Memorandum to the City of Markham Committee of Adjustment

January 9th, 2018

File:	A/149/17
Address:	9 Fairway Heights Crescent, Thornhill
Applicant:	Ailing Wang
Agent:	Bill Ross & Associates (Bill Ross)
Hearing Date:	Wednesday January 24, 2018

The following comments are provided on behalf of the West Team. The applicant is requesting relief from the requirements of By-law 1767 - SR3, as amended, to permit:

a) Infill By-law 100-90; Section 1.2(vi):

a maximum floor area ratio of 49.5 percent, whereas the By-law permits a maximum floor area ratio of 47 percent;

b) Infill By-law 100-90; Section 1.2(i):

a maximum building height of 10.83 metres, whereas the By-law permits a maximum building height of 9.8 metres;

c) Infill By-law 100-90; Section 1.2(iii):

a maximum building depth of 22.16 metres, whereas the By-law permits a maximum building depth of 16.8 metres;

d) <u>Section 15(i)(e):</u>

a minimum rear yard setback of 32'-9", whereas the By-law requires a minimum rear yard setback of 40 feet;

e) <u>Section 9 (i):</u>

a maximum (window well) side yard encroachment of 24", whereas the By-law permits a maximum yard encroachment of 18" into the required side yard;

as they relate to a proposed residential dwelling.

BACKGROUND

Property Description

The 1,393.5 m² (14,999.5 ft²) subject property backs onto the Bayview Golf Club course, and is located on the south side of Fairway Heights Crescent, north of Steeles Avenue and west of Leslie Street. There is an existing 378.2 m² (4,070.91 ft²) two-storey detached dwelling on the subject property. The surrounding area is an established residential neighbourhood, comprised of single detached dwellings on large lot. The area is undergoing a gradual transition with an influx of larger new infill residential developments.

Previous Minor Variance Approval A/156/15

On December 16, 2015, the Committee of Adjustment granted the following minor variances to the subject property as they relate to a proposed residential dwelling:

- a) a maximum building height of 10.64 m, whereas the By-law permits a maximum building height of 9.8 metres;
- b) a building depth of 23.11 m, whereas the By-law permits a maximum building depth of 16.8 m;
- c) a maximum floor area ratio of 49.3 percent, whereas the By-law permits a maximum floor area ratio of 47 percent;

d) a maximum side yard encroachment of 22 inches for overhanging eaves , whereas the By-law permits a maximum side yard encroachment of 18 inches for overhanging eaves.

No building permit was submitted to the City following the Committee of Adjustment's decision. The property was later sold in November 2016 and the new owner is submitting the current minor variance application for a new proposal.

Proposal

The applicant is proposing to demolish the existing home and construct a two-storey detached dwelling with a gross floor area of approximately 689.9 m² (7,426 ft²). The proposal includes a new circular driveway, which according to zoning staff, complies with all applicable zoning by-law requirements and does not require any variances.

Official Plan and Zoning

<u>Official Plan 2014 (partially approved on Oct 30/15, May 26/16, Mar 10/17, April 21/17)</u> The subject property is designated "Residential – Low Rise", which provides for low rise housing forms including single detached dwellings. In considering applications for development approval in a 'Residential Low Rise' area, which includes variances, infill development is required to meet the general intent of Section 8.2.3.5 of the 2014 Official Plan with respect to height, massing and setbacks to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways and the overall orientation and sizing of new lots within a residential neighbourhood. Planning staff have had regard for the requirements of the infill development criteria in the propertien of the comments provided below.

Zoning By-Law

The subject property is zoned SR3 – Single Family Detached Dwelling Special Residential Density under By-law 1767, as amended, which permits single detached dwellings. The proposed development does not comply with the by-law requirement with respect to rear yard setback and side yard encroachment.

Residential Infill Zoning By-law

The subject property is also subject to the Residential Infill Zoning By-law 100-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for floor area ratio, building height and building depth. The proposed development does not comply with the by-law with respect to floor area ratio, building height and building depth.

Applicant's Stated Reason(s) for Not Complying with Zoning

According to the information provided by the applicant on the application form, "The City's zoning by-law is too restrictive."

Zoning Preliminary Review Undertaken

A Zoning Preliminary Review (ZPR) has been undertaken to confirm that the accuracy of the minor variances being requested for the proposed development.

COMMENTS

The Planning Act states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

Increase in Maximum Floor Area Ratio

The applicant is requesting relief for a maximum floor area ratio of 49.5 percent, whereas the By-law permits a maximum floor area ratio of 47 percent. The proposed increase in floor area ratio will facilitate the construction of a two-storey dwelling with a gross floor area of 689.9 m² (7,426 ft²), whereas the By-law permits a dwelling with a maximum floor area of 654.97 m² (7,050 ft²). This represents an increase of 34.93 m² (375.98 ft²) or approximately 5.3 percent.

