

COMMITTEE OF THE WHOLE FEBUARY 10, 2009

**OFFICIAL PLAN AMENDMENT FILE OP.07.004
ZONING BY-LAW AMENDMENT FILE Z.07.031
10360 ISLINGTON AVENUE INC. & JOSIE AND FABIO ALVIANI
WARD #1**

Recommendation

The Commissioner of Planning recommends:

1. THAT Official Plan Amendment File OP.07.004 and Zoning By-law Amendment File Z.07.031 (10360 Islington Avenue Inc. & Josie and Fabio Alviani) BE REFUSED.
2. THAT the appropriate City Staff and external consultants be directed to attend the Ontario Municipal Board Hearing in support of the refusal.

Economic Impact

There are no requirements for new funding associated with this report.

Communications Plan

On November 9, 2007, a Notice of a Public Meeting was circulated to all property owners within 120m of the subject lands, and to the Kleinburg and Area Ratepayers Association. The recommendation of the Committee of the Whole to receive the Public Hearing report of December 3, 2007 and to forward a comprehensive report to a future Committee of the Whole meeting was ratified by Council on December 10, 2007.

Several letters were received by the Development Planning Department respecting the applications, including 4 letters generally supporting the applications, and 11 letters (4 letters, 7-form letters) and a 7 page (317 names) petition objecting to the applications.

Purpose

The Owner has submitted the following applications on the subject lands shown on Attachment #1, which were most recently revised on November 28, 2008:

- 1) An Official Plan Amendment Application (File OP.07.004) to amend OPA #601 (The Kleinburg Nashville Community Plan), as amended by OPA #633 to:
 - i) permit only the following uses on the subject lands:
 - a 64 unit residential condominium building, OR a 90 unit retirement residence;
 - The Martin Smith House to be retained for amenity purposes;whereas OPA #601, as amended by OPA #633, permits only a single family detached dwelling on the subject lands;
 - ii) permit a maximum building height of 13.4m, whereas a maximum of 9.5m is permitted;
 - iii) permit a minimum buffer of 5 metres from the top-of-bank, whereas a minimum of 10 metres is required;

- 2) A Zoning By-law Amendment Application (File Z.07.031) to amend By-law 1-88, specifically to:
- i) rezone the lands at 10384 Islington Avenue from R1 Residential Zone to RM2 Multiple Residential Zone and OS1 Open Space Conservation Zone;
 - ii) maintain the existing RM2 Multiple Residential Zone and OS1 Open Space Conservation Zone on 10360 Islington Avenue;
 - iii) permit the following site-specific zoning exceptions:
 - a 64 unit residential condominium building OR a 90 unit retirement residence, whereas a single detached dwelling is permitted;
 - maintain the existing Martin Smith House on the lands to be used as amenity area;
 - a minimum lot area of 92 m²/unit and 65 m²/unit for the multi-unit residential condominium and the retirement residence respectively, whereas a minimum lot area of 230 m²/unit is required;
 - a minimum of 96 parking spaces for the multi-unit residential condominium building use, whereas a minimum of 112 parking spaces is required;
 - for the retirement residence only, a range of between 50-100 parking spaces, whereas 135 parking spaces are required;
 - a maximum building height of 13.4 m, whereas 9.5 m is permitted.

The revised site plan includes a multi-unit building that gives the appearance of being 2 buildings (Proposed North Building and Proposed South Building as shown on Attachment #2). The north and south ends of the building are linked at the rear of the site in an area where the height has been lowered to one-storey. The applicant has also altered the architectural style of the building from a modern flat roofed building to a building with architectural details, as shown on Attachments #3, #4 and #5.

On January 19, 2009, the applicant submitted additional revisions and information. Minor architectural revisions were made to the elevation drawings, as shown on Attachments #3, #4 and #5. A roof plan, as shown on Attachment #6, was also submitted at the request of the Vaughan Building Standards Department, which was required to determine the exact height of the proposed building. The applicant also submitted proposed underground parking plans dated December 2008, as requested by the Vaughan Engineering Department and Building Standards Department. The applications would facilitate a proposed development as shown on Attachment #2, with the following revised site statistics:

Total Site Area:	10813.0 m ²
Open Space (OS1) Area:	4871.9 m ²
Right-of-Way Dedication along Islington Avenue	29.02 m ²
Developable Lot Area:	5912.1 m ²
Proposed GFA:	6499.7m ²
Martin Smith House GFA (Amenity Area):	260.10 m ²
Total GFA:	6759.8 m ²
Proposed Parking for the 64 unit multi-unit residential condominium building:	96 spaces
Proposed parking for the 90 unit retirement residence:	Range Provided (50 to 100 spaces)
Proposed New Building Height:	13.4 m

Background - Analysis and Options

The subject lands are located on the west side of Islington Avenue, south of Nashville Road, municipally known as 10360 and 10384 Islington Avenue in the Village of Kleinburg, in Part of Lot 23, Concession 8 (Ward 1), City of Vaughan, as shown on Attachment #1.

The subject lands are designated "Kleinburg Core" and "Valley and Stream Corridor" by OPA #601, as amended by OPA #633. OPA #633 was adopted by Council on May 23, 2006, and subsequently approved by the Region of York on March 29, 2007. OPA #633 has been appealed to the Ontario Municipal Board (OMB).

The subject lands are located within the Kleinburg-Nashville Heritage Conservation District and were designated under Part V of the Ontario Heritage Act in 2003. The property at 10384 Islington Avenue contains the Martin Smith House (built in 1852) that was designated under Section 29 of Part IV of the Ontario Heritage Act in 1979 through By-law 55-79. The Ontario Heritage Act requires any proposed alterations, additions or demolitions of individually designated property or properties designated within a Heritage Conservation District (HCD) to be reviewed by Heritage Vaughan for a recommendation to Council (related Heritage File HP.2008.024.01). Heritage Permit approvals must be obtained by the property owners in conjunction with all other necessary City permits or approvals.

On November 9, 2007, a Notice of a Public Meeting was circulated to all property owners within 120m of the subject lands, and to the Kleinburg and Area Ratepayers Association. The recommendation of the Committee of the Whole to receive the Public Hearing report of December 3, 2007 and to forward a comprehensive report to a future Committee of the Whole meeting was ratified by Council on December 10, 2007.

Several letters were received by the Development Planning Department respecting the applications, including 4 letters generally supporting the applications, and 11 letters (4 letters, 7 form letters) and a 7 page (317 names) petition objecting to the applications. The objections related to the following:

- the height and size of the proposed building and the number of units; the proposed development is not in keeping with the site, and does not maintain the atmosphere of the village of Kleinburg;
- traffic/safety concerns (proximity to Kleinburg Elementary School);
- the availability of water and sewage capacity to service the development;
- noise and environmental concerns;
- the submission of a noise and shadow study should be required to demonstrate that there are no negative impacts on the existing homes in the area;
- appropriate buffers adjacent to the Open Space Zone should be provided; and,
- the negative impact on the heritage structure (Martin Smith House) as well as the village of Kleinburg, and it was suggested that approval from the Historical Society of Canada should be obtained.

On January 21, 2009, the Cultural Services Department forwarded a report to Heritage Vaughan, recommending refusal of the Heritage Permit Application (#HP.2008.024.01) for 10360 Islington Avenue and 10384 Islington Avenue (Martin Smith House). Heritage Vaughan approved the Cultural Service Department's recommendation, which has been forwarded to the February 10, 2009 Committee of the Whole meeting, and is also attached hereto as Attachment #7.

Ontario Municipal Board Status – OPA #633 and consolidation of Site-Specific Official Plan and Zoning By-law Amendment Applications (Files OP.07.004 & Z.07.031)

On April 19, 2007, the applicant appealed OPA #633 (Kleinburg Core Area Policy Review) to the Ontario Municipal Board (OMB). On February 1, 2008, the applicant subsequently appealed their

Official Plan and Zoning By-law Amendment Applications (Files: OP.07.004 & Z.07.031) to the OMB citing that the City has failed to make a decision on the applications within the time frames prescribed by the Planning Act as the reason for the appeal. The OMB Hearing to consider the appeals respecting the Official Plan and Zoning By-law Amendment applications and OPA #633 has been consolidated and a 4 week Hearing to consider these appeals is scheduled to commence on April 6, 2009.

Previous Zoning By-law Amendment and Site Development Approval - 10360 Islington Avenue

On February 14, 2005, Council approved Zoning By-law Amendment Application Z.03.064 and Site Development Application DA.03.055 (Carmela Greco) to permit a 15-unit, 2½ storey residential building with a maximum building height of 9.5 m on 10360 Islington Avenue. Subsequently, on April 27, 2006, a Site Plan Agreement was registered on title to implement the approved development for 10360 Islington Avenue, which has not been built.

Revisions made to the subject Official Plan and Zoning By-law Amendment Applications

To date, the applicant has submitted various revisions to the subject Official Plan and Zoning By-law Amendment Applications (Files OP.07.004 & Z.07.031), briefly summarized as follows:

- a) On June 29, 2007, the applicant submitted Official Plan Amendment and Zoning By-law Amendment applications for the lands that proposed two, 3½ storey residential condominium buildings (94 units), with 2 levels of underground parking. This proposal also included the relocation of the heritage structure (Martin Smith House) between the 2 proposed buildings. On August 15, 2007, a Heritage Vaughan meeting was held and a recommendation was adopted to refuse the request to relocate the Martin Smith House. The applicant advised the Development Planning Department that in light of the decision made by Heritage Vaughan, the applications not proceed to a Public Meeting, pending further instruction.
- b) On October 29, 2007, the applicant submitted revised plans and amended the Official Plan and Zoning By-law Amendment applications. The revised submission proposed one, "L"-shaped multi-unit building ranging in height from 2 to 5 storeys for the purpose of either a 78 unit residential condominium or a 120 unit retirement residence. This proposal included the addition of commercial uses, institutional uses (including a private school and a daycare centre), and a museum and community facility located within the Martin Smith House. The applications were considered at a Public Meeting held by Council on December 3, 2007.
- c) On August 7, 2008, the Official Plan and Zoning By-law Amendment Applications were further revised to permit a multi-unit residential building with 75 units, OR, a Retirement Residence with 100 units, and with a building height ranging from 6.3m at the front of the proposed building to 15.3m at the rear. The Martin Smith House was proposed to be used for amenity area for the new building and the request for additional uses (institutional/commercial) previously requested was abandoned.
- d) On November 28, 2008, a further revised submission was filed by the applicant, as outlined in the Purpose Section and is the subject of this report, in conjunction with a further submission made on January 19, 2009, that included revised elevation drawings dated January 2009, proposed underground parking plans dated December 2008, and a proposed roof plan, dated January 2009.

Planning Considerations

The Development Planning Department has reviewed the applications to amend the Official Plan and Zoning By-law and is of the opinion that they do not represent good planning for the following reasons:

i) Applications are Not Consistent with the Planning Act

Section 2 of the Planning Act states that Council of a municipality in carrying out their responsibilities shall have regard to, among other matters, matters of provincial interest such as:

- the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest

As outlined in the Cultural Services section of this report, the proposed height, scale, and massing of the new building is unsympathetic to an existing heritage building (Martin Smith House) as well as having a negative impact on the designated property at 10384 Islington Avenue, which is designated under Part IV of the Ontario Heritage Act. The proposed new building is not in keeping with the policies of the Kleinburg-Nashville Heritage Conservation District, and is not consistent with the historic development pattern of the Kleinburg Core.

- the appropriate location of growth and development

As part of the review of the Kleinburg Core Area, a land use study was undertaken by the Policy Planning Department and a consultant to review the scale and massing of development and redevelopment within the Kleinburg Core Area. This also included a consolidation of planning regulations as they applied to the Village of Kleinburg (Kleinburg Core Area Policy Review – January 2006). The City has had regard for the appropriate location of growth and development through this land use review. The City also continues to review the appropriate locations for intensification through its City-wide Official Plan review as required by Provincial Policies.

Section 3(5) of the Planning Act requires that a decision of Council of a municipality in respect of the exercise of any authority that affects a planning matter:

- shall be consistent with the policy statements issued under subsection (1) that are in effect on the date of the decision; and,
- shall conform with the provincial plans that are in effect on that date, or shall not conflict with them, as the case may be.

The applications are not consistent with the *Provincial Policy Statement* and *Places to Grow Plan*, as set out in the following section of this report.

ii) Applications are Not Consistent with the Provincial Policy Statement (PPS)

The applications to amend the Official Plan and Zoning By-law were filed with the City on June 29, 2007, and therefore, are subject to and must be consistent with the Provincial Policy Statement (PPS) 2005. The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development.

The applications are not consistent with the following policies of the PPS:

- i) Section 1.1.3.3 states that Planning Authorities shall identify and promote opportunities for intensification and re-development where this can be accommodated taking into account the existing building stock or area. The subject lands are located within the Kleinburg Nashville Heritage and Conservation District (KNHCD) which is intended to protect and promote the

historic built form of the Kleinburg Core Area. The intensity of the proposed use and the proposed built form does not serve to protect and/or enhance the goals of the Kleinburg-Nashville Heritage and Conservation District. The Development Planning Department accepts the opinion provided by the Cultural Services Department, that the level of development proposed and the scale of the proposed building(s) do not compliment the existing heritage structure and its heritage setting.

- ii) Section 2.6.1 of the Provincial Policy Statement states that "significant built heritage resources and significant cultural heritage landscapes shall be conserved." As referenced in the Cultural Services report dated January 21, 2009 "...the scale and massing and architectural design of the proposal does not conserve the Martin Smith House and the Kleinburg-Heritage Conservation District. The Martin Smith House is lost within the new building proposed for the site and the 19th century village core of Kleinburg identified as a significant aspect of the Heritage Conservation District will not be conserved."
- iii) Section 2.6.3 of the PPS addresses the manner in which development and site alterations to properties that are located adjacent to a protected heritage property are to be evaluated. This section of the PPS states that it must be demonstrated that the proposed development will protect the heritage attributes of the protected heritage property. The Cultural Services Department in its January 21, 2009 report states that the proposed development on the subject lands, given the mass and scale and architectural detailing, does not conserve the heritage attributes of the Martin Smith House, the surrounding property and the Kleinburg Village Core/Heritage Conservation District.

The applications are not consistent with the PPS, nor has the applicant demonstrated that the development would be complimentary to and protect the wider Kleinburg Village Core Heritage Conservation District or more specifically, the heritage integrity of the Martin Smith House and its lands.

- iii) Applications are not consistent with *Places To Grow Plan*

The Province's *Places to Grow Plan* implements a framework for the Provincial vision for building stronger, prosperous communities by better managing growth to 2031, and contains a policy providing insight into planning policy applicable to the proposed development.

Section 4.2.4 - A Culture of Conservation, states that:

"Municipalities will develop and implement official plan policies and other strategies in support of the following conservation objectives (in part):

"...e) Cultural heritage conservation, including:

- i) Conservation of cultural heritage and archaeological resources as built-up areas are intensified."

