

**10 and 14 Prince Arthur Ave  
OPA, Rezoning & Site Plan Approval Applications  
Request for Direction Report**

<b>Date:</b>	April 23, 2009
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 20 – Trinity-Spadina
<b>Reference Number:</b>	08 171665 STE 20 OZ and 08 171673 STE 20 SA

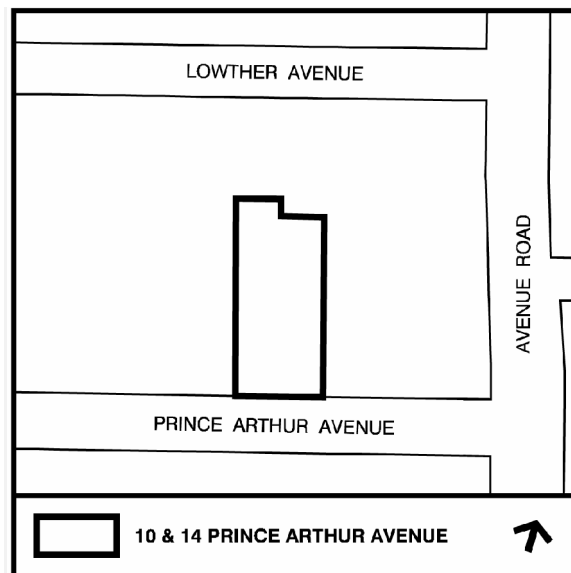
**SUMMARY**

This application is subject to the new provisions of the *Planning Act* and the *City of Toronto Act, 2006*.

This application, proposes to demolish a four-storey office building, which has a restaurant at grade at 14 Prince Arthur Avenue, and construct a 9 storey mixed use building, which includes the incorporation of the remaining portions of an individually listed heritage house located at 10 Prince Arthur Avenue.

The original application was received in June 2008, and the revised plans that are the subject of this report were received in April, 2009. The applicant has appealed the applications to the Ontario Municipal Board for the City’s failure to reach a decision within the time allotted by the Planning Act.

The purpose of this report is to refuse the current 9-storey proposal which is not consistent with the policies of the East Annex Heritage Conservation District Plan.



## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. City Council direct the City Solicitor and appropriate staff to attend any Ontario Municipal Board hearing to oppose the current applications.

### **Financial Impact**

The recommendations in this report have no financial impact.

## **DECISION HISTORY**

The proposed development site has been subject of a number of applications for expansion or redevelopment over the past ten years.

In 1998 the site at 14 Prince Arthur Avenue was the subject of a Committee of Adjustment application to add one additional floor (3 metres) to the existing building. This would have resulted in a building that exceeded the height limit of 12 metres by 2 metres and exceeded the 2 times maximum density by almost 400 square metres. The variance application was refused by the Committee of Adjustment and appealed to the Ontario Municipal Board.

The owner at 14 Prince Arthur Avenue then applied for an Official Plan Amendment, Rezoning and Site Plan Approval for essentially the same proposal, with some slight modifications to deal with some of the concerns raised by objectors. In addition, on the City's motion, the Ontario Municipal Board required the owner to file an application with the City for permission to alter the building pursuant to the Ontario Heritage Act, as the property is located within a Heritage Conservation District. The City did not give permission for the one floor enlargement of the building and appeals were filed with the Ontario Municipal Board, with all appeals being consolidated and heard together.

The Ontario Municipal Board member in a decision dated October 28, 1998 (M980015) refused the Official Plan and minor variance applications and dismissed the related site plan and alteration applications. The refusal was based upon the development not implementing the Official Plan and Zoning By-law and altering the character of the street.

In May, 2005 the site at 10 Prince Arthur Avenue was the subject of an application to the Committee of Adjustment to approve seven variances that would allow for maintenance of the existing heritage house with a commercial use in it and add five additional three storey townhouse dwelling units, with underground parking and a roof deck. The Committee of Adjustment approved the application, subject to seven City departmental conditions.

That Committee of Adjustment decision was appealed by the neighbour to the north of the site. The applicant modified his proposal prior to the Ontario Municipal Board hearing and all parties at the hearing, including the City, went in support of the remaining five variances. The Ontario Municipal Board approved the five variances subject to three City requested conditions regarding Heritage Conservation and the underground garage ramp signage.

On May 25, 2006 City Planning issued a Notice of Approval Conditions to allow for the construction of the Ontario Municipal Board approved mixed-use project at 10 Prince Arthur. However, due to a number of issues including shoring agreements with the neighbouring properties, the development as approved did not move forward.