Floor Area Ratio is a measure of the interior square footage of the dwelling as a percentage of the net lot area. It is not a definitive measure of the mass of the dwelling, since it does not include "open to below" areas that may exist within the dwelling (e.g. two-storey foyers, atriums and/or stairs). In addition to the space associated with the stairs, there is an approximately 23.5 m² (252.95 ft²) open to below area on the second floor above the foyer which is excluded from the gross floor area calculation under the by-law.

The Committee of Adjustment has previously approved a number of similar floor area ratio variances in the neighbourhood ranging between 49 percent and 52 percent. The proposed dwelling will have a lot coverage of 26.3 percent, which is approximately 21 percent less than the maximum coverage permitted by the zoning by-law. The main building, excluding the porches and the terrace at the rear, meets all setback and building depth requirements which ensures the proposed dwelling will be in keeping with the intended scale of infill development for the neighbourhood. Staff have no concern with the variance request.

Increase in Maximum Building Height

The applicant is proposing a maximum building height of 10.83 m (35.53 ft), whereas the By-law permits a maximum depth of 9.8 m (32.15 ft). This represents an increase of 1.03 m (3.37 ft), which is an increase of approximately 10.51 percent. The By-law calculates building height using the vertical distance of building or structure measured between the level of the crown of the street and highest point of the roof surface. The proposed grade is approximately 0.72 m (2.36 ft) above the crown of road.

The proposed dwelling will be setback farther away from the street than the existing home on subject property, as well as the majority of the other homes in the area. The building will provide a west side yard setback of 1.83 m (6 ft) and an east side yard setback of 4.27 m (14 ft), and will be approximately 4.9 m (16 ft) away from the home to the west and 6.64 m (21.78 ft) away from the home to the east. Considering the relationship with the surrounding homes and the street, staff have no objection to the proposed increase in building height.

Increase in Maximum Building Depth

The applicant is proposing a maximum building depth of 22.16 m (72.7 ft), whereas the By-law permits a maximum depth of 16.8 m (55.11 ft). This represents an increase of 5.36 m (17.58 ft), which is an increase of approximately 31.9 percent.

The variance is attributed to the front covered porch and the rear extension of the building which includes a cold cellar and theatre room in the basement and an open terrace in the rear yard. The front covered porch increases the total depth by 1.76 m (5.77 ft) and the rear extension by 3.92 m (12.86 ft). The front covered porch makes up a minor component of the building and will unlikely contribute negatively to the overall massing of the proposed dwelling. The cold cellar and theatre room are located below grade and will not be visible to neigbouring properties. The open terrace is approximately 0.7 m (2.29 ft) in height above finished grade and will have minimal impact on adjacent homes. The main building has a depth of 16.34 m (53.6 ft) which complies with the by-law and is in line with the adjacent homes to the east and west. Staff have no concern with the variance request.

Reduced Rear Yard Setback

The applicant is requesting a minimum rear yard setback of 32.75 ft (9.98 m), whereas the by-law requires a minimum rear yard setback of 40 ft (12.19 m). This represents a reduction of 7.25 ft (2.2 m) or approximately 18 percent.

The variance applies to the cold cellar and theatre room in the basement and an open terrace in the rear yard. The rear main wall provides a setback of 45.58 ft (13.89 m) which meets the by-law requirement and generally aligns with the rear walls of the adjacent homes.

Increase to Maximum Side Yard Encroachment

The applicant is requesting relief from the by-law to permit a maximum encroachment of 24 in (0.6 m) to the east side yard for a window well, whereas the by-law permits a maximum yard encroachment of 18 in (0.45 ft). Engineering staff have no concern respecting drainage. Staff have no objection to the variance request.

PUBLIC INPUT SUMMARY

No written submissions were received as of January 12th, 2018. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance requests meet the four tests of the Planning Act and have no objection.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:

Carlson Tsang, Planner, Zoning and Special Projects

REVIEWED BY:

