

11 Newton Drive - Official Plan Amendment, Zoning Amendment – Refusal Report

Date:	March 17, 2017
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 24 – Willowdale
Reference Number:	15 140421 NNY 24 OZ

SUMMARY

This application proposes to amend the Official Plan and the former City of North York Zoning By-law No. 7625 and the City of Toronto Zoning By-law No. 569-2013 to legalize an existing two-storey commercial building which is to be used as a medical office at 11 Newton Drive.

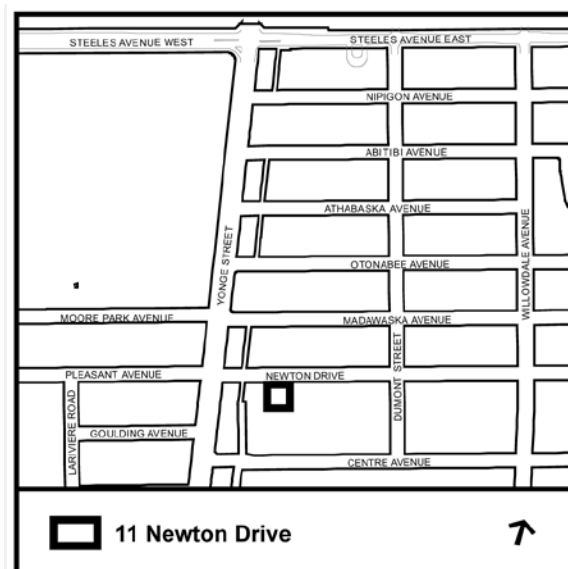
This report reviews and recommends refusal of the applications to amend the Official Plan and Zoning By-laws as the proposal seeks to introduce a commercial use on a local residential street which is not compatible with the established residential character of the neighbourhood.

In the event that the applicant appeals a refusal by City Council to the Ontario Municipal Board (OMB), this report also recommends that the City Solicitor and appropriate City staff be authorized to attend any OMB hearing in opposition to the proposal.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the applications for Official Plan Amendment and



Zoning By-law Amendments at 11 Newton Drive for reasons outlined in this report, including the following:

- a. The proposal does not conform to the policies of the Official Plan, including policies related to *Neighbourhoods*; and
 - b. The proposed commercial use is not compatible with the established residential character of the neighbourhood.
2. Should the application be appealed to the OMB, the City Solicitor and appropriate City Staff be authorized to appear before the OMB in support of Council's refusal of the Official Plan and Zoning By-law Amendments.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

On October 20 and 21, 2009, the owners of the property signed a declaration in association with a proposed building permit for a single family detached dwelling stating that the subject property was intended for the use of a single family dwelling.

On October 22, 2009, a building permit was issued for a single family detached dwelling on two assembled residential lots at 11 Newton Drive and 15 Newton Drive.

As 11 Newton Drive and 15 Newton Drive are adjoining lots in the same ownership, they have automatically merged in title and are now known as 11 Newton Drive.

On February 6, 2012, Municipal Licensing and Standards issued a notice of violation for use of the property at 11 Newton Drive for a non-permitted use, namely, commercial use.

On June 16, 2015, North York Community Council adopted a Preliminary Report directing City Planning Staff to schedule a community consultation meeting with the Ward Councillor and that notice for the public meeting be given according to the regulations under the *Planning Act*. The preliminary report is available at: <http://www.toronto.ca/legdocs/mmis/2015/ny/bgrd/backgroundfile-80696.pdf>

On October 16, 2015, and February 22, 2017, Municipal Licensing and Standards issued a notice of violation to 11 Newton Dr for the erection of a sign in a residential sign district without a permit at 11 Newton Dr.

On May 17, 2016, Municipal Licensing and Standards issued a notice of violation to 17 Newton Drive for paving the entire backyard in order to provide additional parking for the medical office at 11 Newton Drive.

On March 1, 2017, Municipal Licensing and Standards issued another notice of violation to 11 Newton Dr for converting the occupancy of a residential single family dwelling to a medical office without benefit of a permit.

