

Planning and Development Council Meeting  
March 18, 2019

**Comments Received Regarding Item 2**  
Zoning By-law Amendment and Draft Plan of Subdivision  
47 Nelson Street  
File NO. Z.1728.65 and 24T-18007/1728

# Summary of Concerns with Respect to the Proposed Development at 47 Nelson St.

15 March 2019

## **Executive Summary**

*The proposed development for 47 Nelson raises concerns for the neighbors. It is always difficult to deal with change but more importantly it is vital to ensure that harmful impact is not permitted, and that any development complies with the City of Oakville by-laws and standards. If we permit harm or non-compliance, then as a society we are not doing what is the right thing.*

*Per the Livable Oakville Plan, Part F: Implementation and Interpretation, Sections 28.1 and 28.8, the intent of the by-laws is to ensure that the objectives and policies of the Plan are implemented and reduce non-conforming uses.*

### **28.1 Zoning By-laws**

28.1.1 Zoning by-laws shall be used to implement the objectives and policies of this Plan by regulating the use of land, buildings or structures in accordance with the provisions of the *Planning Act* and may be more restrictive than the provisions of this Plan. It is not intended that the full range of uses or densities permitted by this Plan will be permitted by the Zoning By-law in all locations.

28.8.2 It is the intention and expectation that non-conforming uses, buildings or structures shall eventually cease and be replaced by uses, buildings or structures that conform with the intent of this Plan and the Zoning By-law. In special circumstances, however, it may be appropriate to consider the extension or enlargement of non-conforming uses.

***There are four recommendations in this summary: 1. Give due consideration to not permitting a zoning change as the conditions of RM1 regulations are not fully met; 2. Reduce the height of the proposed building to ensure compliance with regulations, maintain built form of the height with adjacent buildings, and to reduce harmful impact to the trees; 3. Reduce harm to the trees by devising alternative driveway configurations; and, 4. Ensure protection of any archaeological important materials.***

*This summary document will address each of the issues and recommendations under the following sections:*

- 1. Property Width**
- 2. Height of the Proposed Townhouses**
- 3. Tree Protection**
- 4. Archaeological Potential for both Indigenous and Euro-Canadian Material**

*Attached to this Summary are the signature pages of supporters for this submission. These pages show the names, addresses and signatures of 36 people living in the immediate vicinity of this proposed development who share the concerns outlined in this document.*

**1. Property Width**

The property width does not meet the required RM 1 'Minimum lot frontage' of 30.5m. The lot frontage, per the Site Survey by J.H. Gelbloom Surveying Limited, shows the property frontage to be 28.31m.

- a. The Justification Report created by W.E. Oughtred & Associates Inc, submitted to the City of Oakville, Section 7.5, indicates that the Standard Minimum Lot Frontage is 30m. This is incorrect and the correct value as noted in the Regulations Table 6.3.8 confirms the 'Minimum lot frontage' is to be 30.5m for an RM1 zoning. Additionally, the table submitted in Section 7.5 of the Justification Report indicates compliance with RM1 and this is incorrect as well.

**Width Issue – Incorrect Data Input**

Minim Land: Cove
Minim Parki

- b. As per Section 11.1.9 of the Livable Oakville plan, the proposed Townhouses are not in keeping with the adjacent housing character. Sections 11.1.9 b) indicates that the proposed development should be compatible with the separation distances within the surrounding neighbourhood. However, due to limitations of the property width, this distance between the proposed townhouses and the existing townhouses to the south will be much narrower that is evident between other housing in the neighbourhood.

- 11.1.9 *Development* within all stable residential communities shall be evaluated using the following criteria to maintain and protect the existing neighbourhood *character*:
- a) The built form of *development*, including scale, height, massing, architectural *character* and materials, is to be *compatible* with the surrounding neighbourhood.
  - b) *Development* should be *compatible* with the setbacks, orientation and separation distances within the surrounding neighbourhood.
  - c) Where a *development* represents a transition between different land use designations or housing forms, a gradation in building height shall be used to achieve a transition in height from adjacent *development*.

