal Description

The application proposes a three-storey addition to an existing three-storey mausoleum on the west side of the Westminster Cemetery. Matters related to the establishment, alteration and expansion of cemeteries, burial sites and crematoriums are addressed under the *FBCS Act* and *Ontario Regulation 30/11* (the "*Regulation*"). The application requires City Council consideration under the *Funeral, Burial and Cremation Services Act, 2002* (the "*FBCS Act*") and is subject to site plan approval under the *City of Toronto Act, 2006*.

Gross Floor Area and Cubic Metres

The proposed addition would have a gross floor area of 1,760 square metres. The proposed addition, including the existing three-storey mausoleum, would have a total gross floor area of 3,440 square metres.

Parking

The applicant has provided a Master Plan which envisions a parking lot located west of the proposed addition to service the existing and future mausoleums and funeral and visitation centre. To service this development, the application proposes to provide 6 new parking spaces, including 1 accessible parking space located southwest of the building.

Additional Information

Detailed project information submitted for the Site Plan Control application can be found on the City's Application Information Centre. See Attachment 1 to this report for the Application Data Sheet, Attachment 2 for the Location Map, Attachment 3 for the proposed Master Plan, Attachment 4 for the proposed Site Plan, and Attachment 5 for the proposed Elevations

Site and Surrounding Area

North: To the north are apartment buildings and a low-rise residential neighbourhood. The G. Ross Lord Park is also located north of the site.

West: To the west are the existing buildings part of the Westminster Cemetery and further west is the G. Ross Lord Reservoir.

East: To the east is the Beth Tzedec Cemetery and City-owned trail that runs north-south between the G. Ross Lord Park and Finch Hydro Corridor.

South: To the south is the Finch Hydro Corridor, North York Civic Soccer Fields, and Finch Corridor Recreational Trail.

Reasons for Application

Matters related to the establishment, alteration and expansion of cemeteries, burial sites and crematoriums are addressed under the *FBCS Act* and *Ontario Regulation 30/11* (the "*Regulation*"). The *FBCS Act* requires the registrar's consent together with the approval of the local municipality for a proposal to establish, alter, or increase the capacity of a cemetery. The applicant is required to obtain the City's approval, prior to requesting approval from the registrar.

APPLICATION BACKGROUND

Application Submission Requirements

The following reports/studies were submitted in support of the related site plan application:

- Archaeological Assessment;
- Arborist Report;
- Energy Efficiency Report;
- Landscaping Plans;
- Civil and Utilities Plan;
- Functional Servicing and Stormwater Management Report;
- Hydrogeological Report; and
- Photometric Plan;
- Toronto Green Standards Checklist

Agency Circulation Outcomes

The application together with the applicable reports noted above, have been circulated to all appropriate agencies and City Divisions. Responses received have been used to assist in evaluating the application and to inform the review of the related Site Plan Control application.

POLICY CONSIDERATIONS

Funeral, Burial and Cremation Services Act, 2002

The application proposes a three-storey addition with a gross floor area of 1,760 square metres to the existing three-storey mausoleum. Section 1 of the *FBCS Act* defines "a mausoleum as a structure, other than a columbarium, used as a place for the interment of human remains in tombs, crypts, or compartments". Section 145(1) of the *Regulation* defines a "small scale mausoleum" as a mausoleum having a total volume of less than 15 cubic metres, not including markers affixed to the structure. The *Regulation* requires a cemetery operator to ensure that any building other than a small scale mausoleum to be installed in the cemetery to be at least 4.57 metres from any in-ground grave or scattering ground. The proposed mausoleum addition would have yard setbacks of 9.14 metres from the nearest burials and scattering grounds.

Section 83(1) of the *FBCS Act* requires the registrar's consent together with the approval of the local municipality for a proposal to alter, or increase the capacity of a cemetery. Section 83(2) of the *FBCS Act* requires the applicant to obtain the City's approval prior to requesting approval from the registrar. The registrar is a person appointed under Section 3 of the *FBCS Act*.

Pursuant to Section 84(1) of the *FBCS Act*, a local municipality that receives a request for an approval to establish, alter or increase the capacity of a cemetery in the municipality shall grant the approval if, in the municipality's opinion, it is in the public interest.