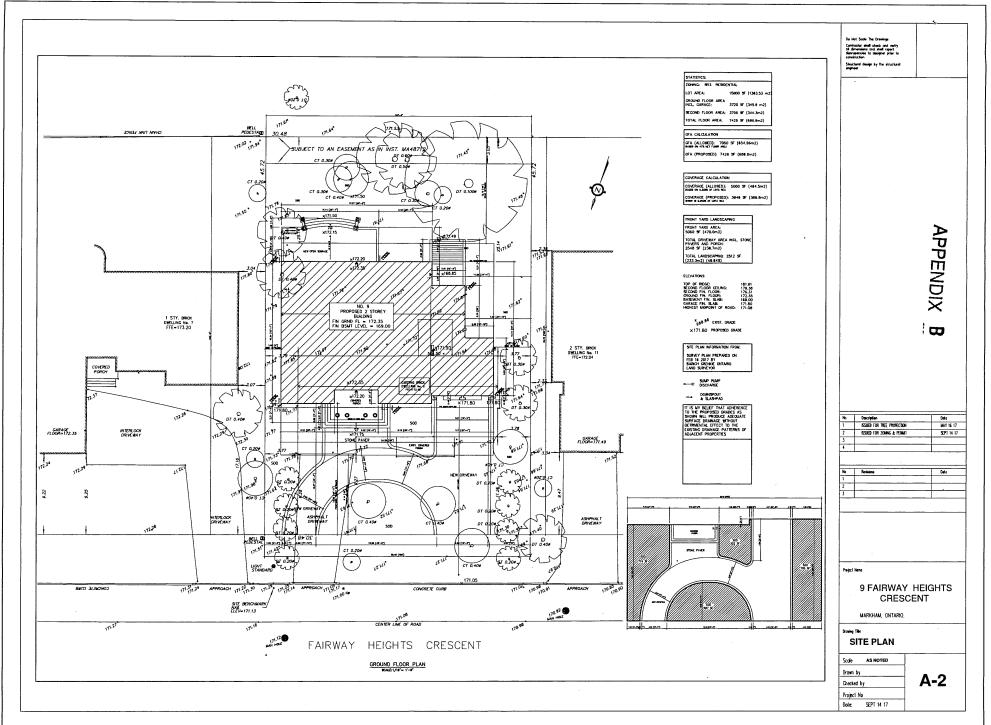
David Miller, Development Manager, West District File Path: Amanda\File\ 17 179479 \Documents\District Team Comments Memo

APPENDIX "A" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/149/17

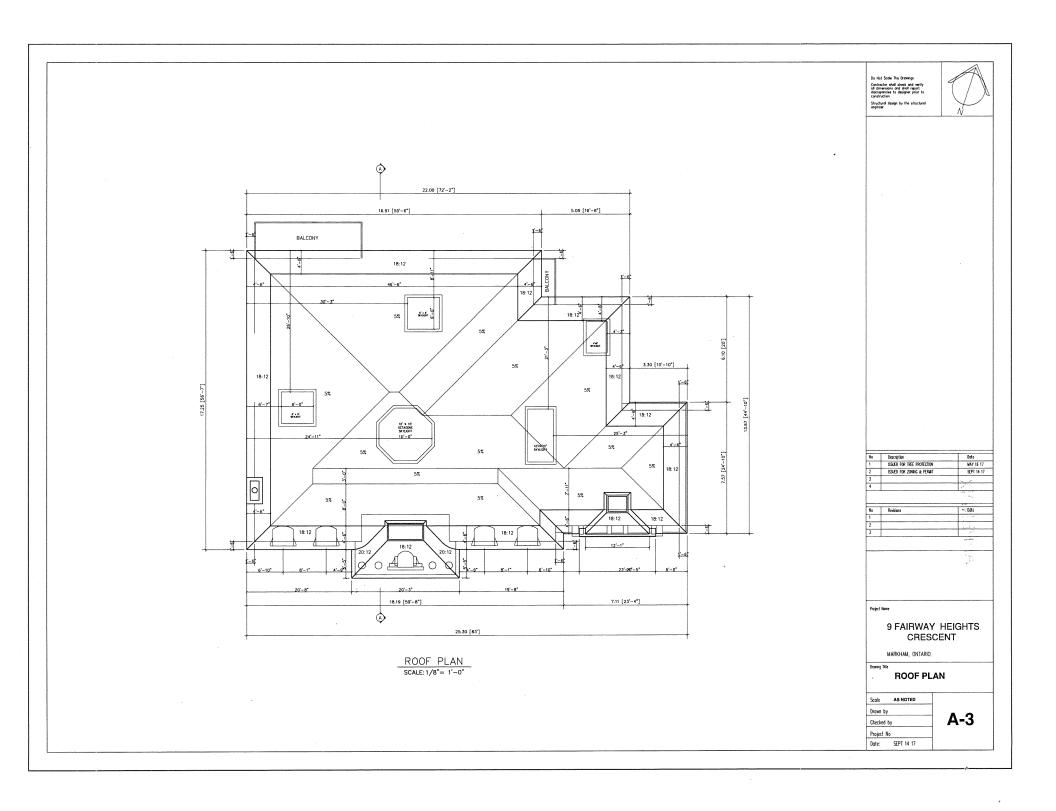
- 1. The variances apply only to the proposed development as long as it remains;
- 2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report and dated September 14, 2017 and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.
- 3. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan.
- 4. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Director of Planning and Urban Design or their designate.
- 5. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design or designate;
- Submission of a detailed Siting, Lot Grading and Servicing Plan designed and stamped by a Professional Engineer/Ontario Land Surveyor/Landscape Architect satisfactory to the Director of Engineering, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Engineering or designate;