The current applicant submitted applications to Community Planning on June 17, 2008 for an Official Plan and Zoning By-law Amendment (Application No. 08 171665 STE 20 OZ) and for Site Plan Approval (Application No. 08 171673 STE 20 SA). The applications included a Heritage Impact Statement (HIS) prepared by ERA Architects, dated June 9, 2008 to meet the requirements of the *Ontario Heritage Act*.

The property at 10 Prince Arthur Avenue was listed on the City of Toronto Inventory of Heritage Properties by City Council on September 7, 1989.

The properties at 10 and 14 Prince Arthur Avenue are included within the East Annex Heritage Conservation District (HCD) designated under the *Ontario Heritage Act* by By-law #520-94 and enacted by City Council on July 26, 1994.

In designating the East Annex Heritage Conservation District, Council also endorsed a set of Guidelines with regards to alterations, demolitions and new construction within the district.

At its meeting of April 23, 2009 the Toronto Preservation Board adopted City Planning staff's recommendations that: (1) City Council refuse the application for alterations to the designated building at 10 Prince Arthur Avenue and refuse the demolition of the non-contributory designated building at 14 Prince Arthur Avenue within the East Annex Heritage Conservation District. (2) City Council authorize the City Solicitor and City Staff to attend the Ontario Municipal Board hearing should Council refuse the applications and the refusal be appealed to the Board.

## **PRE-APPLICATION CONSULTATION**

The applicant has held four pre-application meetings with the community at the Park Hyatt Hotel. These sessions were hosted by the developer on October 25, 2007, November 27, 2007, February 13, 2008 and March 2, 2009. The local City Councillor held a town hall meeting on April 2, 2008 to discuss the proposal. At the initial pre-application meetings the applicant proposed a 19 storey mixed use building that was strongly opposed by City staff and the community. The applicant was urged to substantially reduce the scale of the proposed building, and subsequently reduced the proposal to 9 storeys plus penthouse in June 2008 and finally 9 storeys in April 2009, with the 9<sup>th</sup> storey consisting of 1 unit wrapped around the mechanical penthouse.

Nearby residents expressed concerns with a number of planning issues, including shadowing, overlook, rear yard setbacks, views from the neighbourhood to the north, the height of the building, and non-compliance with the Heritage Conservation District Plan guidelines.

## **ISSUE BACKGROUND**

### **Proposal**

On June 17, 2008, 2046478 Ontario Limited and 14 Prince Arthur Limited (collectively referred to as the "Owners") applied for an Official Plan Amendment, Rezoning and Site Plan Approval for 10 and 14  
Staff report for action – Preliminary Report - 10 Prince Arthur Ave

Prince Arthur Avenue to demolish 14 Prince Arthur Avenue and to incorporate the remaining portions of the historically listed 10 Prince Arthur Avenue building into a 9 storey plus penthouse mixed use building with three levels of below grade parking. The proposed building parking and loading area is shown to be accessed by a driveway, off Prince Arthur Avenue, with a recessed garage entrance at the western end of the building. Outdoor amenity space is located at the rear of the proposed building at grade. The proposal provided for 40 residential units, which included 3-two storey townhouse units with a proposed density of 4.03 times the site area.

In letters dated March 23, 2009 the applicant appealed the Official Plan Amendment and Zoning By-law Amendment for failure or neglect to make a decision within 180 and 120 days respectively. Also, the applicant appealed the Site Plan Application for failure to approve plans and drawings for the Site Plan Application within 30 days.

On April 6, 2009 the applicant submitted a revised application to better respond to concerns from City staff and the neighbourhood. The proposal is now for a 9 storey building with a single unit that partially wraps the mechanical penthouse on the 9<sup>th</sup> storey. The proposal has been reduced to 38 dwelling units, including the 3-two storey townhouse units, with a proposed density of 3.81 times the site area.

The applicant’s revised proposal is shown in Attachment Nos.1 to 3 and detailed development statistics are included in Attachment No.6: Application Data Sheet.

**Site and Surrounding Area**

The site is located on the north-side of Prince Arthur Avenue, two properties west off Avenue Road. The site is generally rectangular in shape, with an area of 2101 m2 and a frontage of 31.1 metres along Prince Arthur Avenue.