As the subject lands are designated under Part V of the Heritage Act, and the whole of the lands at 10384 Islington Avenue are designated under Part IV of the Heritage Act, the conservation of those lands is considered to be an important municipal objective. The City has incorporated into the Kleinburg-Nashville Community Plan (OPA #601), as amended by OPA #633, policies from the Ontario Heritage Act intended to preserve the integrity of the Kleinburg historic core area. In addition, the City has established a Heritage Conservation District in the Kleinburg Area. As the subject applications do not respect the heritage nature of the subject lands, they do not meet the objectives of the Province's *Places to Grow Plan*.

iv) The Region of York Official Plan

The Regional Official Plan lists as an objective to “recognize, conserve and promote cultural heritage resources and to perpetuate their value and benefit to the community.” Specifically, it is a policy of Regional Council (in part):

- “7. To ensure on lands that have or may have a cultural heritage resource, that an evaluation of the resource is carried out and that the proponent of the development in cooperation with the area municipality, the Region and the Province prepares a strategy for conserving the cultural heritage resource.
8. To encourage area municipalities to consider design that depicts heritage qualities when approving developments in older neighbourhoods or mainstreet areas, so that development or redevelopment reflects the character and streetscape of the area.”

OPA #601, as amended and the Kleinburg-Nashville Heritage Conservation District respond to the policy initiatives identified in the Regional Official Plan.

OPA #633

The Vaughan Policy Planning Department has advised the following:

“The subject lands are designated “Kleinburg Core” by OPA 601, as amended by OPA #633. OPA #633 was adopted by Council on May 23, 2006 and subsequently approved by the Region of York. OPA #633 is under appeal to the Ontario Municipal Board.

The purpose of OPA #633 was to incorporate policies based upon the findings of the Kleinburg-Nashville Heritage Conservation District Study and Plan and to include policies recommended in the Kleinburg Core Area Policy Review (January 2006) to more clearly define a mainstreet commercial area, including policies related to appropriate land use designations, permitted uses, development standards and the scale and massing of buildings.

Having reviewed the revised plans submitted by the applicant, the Department has the following concerns regarding the proposed development in that it:

- a) does not respect the goals, objectives or policies of the Official Plan as amended by OPA #633 in that it is not consistent with the urban design and development objectives;
- b) does not respect the urban design and development objectives of the Kleinburg/Nashville Heritage Conservation District Plan, Official Plan Amendment 633 and associated Zoning By-law with respect to the continuation and enhancements of the district’s historical and village-like ambiance and “single residential character and scale”, expressed through use and built form permissions. Specifically, a multiple family dwelling is not a permitted use and the proposal exceeds the permitted height limit of 9.5 metres.

The proposed development is located in a residential zone within the Kleinburg Core Area and therefore the policies for predominantly residential uses would apply as well as the policies applying generally to the Kleinburg Core Area.”

Kleinburg-Nashville Heritage Conservation District Study & Plan

In the summer of 2002, the City retained heritage consultant Philip H. Carter Architect, to examine the Kleinburg-Nashville community with the intent of creating a Heritage Conservation District. The consultant's report, the "Kleinburg-Nashville Heritage Conservation District Study and Plan" (KNHCD Study and Plan), identifies an area of that community where heritage conservation is considered to be important. The KNHCD Study and Plan describes the architecture of existing buildings, and how each building relates to each other and contributes to the landscape and history of the district. The consultant has advised the Urban Design policies in OPA #601, as amended by OPA #633, are consistent with the objectives and policies of the Kleinburg-Nashville Heritage Conservation District Plan. The consultant has confirmed that in order to provide protections similar to those found within the Heritage Conservation District Plan, the report recommended changes to the Official Plan and Zoning By-law to better reflect the built form and heritage character of the District, and to the Part IV properties found in the District such as the Martin Smith House. The Kleinburg-Nashville Heritage Conservation District Study and Plan, was adopted by Council, by By-law 183-2003 as amended by By-law 268-2003.

The heritage consultant (Phillip H. Carter, Architect) has also commented on the proposed development and has reviewed the latest revisions, providing the following comments:

"In our professional opinion, the proposed development does not represent a compatible change within the Heritage Conservation District, under Part V of the Ontario Heritage Act, nor is it a compatible change to the Martin Smith House property, under Part IV of the Ontario Heritage Act.

The proposal is too large, too high, and the design is an inauthentic pastiche of architectural elements. In numerous ways the proposal does not conform to the objectives, policies, and guidelines of the Kleinburg-Nashville Heritage Conservation District Plan. And the change to the setting of the Martin Smith House, produced by the proposed development is detrimental to it, and should not be permitted."

Official Plan Amendment Conformity

The applications do not meet the following goals, objectives and policies of OPA #601, as amended by OPA #633.

- i) The following Sections of the Official Plan address the intent of the policy framework to preserve and protect the historic architectural integrity of the Kleinburg Core.

Section 3.0 Goals:

Subsection 3.1 Goals – General (in part)

- "1) Ensure that land use and built form are compatible with the scale and character of the existing community and integrated with the existing and contemplated pattern of development in the surrounding area."
- "6) Ensure, to the fullest extent possible, that the heritage resources, both built and natural, of the Kleinburg-Nashville Planning District are protected in accordance with the Kleinburg-Nashville Conservation District and Plan."

The Cultural Services Department has commented on the revised development proposal and advised that the overall size of the proposed construction is still too large to be considered in keeping with the 'village character' or what is referred to in Section 9.1 of the Kleinburg-Nashville Heritage Conservation District Plan as the "heritage character of

the District." The Development Planning Department concurs with the opinion of the Cultural Services Department that the scale and massing of the proposed development are not within the desired scale of the Kleinburg Core.

Subsection 3.3 Growth Management (in part)

- "2) Ensure a scale of development, housing type and lot sizes which are consistent with the rural and character of Kleinburg-Nashville as a village centre."

As noted by the Cultural Services Department, the proposed development exceeds the current scale of development in the Kleinburg Core area and is not compatible with existing development within the Kleinburg Core Area. The Development Planning Department concurs with this opinion.

Subsection 3.5 Core Areas and Commercial Growth (in part)

- "3) Ensure core area development complements existing development in overall size and scale."
- "4) Establish policies to implement the Kleinburg-Heritage Conservation District Plan as per Part V of the Ontario Heritage Act."
- "12) Sensitively manage the core area of Kleinburg through the reinforcement of the traditional pattern of development and preservation of existing historic buildings and the unique environmental features which give the Village its special character."
- "13) Ensure that neighbouring developments are physically compatible and respect existing development conditions, scale and building placement."
- "15) Encourage the protection of significant trees."

These goals address the need to develop the core area in a manner that preserves the nature of the core from an architectural and natural landscape perspective. The protection of significant trees is also an important goal of the official plan. In 2007, a previously existing stand of trees was removed from the 10384 Islington Avenue lands, which includes the Martin Smith House, which were intended to be protected and preserved. The Development Planning Department has included comments in this report respecting compensation for the loss of those trees.

Subsection 3.6 Residential Areas/Neighbourhoods (in part)

- "9) Ensure that residential development within the Kleinburg Core Area takes place in accordance with the provisions of the Kleinburg-Nashville Heritage Conservation District Plan, adopted by By-law 183-2003 as amended by By-law 268-2003, and remains at a village scale and complements the historic, rural village character and architectural heritage of the community."

Section 3.7 Heritage (in part)

- "4) Ensure that development or redevelopment occurs in accordance with the provisions of the Kleinburg-Nashville Heritage Conservation District Plan, adopted by By-law 183-2003 as amended by By-law 268-2003 and designated under Part V of the Ontario Heritage Act."

The Cultural Services Department has commented that the proposed development "does not fit in the context or character of a 19th century village core that the Heritage Conservation District aims to protect and enhance. Its scale or design has no precedent in Kleinburg's village core and is not suitable in preserving the historical context of the Martin Smith House." Given the mass and scale of the proposed development, the Development Planning Department is also of the opinion that the proposed development does not meet the intent of the goals of the official plan.

ii) Land Use

Section 4.4.2.3 Kleinburg Core Area, Permitted Uses

OPA #601, as amended by OPA #633, designates the subject lands "Kleinburg Core" and "Valley and Stream Corridor". The "Kleinburg Core" designation permits detached residential dwellings, Bed and Breakfast establishments, Parks and Open Space, and Public and Institutional uses.

The proposed multi-unit development/retirement residence is not a permitted use within the "Kleinburg Core" designation. The Development Planning Department is of the opinion that the multi-unit residential use cannot be supported.

iii) Compatibility, Height, Scale, Size and Massing

The importance of compatibility, size, shape and configuration of the development with adjacent uses within the Kleinburg Core, and the Kleinburg-Nashville Heritage Conservation District is stated in various policies of the Official Plan. Based on the information provided by the Cultural Services Department, as well as the opinion expressed by Phillip H. Carter, the heritage consultant who prepared the Kleinburg-Nashville Heritage Conservation District Study and Plan, the Development Planning Department is of the opinion that the proposed development does not adequately address certain policies of the plan as outlined below:

Section 4.0 Community Planning Policies

Subsection 4.4.2.2 "Kleinburg Core Area" and "Mainstreet Commercial Designations" Policies (in part):

- "5)a) Residential infilling within the village shall be permitted subject to conformity with the urban design provisions of this Plan, as detailed in the Kleinburg Nashville Heritage Conservation District Study and Plan, provided the proposed lot or development is compatible in size, shape and configuration with adjacent lots and the size and form of development located thereon.
- b) For all development within the Kleinburg Core Area, the urban design policies and heritage conservation policies set out in this Plan, as outlined in the Kleinburg Nashville Heritage Conservation District Study and Plan, shall also apply to development and redevelopment in Kleinburg."

Subsection 4.7 Urban Design, Subsection 4.7.1 Objectives (in part):

- "b) predictable and consistent built form in keeping with the existing scale and massing of the buildings within established commercial and residential areas;

- c) compatibility and enhancement of the unique rural village heritage character of the community;"

The above noted policies require that any development within the Kleinburg Core Area and Mainstreet Commercial designations, are compatible with the existing built form, in keeping with the existing scale of adjacent buildings and enhance the heritage character of Kleinburg. The Cultural Services Department has commented that "the resulting scale of the proposed building is not sympathetic to either the Martin Smith House or the Islington Avenue heritage streetscape character." In light of these policies and the comments provided by the Cultural Services Department, the Development Planning Department cannot support the proposed development.

Subsection 4.7.4 Strategic Sites (Gateways)

The subject lands are identified as a strategic site requiring special design treatment due to their location and visibility.

"...The treatment of the architecture, building materials, massing and built form should reinforce their location as a gateway to the Kleinburg Core Area, a visual terminus or an important intersection...."

The Cultural Services Department has commented that the subject properties are the first series of buildings that appear as one enters the historic village core of Kleinburg, and that the design mass and scale of any new development at this location is required to maintain the "architectural integrity of the District". The Cultural Services Department recommends that "the historical setting be conserved so that those elements which define its historic character and context are preserved. In light of the official plan policies as they pertain to strategic sites, the Development Planning Department concurs with the recommendations made by the Cultural Services Department.

Section 4.7.6 Kleinburg-Nashville Core Areas, including the Mainstreet Commercial Designation - Subsection 4.7.6.7 Built Form a) Building Compatibility states:

- "1. Where redevelopment of wide lots or consolidation of adjacent properties is proposed, the built form on the property shall reflect the historic scale and pattern of the historic scale and pattern of built form of the village and the adjacent and neighbouring properties. Subject to the provisions of the Zoning By-law, more than one building may be developed on the property in order to achieve a consistent scale and pattern of development.
2. New development will be compatible with adjacent and neighbouring development by ensuring that the siting and massing of new buildings does not result in negative impacts on adjacent properties, particularly with regard to overlook, shadows, wind and other environmental and compatibility factors."

The compatibility of new development with existing development within the Kleinburg Core Area is an important component that is captured in many policies of the official plan. The Development Planning Department concurs with the opinion of the Cultural Services Department that the overall size of the development is too large to be considered in keeping with the "village character", or within the Kleinburg-Nashville Heritage Conservation District Plan as the "heritage character of the District."

Subsection 4.7.6.7 b) Building Heights:

Subsection 4.7.7.7 b) of OPA #601, as amended states:

- "1) New buildings, additions to buildings or the redevelopment of existing site in the Core Areas of Kleinburg or Nashville shall generally not exceed a maximum height of 9.5 metres above finished grade."

As previously noted, the roof plan was submitted for review on January 19, 2009. The Building Standards Department has confirmed that the height of the proposed building is 13.4 metres. Although the revised planning justification report states that the building height has been reduced, the Building Standards Department has advised that this statement is not accurate, as the building height is 13.4 m, which exceeds the maximum building height of 9.5 m, and therefore is not supportable. The proposed building would not be compatible with the existing built development in the area including the single detached residential development to the south (Daleview Court and Pennon Road) and to the north (existing single detached dwelling), as well as the proposed Kleinburg Public School building (height of 8.65m) on the east side of Islington Avenue.

The Cultural Services Department further expands on the size of the proposed development by referring to the mass and scale of the building. The "building has the appearance of 4-storeys in height, and as such, it overpowers the modest yet fine proportions, massing and form of the Martin Smith House."

In summary, the applications to permit a multi-unit building on the subject lands are not consistent with several policies within OPA #601, as amended by OPA #633, as the proposed development would not be compatible in terms of height, scale and massing with respect to the Martin Smith property and existing development within the Kleinburg Core Area.

iv) Official Plan requirement for a 10 metre buffer from top-of-bank

The proposed application does not conform to Subsection 4.10.10.1 Valley and Stream Corridors – Policies, as amended. The applicant is proposing a 5 metre buffer area between the staked top-of-bank and the development limit, whereas the official plan requires a 10 metre buffer. In their comments on the proposed development, the Toronto and Region Conservation Authority (TRCA) have also requested a 10 metre buffer. The Development Planning Department is of the opinion that a 10 metre setback is required. This position is consistent with the recommendation made by the Commissioner of Planning on the previous Zoning By-law Amendment and Site Development applications for 10360 Islington Avenue (Carmela Greco) Files for Z.03.064 and DA.03.055. An exception for a minimum rear yard of 10m was recommended for the site-specific zoning by-law, in order to satisfy the requirements of the Official Plan and the Toronto and Region Conservation Authority. The Committee of the Whole, however, recommended that the building be permitted as per a revised application at a 5m setback from the top-of-bank. The Development Planning Department maintains its position that a 10 metre setback is required, and that a reduction to this requirement is not appropriate. An alternative design for the proposal, taking into consideration a reduction in the mass and scale of the building as suggested herein, would permit the accommodation of a 10 metre buffer.

Planning Justification Study

In November of 2007, the applicant submitted a "Planning Justification Report (PJR) prepared by Lorelei Jones & Associates Ltd. in support of the proposed development. The applicant subsequently revised the applications, and in August of 2008, the applicant submitted a "Revised

Planning Justification Report" (PJR) prepared by Lorelei Jones & Associates Ltd. The PJR was further updated by way of a letter submission by Lorelei Jones & Associates Ltd, dated December 11, 2008 to reflect the November 28, 2008 revised submission. The Development Planning Department has reviewed the Planning Justification Reports and the addendum and are of the opinion that it fails to provide the necessary justification to support the subject applications, in the context of the City's Official Plan.