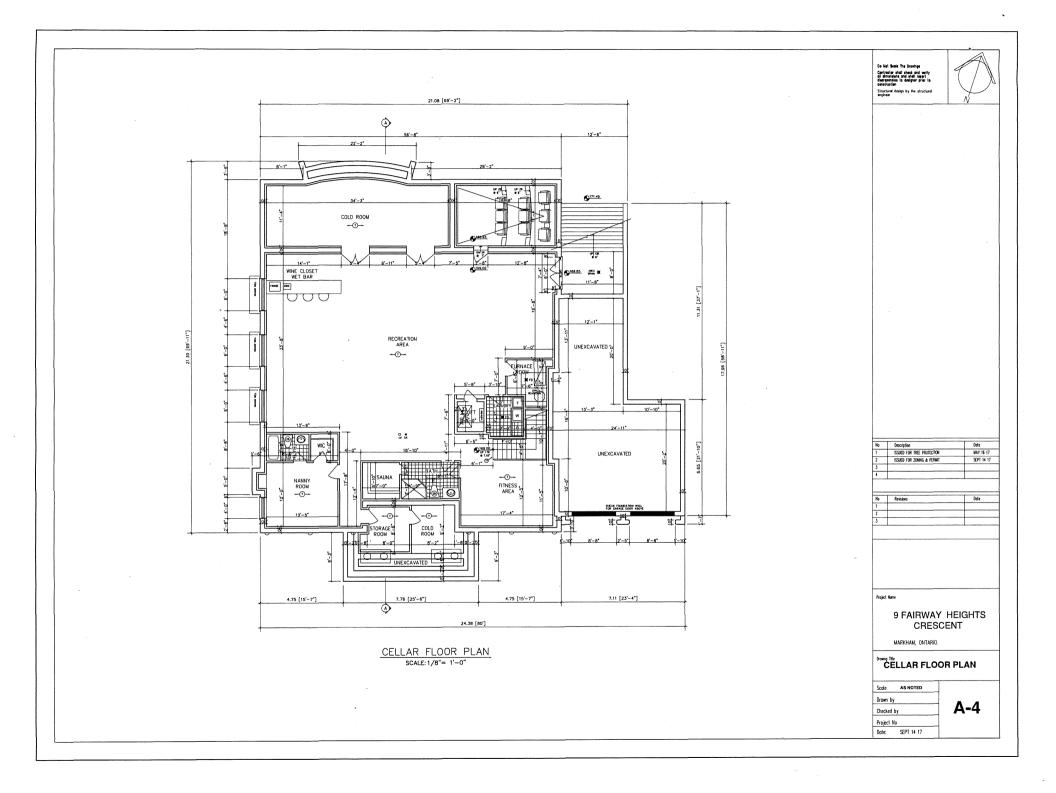
CONDITIONS PREPARED BY:

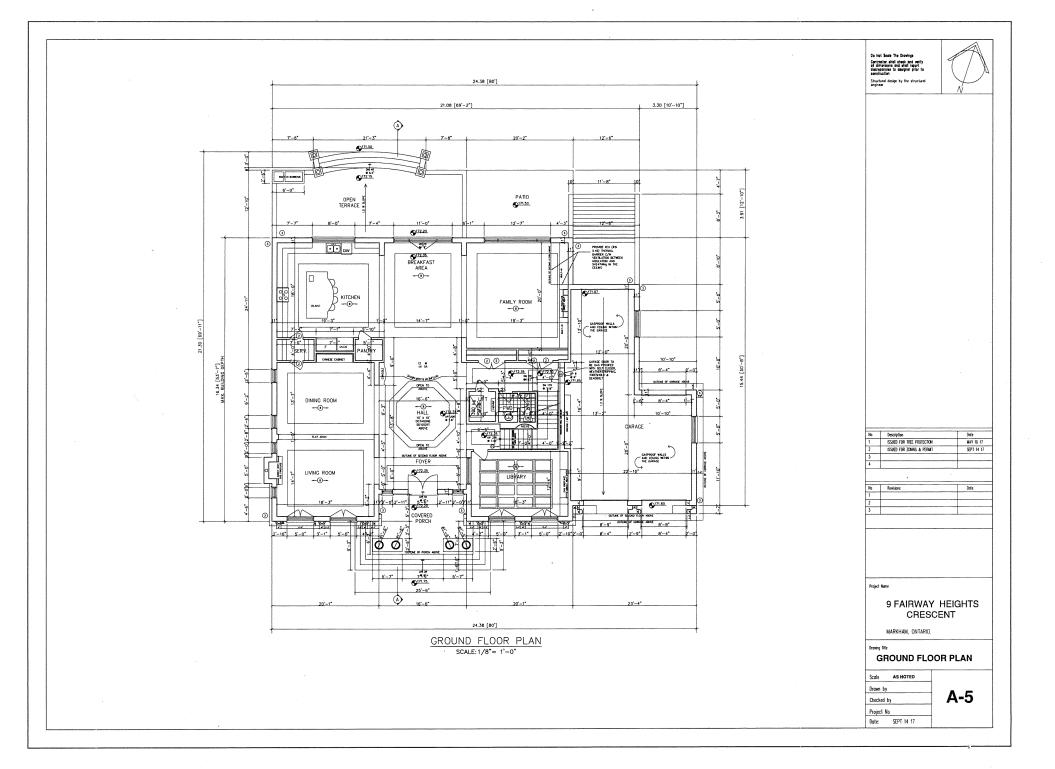
Carlson Tsang, Planner, Zoning and Special Projects

