

12 Hillside Road – Official Plan Amendment and Zoning By-law Amendment Application – Decision Report – Refusal

Date: March 15, 2024

To: Etobicoke York Community Council

From: Director, Community Planning, Etobicoke York District

Wards: Ward 7 – Humber River-Black Creek

Planning Application Number: 23 126569 WET 07 OZ

SUMMARY

This application proposes a two-storey detached dwelling with an integral garage on a site designated Natural Areas and located within the Natural Heritage System as identified on Map 9 of the Official Plan. The site is also located in the Toronto and Region Conservation Authority's (TRCA) regulated area and is subject to the Ravine and Natural Feature Protection By-law.

The proposed development is not consistent with the Provincial Policy Statement (2020) and does not conform with A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020). The proposed development also does not conform to the City's Official Plan.

This report reviews and recommends refusal of the application to amend the Official Plan and Zoning By-law as the proposal is not consistent with the Natural Environment and Parks and Open Space policies of the Official Plan, and the TRCA's Living City Policies, and would result in negative impacts to the natural environment.

RECOMMENDATIONS

The Director, Community Planning Etobicoke York District recommends that:

1. City Council refuse the application for Official Plan Amendment and Zoning By-law Amendments (Application No. 23 126569 WET 07 OZ) at 12 Hillside Road.
2. City Council authorize the City Solicitor, together with appropriate staff, to appear before the Ontario Land Tribunal in support of City Council's decision to refuse the applications, if the applications are appealed to the Ontario Land Tribunal.

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.

DECISION HISTORY

Multiple Pre-application Consultation (PAC) meetings and discussions were held between May 2016 and January 2022, where both City and TRCA staff discussed Official Plan policy requirements and raised concerns regarding the constraints on the site and the challenges associated with any potential development. The current application was submitted on March 24, 2023 and deemed complete on January 25, 2024. Staff have not conducted a Community Consultation Meeting for the application.

SITE AND SURROUNDING AREA

The site is located to the northwest of the Whitfield Avenue and Hillside Road intersection, tucked to the rear of 18 Hillside Road and to the north of 10 Hillside Road. The entirety of the property is well vegetated, contains a significant downwards slope feature associated with the Humber River watershed and is partially located within an erosion hazard zone. The site has been vacant since the late 1990s when the previous dwelling was demolished.

Hillside Road terminates to the south of the site and there are no plans to extend the right-of-way north to Riverside Drive. The site has no public road frontage and, as such, the applicant purchased the small squared shaped parcel of land immediately east of the site to obtain direct access to Hillside Road in 1998. This parcel of land has an existing easement granted under instrument TR22612 between the City of Toronto and Bell Canada to permit access for Bell Canada's equipment. Below provides the history of the easement lands:

- On April 24, 1998, the City of North York passed By-law 33121 stopping up and closing the lands as a public highway, removing the lands from the Hillside Road right-of-way.
- The existing Bell Canada Easement was registered on the parcel on April 24, 1998, and still currently exists. The easement was granted in perpetuity.
- The City of Toronto sold the lands to the current owner in 1998.

The property at 12 Hillside Road is approximately 930 square metres in size, but when combined with the adjacent easement lands, the site area is approximately 1,025 square metres with a 10-metre frontage on Hillside Road. The site is located within the TRCA's regulated area of the Humber River Watershed. The site is subject to the City of Toronto's Ravine and Natural Feature Protection By-law.

Surrounding land uses include:

North: The valley system associated with the Humber River and detached dwellings fronting Riverside Drive.

South: Detached dwellings on Whitfield Avenue and, beyond, on the south side of Whitfield Avenue is a catholic elementary school.

East: Detached dwellings spanning all the way until the first property east of Islington Avenue.

West: Detached dwellings and the Humber River and Rowntree Mills Park.

PROPOSAL

The application is proposing to construct a two-storey detached dwelling with an integral garage. Access to the site would be by way of the easement lands acquired by the applicant that provides frontage along the end of the existing cul-de-sac at the terminus of Hillside Road. The proposed gross floor area of the dwelling would be 445.4 square metres. A portion of the dwelling would also be built on the easement lands. Significant re-grading of the site and the construction of a series of retaining walls on the valley wall would be required to facilitate the proposed development.

Reasons for Application

The application requires an amendment to the Official Plan to allow development within both a Natural Areas designation and the Natural Heritage System. An amendment to Zoning By-law 569-2013 is required to add the property to the by-law with corresponding performance standards.

Agency Circulation Outcomes

The application together with the applicable reports noted above, have been circulated to all appropriate agencies and City Divisions. The comments received have been used in evaluating these applications.

POLICY AND REGULATION CONSIDERATIONS

Provincial Land Use Policies

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (2020), and shall conform to Provincial plans, including A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020), the Greenbelt Plan, and others.

Official Plan

The site is designated *Natural Areas* and is located within the *Natural Heritage System* as identified on Map 9 of the Official Plan. See Attachment 3 of this report for the Land Use Map. The Official Plan should be read as a whole to understand its comprehensive and integrative intent as a policy framework for priority setting and decision making.

The Official Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>.

Zoning

The subject site is zoned Residential (R3) under North York Zoning By-law 7625. The R3 zoning category permits single detached dwellings while restricting the maximum building height to 8.8 metres, minimum rear yard setback to 9.5 metres and requires a minimum of 75 percent of the front yard soft landscaping. See Attachment 4 of this report for the existing Zoning By-law Map.

City-wide Zoning By-law 569-2013 does not apply to this site.

Site Plan Control

The development is not subject to Site Plan Control.

COMMENTS

Provincial Policy Statement and Provincial Plans

Staff have reviewed the current proposal for consistency with the Provincial Policy Statement (2020) and conformity with the Growth Plan (2020). The proposal is inconsistent with the PPS and does not conform with the Growth Plan for the following reasons:

Section 2 of the Planning Act has identified the protection of ecological systems, including natural areas, features and functions as a matter of Provincial Interest that City Council shall have regard to in their decision-making process.

Provincial Policy Statement Policy 2.1.1 requires natural features and areas to be protected for the long-term. Policy 2.1.2 provides further direction by stating that the diversity and connectivity of natural features in an area, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features. Policy 3.1.3 generally directs development to areas outside hazardous lands, including those impacted by erosion hazards.