The PJR report is based on the policies of OPA #601, and does not take into consideration the policies set out in OPA #633. The Development Planning Department does not agree with this approach, as OPA #633, adopted by Council, is a clear expression of Council's intention for the area. Despite the fact that OPA #633 is under appeal, it is the Development Planning Department's practice to review development applications pursuant to the most recently adopted official plan. Nonetheless, the applications do not conform to the original policies in OPA #601, as previously discussed in this report) such as, the Goals Section (ie. Heritage), Community Planning Policies, Development Standards (ie. building height, maximum floor space index), Urban Design policies, Built Form policies (ie. compatibility, building height, architectural design) and the 10 metre Buffer adjacent to the top-of bank requirement. Most of these issues were discussed in the previous section of this report, and further detailed through the review of OPA #633.

The report describes the revised application as "two multi-family residential buildings that are connected at the lower level. The southern building would have a 2 ½ storey eastern (front) and northern elevations, and 3 ½ storey southern and western elevations. The northern building would have 2 ½ storey eastern (front), northern and southern (front) elevation and a 3 ½ storey western (rear) elevation....the height of the southern building would be a maximum of 9.8 metres and the height of the northern building would be a maximum of 9.4 metres."

The Development Planning Department has received comments from the Building Standards Department (included in the zoning section of this report) that do not support these statements. The "two multi-family residential buildings that are connected at the lower level" is interpreted as one building (being one footprint) since the north and south portions are connected at the rear, above grade, as shown on Attachment #3. The Building Department also advised that in order to determine the height of the proposed building, a roof plan was required. On January 19, 2009, the roof plan was provided and the Building Standards Department confirmed that the roof is considered to be a flat roof (over 10% of roof is flat), not a pitched roof, therefore the proposed maximum height of the building is 13.4 m, not 9.8 metres, as indicated in the planning justification report. The report does not address or justify the increase in the maximum building height (9.5m).

The PJR states that the applications are consistent with the Provincial Policy Statement, specifically Section 1.1.1 which promotes developments that demonstrate efficient development and land-use patterns, provides a range and mix of uses and is efficient in terms of land consumption and servicing costs. However, any development in the approved Kleinburg-Nashville Heritage Conservation District, must demonstrate the ability to protect the historical integrity of the core area, and in this case, the Martin Smith property. Since the development is unsympathetic to the historical value of the Martin Smith House property, it does not demonstrate an efficient development or land-use pattern, and does not respond to other policies of the PPS as outlined in this report.

The PJR states that the proposed development would protect the significant natural heritage features associated with the lands located below the top-of-bank. It is noted, however, that any development or re-development of lands adjacent to a valley or stream corridor, would, as a requirement of approval, require the owner to preserve all lands below top-of-bank. This is a standard condition that would relate to any development anywhere within the City of Vaughan or those areas regulated by the Toronto and Region Conservation Authority. Accordingly, a site can be developed in accordance with OPA #601, as amended, and still achieve this goal. In addition,

the original PJR prepared in November 2007, acknowledged the Valley and Stream Corridor policies within OPA #601 requiring a minimum 10 metre buffer from the top-of-bank: "...buildings will be setback a minimum of 10 metres from it." In the revised PJR dated August 2008, the report stated "For the lands at 10360 Islington Avenue, the top-of-bank was determined at the time of zoning the lands for open space and the by-law requires a 5 metre setback from the top-of-bank", and that the lands below top-of-bank are now being dedicated with this new proposal. The report failed to address why only a 5 metre buffer should be applied to the new development proposal, which encompasses the lands at 10360 Islington Avenue and 10384 Islington Avenue. The final revised PJR dated December 1, 2008, indicates that the buffer area is 5 metres above the top-of-bank, where the "debris will be removed, bollards will be installed, and a 2 metre wide living fence will be planted. This PJR also fails to justify why the proposed new development cannot meet the 10 metre buffer requirement of OPA #601, and as previously respected in the original PJR dated November 2007. The Development Planning Department is of the opinion that a 10 metre buffer area from the top-of bank is required and can be achieved and therefore a 5 metre setback is not acceptable. The Toronto and Area Conservation Authority has also requested a 10 metre buffer area.

The PJR indicates that the proposed development meets the test presented in Section 2.6 of the PPS by preserving the heritage house in its current location. However, the Cultural Services Department has advised that they are of the opinion that the development as proposed would overwhelm the heritage aspects of the Martin Smith property and that the applications, if approved, would not be consistent with this section of the PPS.

The PJR indicates that "it protects the existing heritage resources on site through retention and restoration of the Martin Smith house... and it satisfies the intent of the Heritage Conservation District through the design, placement and architectural character of the proposed development". Based on the comments received from the Cultural Services Department as well as from the heritage consultant, Phillip Carter Architect, included in this report, the proposed development does not represent a compatible change within the Heritage Conservation District, and does not conform to the objectives, policies and guidelines of the Kleinburg-Nashville Conservation District Plan.

The PJR states that the Provincial Growth Plan for the Greater Golden Horseshoe indicates that the future employment and population growth will be accommodated by directing significant amounts of new growth to existing built up areas and that the application is consistent with the intent and principles of the Growth Plan. The Development Planning Department is of the opinion that the intent of the Growth Plan with respect to intensification will be achieved in Vaughan as part of the current City-wide Official Plan Review, which will develop and implement an intensification strategy for the City, as required by the Growth Plan, on a comprehensive basis. The approval of a site-specific development plan to permit the intensification proposed within a designated Heritage Conservation District is not consistent with the goals of the Growth Plan. The most efficient way of addressing the requirements of the Growth Plan would be by way of a comprehensive planning analysis that evaluates all existing built up areas in Vaughan and recommends an intensification strategy that is sensitive to the needs and requirements of all Vaughan's existing and future residents.

Zoning

The subject lands at 10360 Islington Avenue are zoned RM2 Multiple Residential Zone and OS1 Open Space Conservation Zone by By-law 1-88, subject to Exception 9(1214), which permits a 15-unit residential building (2376.6m²) with a maximum building height of 9.5 metres. 10384 Islington Avenue is zoned R1 Residential Zone and OS1 Open Space Conservation Zone by By-law 1-88. The R1 Zone permits a single detached dwelling, with a minimum building height of 9.5m.

The Building Standards Department has provided the following comments based on the proposed development, and the proposed RM2 Multiple Family Dwelling Zone:

- i) The maximum building height in Schedule "A" is 11.0m and the maximum building height indicated in Exception 9(1214) is 9.5m. Based on the provided roof plan, the roof is considered to be a flat roof and the building height appears to be 13.4m (information scaled from the front elevation on the drawing provided by the applicant).
- ii) A landscape strip of three metres is required around the periphery of an outdoor parking area and the screening must have a minimum height of 1.2m. The applicant is proposing a 1.5m wide landscape strip along the southerly lot line and the height of the landscaping has not been provided.
- iii) Parking areas must be surfaced with hot mix asphalt or concrete. This cannot be determined.
- iv) The underground parking spaces appear to comply with the minimum typical size, however, the width must be clear of any obstructions and the height clearance should be provided.
- v) The size of the handicapped parking spaces has not been provided.
- vi) The parking required per unit is 1.5 spaces for a total of 96 parking spaces for the condominium proposal and 135 parking spaces for the seniors proposal, and there is also a requirement for visitor parking of 0.25 parking spaces per unit which would require 16 visitor parking spaces for the condominium proposal and 23 visitor parking spaces for the seniors proposal. A total of 112 parking spaces are required for the condominium proposal and a total of 158 parking spaces for the seniors proposal. The applicant is proposing a total of 96 parking spaces for the condominium proposal and 50-100 parking spaces for the seniors proposal.
- vii) The minimum width for aisles servicing parking is 6.0m and the maximum access or driveway width shall not exceed 7.5m.
- viii) Compliance of encroachment features cannot be determined at this time.

Cultural Services Department

The Cultural Services Department provides comments to the Development Planning Department on development applications located within the Kleinburg-Nashville Heritage Conservation District.

The Cultural Services Department comments received by the Development Planning Department are included in the January 21, 2009 Cultural Services Department report to Heritage Vaughan, recommending refusal of a Revised Heritage Permit Application (HP.2008.024.01) for New Construction, on the subject lands.

The Cultural Services Department has reviewed the revised submission made by the applicant on January 19, 2009, which included revised elevation plans, parking plan and roof plan. The minor alterations made by the applicant were to the following elements:

- front entrance canopy
- balcony floor detail
- arched upper floor window heads
- stone cladding of ground floor front entrance to parking garage
- parking garage door detail

- enlarged dormers in south section of building

The Cultural Services Department advises that the proposed alterations are minor and had no effect to change Cultural Services recommendations to Heritage Vaughan to refuse Heritage Permit HP.2008.024.01. The roof plan, however, confirmed the more significant aspect of the proposed design, being a flat roof. This plan resulted in a confirmed building height of 13.4 m from the Building Standards Department. This information has no effect to change Cultural Services recommendations to Heritage Vaughan to refuse Heritage Permit HP.2008.024.01.

On January 21, 2009, Heritage Vaughan approved the recommendation made by Cultural Services Department, as shown on Attachment #7. That report has been forwarded by the Commissioner of Community Services and the Director of Recreation and Culture to this Committee of the Whole meeting (February 10, 2009).

Archaeological Assessment

The Cultural Services Department has received a copy of the Stage 1 and 2 Archaeological Resource Assessment prepared by Archaeological Consultants and Contractors (dated May 2008) for the applicant.

Prior to final approval of any development application, the Owner, by way of development agreement, shall agree that no development or grading shall occur on any site identified as being archaeologically significant as a result of the archaeological evaluation carried out on the property, until such time as protective and mitigative measures of all significant archaeological sites have been fulfilled to the satisfaction of the Ministry of Culture (Archaeology Unit) and the municipality.

The Stage 1 Archaeological Resource Assessment of the site determined that there was the potential for the documentation of additional archaeological remains. The Stage 2 assessment comprised a test pit survey at a 5 metre interval which resulted in the documentation of one nineteenth century Euro-Canadian site (Martin Smith: AIGv-288).

In their conclusion, the archaeologist recommended that the property in question should be subject to a Stage 3-4 investigation to identify more precisely the site's character and extent.

The Cultural Services Department is not able to provide a Heritage Clearance Approval for any soil disturbance, excavation or any Grading or Fill Permit Application until the Ministry of Culture (Archaeology Unit) is satisfied that concerns for archaeological resources or sites have been met for the area of this development.

Development Planning Department

The Development Planning Department has reviewed the proposed site plan, elevation drawings, and roof plan submitted January 19, 2009, and concur with the comments made by the Cultural Services Department. The following additional comments are provided:

- a) careful attention should be paid to the style, material expression and colours of the building, to the satisfaction of the Cultural Services Department (Heritage Vaughan).
- b) The scale of the roof of Building "B" is out of proportion and should be reduced as not to overwhelm the scale of buildings along Islington Avenue in historic Kleinburg.
- c) The Martin Smith House should be framed appropriately to highlight its features (Building 'A' appears to stick out from the rear awkwardly with only a partial pediment and windows visible. The building silhouette to the rear should not compete with the heritage house.

- d) In compensation for the mature character trees removed, in violation of the principles set forth in OPA #601, a stand of large caliper (100mm caliper trees) evergreen and deciduous trees (minimum 6) is to be planted on the site.

Vaughan Engineering

The Vaughan Engineering Department has reviewed the proposed applications and provides the following comments:

i) Servicing Capacity Allocation

The previous site plan application (DA.03.055) for 10384 Islington Avenue was granted servicing capacity for 15 residential apartment units on November 08, 2004 by Council. It is our understanding that this file is now closed. As a result, the allocated servicing capacity is still available and has been reverted back to Council's control. Subject to Council approval, these units may be considered for allocation to the new application in accordance with the City's Servicing Capacity Distribution Protocol. Please note the Martin Smith House will remain as is and will retain its existing service connections and associated allocated servicing capacity for one unit.

In accordance with the City's Servicing Capacity Distribution Protocol as adopted by Council on March 31, 2008, servicing allocation capacity for the above noted development application(s) has not been reserved nor assigned at this time. Therefore servicing allocation capacity is currently not available for the required residential units for the subject development application(s).

The City intends to undertake an annual review of the status of the available and unused servicing capacity and related Distribution Protocol. The availability of servicing allocation capacity for the above noted development application(s) may be revisited at this time based on the status of the subject development application(s).

However, based on the Region's "Retirement Home Type Facility – Servicing Allocation Requirements" dated April 2, 2007, allocation of servicing capacity is not required for retirement home type facilities where:

- i) individual units/rooms do not contain kitchen facilities;
- ii) food preparation and dining are a centralized function/facility; and,
- iii) assisted living care and/or healthcare are offered to the residents who are dependent on this service (although the facilities do not necessarily need to be registered under the Nursing Home Act).

The Owner shall confirm the proposed facility type for the application in order for us to determine if servicing capacity allocation is required.

Functional servicing options for the proposed development will be subject to the completion of the City's on-going OPA #601 Kleinburg-Nashville Servicing Strategy Study. The Consultant is currently analyzing various servicing options.

The Region's Class Environmental Assessment is complete and the Environmental Screening Document has been filed with the Ministry of the Environment. The preferred servicing alternatives identified by the approved Class EA Study include upgrades to the existing Water Pollution Control Plant and decommissioning of the communal wells such that a lake based water supply source can be achieved for the entire community. This will require the construction of a new Regional supply watermain along Huntington Road from Rutherford Road to a new elevated tank in Kleinburg. The project has proceeded to the detailed design and implementation stage and it is anticipated that construction will be complete by the end of 2009. The Region of York

has confirmed that its currently planned water and sewage infrastructure expansion will support 7,745 persons in the Kleinburg-Nashville community. Under the Region's established protocol, pre-sales of units with servicing allocation can proceed 1-year prior to the expected completion date of the required infrastructure and registration of plans can proceed 6-months prior to the expected completion date.

Based on the recommendations of the City and Regional Studies, developments within the Kleinburg-Nashville Community Plan OPA #601 will have to contribute their proportionate share of the required works. If the plans proceed prior to the completion of the study a financial contribution shall be made in the form of a letter of credit for the estimated costs of each plan's contribution.

ii) Functional Servicing Report

The updated Functional Servicing Report dated December 12, 2008 prepared by Condeland Engineering Limited was reviewed and generally found to be acceptable. Ultimately, the site's design will have to conform to the City's final Kleinburg-Nashville Servicing Strategy Master Plan.