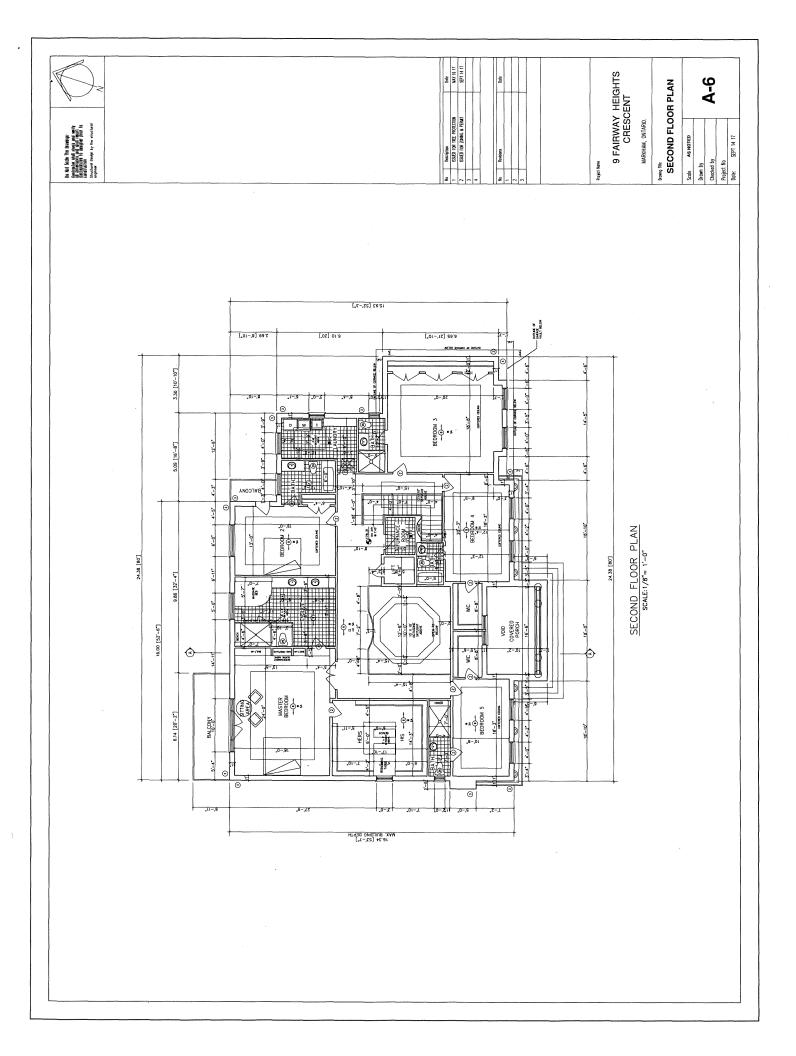


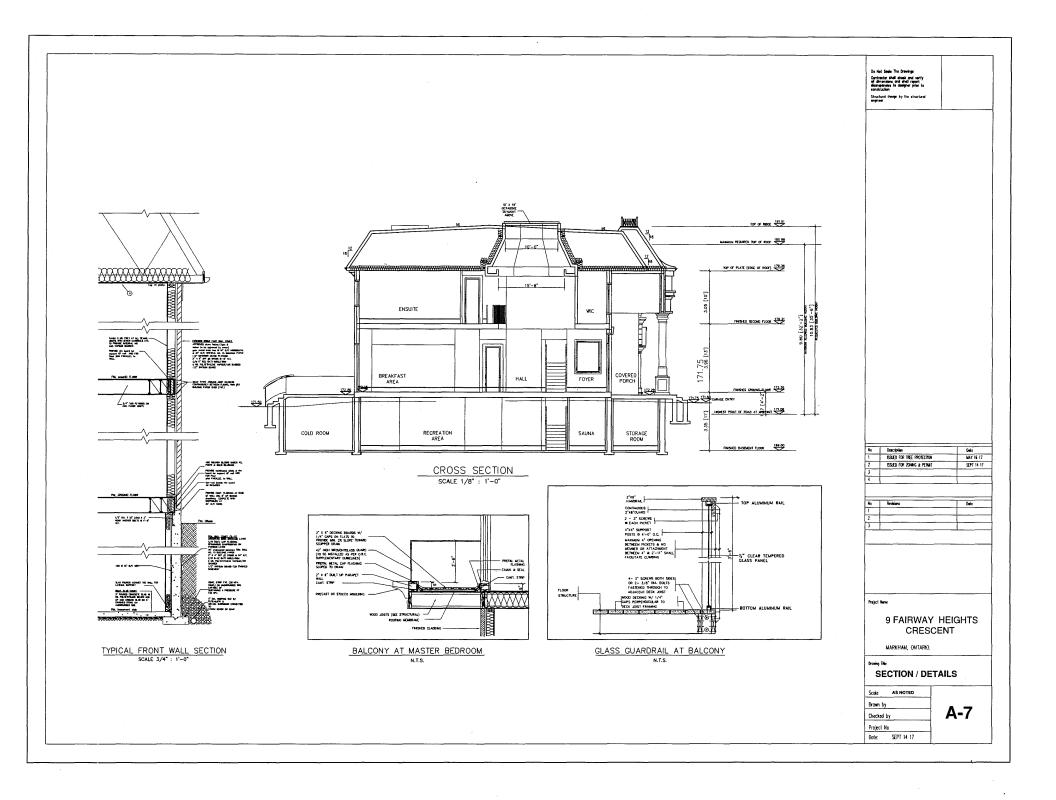