The Growth Plan has directed the City to undertake integrated planning to manage growth to support the environmental protection and conservation objectives of the Plan. Policy 4.2.2.2 requires municipalities to incorporate the Natural Heritage System for the Growth Plan as an overlay in official plans, and will apply appropriate policies to maintain, restore, or enhance the diversity and connectivity of the system and the long-term ecological or hydrologic functions of the features and areas. Within the Natural Heritage System, Policy 4.2.2.3 requires new development or site alternation to demonstrate that:

- i. There are no negative impacts on key natural heritage features or key

hydrologic features or their functions; and

ii. The removal of other natural features not identified as key natural heritage features and key hydrologic features is avoided, where possible. Such features should be incorporated into the planning and design of the proposed wherever possible.

Policy 4.2.10 (f) requires municipalities to develop policies in their official plans to identify actions that will reduce greenhouse gas emissions and address climate change adaptation goals, aligned with other Provincial plans and policies for environmental protection, which will include:

(f) Protecting the Natural Heritage System for the Growth Plan and water resource systems.

The application is neither consistent nor conforms with the above-mentioned policies, as the application would result in adverse impacts on the natural heritage system and existing landscape. The application requires significant regrading of the site and the use of multiple retaining walls, the removal of numerous existing mature trees, and construction in the erosion hazard - all of which would have adverse long-term impacts on the stability of the existing slope, erosion hazard and ecosystem. Cumulatively, these would not result in the protection, restoration and enhancement of the area.

Land Use

The site is designated *Natural Areas* and located within the Natural Heritage System as illustrated on Map 9 of the Official Plan. It is also within the Toronto and Region Conservation Authority's regulated area and the City's Ravine and Natural Features Protection area. Protecting Toronto's natural environment and urban forest should not be compromised by development that is insensitive to the needs of the environment and the natural functions it provides.

Parks and Open Space Official Plan Policy 4.3.3 directs that areas shown as *Natural Areas* in the Official Plan will be maintained primarily in a natural state, while allowing for:

a) Compatible recreational, cultural and educational uses and facilities that minimize adverse impacts on natural features and functions; and

b) Conservation projects, public transit, public works and utilities for which no reasonable alternatives are available, that are designed to have only minimal adverse impacts on natural features and functions, and that restore and enhance existing vegetation and other natural heritage features.

Policies specific to properties influenced by ravines, valleys and natural heritage systems are set out in both the Official Plan and the Toronto and Region Conservation Authority's Living City Policies. The Living City Policies describe a "Natural System" as being made up of natural features and areas, water resources, natural hazards, potential natural cover and/or buffers. The Living City Policies recommend that

development not be permitted within the Natural System and that it be conveyed into public ownership for its long-term protection and enhancement.

Development is generally not permitted in the Natural Heritage System. However, on sites where the underlying permissions allow for development, both the Official Plan and Living City Policies provide development criteria that must be adhered to ensure the protection and enhancement of the existing ecosystem and natural environment.

The development of the proposed detached dwelling is not envisioned within the *Natural Areas* designation by both the Official Plan and the TRCA's Living City Policies. Furthermore, the proposal would not maintain the natural state of the property and neither would it successfully maintain the intent of the Natural Environment development policy directives.

Open Space/Parkland

The Official Plan contains policies to ensure that Toronto's systems of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Official Plan shows local parkland provisions across the city. This proposal is exempt from the parkland dedication requirement under Chapter 415, Article III, Section 415-30(16) of the Toronto Municipal Code.

Ravine Protection

The Official Plan Toronto's Green Space Systems and Waterfront policies state actions will be taken to improve, preserve and enhance the City's Green Space Systems by restoring, creating and protecting a variety of landscapes.

The Natural Environment policies of the Official Plan aim to build the city while protecting and enhancing the natural environment. The Natural Heritage System is important to the city and must be protected for the long-term. It is made up of areas where protecting, restoring, and enhancing the natural features and functions should have high priority in city-building decisions. Impacts of new development within or near the Natural Heritage System must be carefully assessed, and appropriately mitigated and/or enhanced.

Official Plan Policy 3.4.1(c) states that, to support strong communities a competitive economy and a high quality of life, public city-building activities and changes to the built environment, will be environmentally friendly, based on reducing the risk to life, health, safety, property and ecosystem health that are associated with unstable slopes and erosion lands and must consider the potential impact of climate change that may increase the risk associated with natural hazards.

The Natural Environment Official Plan Policy 3.4.8 requires new development to be setback from the top-of-bank of ravines by at least 10 metres, or more if warranted by the severity of existing or potential natural hazards, or in other locations where slope instability, erosion, flooding or other physical conditions present a significant risk to life or property. Policy 3.4.9 continues by stating that alterations of the existing slope of a

valley, ravine, or bluff for the purpose of accommodating development will not be permitted.

Policy 8.4.8 of the TRCA's Living City Policies requires development within a regulated area to be setback from the limit of valley and stream corridors by requiring a minimum 10-metre setback from the greatest combined extent of the feature, including the long-term stable top of slope, Regulatory Floodplain, meander belt, and contiguous natural features and areas that contribute to the conservation of land. Further, Policy 8.5.1.1 contends that development will not be permitted within the erosion hazard of a valley and stream corridor.

The physical top-of-bank was staked by TRCA staff, and a Slope Stability Assessment was submitted to confirm the long-term stable top of slope. In this case both lines are coincidental, meaning the slope in its current inclination is considered stable for the long-term.

The application does not meet the development requirements in both the Official Plan and the Living City Policies. The staked top-of-bank extends through the southern portion of the site with most of the property located below the top-of-bank. The application fails to provide the required minimum setback of 10 metres from the top-of-bank, as the western portion of the dwelling would be located within the required 10-metre setback and the remainder of the dwelling would sit either on top of or below the staked top-of-bank.

The proposed garage, driveway and vehicular access proposed to be located on the easement lands are within the erosion hazard zone. The application is unable to provide safe access to the dwelling as most of the lot frontage is located within the erosion hazard zone. Due to the environmental features of the site, there is insufficient tableland to accommodate the proposed development and the proposed modifications to the existing slope and construction on the erosion hazard zone would result in unacceptable impacts to the natural environment and an increase in risk to life and the property.