The following conditions of approval are required:

- 1) The ultimate servicing scheme shall conform to the final conclusions and recommendations of the Kleinburg-Nashville Servicing Strategy Master Plan Class Environmental Assessment.
- 2) Financial contribution towards the ultimate Kleinburg-Nashville Servicing Strategy shall be made to the satisfaction of the City.

iii) Transportation

The latest site plan shows two access points to serve the proposed development on Islington Avenue; one at the existing Martin Smith House property (proposed service access), and the other at the south end of the site, directly opposite the existing McMichael Gallery access. The Transportation Planning Division does not support the north access (service access) to the existing Martin Smith House, as this access could create confusion to visitors or motorists and may impact traffic operation on Islington Avenue. Furthermore, this proposed north access is too close to the existing speed hump, therefore service vehicles slowing to enter via the north access may cause safety and operational issues on Islington Avenue. The Engineering Department's opinion is that there is no need for the service access for the existing Martin Smith House, as it could be served via the south access.

Engineering notes that the site plan should clearly specify the use of the proposed development, since the parking requirement should be determined on the basis of the proposed use. Relocation of the garbage pick-up area is also required as a garbage truck would block the underground garage access, and would have no maneuvering space.

iv) Phase 1 Environmental Site Assessment

The Engineering Department advises that the "Report, Phase 1 Environmental Site Assessment, Proposed Residential Development, 10384 Islington Avenue, Kleinburg Ontario", prepared by Forward Engineering and Associates Inc., dated February 29, 2008 is unacceptable for the following reason:

"Section 1.3 – "Limitations of the Report indicates any use or re-use of the document, or findings, conclusions or recommendations presented therein is at the sole risk of said user, which is unacceptable to the City. The City suggests the addition of the following wordings as a separate and 3rd (third) paragraph of Section 1.3: "Notwithstanding what

has been delineated in the above, this submitted Report can be used for development approval purposes by the City of Vaughan and their peer review consultants, who may rely upon the findings, analysis, conclusions and recommendations of the Report." Please be advised that the City does not accept a separate Letter of Reliance.

Prior to any approval, documented proof of the satisfactory registration of the Record of Site Condition (RSC) with the Environmental Site Registry (ESR) of the Ministry of Environment (MOE), which includes a copy of the RSC signed by a Qualified Person and acknowledgement from MOE, has to be submitted to the Engineering Department for review and approval."

Toronto & Region Conservation Authority (TRCA)

The Toronto and Region Conservation Authority has requested that a 10 metre buffer area be provided from top-of-bank. The recent drawings indicate a 5 metre buffer area between the staked top-of-bank and the development limit. The basis of the reduced buffer is to permit some private amenity space between the buffer area and the building. This reduced buffer has not been agreed to by the TRCA.

The TRCA has requested additional "geotechnical review due to the presence of a bend in the main Humber River at the location of this site." The TRCA advises that they are still reviewing additional information provided to them, as well as the Functional Servicing Report. As such, approval of this application is considered premature.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the priorities set forth in Vaughan Vision 2020, particularly "Plan & Manage Growth & Economic Vitality".

Regional Implications

The subject lands are identified as being within the "Urban Area" of the Region of York Official Plan. Official Plan Amendment #601, as amended by OPA #633 is consistent with the policies set forth in the Regional Official Plan (ROP) in respect to growth management and heritage preservation. On March 29, 2007, Regional Council approved OPA #633. The Region has advised that on April 19, 2007, the Applicant for the subject lands appealed the approval of OPA #633.

The Region of York is aware of the pending Ontario Municipal Board hearing and is not a party to the matters before the OMB.

Conclusion

The Development Planning Department has reviewed the proposed Official Plan Amendment and Zoning By-law Amendment Applications to permit the development of a 64 multi-unit residential building, or 90 unit retirement residence and the retention of the existing heritage structure. As outlined in this report, the applications do not conform to the Planning Act, Provincial Policy Statement (2005), the Growth Plan for the Greater Golden Horseshoe, the Regional Official Plan, OPA #601(Kleinburg-Nashville Community Plan), as amended by OPA #633 and the Kleinburg-Nashville Heritage Conservation District Plan. The review was conducted in accordance with OPA #601 (Kleinburg-Nashville Community Plan), as amended by OPA #633 (The Kleinburg-Nashville Heritage Conservation Plan). Accordingly, the Development Planning Department cannot support the Official Plan and Zoning By-law Amendment Applications (Files OP.07.004 & Z.07.031) and recommends that the applications BE REFUSED.

Attachments

1. Location Map
2. Proposed Site Plan
3. Elevations-East/West Buildings "A" and "B"
4. Elevations-North/South Building "A"
5. Elevations-North/South Building "B"
6. Roof Plan
7. Cultural Services Department report to Heritage Vaughan - January 21, 2009

Report Prepared by:

Carmela Marrelli, Planner, ext. 8791

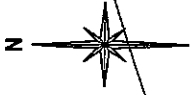
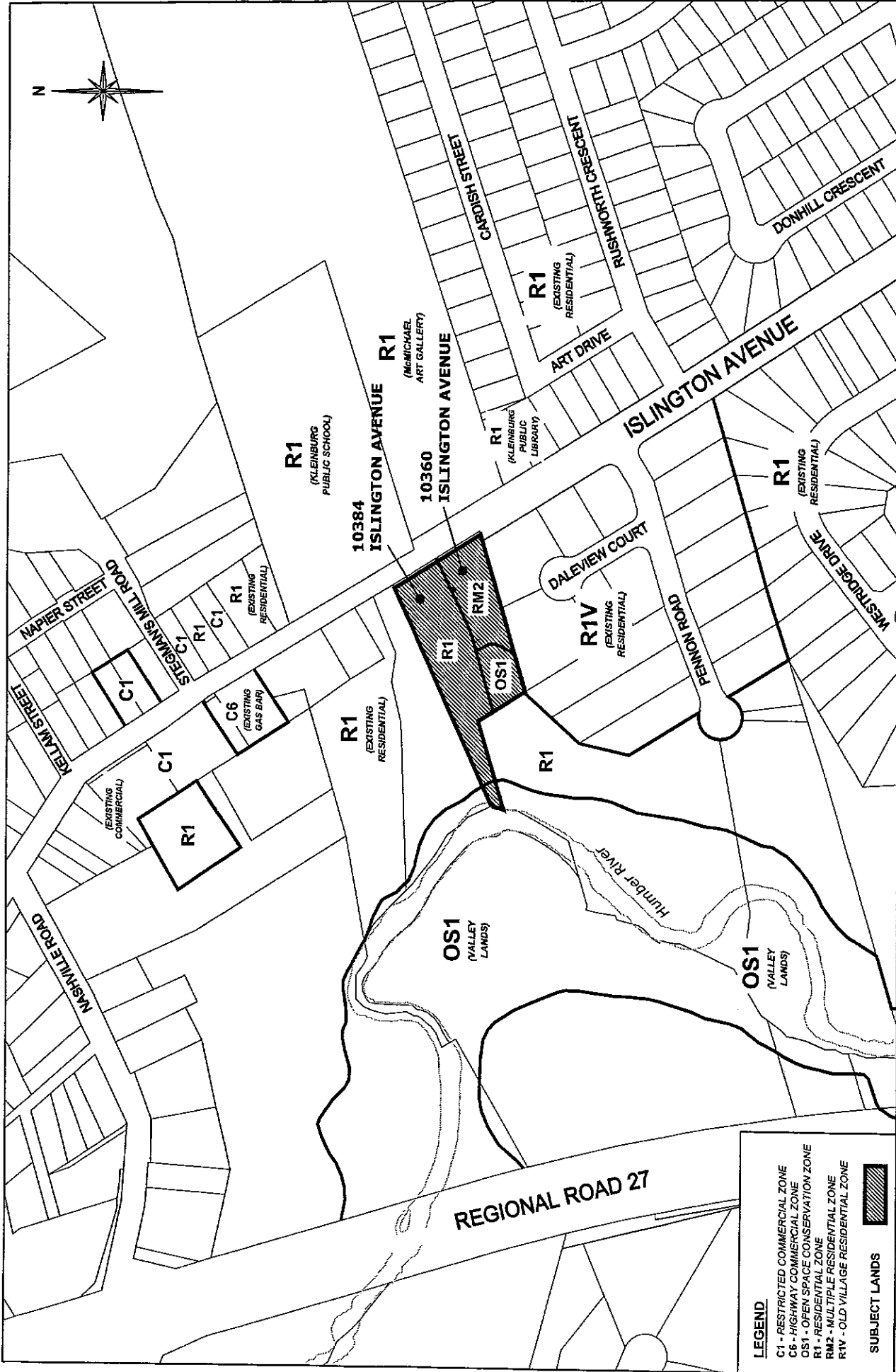
Mauro Peverini, Manager of Development Planning, ext. 8407

Respectfully submitted,

JOHN ZIPAY
Commissioner of Planning

GRANT UYEVAMA
Director of Development Planning

/LG



- LEGEND**
- C1 - RESTRICTED COMMERCIAL ZONE
 - C6 - HIGHWAY COMMERCIAL ZONE
 - OS1 - OPEN SPACE CONSERVATION ZONE
 - R1 - RESIDENTIAL ZONE
 - RM2 - MULTIPLE RESIDENTIAL ZONE
 - R1V - OLD VILLAGE RESIDENTIAL ZONE
- SUBJECT LANDS**
- [Hatched Box]

Location Map

Part of Lot 23,
Concession 8
**APPLICANT: 10360 ISLINGTON AVENUE INC. &
 JOSIE & FABIO ALVANI**



The City Above Toronto

Development Planning Department

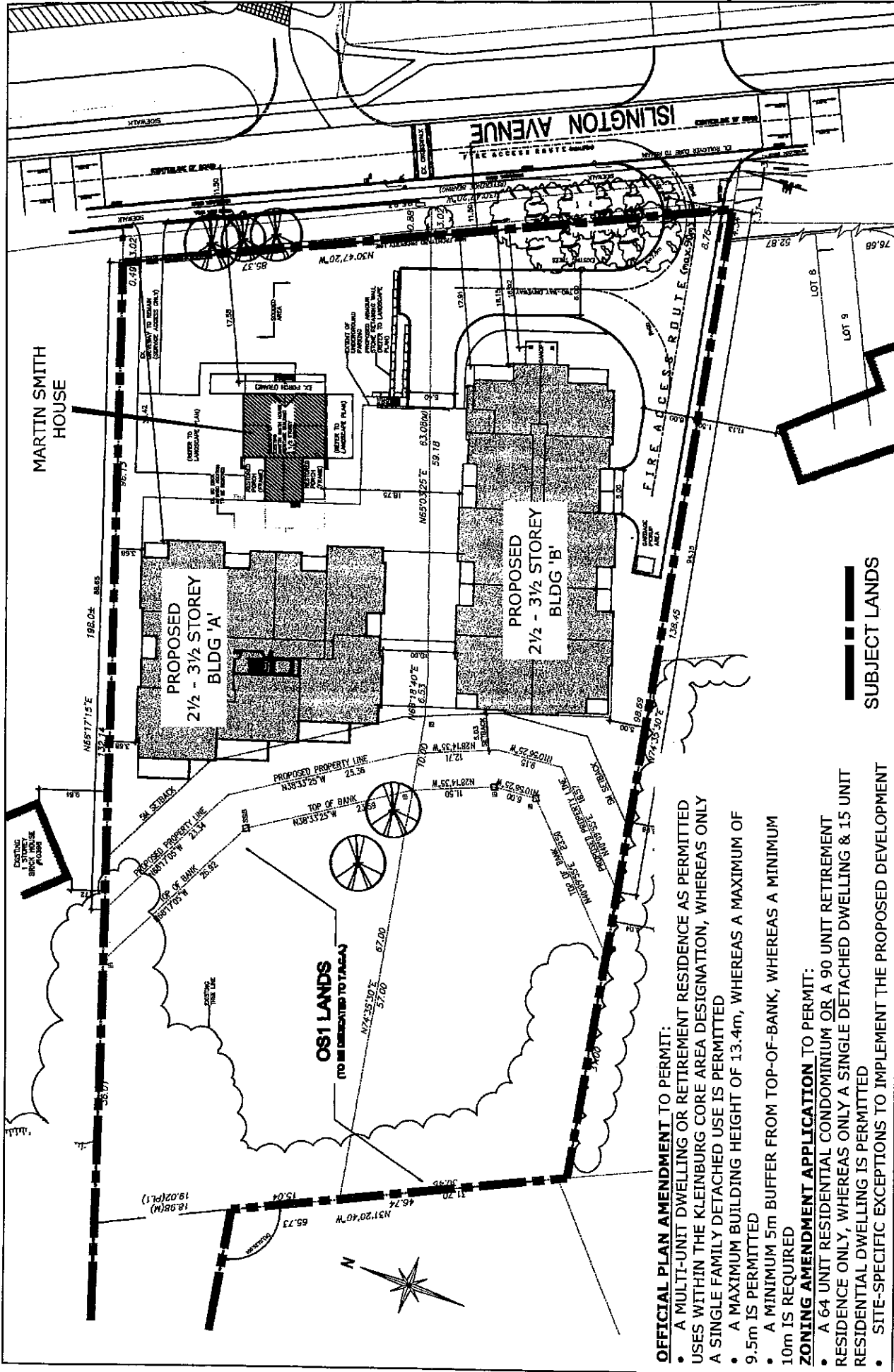
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FILE No.:
OP-07.004 & Z.07.031

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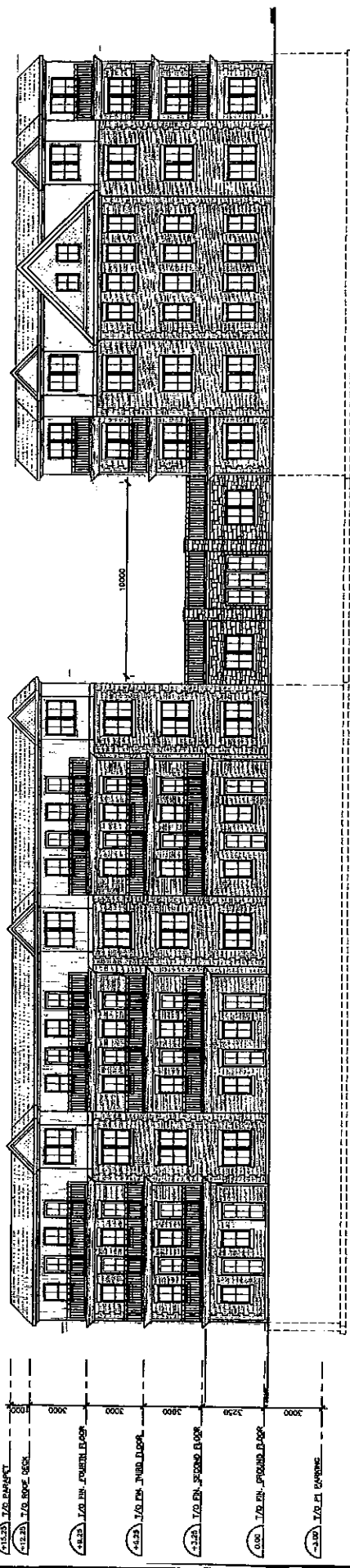
January 26, 2009