On March 10, 2017, Municipal Licensing and Standards issued a notice of violation to 11 Newton Drive for undertaking interior alterations without benefit of a permit.

ISSUE BACKGROUND

Proposal

The application proposes to legalize the existing two-storey, building which is being used as a medical office. The total gross floor area of the proposed medical office is 870.18 square metres with a lot coverage of 28.57 percent and a floor space index of 0.85 times the lot area. Ten parking spaces and a loading space are proposed at the rear of the building and access is provided along the western limit of the property via a 6.1 metres driveway off of Newton Drive. The commercial medical office is currently in operation.

Site and Surrounding Area

The subject lands are located on the south side of Newton Drive, approximately 75 metres east of Yonge Street and several blocks north of Finch Avenue. The site has an area of 1017.07 m². The site is rectangular shaped, the frontage on Newton Drive is 27.37 metres, and it has an average lot depth of 37.07 metres. The existing building is located on a combined lot (11 Newton Drive and formerly 15 Newton Drive), that previously contained two residential detached dwellings each on their own lot. In 2009, building permits were issued for the construction of a new home on the newly combined lots. At the time of permit issuance, the owners of the property signed a declaration stating the property was to be used for the purposes of a residential single family dwelling. The building is currently being used as a medical office and contains space for physicians and staff who offer a wide variety of medical, pharmaceutical, and retail services.

Abutting uses are as follows:

North: One-storey and two-storey detached dwellings on Newton Drive and a Mazda Dealership fronting Yonge Street further west.

South: One-storey and two-storey detached dwellings with the exception of 10 Centre Avenue which is being used as a commercial office.

West: Commercial uses including a Mazda dealership parking lot which has a site-specific exception to the zoning by-laws.

East: One-storey and two-storey detached dwellings on Newton Drive.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS), 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld.

City Council's planning decisions 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 by the *Planning Act*, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The Official Plan designates the development site, on Map 16, as *Neighbourhoods* (Attachment 3). *Neighbourhoods* are considered physically stable areas made up of low scale residential uses along with parks, schools, local institutions and small-scale stores and shops serving the needs of area residents.

Chapter 2 of the Official Plan titled *Shaping the City*, contains principles that steer growth and change to some parts of the City, while protecting our neighbourhoods and green spaces from development pressures. Policy 2.3.1.1 states that *Neighbourhoods* are considered to be physically stable areas. Development within *Neighbourhoods* will be consistent with this objective and will respect and reinforce the existing physical character of buildings, streetscapes and open space patterns.

Policy 4.1.3 of the Official Plan states that new small-scale retail, service, and office uses that are incidental to and support *Neighbourhoods* and that are compatible with the area and do not adversely impact adjacent residences may be permitted through an amendment to the Zoning By-law, where required, on major streets shown on Map 3, with the exception of portions of streets that have reversed lot frontages. To maintain residential amenity of *Neighbourhoods*, new small-scale retail, service, and offices uses will:

- serve the needs of the area residents and potentially reduce local automobile trips;
- have minimal noise, parking or other adverse impacts upon adjacent or nearby residents; and
- have a physical form that is compatible with and integrated into the *Neighbourhood*.

Official Plan Policy 4.1.5 states that development in established *Neighbourhoods* will respect and reinforce the existing physical character of the neighbourhood, including in particular:

- patterns of streets, blocks and lanes, parks and public building sites;
- size and configuration of lots;
- heights, massing, scale and dwelling types of nearby residential properties;
- prevailing building type(s);
- setbacks of buildings from the street or streets;
- prevailing patterns of rear and side yard setbacks and landscaped open space;
- continuation of special landscape or built-form features that contribute to the unique physical character of a neighbourhood; and
- conservation of heritage buildings, structures, and landscapes.

The policy states that no changes will be made through rezoning, minor variance, consent, or other public action that are out of keeping with the physical character of the neighbourhood.