**RECOMMENDATION**

*Due consideration must be given by the City of Oakville to adhere to the Zoning By-Laws as enacted. To change the site to an RM1 zoning should require compliance with all the regulations. As this site does not meet the requirements for RM1 zoning, this rezoning request should not be granted.*

2. Height of the Proposed Townhouses

- a. Exceeds requirements of RM1 zoning per 'Table 6.3.8 Regulations in the Residential Medium (RM) Zones' of the Oakville Zoning By-Law 2014-014

- i. Table 6.3.8

**Table 6.3.8: Regulations in the Residential Medium (RM) Zones**

		RM1 (Townhouse dwellings)	RM2 (Back-to-back townhouse dwellings)	RM3 (Stacked townhouse dwellings)	RM4 (Apartment dwellings)
Minimum lot area (2017-025)		135.0 m <sup>2</sup> per dwelling	135.0 m <sup>2</sup> per dwelling	1,486.5 m <sup>2</sup>	1,486.5 m <sup>2</sup>
<b>Width Issue</b>	Minimum lot frontage	30.5 m	30.5 m	24.0 m	24.0 m
	Minimum front yard	1.2 m	0.0 m	0.0 m	0.0 m
	Minimum flankage yard (2016-013)	3.0 m	3.0 m (1)	3.0 m (1)	3.0 m
	Minimum interior side yard (2016-013)	1.2 m	1.2 m	1.2 m	4.5 m
	Minimum separation distance between buildings containing dwelling units	2.4 m	2.4 m	2.4 m	2.4 m
	Minimum rear yard	6.0 m	0.0 m	6.0 m	6.0 m
	Maximum number of stories	3	3	3	4
<b>Height Issue</b>	Maximum height	12.0 m	12.0 m	12.0 m	15.0 m
	Maximum lot coverage for the dwelling	n/a	n/a	n/a	n/a
	Minimum landscaping coverage	10%	10%	10%	10%

- b. Height of the proposed Townhouses is not in keeping with the existing built form of the adjacent properties. As per Section 11.1.9 of the Livable Oakville plan, the proposed Townhouses should be in keeping with the adjacent housing character. Sections 11.1.9 a) and c) indicate that the proposed built form should be in line with the height of existing structures and if transitions should be necessary, a gradation in building height should be maintained with the adjacent structures. For the proposed Townhouses, this gradation in height would not be achieved as we have tried to demonstrate below by showing the approximate height of a three-story building, outlined in yellow.



11.1.9 *Development* within all stable residential communities shall be evaluated using the following criteria to maintain and protect the existing neighbourhood *character*:

- a) The built form of *development*, including scale, height, massing, architectural *character* and materials, is to be *compatible* with the surrounding neighbourhood.
- b) *Development* should be *compatible* with the setbacks, orientation and separation distances within the surrounding neighbourhood.
- c) Where a *development* represents a transition between different land use designations or housing forms, a gradation in building height shall be used to achieve a transition in height from adjacent *development*.

This gradation is evident on the west side of Nelson St. and on the north side of Ontario St. as demonstrated by the images below:



- c. Height of the proposed Townhouses will likely encroach on the canopy of Trees 1 & 4.
  - i. As identified in the Arborist Report – Welwyn Consulting – Appendix B, Trees 1 & 4 show tree canopies of 20 m and 18 m respectively. While the height of Trees 1 and 4 are both 22 m, the canopy extends lower than the maximum building height allowable under the Regulations noted above. From the Arborist report and the Site Plan (Keeren Design), it appears that Townhouse A will interfere with the canopy of Tree 4 and that Townhouse D will interfere with the canopy of Tree 1.

**RECOMMENDATION**

*A. To ensure compliance with the maximum height allowable, the structure should at a minimum be reduced to 12.0m. However, due consideration must be given to gradation of the height such that it is closer in height and thus more in character with the adjacent properties.*



### 3. Tree Protection

There is no question in discussion within this neighbourhood that tree protection and preservation is a must. It is one of the biggest points of concern for the residents living on Nelson St. Of particular concern are Trees 1 to 4, which are the property of the City of Oakville (Welwyn Report), and they are clearly trees of significant size and age that bring unparalleled character to Nelson Street. Should these trees be damaged by this proposed development, no one currently living on Nelson St will be alive to see new trees reach the majesty of any replacement that may be planted now.