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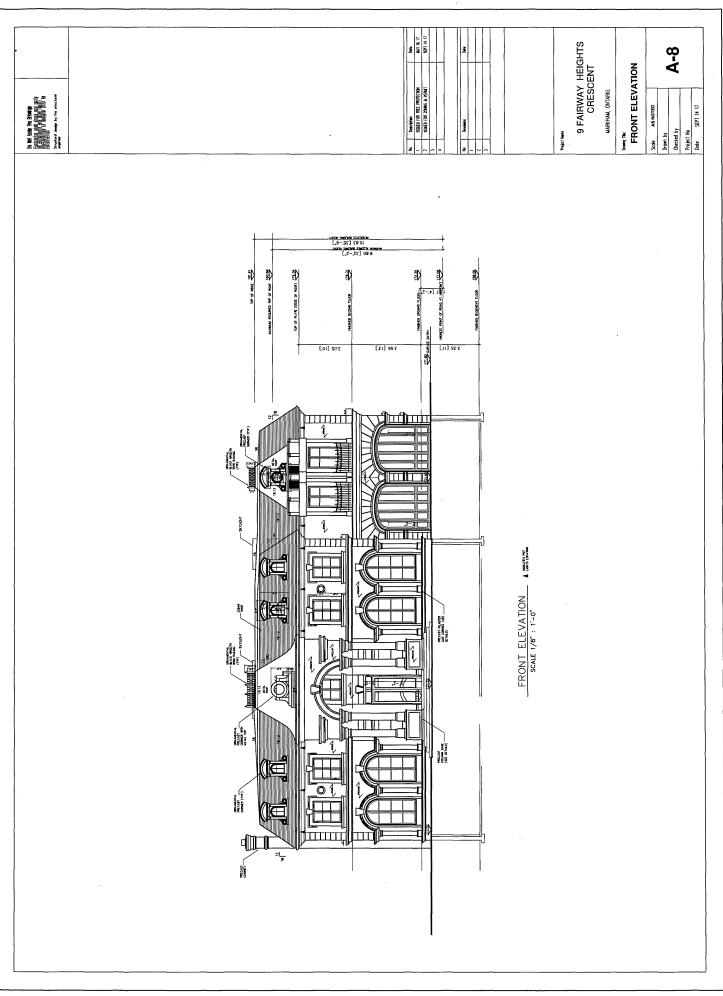