The subject site consists of the following:

Address	Description
10 Prince Arthur Ave.	A two-storey former residential house that has been vacant over 20 years and is historically listed.
14 Prince Arthur Ave.	A four-storey former apartment building that was converted into an office building with a restaurant at grade that has a projecting glass atrium.

Adjacent existing land uses are:

North: two pairs of semi-detached dwellings at 11 to 19 Lowther Ave.

South: a number of two and half storey house form buildings with office uses located in them

East: 8 Prince Arthur Ave., a historically listed house form office and a 24–storey residential condominium fronting onto Avenue Road

West: is a twenty-two storey residential building that is historically listed (20 Prince Arthur Ave.), however, excluded from the East Annex Heritage Conservation District

## **Provincial Policy Statement and Provincial Plans**

The Planning Act in Section 2 (d) provides that the conservation of features of significant ... Cultural or historical interest are a matter of provincial interest which the City Council shall have regard to in making its decision under the Planning Act. Other provincial interests are also engaged in these applications, including those related to intensification such as Section 2(f) the ...efficient use of ... Transportation, sewage and water services and waste management systems 2(g) – the promotion of development that is designated to be sustainable, to support public transit and to be oriented to pedestrians.

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The PPS provides that cultural heritage resources provide important environmental, economic and social benefits and the wise use and management of these resources over the long term is stated to be a key provincial interest. Other key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. Policy 2.6 of the PPS provides that significant built heritage resources and significant cultural heritage landscapes shall be conserved. The term “conserve” is defined in the PPS to include” the protection, use and/or management of cultural heritage...resources in such a way that their heritage values, attributes and integrity are retained.” City Council’s affecting planning matters are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. City Council’s planning decisions are required to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Staff have reviewed the proposed development for consistency with the PPS, for conformity with the Growth Plan for the Greater Golden Horseshoe and have had regard to Section 2 of the Planning Act.

The revised proposal is not consistent with the heritage related policies of the Provincial Policy Statement given the proposed manner in which the listed building at 10 Prince Arthur is being preserved and the impact of the development on the Heritage Conservation District.

## **Ontario Heritage Act**

Under Section 42 of the Ontario Heritage Act, an owner must obtain a permit from the municipality to alter or demolish a designated property in an HCD. If Council refuses the application the owner may appeal the decision to the Ontario Municipal Board.

## **Official Plan**

The Official Plan for the City of Toronto designates the subject site as *Mixed Use Area* within the Downtown and Central Core urban structure area. The policies within this designation have informed the review of this application. The Part II Plan for the Prince Arthur Area of Special Identity is no longer in force having been repealed along with many other Part II Plans with the coming into force of the new Official Plan. No change of intent was intended with this repeal, the intent being that the zoning by-law regulations retained for this area would continue to protect it together with the HCD designation and guidelines, Site and Area Specific Policy 198, as well as other Official Plan policies.

The policies in Chapter 3 of the Plan complement and support the City's growth strategy by integrating social, economic, and environmental perspectives in decision-making to create an attractive City, with a strong economy and liveable communities.

The planning review has been considered with a particular view to the built form policies of Section 3.1 of the Plan which addresses how the development improves the public realm, is organized to provide joint access and underground parking, and is massed to fit harmoniously into the planned context and limit impacts on neighbouring streets, parks, open spaces and properties. The impacts can be reduced by creating appropriate transitions in scale to neighbouring existing buildings, providing adequate light and privacy, and limiting shadowing.

Section 3.1.5 specifically provides that heritage resources on listed properties will be conserved, that significant heritage resources will be conserved by designating areas with a concentration of heritage resources as Heritage Conservation Districts and adopting conservation and design guidelines to maintain and improve their character. It also provides that development adjacent to properties on the City's Inventory of Heritage Properties will respect the scale, character and form of the heritage buildings and landscapes.

Site and area specific policy 198 provides that residential commercial and institutional uses are permitted in house-form buildings on this part of Prince Arthur Avenue. The policy also requires that development in these areas will conserve the valued heritage buildings, reinforce the architectural unity of the area and maintain the character of the heritage landscapes.

### **East Annex Heritage Conservation District Study (EAHCD)**

The EAHCD Study was adopted by City Council to be used as a guide to manage property alteration and development with a view to the preservation of the existing architectural character of the district and its streetscape. The General Guidelines (Section 0.3) of the EAHCD Study set out standards in order to provide guidance to alterations and new developments that will complement the existing district heritage character.