Section 84(4) requires the City to send a copy of its decision with reasons to the registrar and to the applicant and to publish notice of the City's decision in a local newspaper. By publishing notice of the City's decision the public is aware of the decision made and has an opportunity to appeal the decision to the Ontario Land Tribunal 15 days after the publication of this notice.

City of Toronto By-law 580-2009 does not delegate to the Chief Planner authority to make findings of public interest on behalf of the municipality under the *FBCS Act*. Therefore, the determination of the public interest and the approval of the request for the proposal under the *FBCS Act* must be made by City Council.

Site Plan Control

Site Plan approval is also required for the proposed mausoleum. Once the appeal period lapses and no appeals have been filed under the *FBCS Act*, City Planning will work with the applicant towards satisfying any pre-approval conditions required for the final Statement of Approval.

COMMENTS

Master Plan

As part of the proposal, the applicant has provided a Master Plan which envisions a 7-Phase development of the Westminster Cemetery, which incorporates 6 mausoleums and 1 administration and funeral visitation centre. Currently three phases of the Master Plan have been completed, including:

- Phase 1: Two-storey mausoleum;
- Phase 2: Existing three-storey mausoleum; and
- Phase 3: Administration and funeral visitation centre.

The current application proposes a three-storey addition to the existing Phase 2 three-storey mausoleum.

Future phases of development on the site will require City Council consideration under the *Funeral, Burial and Cremation Services Act, 2002* and *Ontario Regulation 30/11*. This is due to the *FBCS Act* requiring the registrar's consent together with the approval of the local municipality for a proposal to establish, alter, or increase the capacity of a cemetery. The current proposal exceeds the definition for a "small scale mausoleum" under *Ontario Regulation 30/11*. The addition to the current mausoleum is not considered a small scale mausoleum as it would be approximately 24,376 cubic metres.

Setbacks

The proposed mausoleum would have setbacks that comply with the minimum setback requirements of 4.57 metres from any burial or scattering ground as set out in the *FBCS Act*. The building would have a west side yard setback of 9.14 metres from the nearest burial grounds. This setback would provide adequate separation distance from any burial or scattering grounds in accordance with the *FBCS Act*. In addition to complying with the regulations of the *Act*, the setbacks would allow for landscaping and planting fronting the proposed addition's main walls to allow for improved on-site stormwater management.

Conclusion

The proposal represents an appropriate and efficient use of land that would address current space limits within the Westminster Cemetery, while providing adequate setbacks in accordance with the *FBCS Act*. For the foregoing reasons, Staff recommend that City Council find the request to construct an addition to the existing three-storey mausoleum related to the establishment, alteration and expansion of cemeteries, burial sites and crematoriums to be in the public interest and grant approval of the request pursuant to the *Funeral, Burial and Cremation Services Act, 2002* and *Ontario Regulation 30/11*. Staff also recommend that notice of the decision be published and that the Registrar be notified as required by the *FBCS Act*.

Technical matters related to the site will be addressed and implemented through the subsequent site plan conditions issued by the City.

CONTACT

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SIGNATURE

David Sit, MCIP, RPP, Director
Community Planning, North York District

ATTACHMENTS

City of Toronto Data/Drawings
Attachment 1: Application Data Sheet
Attachment 2: Location Map

Applicant Submitted Drawings
Attachment 3: Master Plan
Attachment 4: Site Plan
Attachment 5: Elevations

Attachment 1: Application Data Sheet

Municipal Address: 5830 Bathurst Street Date Received: October 6, 2021

Application Number: 21 222665 NNY 06 SA

Application Type: Site Plan Approval, Standard

Project Description: Proposed addition to an existing three-storey mausoleum at Westminster Cemetery. The addition will have three-storeys above grade with one partial storey below grade.