The application is not consistent nor conforms with the applicable Provincial policies, Official Plan policies, as well as the Toronto and Region Conservation Authority's Living City Policies. Unfortunately, due to site constraints and policy requirements, there are no recommended built form revisions that would improve the proposal to ensure conformity with applicable policies.

Natural Heritage Protection

The Official Plan Natural Environment policies state that to support strong communities, a competitive economy and high quality of life, public and private city building activities and changes to the built environment, will be environmentally friendly, based on sustaining, restoring and enhancing the health and integrity of the natural ecosystem, supporting biodiversity in the city and target ecological improvements, paying particular attention to landforms and ravines and biophysical processes; seasonal movements of migration species; and the potential impacts of a changing climate on biodiversity and ecosystem health.

The Natural Environment Policy 3.4.13 requires all proposed development in or near the Natural Heritage System to be evaluated to assess the development's impact on the system and identify measures to mitigate negative impacts on and/or improve the system, including its natural features and functions.

The applicant submitted a Scoped Environmental Impact Study (EIS) authored by R.J Burnside & Associates Limited, dated February 2023, which concluded the impact of the proposed development is not anticipated to influence the area's natural heritage features and functions as there are no direct connections to natural features. Furthermore, the proposed replacement landscaping in lieu of the existing mature trees would result in an overall improvement to the ecological function.

The applicant's EIS has been peer reviewed by North-South Environmental, a third-party consultant retained by the City. North-South Environmental disagree with the conclusions of the EIS and are of opinion that the study was not completed according to the City's Natural Heritage Impact Study's Terms of Reference and does not include a discussion of applicable Official Plan policy adherence - specifically 3.4.1 b) and d) as well as 3.4.13. According to the peer review, among other substantive items, the conclusion that the proposed development would not have impacts on the functions of the woodland, should be revisited as the role (and potential provincial significance) of the woodland has been under-represented and provides more habitat than depicted. Furthermore, additional investigation is required to determine the long-term impacts that removing the existing mature trees would have on habitat for Species at Risk (SAR). Additionally, the EIS does not demonstrate how the loss of NHS would be minimized or how development impacts would be appropriately mitigated through reforestation.

Archaeological Assessment

An archaeological resource assessment identifies and evaluates the presence of archaeological resources also known as archaeological potential. The applicant submitted a Stage 1 and 2 Archaeological Assessment, dated April 5, 2022, completed by AS & G Archaeological Consulting, which determined there are no further archaeological concerns regarding the subject site. Heritage Planning staff reviewed the submitted report and concur with the assessment.

Tree Preservation

City by-laws provide for the protection of trees situated on both private and City property. The submitted Arborist Report authored by R.J Burnside and Associates Ltd, dated February 2023, assessed approximately 49 existing mature trees, of which 17 are proposed to be preserved, four trees are proposed to be injured and the remaining 28 trees are proposed to be removed. Of the 28 existing mature trees to be removed to accommodate the proposed development, approximately 79 percent are in either good or fair condition and 21 percent are in poor health.

The submitted report concluded that the removal of the 28 existing trees to accommodate the proposed development is not anticipated to influence the area's natural heritage features and functions. The City's natural heritage consultants, North-South Environmental, reviewed the report and disagree, stating that the woodlands play

a larger role in providing connectivity, an alternate corridor or steppingstone, and providing enhancement to the forest cover and habitat in the surrounding landscape in the context of the Humber River.

CONCLUSION

The proposal has been reviewed against the policies of the PPS (2020), A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020), the Official Plan and the TRCA's Living City Policies. The proposal is not consistent with the PPS (2020) and conflicts with A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020). Further, the proposal does not conform with the Official Plan, particularly as it relates to the Natural Areas policies. The proposal does not represent good planning and is not in the public interest. Staff recommend that Council refuse the application.

CONTACT

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SIGNATURE

Michael Mizzi
Director, Community Planning
Etobicoke York District

ATTACHMENTS

City of Toronto Data/Drawings

Attachment 1: Application Data Sheet
Attachment 2: Location Map
Attachment 3: Official Plan Land Use Map
Attachment 4: Natural Heritage System Map 9 of the Official Plan
Attachment 5: Existing Zoning By-law Map

Applicant Submitted Drawings

Attachment 6: Site Plan
Attachment 7: North Elevation
Attachment 8: South Elevation
Attachment 9: West Elevation
Attachment 10: East Elevation

Attachment 1: Application Data Sheet

Municipal Address: 12 Hillside Road Date Received: March 24, 2023

Application Number: 23 126569 WET 07 OZ

Application Type: OPA / Rezoning, OPA & Rezoning

Project Description: Proposed construction of a two-storey detached dwelling with an attached garage. The proposed garage would be constructed on the easement lands to provide access from Hillside Road.

Applicant	Agent	Architect	Owner
Corbett Land Strategies Inc. 5045 South Service Road, Burlington, Ontario	N/A	Hunt Design Associates 2966 Woodbine Avenue, Markham, Ontario	Adriana Ortino 11904 Woodbine Avenue, Stouffville, Ontario

EXISTING PLANNING CONTROLS

Official Plan Designation: Natural Areas	Site Specific Provision: No
Zoning: R3	Heritage Designation: No
Height Limit (m): 8.8	Site Plan Control Area: No

PROJECT INFORMATION

Site Area (sq m): 1,024 Frontage (m): 10 Depth (m): 30

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			193	193
Residential GFA (sq m):			445	445
Non-Residential GFA (sq m):				
Total GFA (sq m):			445	445
Height - Storeys:			2	2
Height - Metres:			10.09	10.09

Lot Coverage Ratio (%): 18.82 Floor Space Index: 0.43

Floor Area Breakdown Above Grade (sq m) Below Grade (sq m)

Residential GFA: 445
 Retail GFA:
 Office GFA:
 Industrial GFA:
 Institutional/Other GFA:

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:				
Freehold:			1	1
Condominium:				
Other:				
Total Units:			1	1

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:					
Total Units:					