The EAHCD Guidelines focus primarily on reviewing alterations that are visible from a public vantage point. All exterior alteration and development visible from the street within the district will require prior approval of Heritage Preservation Services, and in some cases City Council (EAHCD Study Section 4). A Heritage Impact Statement has been submitted by the applicant.

### **Zoning**

The site is zoned under By-law 438-86 (refer to Attachment No.4) as CR T2.0 C2.0 R1.0. The zoning permits a mix of commercial and residential uses to a total of 2.0 times the area of the lot. The density limits are 2.0 times the lot area for commercial users and 1.0 times the lot area for the residential uses. The maximum height limit is 12.0 metres. The redevelopment of this site would also be subject to various development standards established by the Zoning By-law respecting setbacks, parking, loading and amenity space.

## **Site Plan Control**

The proposal is subject to site plan control. A site plan approval application has been submitted and has been processed concurrently with the applicant's Official Plan Amendment and Zoning By-Law Amendment applications. This site plan application is also under appeal.

## **Tree Preservation**

The applicant has filed an Arborist Report, dated November 12, 2007 indicating the size and status of the existing trees on site. The applicant is proposing the removal of 14 trees on site which are protected under the provisions of the Private Tree By-law, and require 42 replacement trees or a cash in lieu payment of \$21,571.00.

The owner is proposing to plant 5 large growing shade trees on-site on slab. City staff has requested a landscape detail which indicates a tree planting detail on slab to the satisfaction of the General Manager of Parks, Forestry & Recreation.

City staff reviewed the Arborist Report and determined that the June 23, 2008 proposal will require the removal of tree nos. 245, 246 and 247 situated on neighbouring private properties. The applicant has had some discussion with the owner of trees nos. 245 and 246 and City Planning staff, and in the revised April 6, 2009 drawings have pulled back the underground garage rear wall to allow for the survival of these abutting trees as well as to better accommodate planting of three large growing shade trees.

## **Reasons for the Application**

An amendment to the Official Plan is required as the proposed residential use is in a 9-storey apartment building and not in a house-form building.

Also, the proposal development fails to appropriately conserve the heritage building on site or reinforce the character of the street.

An amendment to the Zoning By-law is necessary because the proposed development exceeds the maximum permitted density and height limit. The proposed density of 3.81 times the area of the lot exceeds the maximum permitted density of 2.0. The proposed height of 31.5m significantly exceeds the 12 m height limit. Additional areas of non-compliance with the Zoning By-law may be identified through review of the recently submitted proposal, which is currently in circulation.

## **Agency Circulation**

The application was circulated to all appropriate agencies and City divisions. Planning staff attended all the applicant and City Councillor sponsored community information meetings. Responses received to date on the original proposal have been used to assist in evaluating the application. The revised plans however, were only received April 6, 2009 and revised comments have yet to be received. However, as an Ontario Municipal Board hearing is in the process of being scheduled, those comments will have to be made available for the Board hearing.

## **COMMENTS**

### **Height and Density**

The current height and density permissions on Prince Arthur Avenue are low and reinforce the objectives of the East Annex Heritage Conservation District.

The proposed apartment building with a height of 31.5 metres, is not in keeping with the heritage guidelines of the East Annex Heritage Conservation District Plan (AEHCD). The AEHCD provides that rear additions should not overpower the existing building and should preferably have a low visibility from the street. The proposed building would be significantly higher than the existing listed building at 10 Prince Arthur Avenue.

New buildings are to be designed in character with neighbouring buildings identified as buildings of heritage value in the Heritage Conservation District, including considerations of height, depth, setback and entry level, and in keeping with the character of the particular avenue or road as described in the Heritage District Study. These are all house-form buildings on Prince Arthur Avenue which the proposal considerably exceeds in height and does not match in form.

### **Siting and Massing**

The historic building at 10 Prince Arthur Avenue is proposed to be moved forward 8.9 metres to the south and 3.9 metres to the east to accommodate the proposed replacement building, while 14 Prince Arthur Avenue is proposed to be demolished. The replacement 9 storey mixed use building, would incorporate the historic building structure in its design. This would allow for greater rear set-backs and it would line the heritage building up with other historic buildings located to the west side of 20 Prince Arthur Avenue, (the Uno Prii apartment building). However it would not relate 10 Prince Arthur to its historic front setback context and would compromise the last vestige of the original setback that once characterized the entire east portion of the block.