Chapter 5 of the Official Plan outlines a variety of implementation tools and policies that fulfil the Plan's objectives. Policy 5.3.1.3 specifically states that amendments to the Official Plan that are not consistent with its general intent are discouraged, specifically, as it relates to the compatibility of nearby *Neighbourhoods*.

Yonge Street North Planning Study

The subject site is outside of the North York Centre Secondary Plan area but within the area being studied as part of the Yonge Street North Planning Study. The objective of this planning study is to develop a vision for the future of the Yonge Street corridor between Finch Avenue and Steeles Avenue in response to existing and anticipated development pressures, and includes some areas that are not expected to undergo significant change. No land use designation changes were proposed as part of the Study area for the south side of Newton Drive where the subject site is located.

In November 2015, City Council received the consultant's final report on the Yonge Street North Study for information and directed staff to conduct additional work and consultations. Staff are in the process of conducting the additional review.

Zoning

The subject site is currently zoned "One Family Detached Dwelling Sixth Density Zone (R6)" in Zoning By-law No. 7625 of the former City of North York and "Residential Detached Zone (RD f12; a370)" in the new City of Toronto Zoning By-law No. 569-2013. The zoning permits single detached dwellings and accessory buildings. Office uses, including medical offices, are not permitted.

Site Plan Control

The proposed development is subject to Site Plan Control. A Site Plan Control application has been submitted (File No. 15 140428 NNY 24 SA) and is being reviewed concurrently with the subject application.

Reasons for Application

An amendment to the Official Plan is required to permit an office use that is not in compliance with Section 4.1.3 and 4.1.5 of the Official Plan.

An amendment to the former City of North York Zoning By-law No. 7625 and the City of Toronto Zoning By-law No. 569-2013 is required to permit the commercial use of a medical office and to establish appropriate performance standards. The current zoning on the site only permits single detached dwellings and accessory buildings. Zoning By-law No. 569-2013 requires a minimum rear yard soft landscaping requirement of 50% for lots with a frontage of 6.0 metres or greater. The current condition of the rear yard at 11 Newton Drive does not comply with the minimum rear yard landscaping requirements prescribed under Zoning By-law No. 569-2013.

Community Consultation

A community consultation meeting was held on December 2, 2015. One person attended along with City staff, the local councillor, and the applicant and no significant concerns were raised.

Agency Circulation

The application was circulated to all appropriate agencies and City Divisions, responses received have been used to assist in evaluating the application.

COMMENTS

The issues identified in the May 19, 2015 Preliminary Report from the Director of Community Planning, North York District to North York Community Council have not been resolved. Staff continue to have concerns, as discussed below, with regards to the proposed medical office use.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) 2014 and the Growth Plan for the Greater Golden Horseshoe are broad reaching policy documents that provide direction on matters related to land use planning and development. Key objectives include: building strong healthy communities and protecting public health and safety.

Section 4.7 of the PPS states that the Official Plan is the most important vehicle for the implementation of the Provincial Policy Statement and assists in identifying appropriate land use designations and policies. Official plans are to provide clear, reasonable, and attainable policies to protect both provincial interests and direct development to suitable areas. The proposal does not conform to the *Neighbourhoods* designation of the Official Plan and is therefore not consistent with the Provincial Policy Statement.

The Growth Plan for the Greater Golden Horseshoe directs growth to urban growth centres, intensification corridors, major transit station areas, brownfield sites and greyfields to provide as a key focus for transit and infrastructure investments to support future growth. The Official Plan directs growth to employment and mixed use areas, not areas designated as *Neighbourhoods*. Based on this, the proposal does not conform to the Growth Plan for the Greater Golden Horseshoe.

Land Use

The subject site is designated *Neighbourhoods* in the Official Plan. The proposed commercial use at this location in the neighbourhood, does not comply with the permitted uses within the *Neighbourhoods* designation of the Official Plan.