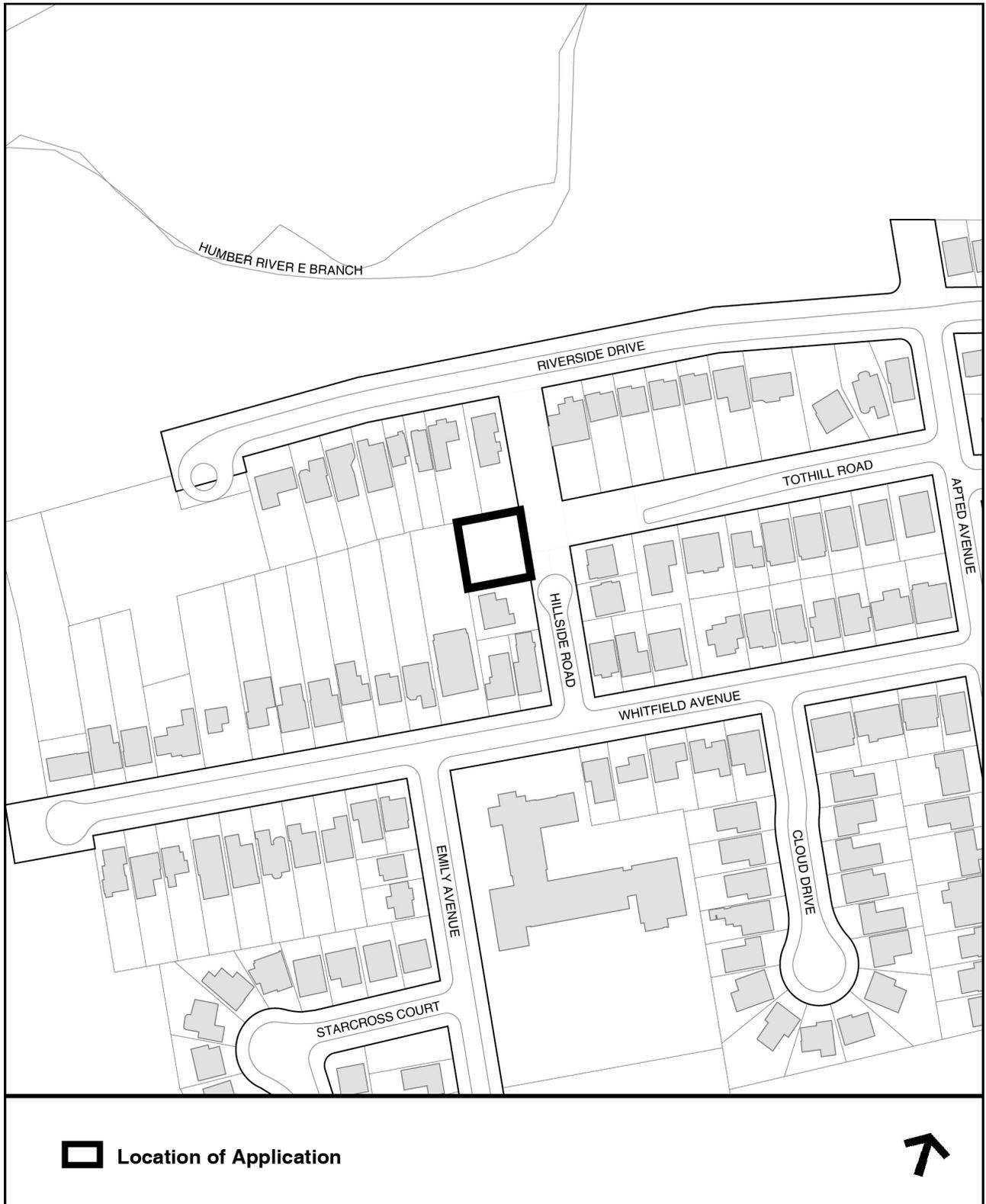
Parking and Loading

Parking Spaces:	2	Bicycle Parking Spaces: N/A	Loading Docks: N/A
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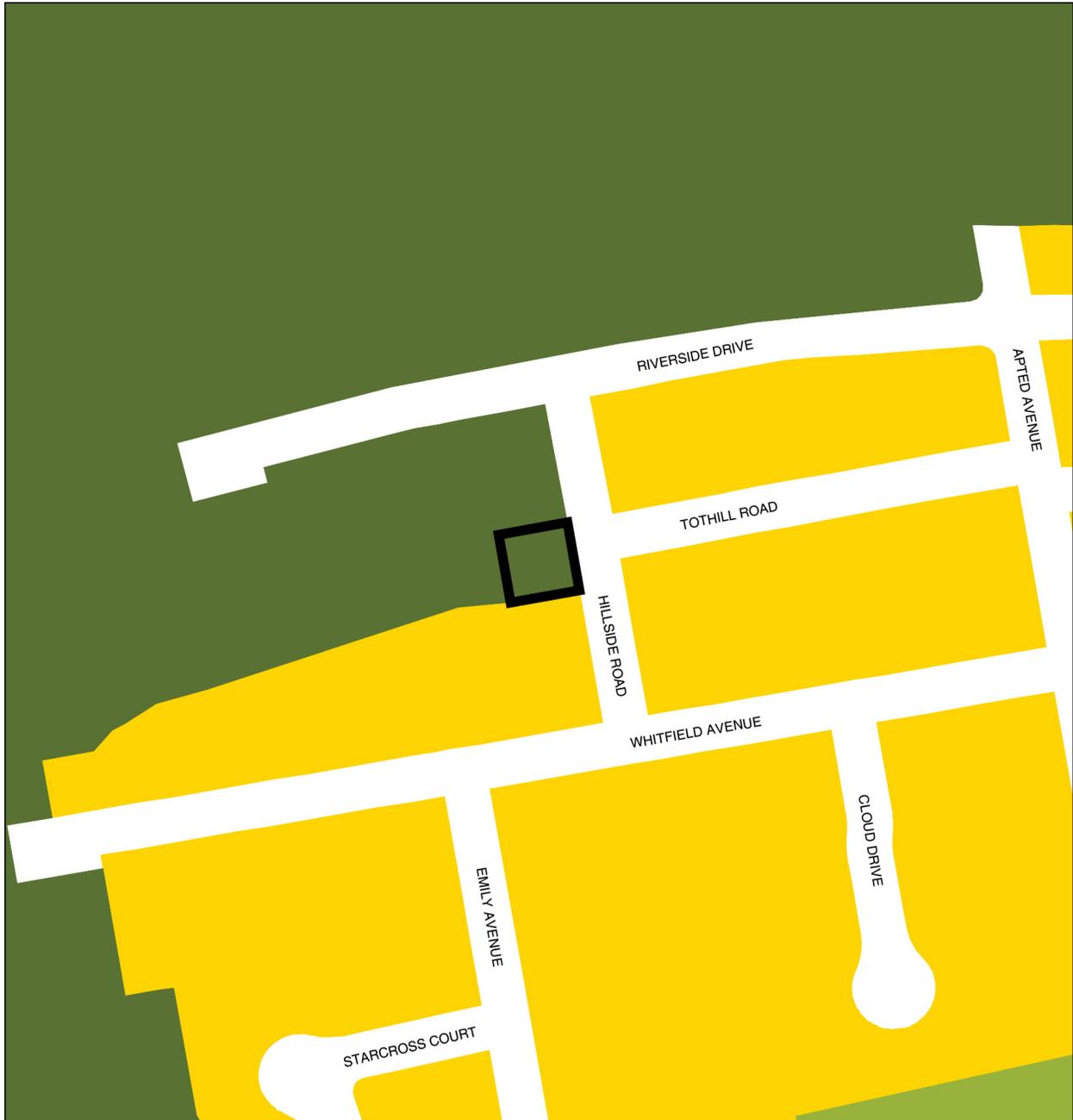
CONTACT:

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Attachment 2: Location Map



Attachment 3: Official Plan Land Use Map



Official Plan Land Use Map #13

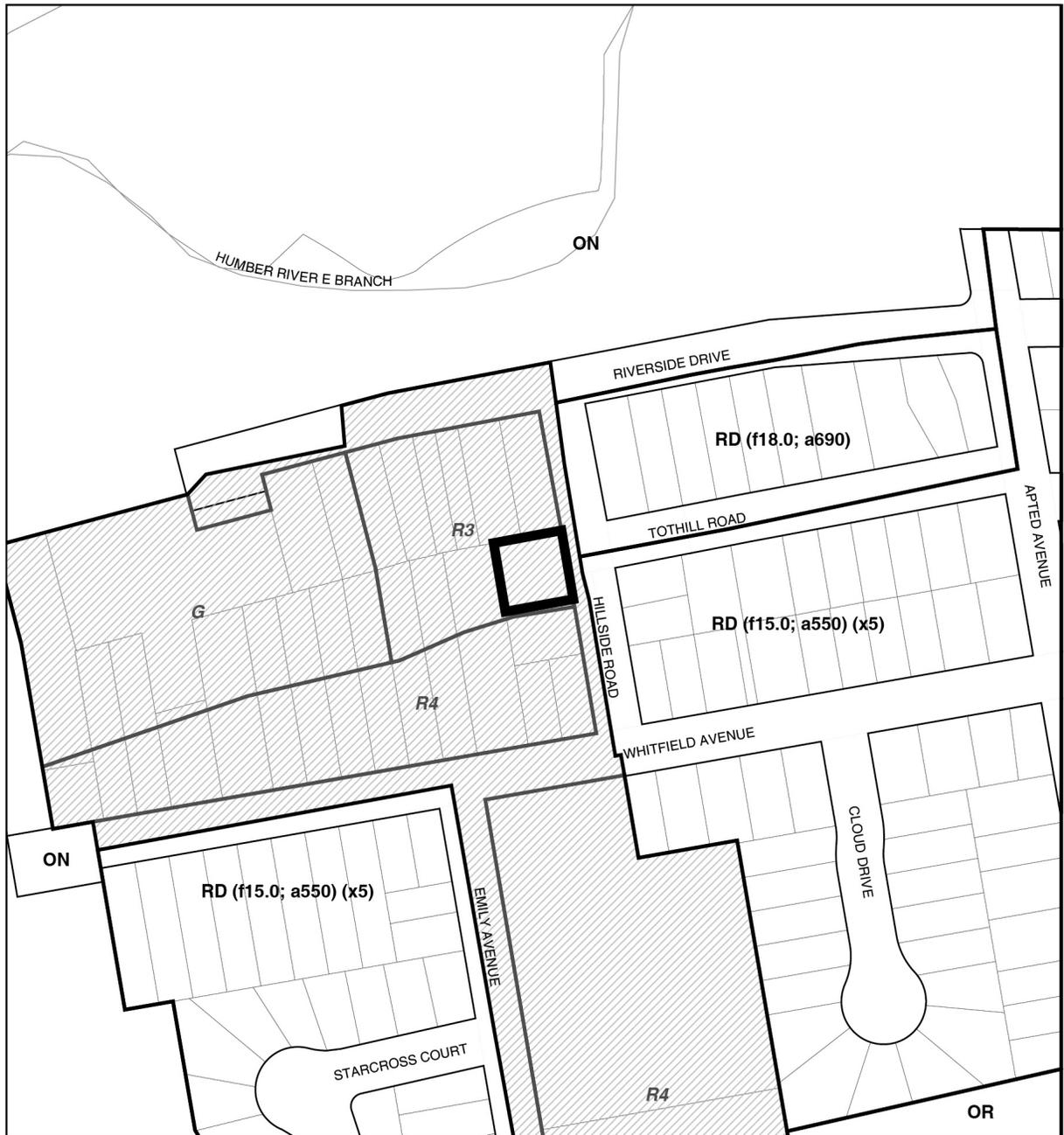
12 Hillside Road

File # 23 126569 WET 07 02



Not to Scale
Extracted: 03/27/2023

Attachment 4: Existing Zoning By-law Map



Zoning By-law 569-2013

12 Hillside Road

File # 23 126569 WET 07 02

-  Location of Application
- RD** Residential Detached
- ON** Open Space Natural
- OR** Open Space Recreation

-  See Former City of North York By-law No. 7625
- R3** One-Family Detached Dwelling Third Density Zone
- R4** One-Family Detached Dwelling Fourth Density Zone
- G** Greenbelt Zone