Applicant	Agent	Architect	Owner
PARK LAWN CEMETERY CO LTD			WESTSIDE CEMETERIES LTD

EXISTING PLANNING CONTROLS

Official Plan Designation:	Other Open Spaces	Site Specific Provision:	N
Zoning:	CEM-1	Heritage Designation:	N
Height Limit (m):		Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq m):	144,200	Frontage (m):	20	Depth (m):	1,582
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Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):	13,104	13,104	1,760	14,864
Residential GFA (sq m):				
Non-Residential GFA (sq m):	25,079	25,079	5,280	30,359
Total GFA (sq m):	25,079	25,079	5,280	30,359
Height - Storeys:	3	3	3	3
Height - Metres:	14	14	14	14

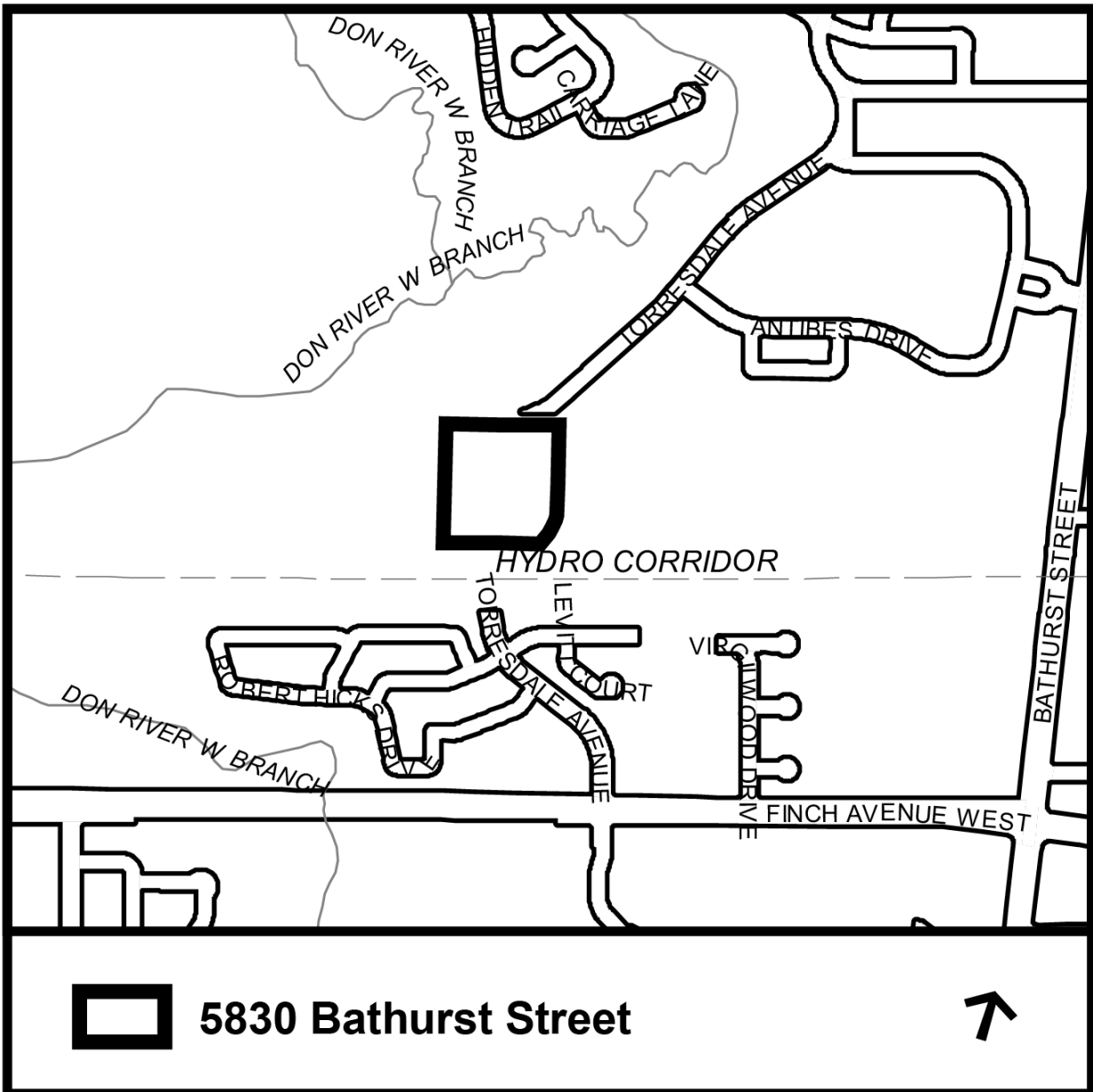
Lot Coverage Ratio (%)	10.31	Floor Space Index:	0.21
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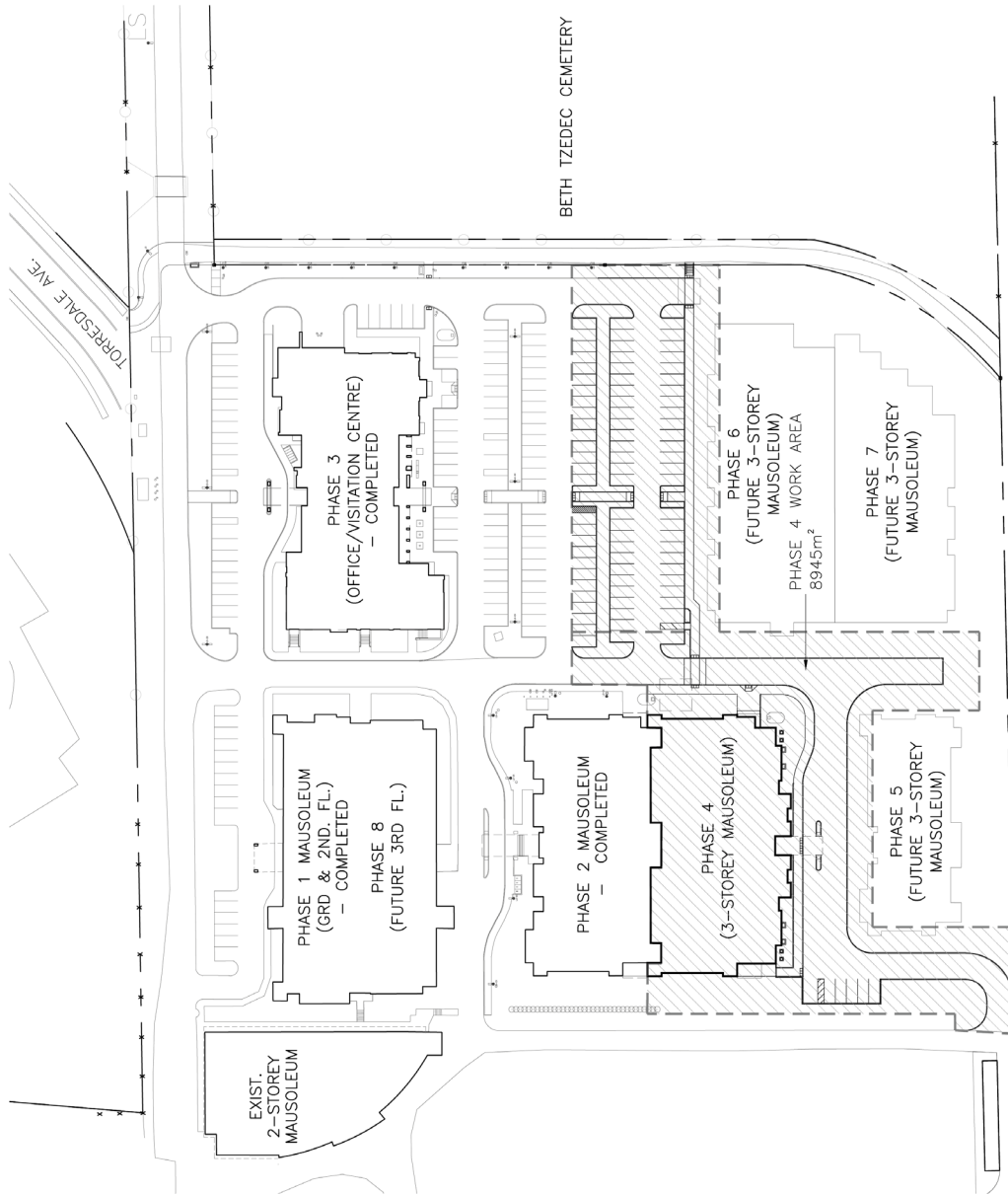
Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Institutional/Other GFA:	29,064	1,295
Parking and Loading		
Parking Spaces:	6	Bicycle Parking Spaces: 3 Loading Docks: 0