This proposed mixed use building is shown to have a 10 metre setback for more than half the width of the building and 7.5 metres for the remaining portion, from the rear property line bordering the low-rise neighbourhood. The height of the proposed rear wall is 3 storeys (10 metres). The first two storeys of the building are broken up into two parts. On west side are two levels of amenity space with a third floor of residential condominium suites above this space. On the east side are 3-two storey townhouses units with third floor residential condominium suites above the townhouses.

The rear of the building has an initial step-back of one metre on the roof of the second floor. Starting on the third floor there are 3 -31/2 metre step-backs that create partial and full terraces that continue up to the mechanical penthouse floor. These step-backs have been used successfully in other projects in the Annex to respond to neighbours concerns with respect to overlook and privacy. They also assist in responding to breaking up the massing of the rear of this building. However, because of the proposed building height, there will be some loss of skyview for the rear yards of the adjacent Lowther Avenue houses, although the proposed building will not significantly affect the skyview from the public realm on Lowther Avenue. The terraces have been designed with one metre wide planters to further reduce overlook on neighbour's properties to the north. The setbacks and step-backs could be secured through a draft zoning by-law or by an Ontario Municipal Board order. The installation and maintenance of the landscaping in the terrace planters could be secured through a Site Plan Agreement.



## **Shadow Impact**

The applicant has submitted shadow studies for the proposal to illustrate shadows that would be created by the previous nine storey mixed-use building at different times of the year and during different times of the day.

The applicant's shadow study demonstrates the adjacent houses rear yards on Lowther Avenue are shadowed for a small portion of the day. For example, shadows on the back end of the rear yards of 23 Lowther Avenue occur during the September 21 autumnal equinox for less than one hour in the morning between 9:18 and 10:18 am. The back end of the rear yard at 21 Lowther Avenue has shadow on it for about one hour and a half on the September 21 autumnal equinox between 9:18 and 11:18 am.

During the March 21 vernal equinox shadows are cast on much of the rear yards of 39, 37 35, 33 and small portion of 31 Lowther Avenue between 9:18 and 10:18 am for less than one hour. Also, during March 21 about half the rear yards of 25, 23 and 21 Lowther Avenue are in shadow between 10:18 and 11:18 am for about one hour.

The multiple step-backs to the north elevation and the revised building height limit the shadowing on the residential properties to the north.

## **Parking and Access**

The proposed 95 parking spaces are provided in a 3 level underground garage. The zoning by-law requires approximately 42 parking spaces based on the original submission in accordance with the Zoning By-law, consisting of 40 residence spaces and 2 visitor spaces. The proposed parking, even as reduced from 98 to 95 spaces is well in excess of the Zoning By-law requirement and is acceptable.

The underground parking garage is proposed to be accessed from Prince Arthur Avenue at the westerly end of the site. The entrance and curb cut is generally acceptable based on a review by Works and Emergency Services.

## **Conclusion**

City Planning staff do not support this proposal in its current form as it does not meaningfully address heritage matters and results in a loss of skyview from adjacent residential properties.

The siting, and massing of the building helps provide a transition to the low-density neighbourhood to the north, however, the historic building is being proposed to be pushed forward from its original historic location. The result is that it is overwhelmed by the massing of the proposed nine storey building that incorporates the historic structure. The height and massing of the proposed 9 storey apartment building are incompatible with the objectives of the East Annex Heritage Conservation District. Likewise, because of the proposed building height there will be some loss of skyview from the rear yards of the adjacent Lowther Avenue houses.