- d. These trees are irreplaceable and while the value placed on the Trees 1 to 4 has appraised total of \$118,420, no amount of money could replace these beautiful pieces of nature without the benefit of time.
- e. The proposed driveways will encroach on the Tree Protection Zones (TPZ) as noted in the Welwyn Report. Placement of the driveways and distance to the trees is noted in the Site Plan (Keeren Design)
  - i. The TPZ for Tree 1 is 7.2m (radius, meaning distance to edge of zone is only 3.6m) and yet the proposed driveway for Townhouses C & D is only 2.71m away.
  - ii. The TPZ for Tree 2 is 6.0m (radius, meaning distance to edge of zone is only 3.0m) and yet the proposed driveway for Townhouses C & D is only 2.07m away.
  - iii. The TPZ for Tree 4 is 6.0m (radius, meaning distance to edge of zone is only 3.0m) and yet the proposed driveway for Townhouse A is only 2.45m away.
- f. While the Arborist Report indicates use of hydrovac excavation and the presence of an arborist, it is extremely important that the Arborist does not work for the developer or owner of the property to ensure there are no conflicts of interest that may be in place with respect to the work to be completed. We must protect these trees.

#### **RECOMMENDATION**

*That alternative driveway configurations be used to ensure that the Tree Protection Zones are respected and that the City engage, at the developer's expense, an independent Arborist to manage all activity at the site during the redevelopment to ensure the trees are not damaged.*

4. **Archaeological Potential for both Indigenous and Euro-Canadian Material**

The Fisher Archaeological Consulting report indicates that this site at 47 Nelson St. may be of archaeological significance for both Indigenous and Euro-Canadian material. While the physical spaces occupied by the existing structures are unlikely to be an issue, the report indicates the spaces not previously developed (back, side and front) do have the potential for consideration. The report recommends proper testing to ensure that any historically valuable material is handled with care and respect.

**RECOMMENDATION:**

*That conditions be put in place to ensure appropriate discovery practices are enforced and that any discoveries are taken seriously and appropriate consultation and guidance is received as required including and but not limited to the Indigenous community of the Mississauga of New Credit First Nation.*

[REDACTED]