Not to Scale
Extracted: 03/27/2023

Attachment 5: Natural Heritage System Map 9 of the Official Plan



Official Plan Map 9: Natural Heritage

12 Hillside Road

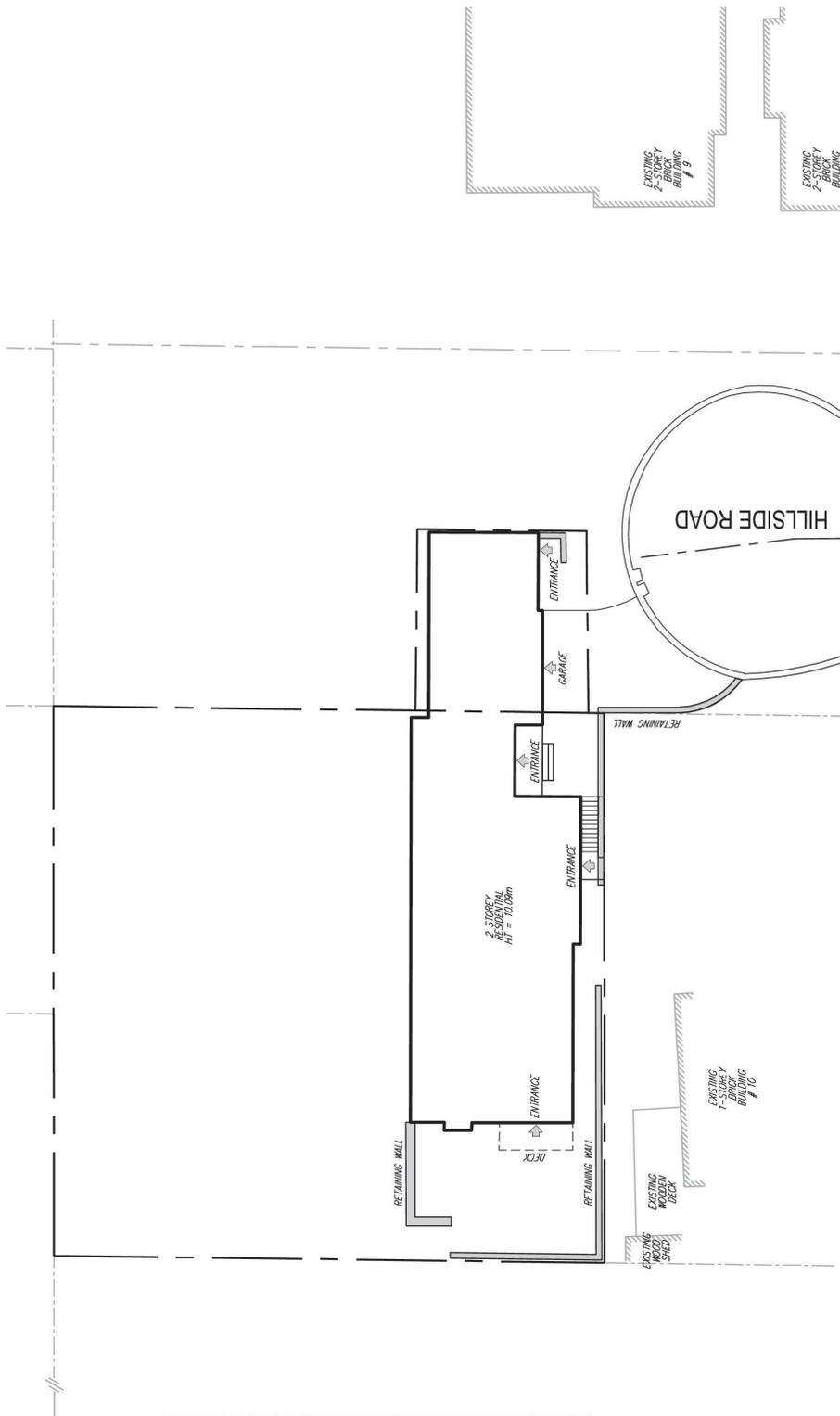
File # 23 126569 WET 07 0Z

-  Location of Application
-  Natural Heritage System



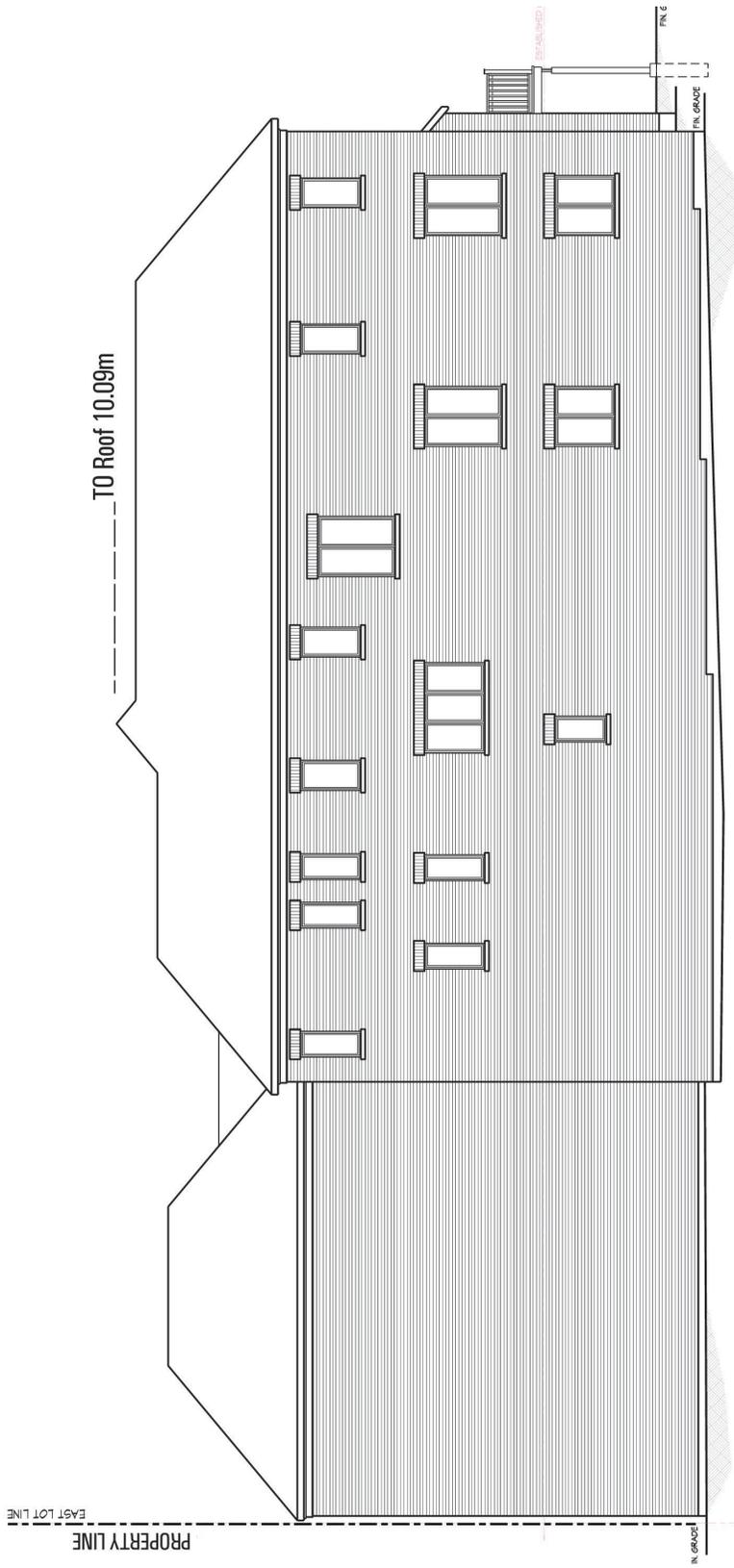
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Attachment 6: Site Plan