## **CONTACT**

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## **SIGNATURE**

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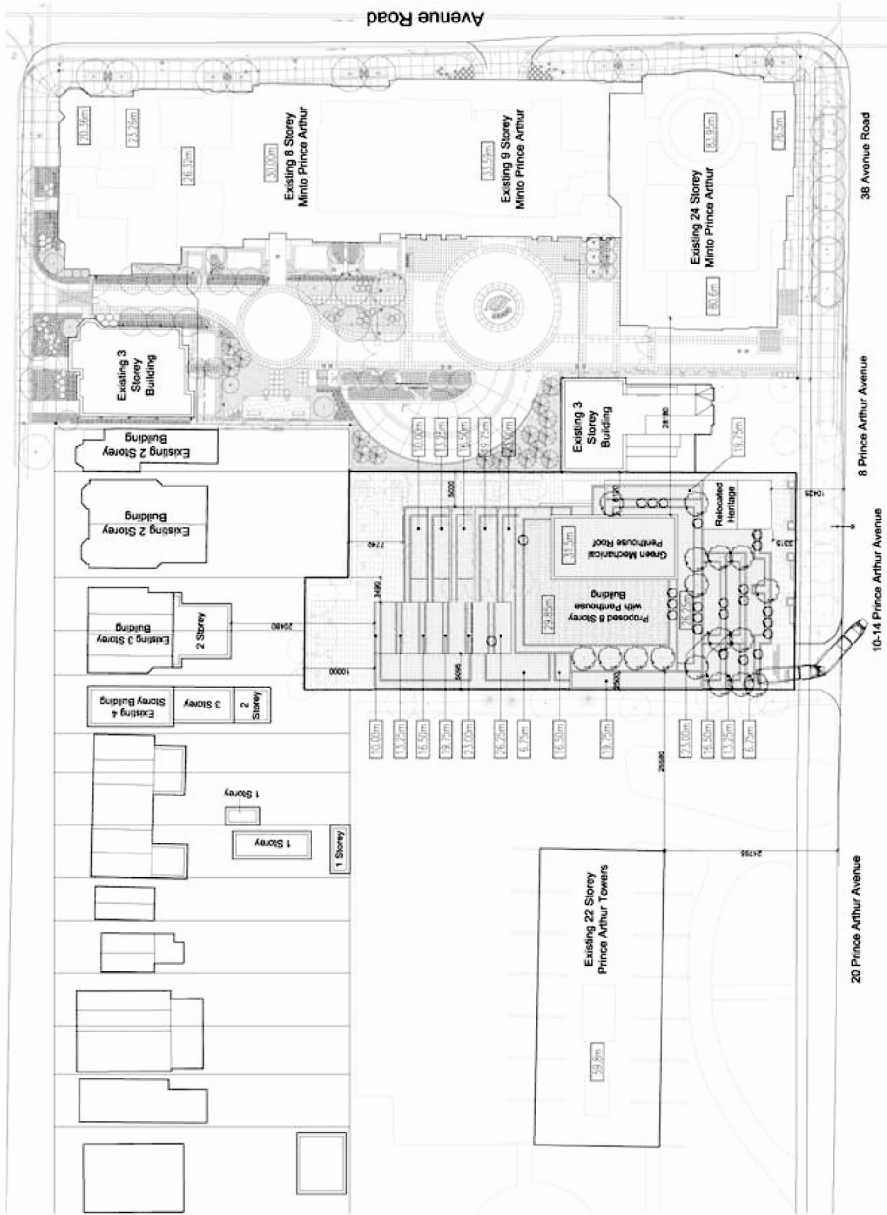
Raymond David, Director  
Community Planning, Toronto and East York District

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## **ATTACHMENTS**

Attachment 1: Site Plan  
Attachment 2: Elevations  
Attachment 3: Elevations  
Attachment 4: Zoning  
Attachment 5: Official Plan  
Attachment 6: Application Data Sheet