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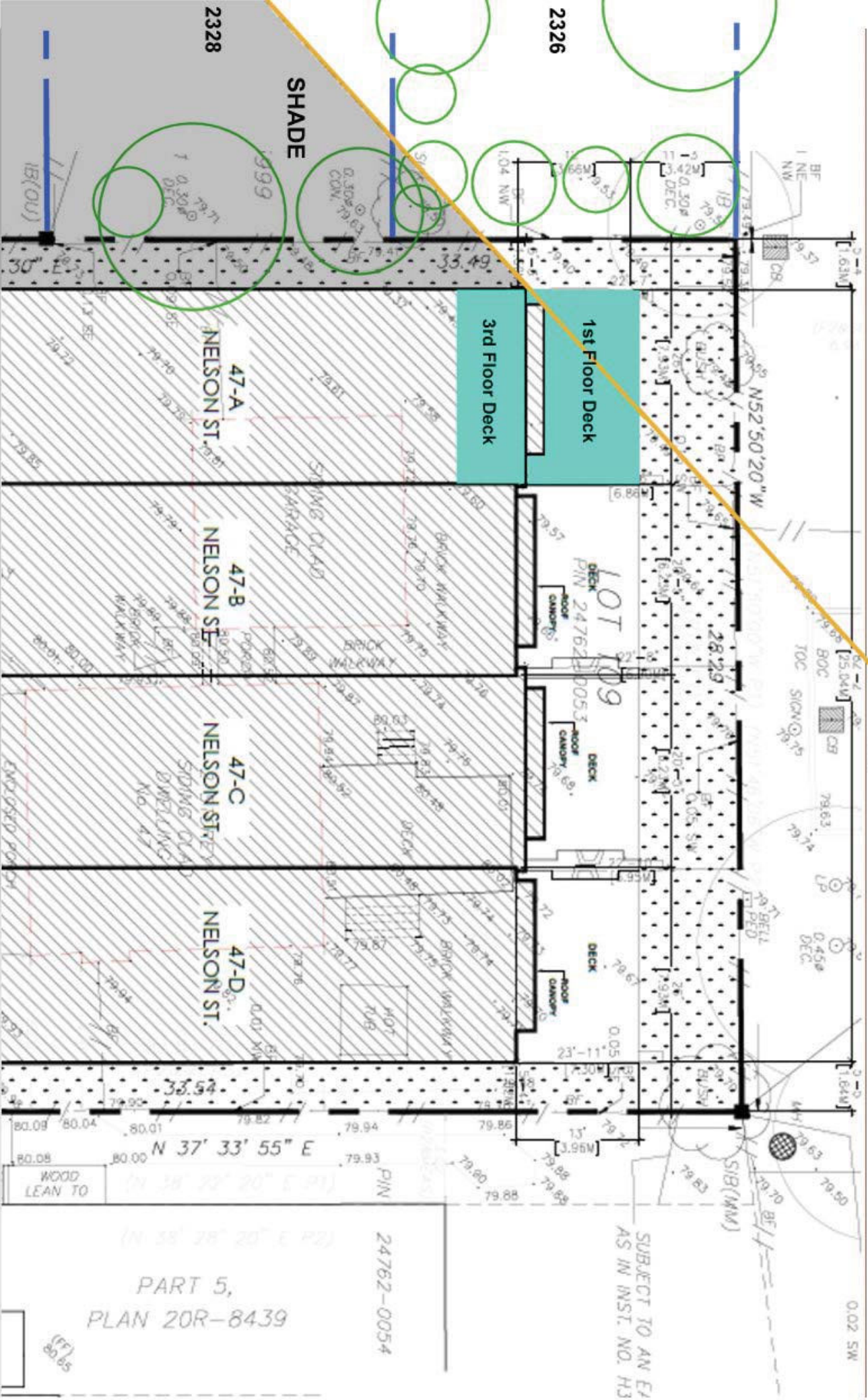
**From:** DIANE GARLEY [REDACTED]  
**Sent:** Thursday, March 07, 2019 7:18 PM  
**To:** Town Clerk  
**Cc:** [REDACTED]  
**Subject:** File No.Z.1728.65 and 24 T-18007/1728, Ward 1  
**Attachments:** 2328 Sun Plan Nelson Development (002).jpg

Good evening;

Please find attached an updated diagram of the impact of the proposed TH development on the sunlines in my backyard. My backyard is currently a wonderful sun pit. The height of this development and its proximity to my lot line, if permitted to proceed, will permanently occlude the sun from the greater part of my backyard. I request that serious consideration be given to reducing the height of this development to two storeys....please.