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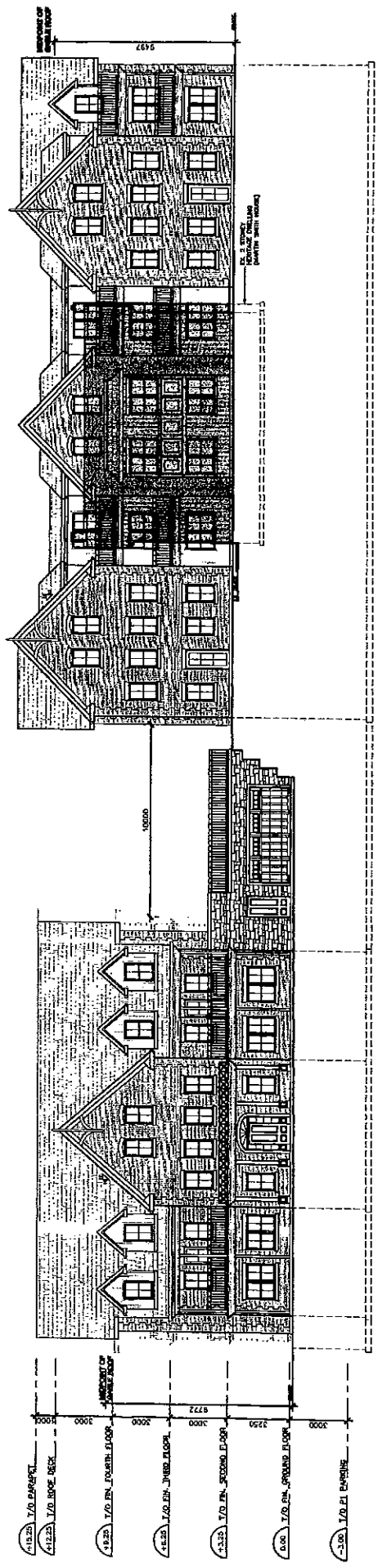


- OFFICIAL PLAN AMENDMENT TO PERMIT:**
- A MULTI-UNIT DWELLING OR RETIREMENT RESIDENCE AS PERMITTED USES WITHIN THE KLEINBURG CORE AREA DESIGNATION, WHEREAS ONLY A SINGLE FAMILY DETACHED USE IS PERMITTED
 - A MAXIMUM BUILDING HEIGHT OF 13.4m, WHEREAS A MAXIMUM OF 9.5m IS PERMITTED
 - A MINIMUM 5m BUFFER FROM TOP-OF-BANK, WHEREAS A MINIMUM 10m IS REQUIRED
- ZONING AMENDMENT APPLICATION TO PERMIT:**
- A 64 UNIT RESIDENTIAL CONDOMINIUM OR A 90 UNIT RETIREMENT RESIDENCE ONLY, WHEREAS ONLY A SINGLE DETACHED DWELLING & 15 UNIT RESIDENTIAL DWELLING IS PERMITTED
 - SITE-SPECIFIC EXCEPTIONS TO IMPLEMENT THE PROPOSED DEVELOPMENT

--- SUBJECT LANDS



WEST (REAR) ELEVATION - BUILDINGS A & B



EAST (FRONT) ELEVATION (FACING ISLINGTON AVENUE) - BUILDINGS A & B

Elevations - East / West Buildings (A & B)

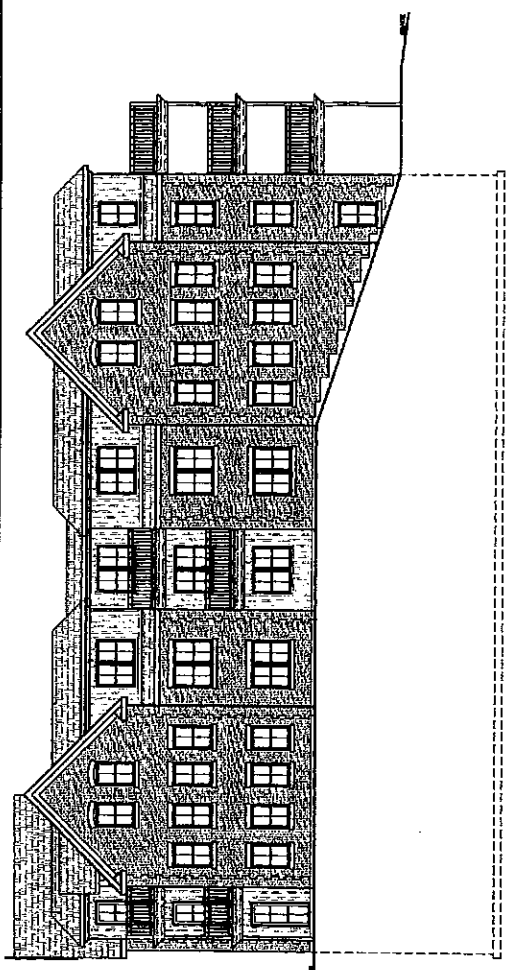
APPLICANT: 10360 ISLINGTON AVENUE
INC. & JOSIE & FABIO ALVIANI
Part of Lot 23,
Concession 8



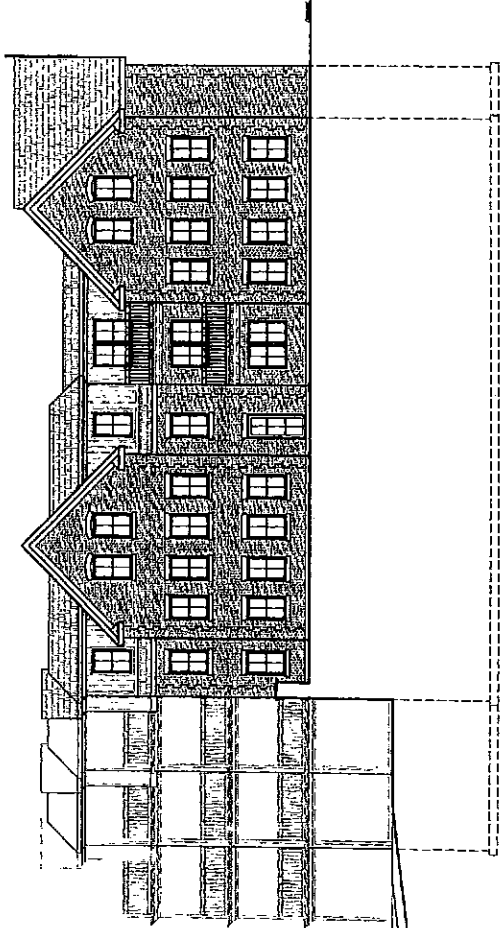
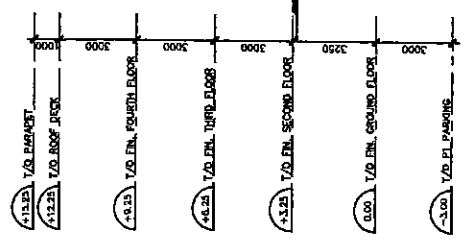
Development Planning Department

Attachment 3
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January 26, 2009

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NORTH ELEVATION - BUILDING 'A'

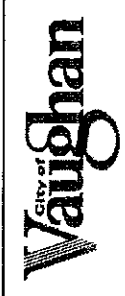


SOUTH ELEVATION - BUILDING 'A'



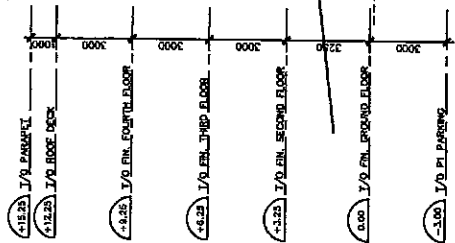
Elevations - North / South Building 'A'

APPLICANT: 10360 ISLINGTON AVENUE
INC. & JOSIE & FABIO ALVIANI
Part of Lot 23,
Concession 8

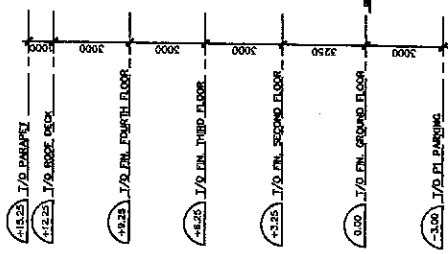


Development Planning Department

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NORTH ELEVATION - BUILDING 'B'



SOUTH ELEVATION - BUILDING 'B'

Elevations - North / South Building 'B'

APPLICANT: 10360 ISLINGTON AVENUE
INC. & JOSIE & FABIO ALVIANI

Part of Lot 23,
Concession 8

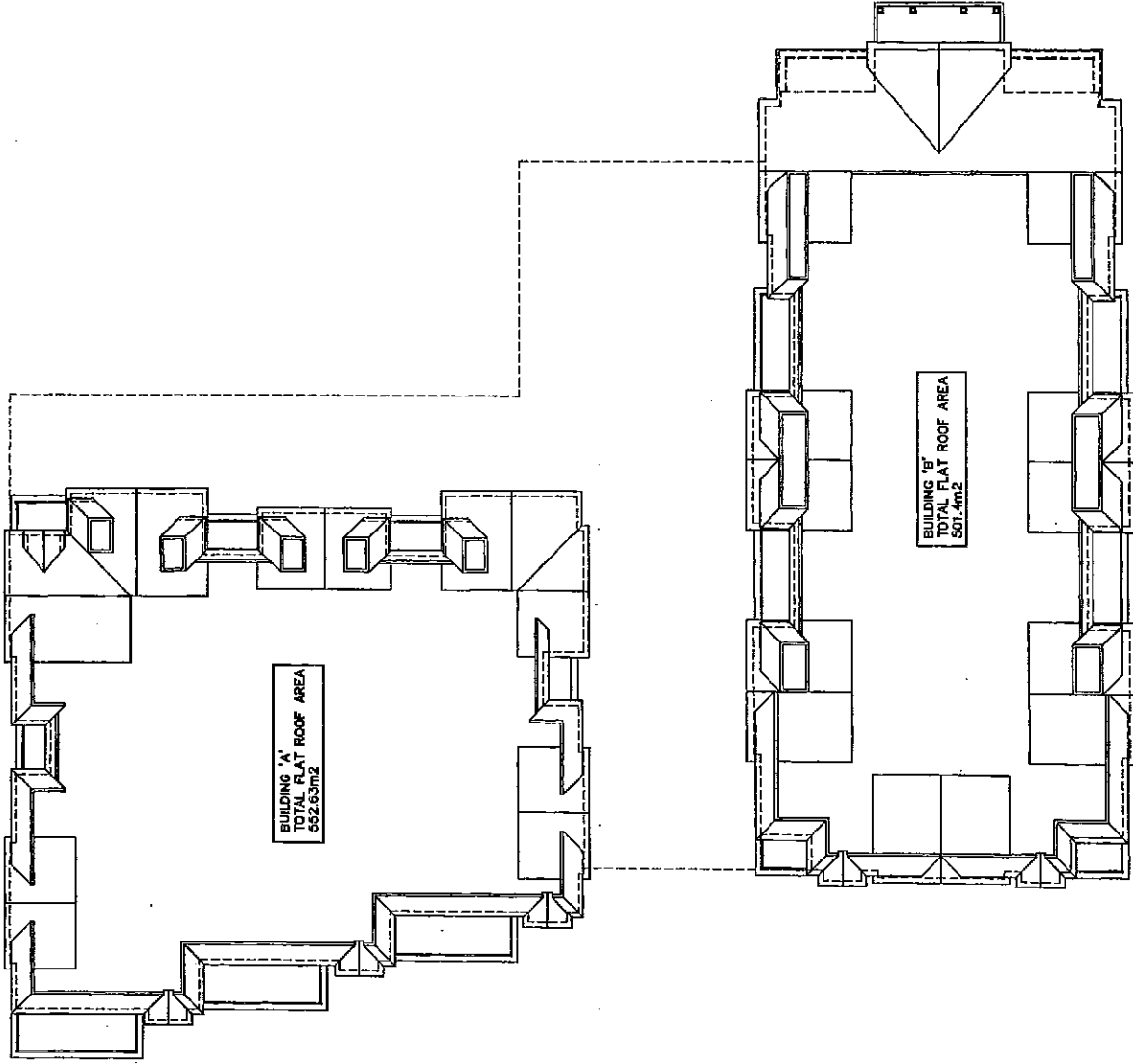
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Development Planning Department

Attachment 5

FILE No.:
OP.07.004 & Z.07.031
Not to Scale
January 26, 2009



BUILDING 'A'
TOTAL FLAT ROOF AREA
552.63m²

BUILDING 'B'
TOTAL FLAT ROOF AREA
501.4m²

Roof Plan

Part of Lot 23,
Concession 8
APPLICANT: 10360 ISLINGTON AVENUE INC. &
JOSIE & FABIO ALVIANI

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Development Planning Department

Attachment 6

FILE No.:
OP.07.004 & Z.07.031
Not to Scale
January 26, 2009

Heritage Vaughan -
21 January 2009

2. **10360 Islington Avenue and 10384 Islington Avenue (Martin Smith House)
Revised Heritage Permit Application (HP.2008.024.01) for New Construction
Applicant: 10360 Islington Avenue Inc. and Josie and Fabio Alviani
Agent: Frank Greco**

Recommendation

Cultural Services recommends that:

1. That the revised Heritage Permit Application HP.2008.024.01 (28 November 2008 submission) BE REFUSED for the proposed new construction at 10360 Islington Avenue and 10384 Islington Avenue as it does not comply with the following legislative/policy provisions:
 - 1) Part IV of the Ontario Heritage Act and the unsympathetic new building to the rear of the Martin Smith House and its negative impact to the designated property at 10384 Islington Avenue;
 - 2) Part V of the Ontario Heritage Act (in its relation to the Kleinburg-Nashville Heritage Conservation District Plan and Design Guidelines), with particular reference to the proposal's deficiencies regarding:
 - I. the preservation of the Kleinburg village character;
 - II. the significance of the properties and new buildings as gateways to the Kleinburg village area;
 - III. a massing and scale that is in keeping with the historical streetscape;
 - IV. an appropriate building design that is acceptable as an addition to the Martin Smith House property and to the historical streetscape of Islington Avenue in the Kleinburg-Nashville Heritage Conservation District;
 - V. the preservation of views and vistas to and from the valley lands within the Kleinburg-Nashville Heritage Conservation District;
 - 3) The Provincial Policy Statement as it relates to the preservation of significant built heritage resources and significant cultural heritage landscapes (PPS Policies 2.6.1 & 2.6.3);
2. That the massing, form, scale, architectural design and historical architectural references of the new building be redesigned to reflect a contributing and historically appropriate precedent within the Kleinburg-Nashville Heritage Conservation District's village core and a building mass and scale for the two new buildings that is more compatible with the historic Martin Smith House and an historic 19th century village core; and,
3. That the overall architectural design of the new building having no overall historical precedent as a building style or plan in Kleinburg (or elsewhere in Vaughan), be redesigned to be architecturally appropriate and consistent with a historical precedent, in particular the removal of a garage door facing Islington Avenue that provides access to underground parking, the entranceway design, the overall window design and configuration, balcony and roof design, in keeping with the Kleinburg-Nashville Heritage Conservation District Guidelines and the designated property on which the Martin Smith House is located..