# Attachment 1: Site Plan



10 & 14 Prince Arthur Avenue

Prince Arthur Avenue

Site Plan

Applicant's Submitted Drawing

Not to Scale  
04/09/2009



File # 08\_171665

# Attachment 2: Elevations



East Elevation

South Elevation

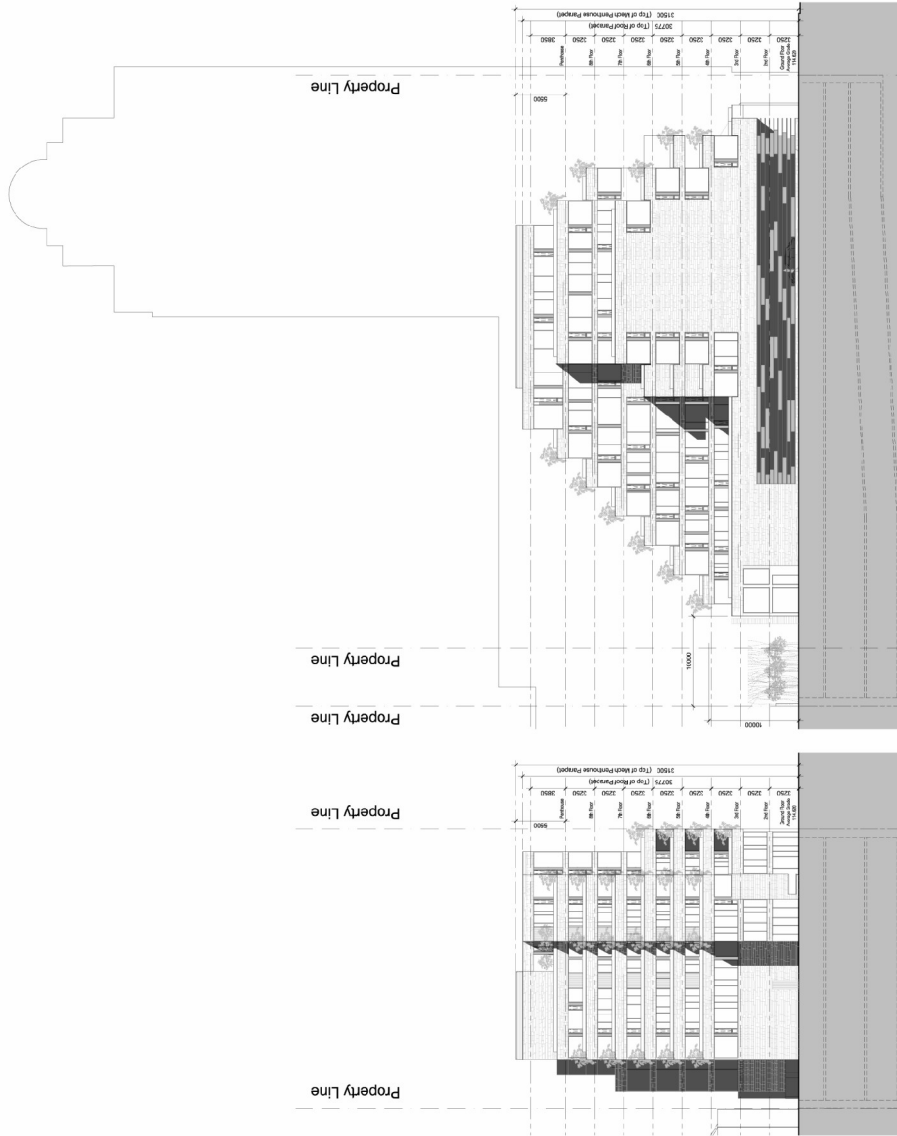
**10 & 14 Prince Arthur Avenue**

**Elevations**  
 Applicant's Submitted Drawing

Not to Scale  
 04/09/2009

File # 08\_171665

### Attachment 3: Elevations



West Elevation

North Elevation

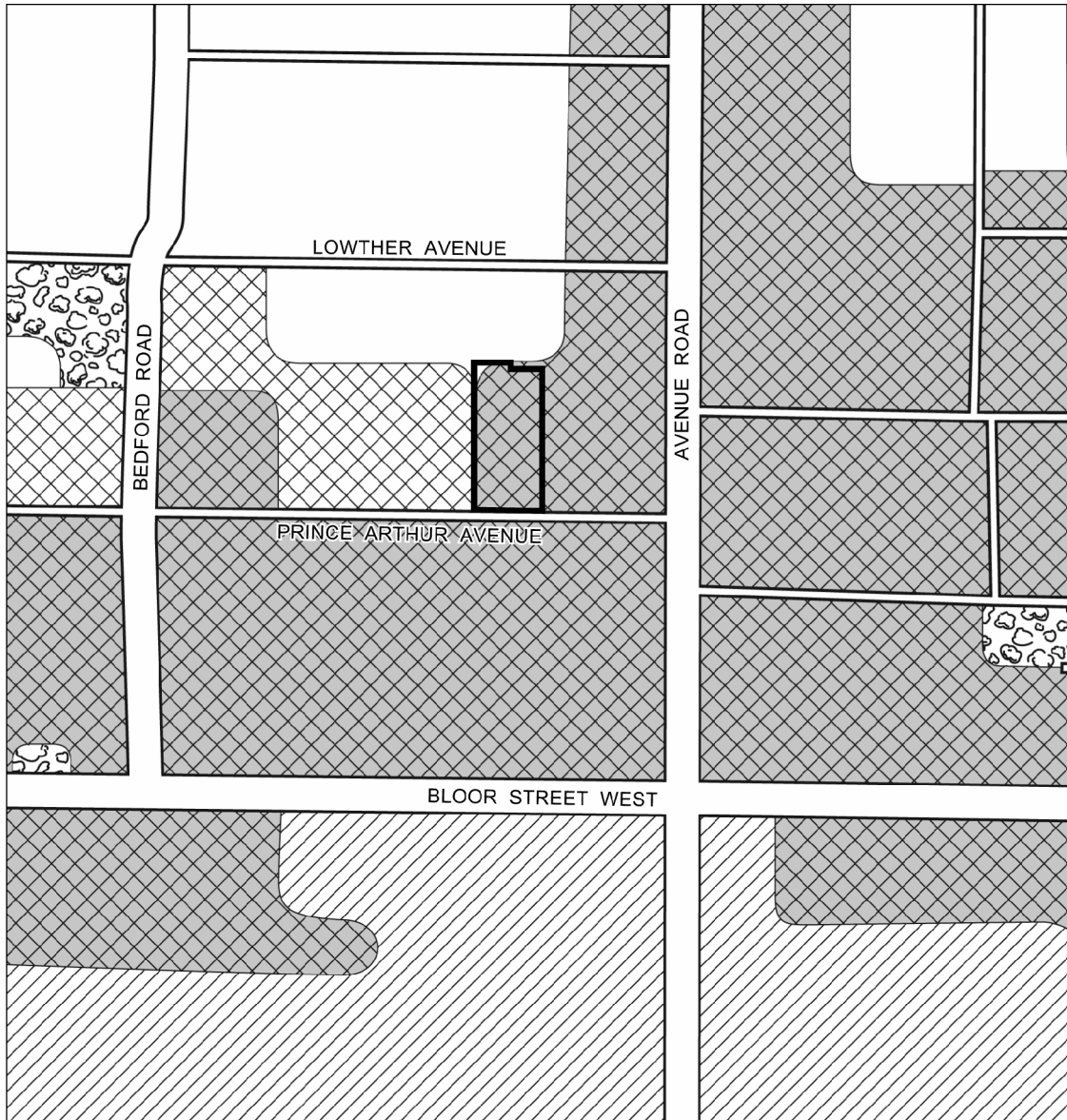
**Elevations**  
 Applicant's Submitted Drawing  
 Not to Scale  
 04/09/2009