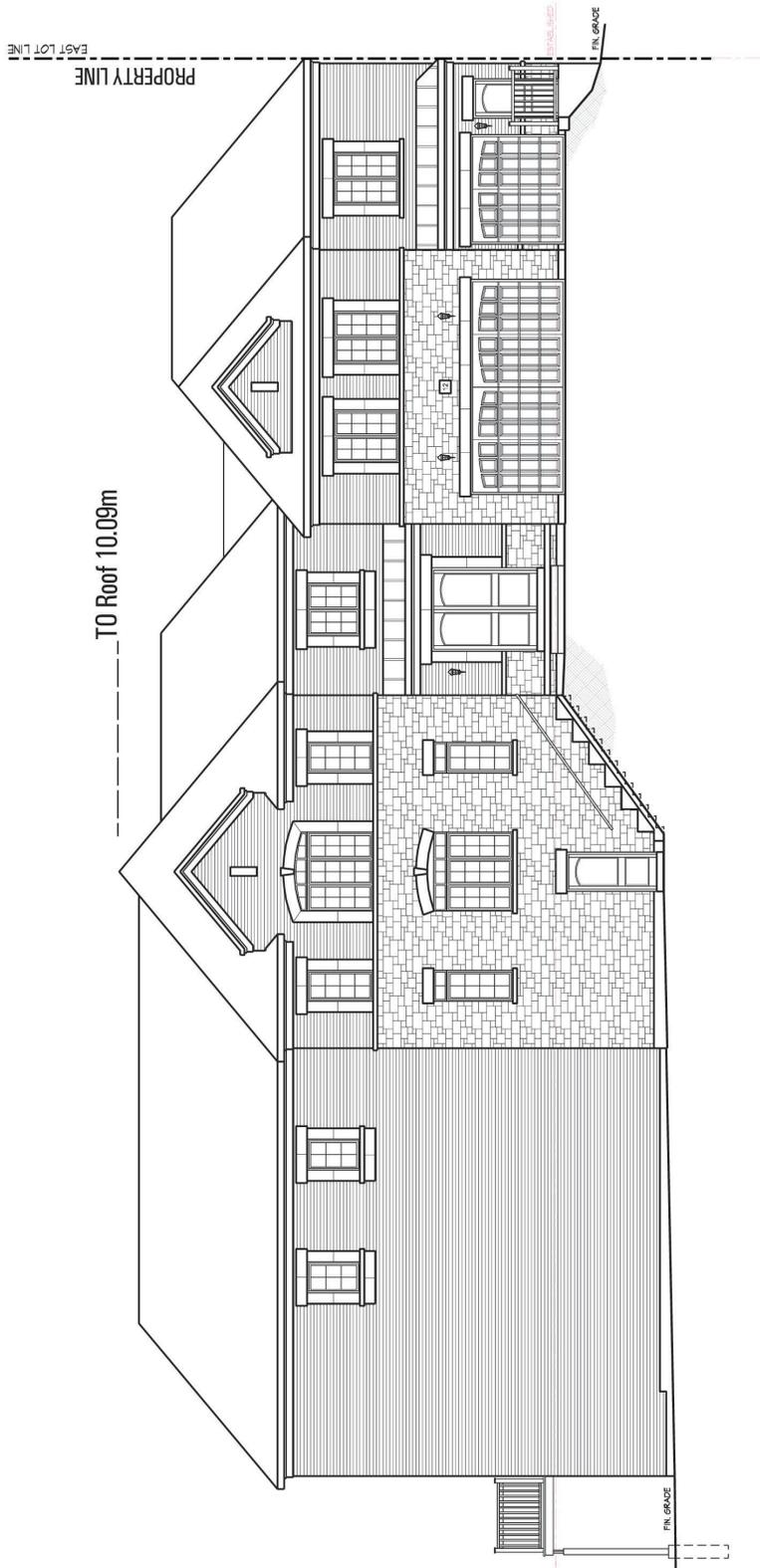
Site Plan

Attachment 7: North Elevation



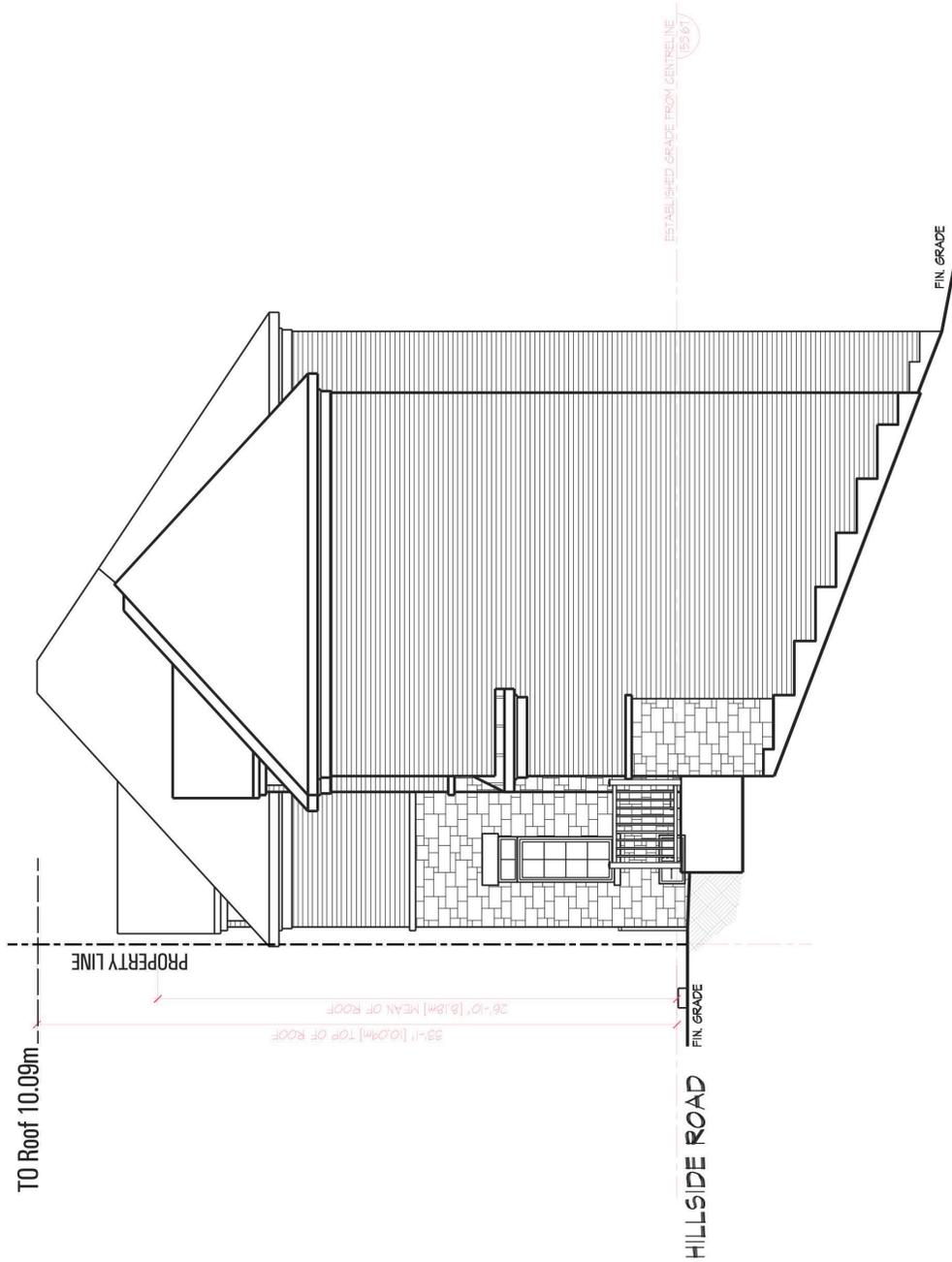
North Elevation

Attachment 8: South Elevation