Thank you,  
Diane Garley

Morning Sun Line 



SHADE PLAN - 2328 MARINE DRIVE

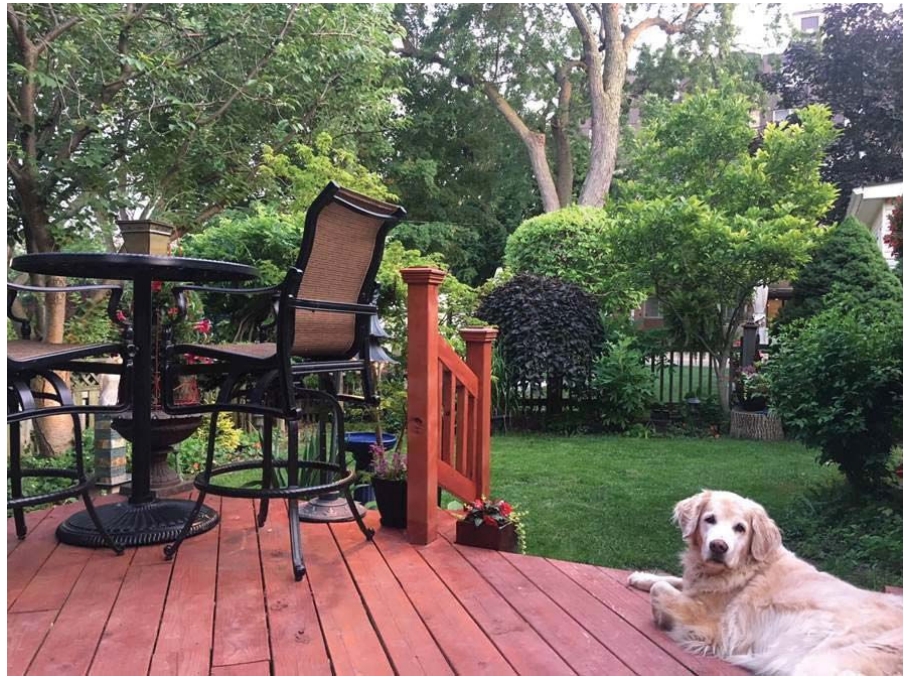


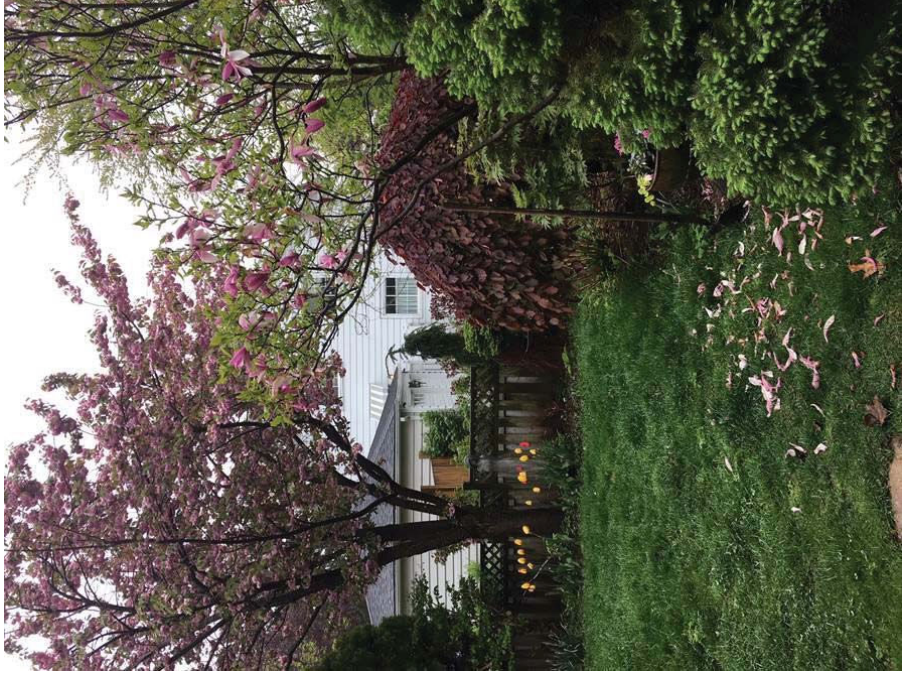
**From:** Diane Garley [REDACTED]  
**Sent:** Wednesday, March 06, 2019 5:18 PM  
**To:** Town Clerk  
**Subject:** File No. Z.1728.65 and 24T-18007/1728, Ward 1

Please see attached photos to accompany my submission for the above proposal, illustrating the view that would be lost, as well as the mature trees that would be threatened in my yard.  
Thank you for your review of this submission.  
Regards,  
Diane Garley  
[REDACTED] Marine Drive









Sent from my iPhone



**From:** Diane Garley [REDACTED]  
**Sent:** Wednesday, March 06, 2019 5:10 PM  
**To:** Town Clerk  
**Subject:** File No. Z. 1728.65 and 24T-18007/1728, Ward 1

This is the 1st of 7 photos I am submitting to accompany my submission regarding this development.  
Thank you,  
Diane Garley  
[REDACTED] Marine Drive



Sent from my iPhone

**From:** DIANE GARLEY [REDACTED]  
**Sent:** Wednesday, March 06, 2019 4:58 PM  
**To:** Town Clerk  
**Subject:** File No. Z.1728.65 and 24T-18007/1728, Ward 1

Please find attached two submissions pertaining to this proposed development in Bronte, for your perusal and consideration, prior to the scheduled Statutory Public Meeting on March 18th.