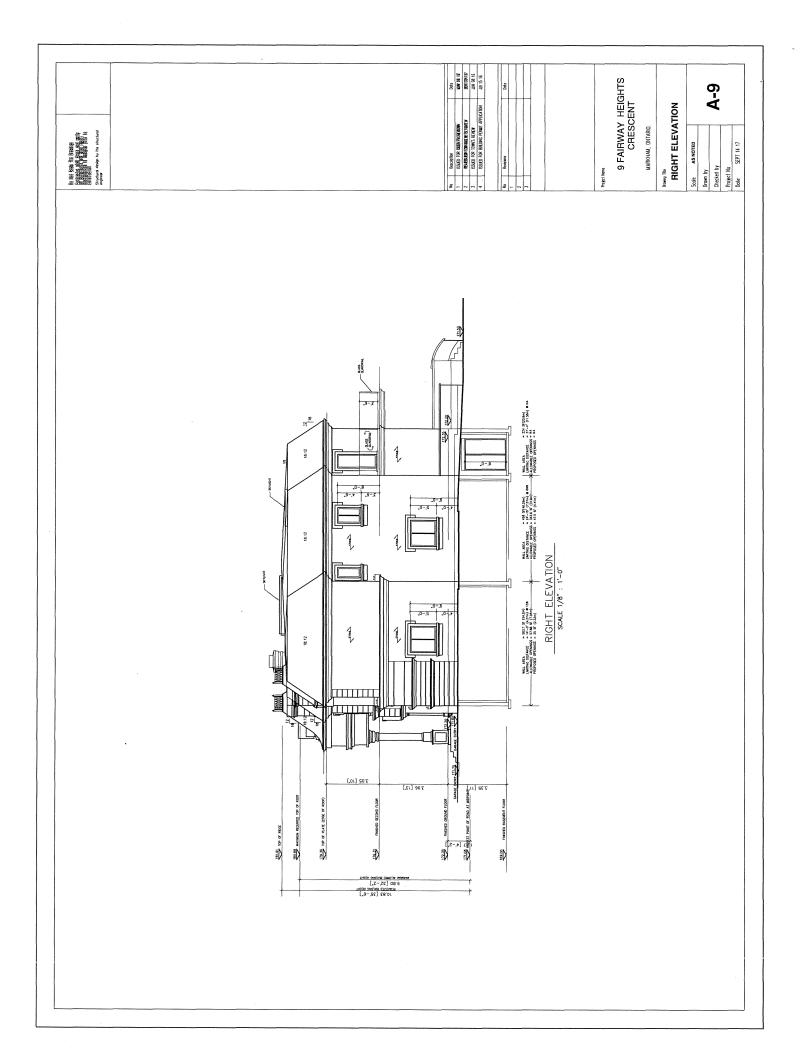


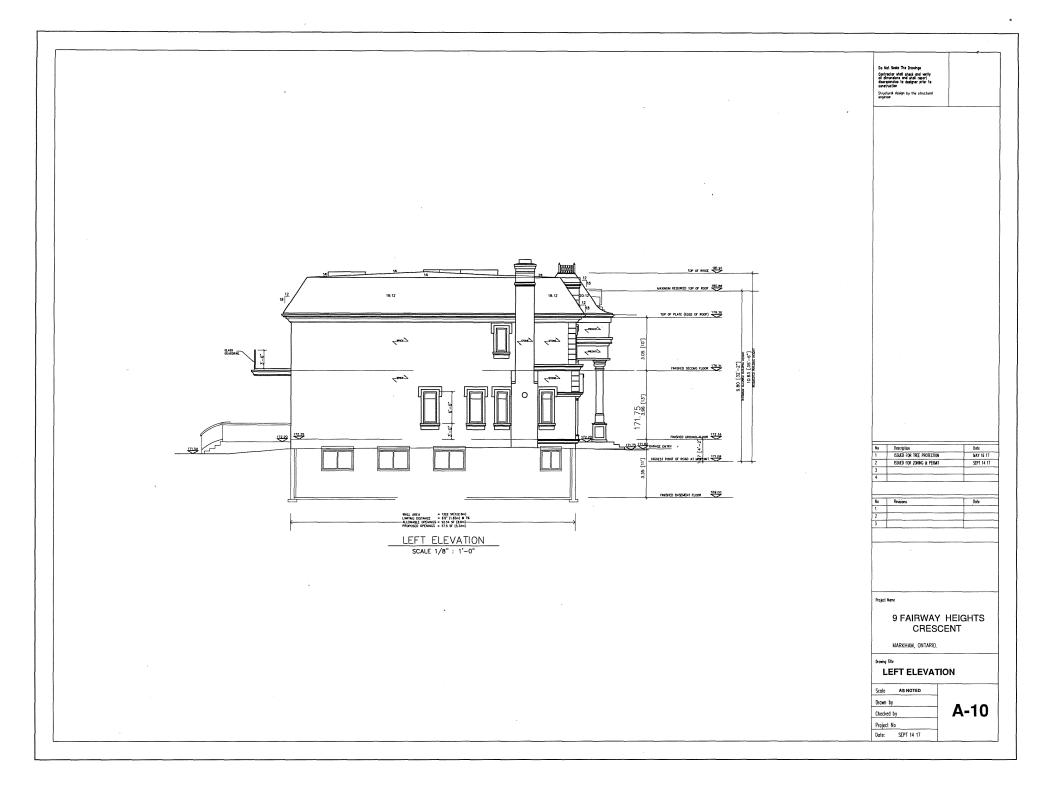


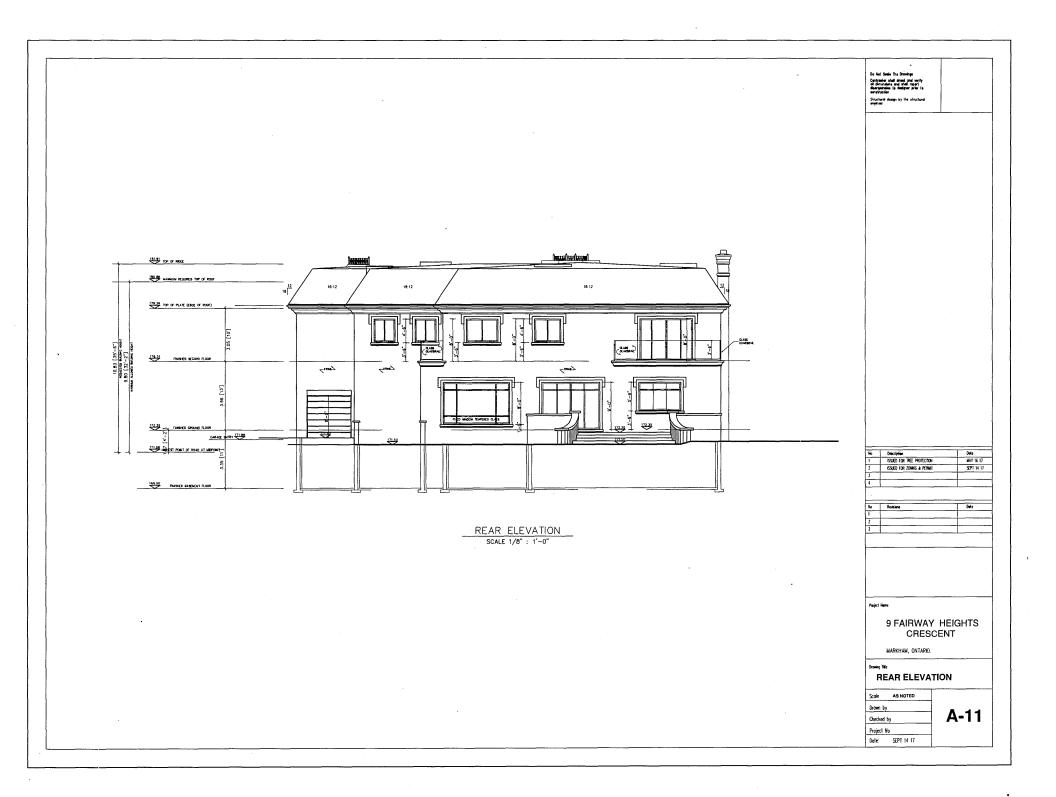