CONTACT:

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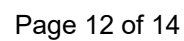
Attachment 2: Location Map





Master Plan

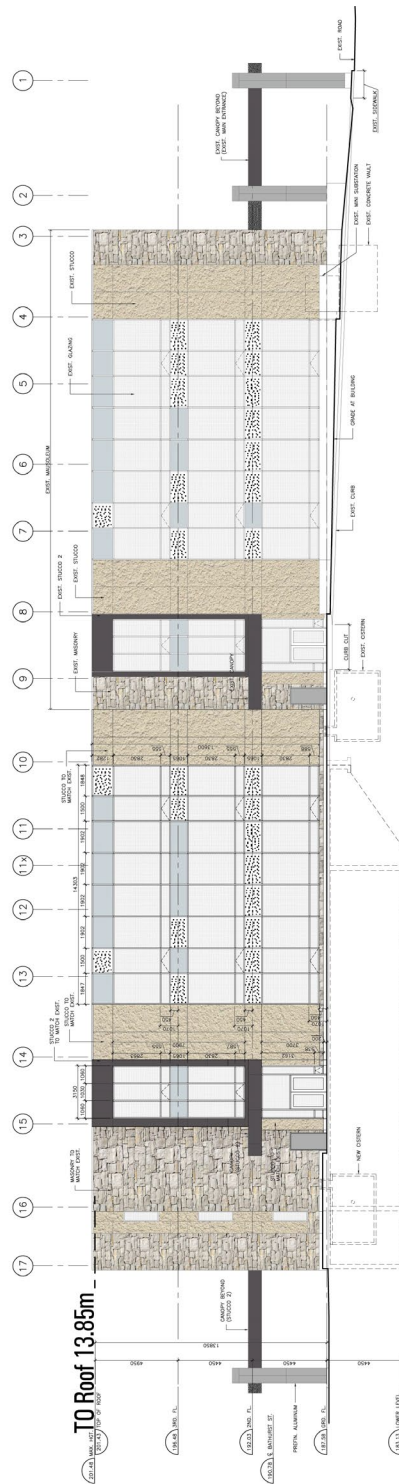
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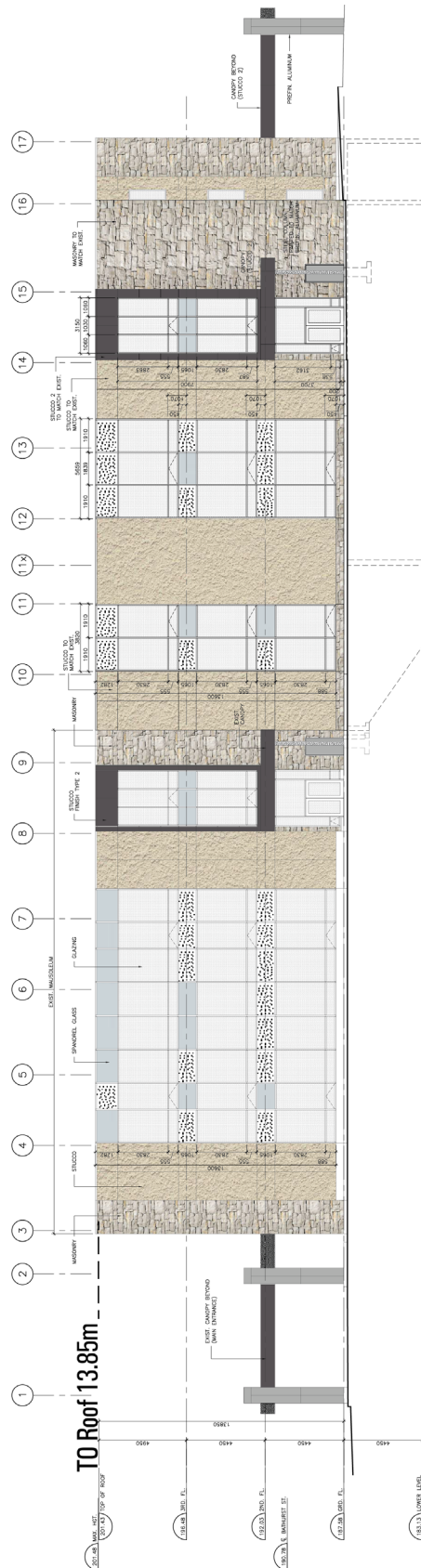
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Attachment 5: Elevations



East Elevation



West Elevation