Regards,  
Diane Garley  
[REDACTED] Marine Drive

March 6, 2019

Town Clerk

Town of Oakville

**RE: FILE NO. Z.1728.65 and 24T-18007/1728, Ward 1**

To Whom it may Concern;

I am writing to convey my concerns regarding the proposed development at 47 Nelson Street in Bronte. I reside at [REDACTED] Marine Drive; hence my property backs on to the north side of the lands in question.

As you are aware, the dwelling sits on some prized land, prized by those of us who have been longstanding residents of the Nelson Street/Marine Drive community, for reasons very different than the Town of Oakville might prize this land. From the Town's perspective, this is an opportunity to develop this land, as per the medium density designation in the Town Plan. For us as residents and neighbours, of this small, secluded, green corner of what has become an all too rapidly growing town, it represents an oasis of tranquility and charm, a small corner of what remains of the "old Bronte" of yesteryear. While I recognize that we cannot live in the past, and must embrace the needs of future generations, there must also remain a place for preserving some elements of our history and character, of which this Town has sacrificed so much in the past decade. Key to this, for my neighbours on Nelson, and those of us whose properties back on to 47 Nelson Street, is the preservation of our beloved, stately maple trees along Nelson Street. We are all deeply concerned that the proposed development, if permitted to move forward, will not sufficiently protect these trees, despite reports to the contrary in the documents provided that support the proposal. The preservation of these trees is not likely to be the main priority for the new land owners at 47 Nelson Street. For those of us who look out on these majestic trees every day, they are irreplaceable, not to mention that the canopy they provide in summer is energy-saving for all of our homes in the immediate vicinity.

My second concern is of a more personal two-fold nature. Simply put, and without meaning to sound selfish, I stand to lose the most, should this townhouse development go forward. As the middle of the 3 homes that back on to 47 Nelson Street, and because the proposed development would be erected just 1.6 metres from my bottom property line, and extend the entire width of my backyard, I will be looking out at a high solid wall, that will significantly impact the light in my yard. This has the potential to have a devastating effect on my mature trees, two of which have been identified in the arborist report, as needing protection. I am not reassured that 1.6 metres is anywhere near sufficient to protect the roots of these large trees. As you know, the current owners of 47 Nelson Street have applied for a variance, that would permit the height of the development to exceed RM1 requirements by .8 metres. Given the proximity to my lot line, this variance is very significant, and completely unacceptable. It would even further block the sunlight in my yard, and over time, is sure to have a deleterious effect on the growth of my trees. To illustrate my point, I am submitting a shadow diagram, which clearly shows the negative impact, if the variance applied for, beyond the RM1 height allowance was to be approved.

I further note, that the frontage of the proposed development is **not** in compliance with the current RM1 requirements, despite claims that it is. The proposed lot frontage is 28.31 metres, where in fact the current minimum lot frontage allowed is 30.5 metres. Extending the development beyond the existing footprint, and beyond what is currently allowed by the Town, will not only jeopardize uniformity and curb appeal, with the townhouses to the south, but will serve to hem me in even further. I currently have a lovely view from my back yard, looking southwest down Nelson, which will be entirely obstructed, if the extension is permitted. In the winter months, when the foliage is off the trees, I have a beautiful vista of the lake, which is one reason that I purchased this property. Under separate cover, I am forwarding photos of my property, looking south and southwest, as the seasons change, for you to appreciate what I would be losing.

In summary, my concerns are for 1) the loss of sunlight in my backyard, and the ensuing impact on my trees, 2) the obstruction of my view (especially of the lake), and 3) the preservation of our Nelson Street maple trees. Therefore, I am asking that every consideration be given to ensuring that the new development is in full compliance with the existing RM1 requirements, and that the variances that have been applied for, be denied. If the construction being proposed necessitates a height and lot frontage variance, then I would suggest that the owners scale back their plans, to 3 townhouses rather than 4 townhouses, which in my opinion, is overly ambitious for the lot size, to begin with.