**10 & 14 Prince Arthur Avenue**

File # 08\_171665



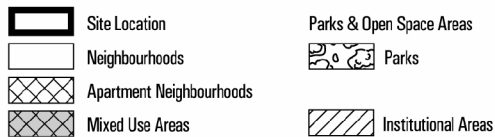
## Attachment 5: Official Plan



**TORONTO** City Planning  
**Official Plan**

**10 & 14 Prince Arthur Avenue**

File # 08\_171665



Not to Scale  
 04/09/2009

## Attachment 6: Application Data Sheet

### APPLICATION DATA SHEET

Application Type	Official Plan Amendment & Rezoning and Site Plan Approval	Application Numbers:	08 171665 STE 20 OZ 08 171673 STE 20 SA
Details	OPA & Rezoning, Standard	Application Date:	June 17, 2008

Municipal Address: 10 PRINCE ARTHUR AVE  
 Location Description: PL 301 PT LTS 24 & 25 \*\*GRID S2003  
 Project Description: rezoning and site plan approval for the demolition of an existing four storey office building and construction of 9 storey mixed use building with ground floor commercial and 38 residential units above complete with three storeys of parking below grade.

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
MCCARTHY TETRAULT LLP CYNTHIA MACDOUGALL			2046478 ONTARIO LIMITED

#### PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	
Zoning:	CR T2.0 C2.0 R1.0	Historical Status:	Y
Height Limit (m):	12	Site Plan Control Area:	Y

#### PROJECT INFORMATION

Site Area (sq. m):	2101	Height:	Storeys: 9
Frontage (m):	31.11		Metres: 31.5
Depth (m):	67.2		
Total Ground Floor Area (sq. m):	1011		<b>Total</b>
Total Residential GFA (sq. m):	7313		Parking Spaces: 95
Total Non-Residential GFA (sq. m):	685		Loading Docks 1
Total GFA (sq. m):	7998		
Lot Coverage Ratio (%):	48.1		
Floor Space Index:	3.81		

#### DWELLING UNITS

#### FLOOR AREA BREAKDOWN (upon project completion)

			Above Grade	Below Grade
Tenure Type:	Condo			
Rooms:	0	Residential GFA (sq. m):	7215	98
Bachelor:	0	Retail GFA (sq. m):	525	160
1 Bedroom:	0	Office GFA (sq. m):	0	0
2 Bedroom:	0	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	38			

<b>CONTACT:</b>	<b>PLANNER NAME:</b>	<b>Barry Brooks, Senior Planner</b>
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