Background

The subject properties are both owned by the applicant and are joined but separate. Both properties are located within the Kleinburg-Nashville Heritage Conservation District and, therefore, were designated under Part V of the Ontario Heritage Act in 2003. The property at 10384 Islington Avenue contains the Martin Smith House (built in 1852) that was designated individually under Section 29 of

ATTACHMENT #7

Heritage Vaughan -
21 January 2009

Part IV of the Ontario Heritage Act in 1979 through By-law 55-79. The Ontario Heritage Act requires any proposed alterations, additions or demolitions of individually designated property or properties designated within a heritage conservation district must be reviewed by Heritage Vaughan for a recommendation to Council. Heritage Permit approvals must be obtained by property owners in conjunction with all other necessary City permits or approvals.

In 2005, the property was sold to the applicant by long-standing owners who had given the property the name "Redcroft" in the mid-20th century.

The subject lands have been designated within the Kleinburg Core Area by Official Plan Amendment #601, as amended by OPA #633 adopted by Council on May 23, 2006. The current owner has appealed OPA #633 to the Ontario Municipal Board.

Jurisdiction Under the Ontario Heritage Act

As noted above, the entire real property known as 10384 Islington Avenue (including the Martin Smith House) was designated individually under Section 29 of Part IV of the Ontario Heritage Act in 1979 through By-law 55-79. In 1999, the previous owner of both subject properties, applied for consent to sever the south portion of the subject property to create what is now identified as 10360 Islington Avenue. The Consent approved by the Committee of Adjustment included a condition that the severed portion of the property be removed from designation By-law 55-79. This was accomplished through the passing of By-law 182-2000. The Kleinburg-Nashville Heritage Conservation District was approved in 2003 thereby designating under Part V of the Ontario Heritage Act the south portion of the subject property municipally known as 10360 Islington Avenue.

Prior to the amendment of the Ontario Heritage Act in 2005, the provisions of Part IV of the Ontario Heritage Act retained jurisdiction over any property that had already been designated individually (through Section 29 of Part IV of the Ontario Heritage Act) even after being included in a subsequent Heritage Conservation District Area. The only way that Part V of the Act could have jurisdiction over an individually designated property within an HCD that was created before 2005, would be if the municipality removed the individual (Part IV) designation or if the HCD was revised after 2005. As the City of Vaughan has done neither, the house and real property at 10384 Islington Avenue (Martin Smith House) continues to be under the jurisdiction of Part IV of the Ontario Heritage Act and the real property at 10360 Islington Avenue remains under the jurisdiction of Part V of the Ontario Heritage Act.

Designation under Part IV and Part V of the Ontario Heritage Act apply to the entire real property (or properties) involved – not just the building(s) located on them. The Reasons for Designation within By-law 55-79 state that the Martin Smith House "...represents the lands once owned by Martin Smith an early pioneer in the Kleinburg area." It is the opinion of Cultural Services that the subject proposal would have a detrimental effect on the "original" site and setting of the Martin Smith House.

Previous Heritage Permit Applications

The applicant received approval by Heritage Vaughan for Heritage Permit 2006.001, involving a 3-storey, multi-family residential building for the south property 10360 Islington Avenue.

In January 2007, a Heritage Clearance Approval was issued to the current owner by Heritage Vaughan for the demolition of a detached, domed observatory structure and detached, gambrel roof garage building. In April 2007, the current owner removed many mature coniferous trees along the southern property line of 10384 Islington Avenue which made a significant change not only to the setting of the Martin Smith House but also to the historical Islington Avenue

streetscape. Heritage Vaughan passed a motion at their April 18, 2007 meeting directing Cultural Services staff to send a letter to the property owner advising that the Martin Smith House, as an extremely valuable building within the Kleinburg-Nashville Heritage Conservation District, must be preserved in its present location and any changes or additions to the exterior of the building must be reviewed and approved through the Heritage Permit process.

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At their meeting of 17 August 2007, Heritage Vaughan denied an application from the proponent involving Official Plan and Zoning amendment applications to the Development Planning Department to permit the re-location of the Martin Smith House in order to make way for a proposed development involving two, 3.5-storey residential condominiums with 2 levels of underground parking. Both the re-location of the Martin Smith House and the proposed height, massing and design of the new construction were seen by Heritage Vaughan as not in keeping with the Kleinburg-Nashville Heritage Conservation District Plan and Design Guidelines.

On September 12, 2008, the Applicant submitted a complete application to Cultural Services providing elevation drawings identifying proposed changes to the designated Martin Smith House. Additionally, Cultural Services staff received information related to the Vaughan Planning Department's Official Plan and Zoning By-law Amendment Applications OP.07.004 and Z.07.031 to permit the following on the designated property (Nexus Architects - HIA, Lorelei Jones – Planning Report, Battaglia Architect – Urban Design Report):

- a multi-unit residential condominium building with 75 units
- a retirement residence, with 100 units - the existing Martin Smith House to be retained for amenity purposes

The submittal included site plan and elevation drawings, a Cultural Heritage Resource Impact Assessment or Heritage Impact Assessment (CHRIA or HIA) as well as an Archaeological Resource Assessment.

Cultural Services presented the entire proposal to Heritage Vaughan at its September 17, 2008 Heritage Vaughan meeting, and was refused and subsequently also denied by Council on November 10, 2008 with the following recommendations:

1. That Council refuse Heritage Permit HP.2008.024 for the proposed new construction/ redevelopment of 10360 and 10384 Islington Avenue (related to Vaughan Planning Department Official Plan and Zoning By-law Amendment Applications OP.07.004 and Z.07.031), as the proposed new construction does not comply with the Kleinburg-Nashville Heritage Conservation District Plan and Design Guidelines as it relates to maintaining the village character, massing and scale, building design and preservation of the valley land views and vistas of the District; and,
2. That Council approve only the proposed alterations and restorations to the Martin Smith house, identified as the removal of back addition and construction of side verandahs, subject to the owners providing further information to the satisfaction of Cultural Services staff as it relates to the matching of side porch overhangs, window muntin bars in back portion a back door design; and,
3. That as the proposed development will be a gateway feature into the Heritage District, it is recommended that the applicant reduce the mass and scale of the proposed new condo/retirement building be in keeping with the height recommendations in place through the Kleinburg-Nashville Heritage Conservation District Plan to ensure that the new construction is sympathetic both to the Martin Smith House and the Islington Avenue heritage streetscape character and appropriate heritage design precedents established in the Kleinburg-Nashville Heritage Conservation District; and, --
4. That as the proposed new building being well beyond the maximum height of 3-storeys (rising up to 5 storeys) and the building size & scale (just under 90,000 sq ft GFA) does not follow any precedent in Kleinburg or Nashville for any use especially residential, that the owner reduce the height, overall size, massing and scale of the building; and,

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5. That the applicant break up the massing of the building further than simply stepping the roofline from east to west or north and south to avoid presenting a profile which is too large when seen from Islington Avenue or from Highway 27, Nashville Road and in the valley to the west.

The site specific Official Plan Amendment and Zoning By-law Amendment applications have been appealed to the Ontario Municipal Board and are currently scheduled for a hearing which will commence in 2009.

Analysis of Revised Heritage Permit Application HP.2008.024.001 (28 November 2008 submission) & Issues Identified in Revised Heritage Impact Assessment (HIA)

On November 28, 2008, Cultural Services along with other City of Vaughan Departments received a revised permit submittal. This submittal included revised site plan and elevation drawings illustrating a revised proposal for new construction spanning the subject properties (see Figures 9, 10, 11 and 12), a revised Heritage Impact Assessment prepared by Nexus Architects (9 December 2008) (see Appendix 1), and an Engineer's report prepared by Jakeman Engineering with the assessment of the Martin Smith house.

A roof plan had not been received by Cultural Services at the time this agenda item was written. The roof plan will play an important role in the determination of the exact nature, shape and height of the proposed building and is a required element of a complete application submission.

It should be noted that the proponent has stated that the overall height of the proposed building has been reduced from that of the previous submission but this has not been confirmed by required measured drawings.

The proposal received by Cultural Services on November 28, 2008 shows some changes with respect to the issues outlined on Council's recommendation of November 10, 2008. These changes are as follows:

- Site plan changes from one large building to one which gives the appearance of two buildings linked at the rear of the site by a one storey structure.

- The architectural style of the new building was altered from a modern flat roofed building to a building with Victorian architectural detailing on a contemporary-styled multi-unit built form.

Although the revised development proposal received by Cultural Services on 28 November 2008 does present a site plan and elevations which are somewhat different from those submitted to Committee of the Whole on 10 November 2008, the revised scheme still does not comply with either Part V of the Ontario Heritage Act (through the Kleinburg-Nashville Conservation District Plan and its Design Guidelines) or Part IV of the Ontario Heritage Act and the designation of the Martin Smith House. This non-compliance relates to:

- i. the preservation of the Kleinburg village character;
- ii. the significance of the properties and new buildings as gateways to the Kleinburg village area;
- iii. a massing and scale that is in keeping with the historical streetscape;
- iv. an appropriate building design that is acceptable as an addition to the Martin Smith House property and to the historical streetscape of Islington Avenue in the Kleinburg-Nashville Heritage Conservation District;
- v. the preservation of views and vistas to and from the valley lands within the Kleinburg-Nashville Heritage Conservation District;

Preservation of the Kleinburg Village Character

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Cultural Services recommend that the overall size of the proposed construction is still too large to be considered in keeping with "village character" or with what is referred to in Section 9.1 of the K-NHCD Plan as the "heritage character of the District". Cultural Services staff are of the opinion that the cultural heritage significance of the Martin Smith House is more than simply the house structure itself – the current setting with the Smith House sited at the top of a small, natural hill or knoll has become an important character defining element for the Smith House.

Section 9.5.1 of the K-NHCD Design Guidelines describes the overall heritage character of the district. It states that the overall character has more significance than any individual building, even if it is one of the finest. The same section of the Design Guidelines states that new development should conform to qualities established by neighbouring heritage buildings and that:

"Massing, materials, scale, proportion, rhythm, composition, texture and siting all contribute to perception of whether or not a building fits its context. Different settings within the district have different characters of siting, landscaping and streetscaping." (page 110).

The Canadian Federal Government, through Parks Canada, have long adhered to the "*Standards and Guidelines for the Preservation of Historic Places in Canada*". These Standards and Guidelines are based on universally recognized conservation principles inspired by international heritage conservation charters such as the Venice Charter, the Appletton Charter and the Washington Charter.

Of the Parks Canada general standards that are seen as the norm for the conservation of all types of heritage resources, the following are most applicable in the case of the Martin Smith House and property.

[1] "Conserve the heritage value of a historic place. Do not remove, replace, or substantially alter its intact or repairable character defining elements."

[2] "Conserve changes to a historic place which, over time, have become character defining elements."

[11] "Conserve the heritage value and character-defining elements when creating any new additions to a historic place or any related new construction. Make new work physically visually compatible with, subordinate to and distinguishable from the historic place."

In reference to the general standards above, the real property on which the Martin Smith House stands has become a character-defining element. In common memory, the house has always been seen as sitting on a knoll surrounded only by an expansive slope of grass lawn and framed by tall coniferous trees along the property perimeter. On page 7 of the revised Heritage Impact Assessment (HIA), the heritage consultant describes how the owner/applicant has already removed many of the trees which have been part of the character definition of the historic property; how the owner/applicant has not maintained the "lush manicured lawn". The HIA proposes that the installation of some potted and hanging plants (probably annuals) and the planting of a "decorative flower garden across the front of the house, preserves some if the landscape qualities indicated in earlier photos". This is an insufficient form of mitigation which fails to address the much larger loss of the historical backdrop created by the tall, mature trees seen in Cultural Services 2005 photo.

Further, the proposed new development does not fit in the context or character of a 19th century village core that the Heritage Conservation District aims to protect and enhance. Its scale or design has no precedent in Kleinburg's village core and is not suitable in preserving the historical context of the Martin Smith House.

Subject Properties as a Gateway to the Kleinburg Village Area

The subject properties are located on the west side of Islington Avenue and are the first series of buildings that appear as you enter the historic village core of Kleinburg. They will become gateway features to the village core and a significant landmark to the Kleinburg-Nashville Heritage Conservation District. The design, mass and scale of the new development at this site will be important in maintaining the architectural integrity of the District.

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This setting and the inherent relationship of building to its associated property landscape constitutes a "prominent location" and is a major contributor to the historical and current Islington Avenue streetscape at the south entry to the Kleinburg Village core as a character-defining element. Cultural Services recommends that the historical setting be conserved so that those elements which define its historic character and context are preserved.

Nexus Architects state in their revised Heritage Impact Assessment of 9 December 2008 (page 3) that the Martin Smith House location is already a "symbolic gateway".

"The prominent location of the Martin Smith House at the south end of the village has been of cultural significance throughout the last century and a half as the symbolic gateway between village and rural countryside."

It would, therefore, be advisable to preserve the way in which the Martin Smith House and its property present itself as a marker of this traditional boundary. The overall effect of the proposed development would be that of adding a large wall around the southwest corner and the west face of this gateway the Kleinburg core. The proposed development does not serve to provide a transition from an existing village setting to a higher density of an urban area to the south.

Massing and Scale

The proposed building B, is not in keeping with the height recommendations in place through the Kleinburg-Nashville Heritage Conservation District Plan. Section 9.5.2 of the Kleinburg-Nashville Heritage Conservation District Design Guidelines. The building has the appearance of 4-storeys in height, and as such, it overpowers the modest yet fine proportions, massing and form of the Martin Smith House. Thus, the resulting scale of the proposed building is not sympathetic to either the Martin Smith House or the Islington Avenue heritage streetscape character. Furthermore, appropriate design precedents have not been accurately selected or referenced appropriately.

The new proposal has begun to mitigate some of the negative impact of the building's proposed mass and scale by reducing its overall height but Cultural Services still feels that the proposed building's mass, scale and height are still larger than what is allowable and, therefore, not appropriate within the Kleinburg-Nashville Heritage Conservation District.

- overall form (square apartment building form with varied rooflines, apparent 4-storey height) and excessive repetition of small window and door openings and generically articulated or not in keeping with "village character" or any other precedent approved within the K-NHCD
- the form, massing and design detailing selection as a whole does not have a historically accurate precedent in Kleinburg, or areas outside Vaughan.

The proposed building on 10834 Islington (Building A) does not compliment the Martin Smith house in the obscurely referenced precedent of its design, and is completely disassociated from the history or any fitting building type that could be associated with the history of the Part IV property.

Building A is shown at 9397mm high to midpoint of first gable (Front elevation), which is approximately estimated as three stories, however, the majority of its roof area seems to be made of a flat roof, which would raise its effective building height datum to the top of the flat portion, therefore it is the opinion of Culture staff that the height is not shown accurately.