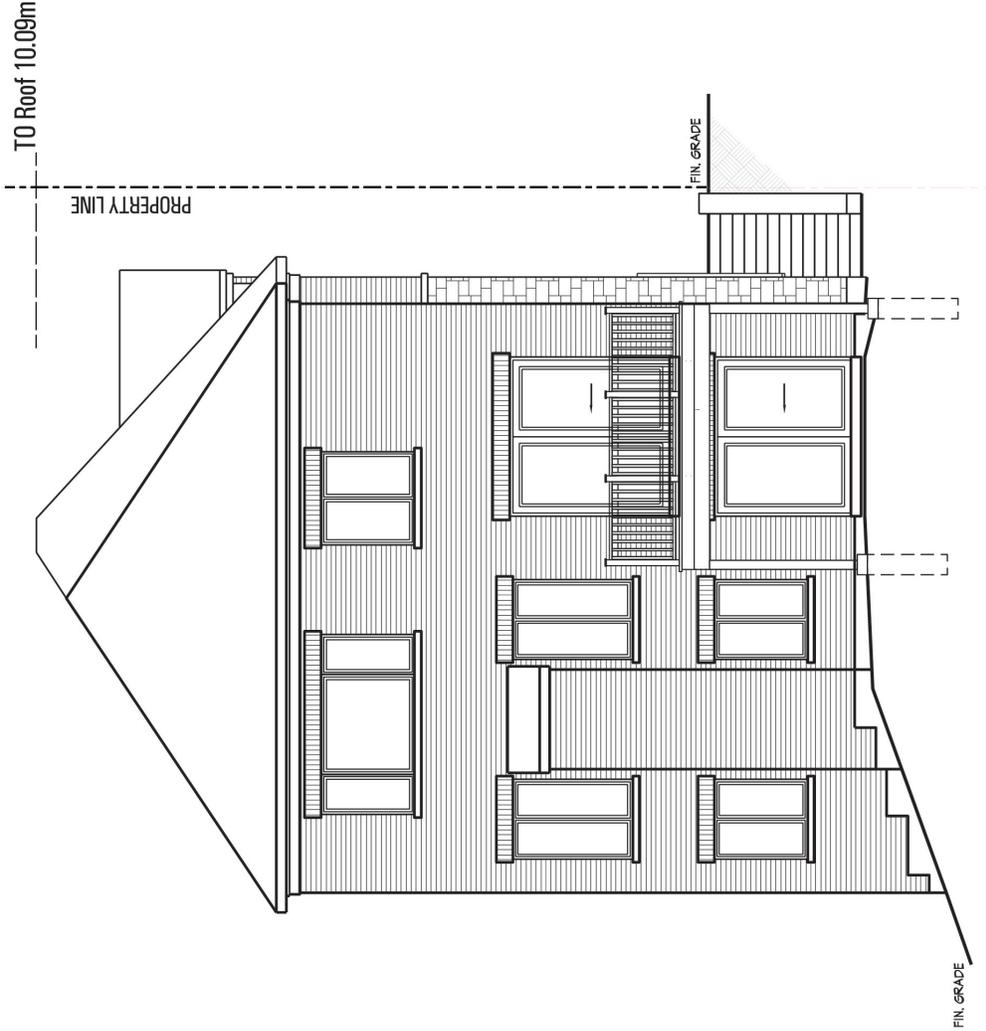
South Elevation

Attachment 9: East Elevation



East Elevation

Attachment 10: West Elevation



West Elevation