In closing, I appreciate your consideration of my concerns, and trust that they will be addressed thoughtfully.

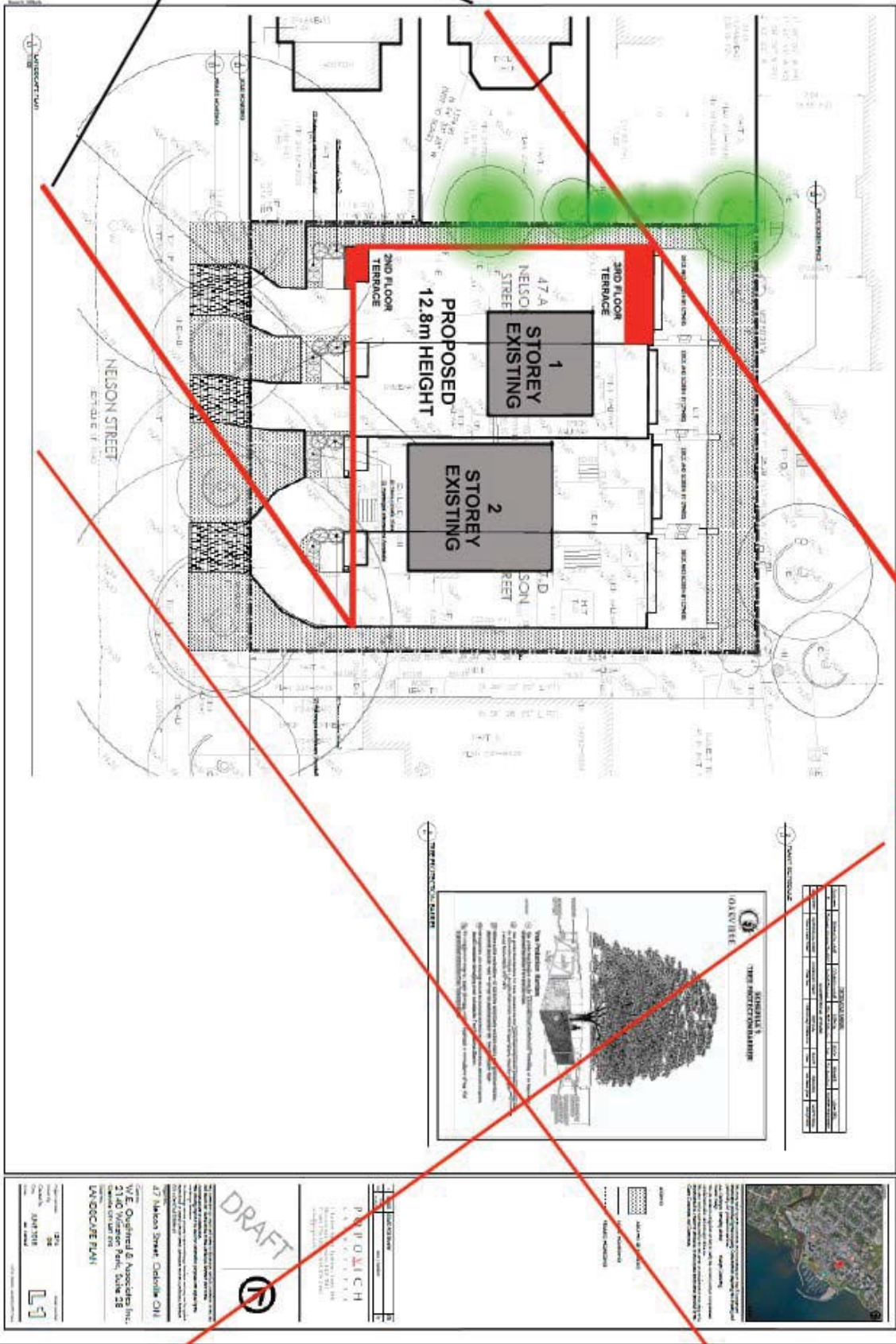
Regards,

Diane Garley

MORNING SUN SHADOW LINE

N

E



EXTENT OF SHADOW

Concept Landscape Plan

UPPER LEVEL TERRACE