Building B shows a similar case, where the building height is given to the midpoint of the front gable, however, the building stretches out behind for almost its entire building footprint area at a height that is correspondent to four storeys (13, 250 mm) and significantly overpowering the Martin Smith house in height by at least one storey – this is considering that the house is on a

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higher grade, otherwise, in scale, it is approximately two storeys above the designated structure.

For Building B, both the south elevation and the front elevations are crucial to the Islington streetscape as this would be the first structure within the Heritage District and it acts as an important gateway into it and sets the mark for the District's characteristics.

Staff still have concerns that the proposal still shows one large building which spans into the Part IV designated property and materializes on this side to a structure that is not related in any precedent to the history of the designated site.

Views and Vistas

It is Culture staff's opinion that the size of the building will still be seen and negatively impact the westerly valley lands, in particular, from views and vistas from Highway 27 and Nashville Road. The preservation of the natural valley lands, free from building masses, was identified in the Kleinburg-Nashville Heritage Conservation District as being an integral characteristic of the area that should be preserved. See Figures 7 and 8 for a view from near Highway 27 of the subject property and the single storey house at 10398 Islington Avenue.

Architectural Detailing

That the overall architectural design of the new buildings have no overall historical precedent as a building style or plan in Kleinburg (or elsewhere in Vaughan) and should be redesigned to be more architecturally accurate in particular the removal of a garage door facing Islington Avenue that provides access to underground parking, the entranceway design to Building B, the overall window design and configuration, and balcony design etc are not appropriate architectural details as required by the Heritage Conservation District Guidelines.

Provincial Policy Statement 2005 of the Ontario Planning Act

The provisions of the Ontario Planning Act (Section 2 (d) and Section 3 (1) and (5a) require that municipalities shall have regard to matters of provincial interest (including the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest) and that municipal decisions shall be consistent with policy statements that have been approved by the Lieutenant Governor in Council on matters relating of provincial interest. The Provincial Policy Statement (PPS) 2005 of the Ontario Planning Act identifies two statements that provide municipalities with direction on land use planning matters and heritage properties:

PPS 2.6.1. states that "*significant built heritage resources and significant cultural heritage landscapes shall be conserved.*" In the case of the proposed development, the scale and massing and architectural design of the proposal does not conserve the Martin Smith House and the Kleinburg-Heritage Conservation District. The Smith House is lost within the new building proposed for the site and the 19th century village core of Kleinburg identified as a significant aspect of the Heritage Conservation District will not be conserved.

PPS 2.6.3. states that "*development and site alterations may be permitted on adjacent lands to protected heritage property where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.*"

In the case of the proposed development, it is recommended that the proposed two new buildings on the subject lands, their mass and scale and architectural detailing do not conserve the heritage attributes of the Martin Smith House and the Kleinburg Village core/Heritage Conservation District.

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Figure 1 - (Photo: Cultural Services, June 2005)



Figure 2 - (Photo: Cultural Services, June 2005)

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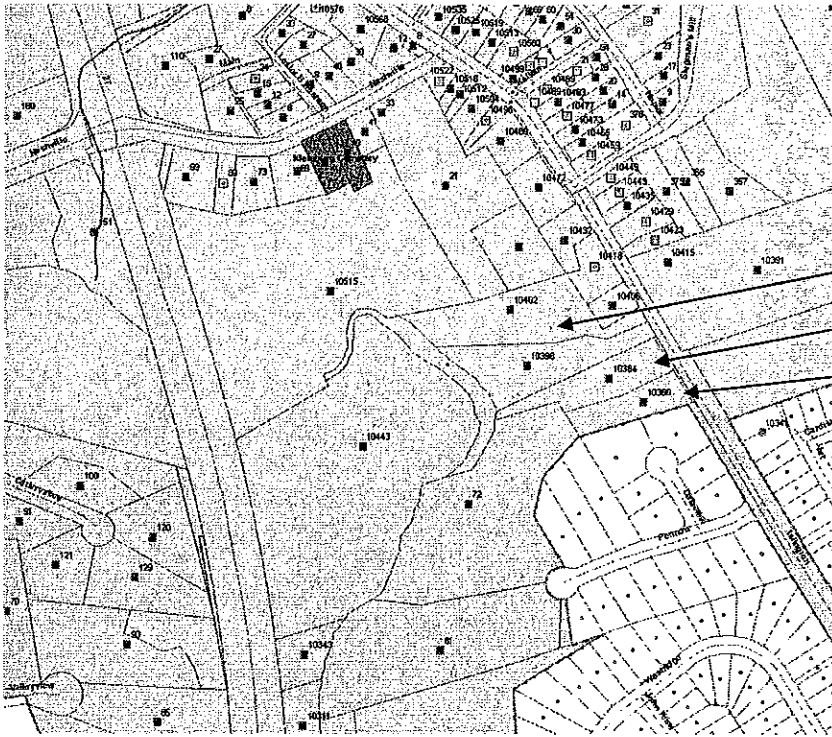
Figure 3 – View of Martin Smith House from Daleview Court (Photo: Cultural Services, Dec 2008)



Figure 4 - 10398 Islington Ave-
front (east) facade of a one-
storey, single family residence
(Photo: Cultural Services 2008)

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Figures 5 and 6

10398 Islington Avenue

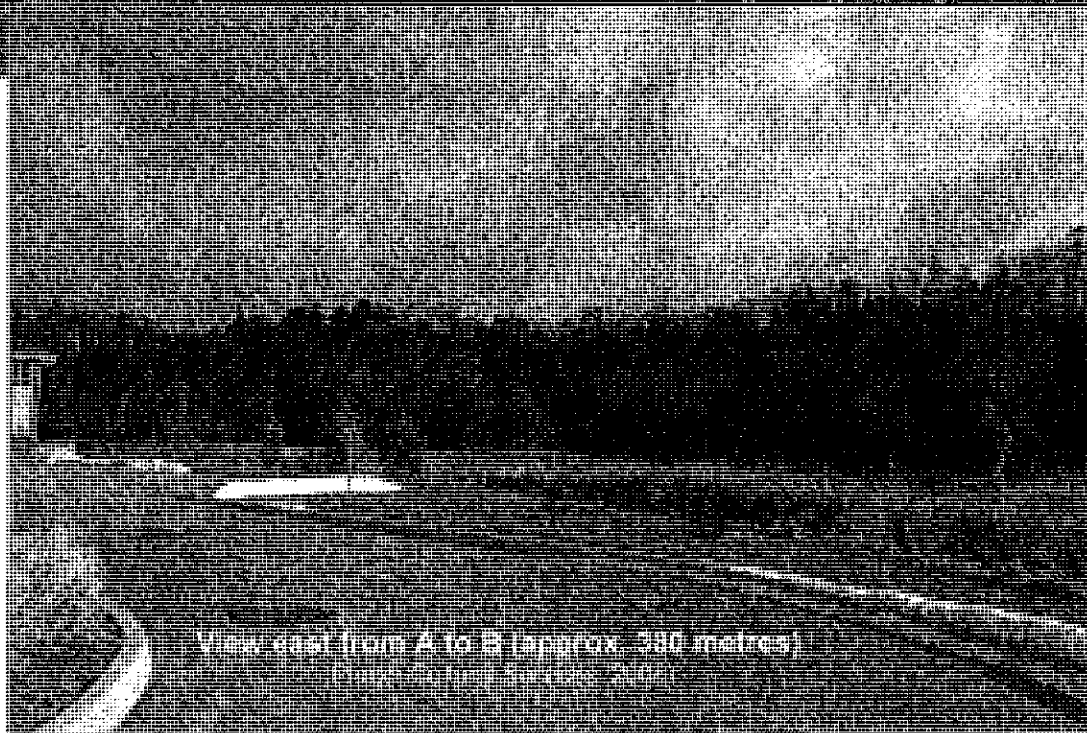
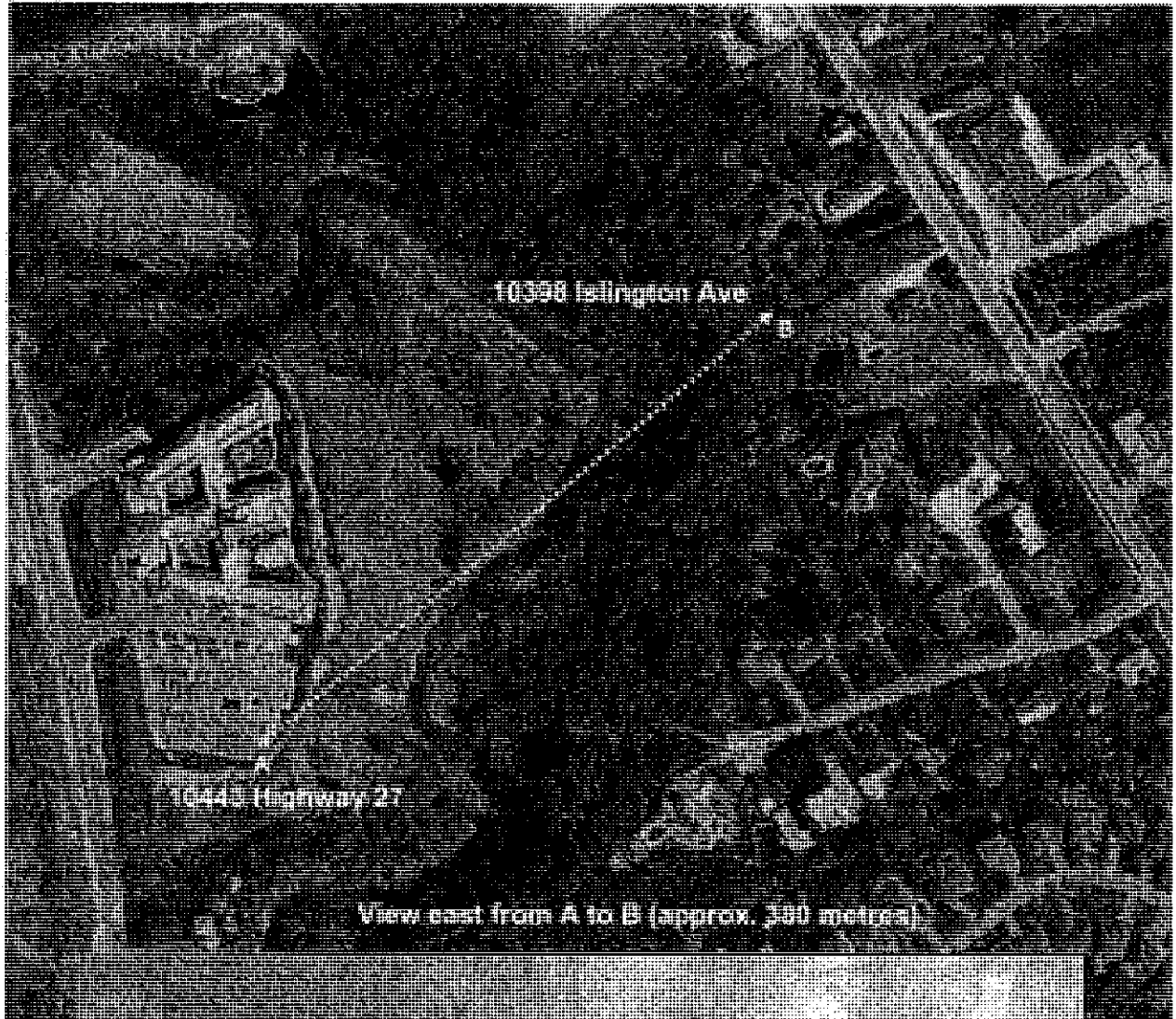
10384 Islington Avenue

10360 Islington Avenue



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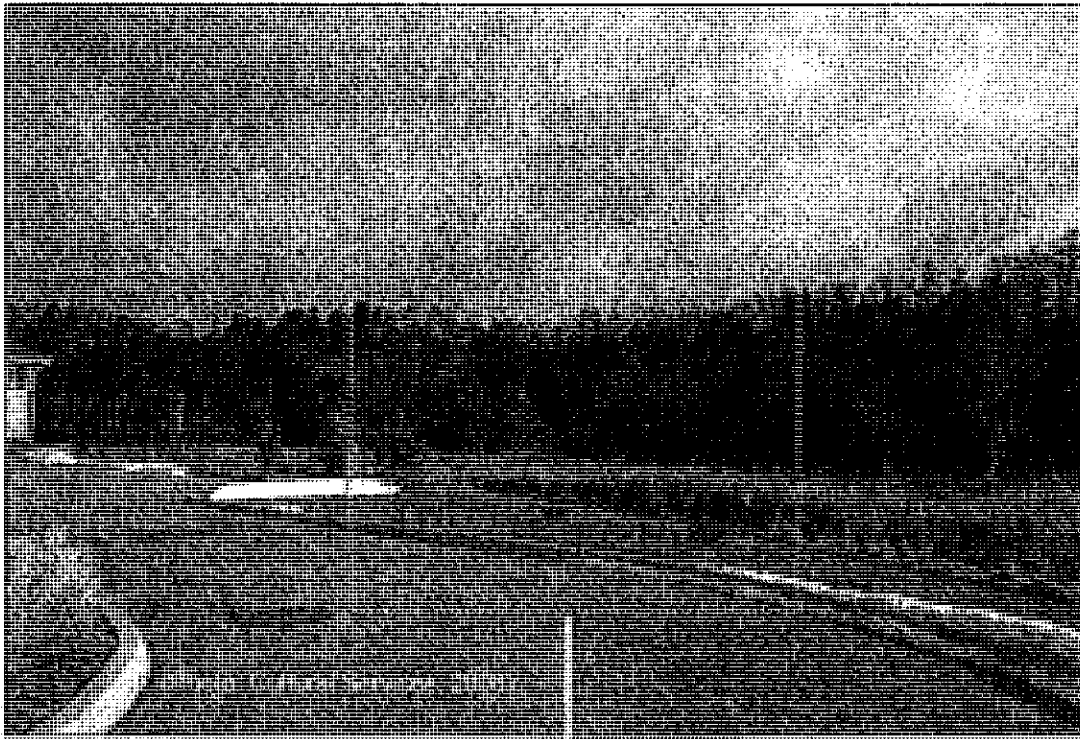
Figure 7