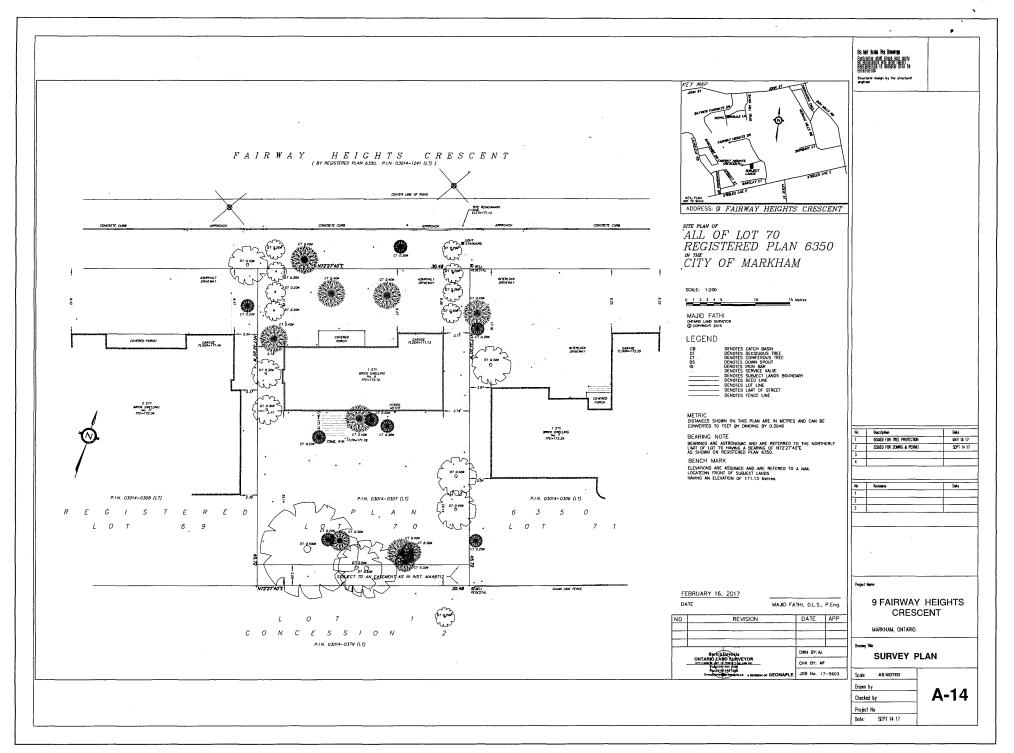












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