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Figure 8



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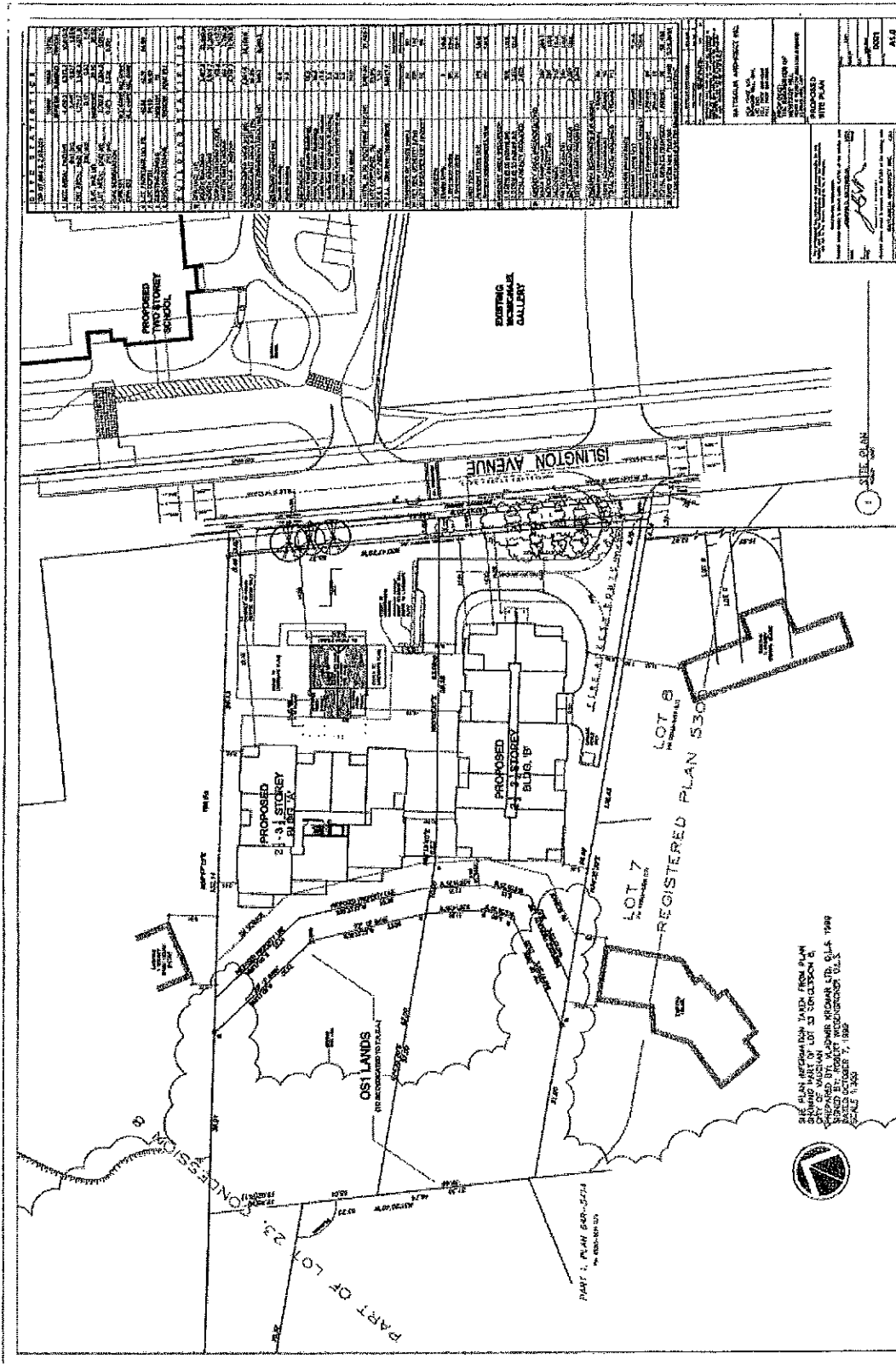


Figure 9 – Proposed Site Plan (28 November 2008)

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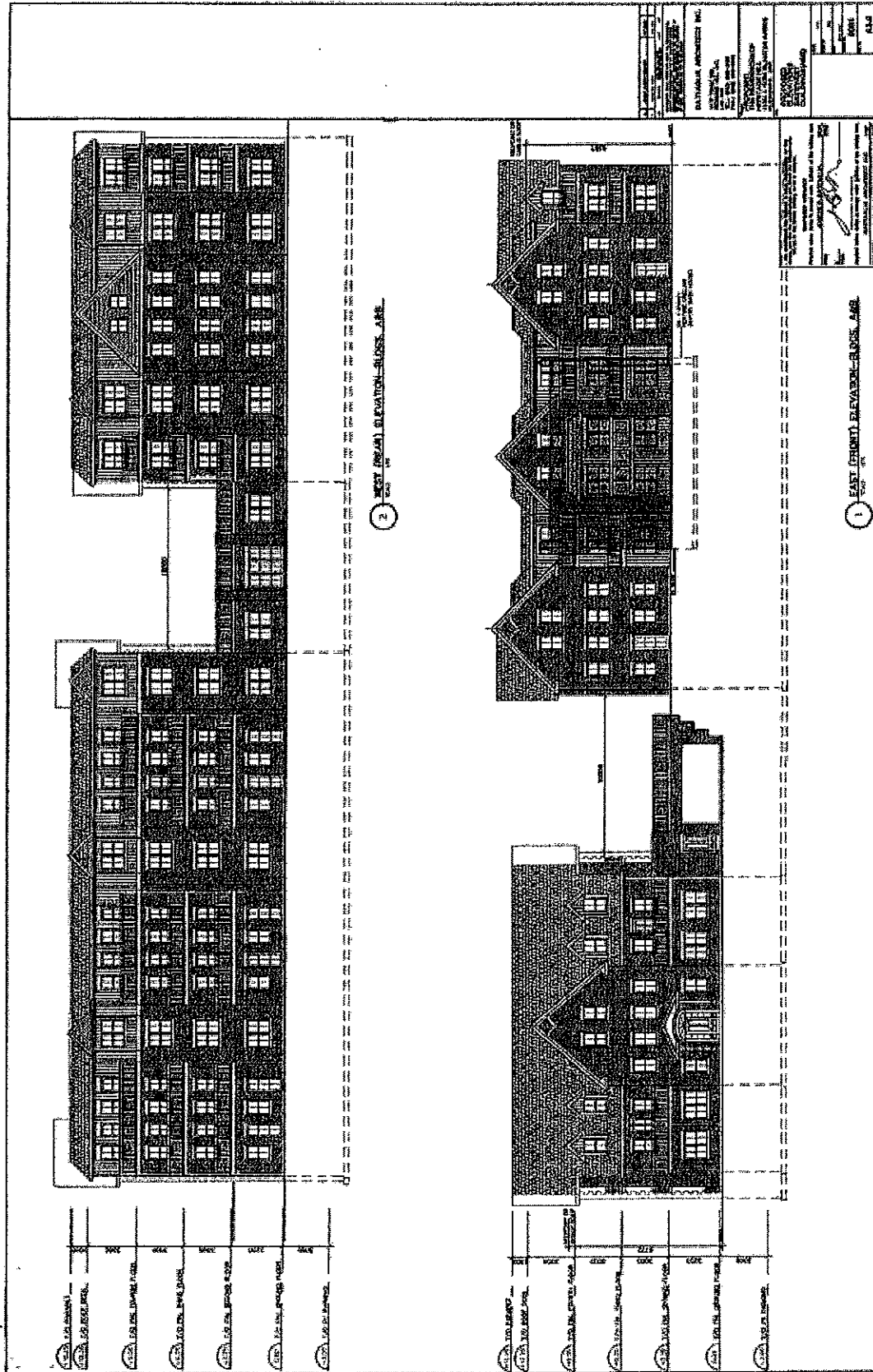


Figure 10 – Proposed Front and Rear Elevations (28 November 2008)

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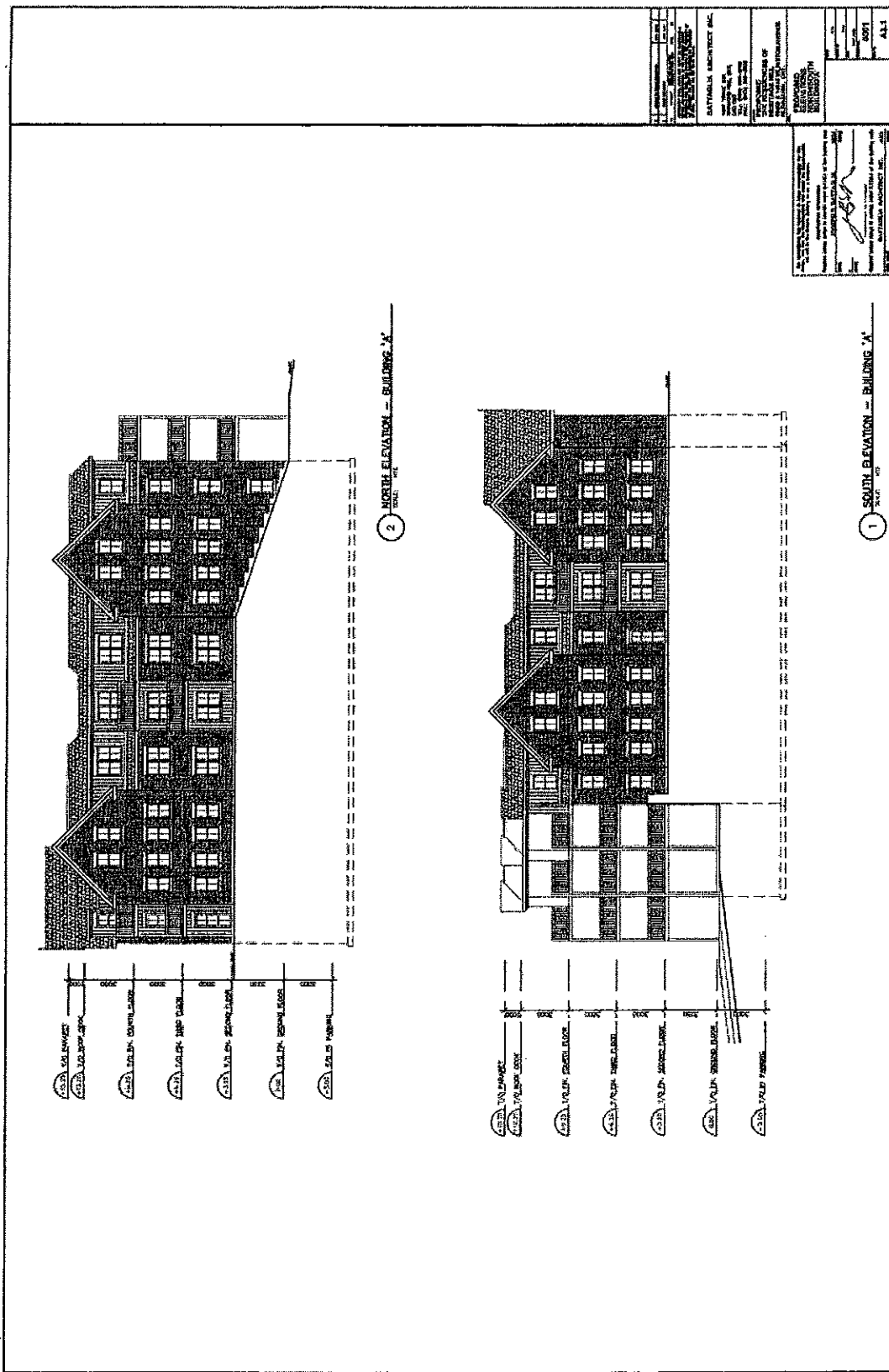


Figure 11 – Proposed Side Elevations “Building A” (28 November 2008)

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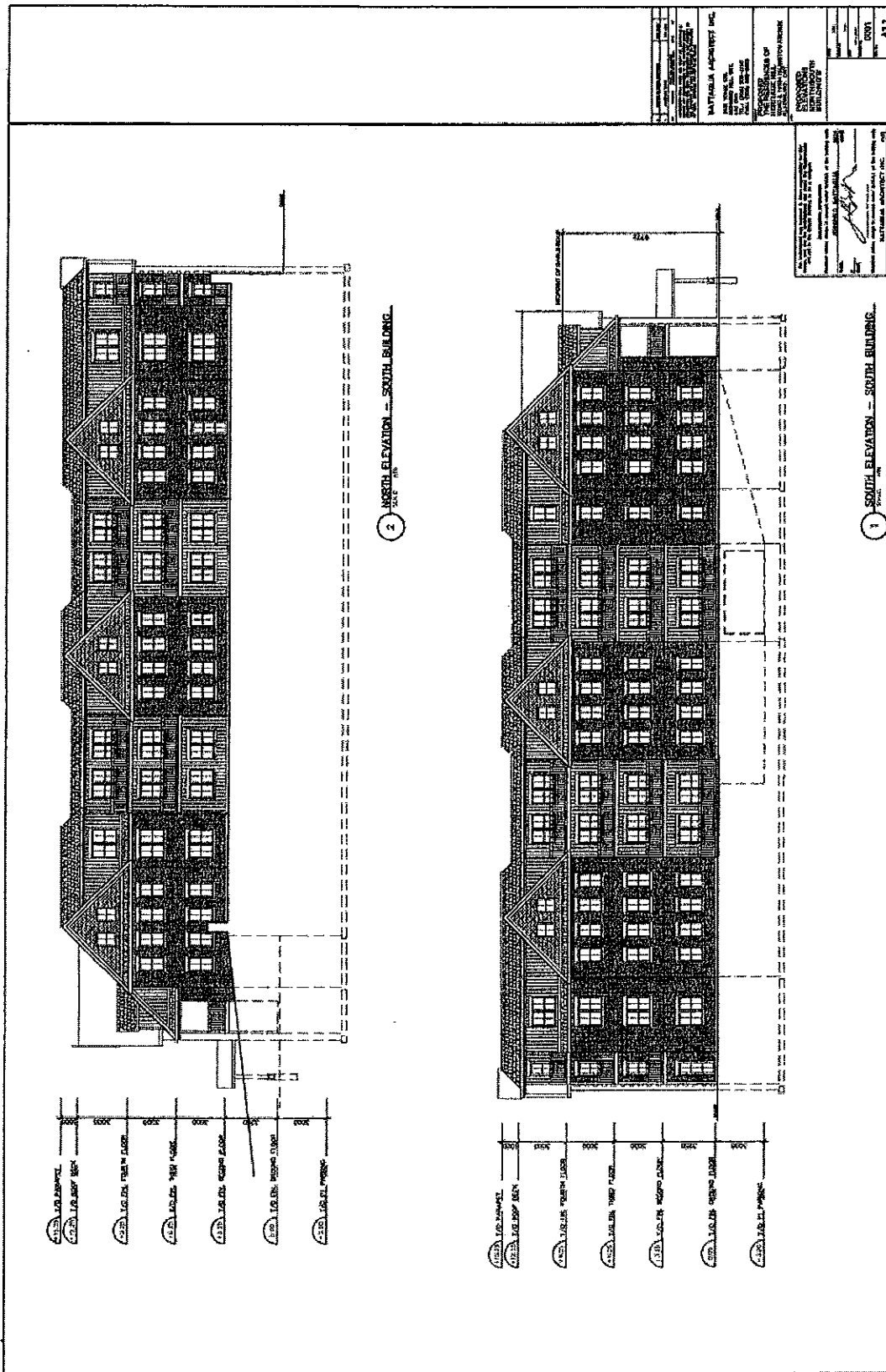


Figure 12 – Proposed Side Elevations “Building B” (28 November 2008)

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Appendix 1

Nexus Architects – Heritage Impact Assessment (9 Dec 2008)

NOT APPENDED

**To the Development
Planning report**