Official Plan

The subject site is designated *Neighbourhoods* in the Official Plan and fronts onto Newton Drive. Newton Drive is characterized by one and two-storey detached dwellings that are designated *Neighbourhoods* in the Official Plan, with the exception of the Mazda Dealership to the north and west of the subject site which is located within the *Mixed Use Areas* designation along Yonge Street. The policies in the Official Plan related to the *Neighbourhoods* land use designation are intended to protect and reinforce the existing physical character of these areas. Policy 2.3.1.1 states that these areas are considered to be physically stable and development within these areas will be consistent with this objective and will respect and reinforce the existing physical character of buildings, streetscapes, and open space patterns in these areas. While *Neighbourhoods* will change over time, they are not intended to accommodate the City's growth and any change is expected to reflect the existing character.

Policy 4.1.5 states that development, as it relates particularly to rear and side yard setbacks and landscaped open space, will respect and reinforce the existing physical character of the neighbourhood. Single detached dwellings form the prevailing and predominant building type along Newton Drive and the interior of the broader neighbourhood. The majority of the existing dwellings have spacious side and rear yard setbacks and maintain consistent patterns of landscaping across both the front and rear yards. The rear yards of the residential dwellings within the neighbourhood are intended to provide amenity space. The rear yard of the proposed commercial use consists entirely of hard surfacing to accommodate the required parking and loading space. The rear yard condition in its current form fails to comply with the *Neighbourhoods* prevailing pattern of landscaped open space. The proposal imposes an undesirable rear yard condition on the adjacent residential property at 17 Newton Drive and 12 and 14 Centre Avenue by removing all rear yard landscaping to accommodate the parking and loading space.

The proposal's failure to maintain the landscaped open space patterns of the neighbourhood due to the parking and loading space in the rear yard is an indication that the proposed commercial use does not fit within the existing physical character of Newton Drive.

The proposed commercial use does not conform to the policies outlined in Section 4.1.3 of the Official Plan. The policy states that new small-scale retail, service and office uses that are incidental to and support *Neighbourhoods* may be permitted on major streets identified in Map 3. Newton Drive in its entirety is not identified as a major street in the Official Plan. Therefore, the proposed medical office introduces a use to Newton Drive that is not contemplated in the Official Plan.

Although there have been re-zonings and site specific exceptions approved for commercial uses northwest and southwest of the subject site at 9 Madawaska Avenue and 10 Centre Avenue, these approvals have been limited to the first lot east of Yonge Street. This proposal introduces a commercial use into the interior of a local residential street with a *Neighbourhoods* designation. The encroachment of a commercial use and the expansion of the site elements required for the medical office into the stable residential neighbourhood would lead to a pattern of commercial uses encroaching into the *Neighbourhoods* designation which would significantly alter the character of the neighbourhood and could be replicated in the *Neighbourhoods* designation north and south of the subject site. The potential for this pattern of development to be replicated could destabilize the broader neighbourhood.

Policy 5.3.1.3 states that amendments to this Official Plan that are not consistent with its general intent will be discouraged. Staff have carefully considered the proposal and are of the opinion it is not consistent with the general intent of the Official Plan.

Conclusion

The application does not respect and reinforce the existing character of Newton Drive or the broader stable neighbourhood and seeks to introduce a land use into the residential neighbourhood that is not contemplated in the Official Plan on streets that are not identified as major streets in Map 3. The proposal does not constitute good planning and fails to reflect key Official Plan policies related to *Neighbourhoods*.

The introduction of a commercial development on the subject site will create a negative precedent for Newton Drive as well as the surrounding neighbourhood. *Neighbourhoods* are intended to be physically stable and change must be sensitive, gradual, and generally fit with the existing character. The Official Plan requires development in *Neighbourhoods* to respect and reinforce the existing physical character of the neighbourhood.

It is recommended that City Council refuse the applications to amend the Official Plan and Zoning By-laws and to authorize the City Solicitor and appropriate staff to attend any OMB hearing in support of the refusal should the applicant appeal Council's decision to the OMB.

CONTACT

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SIGNATURE

Joe Nanos, Director
Community Planning, North York District

ATTACHMENTS

Attachment 1: Site Plan

Attachment 2: North and East Elevations

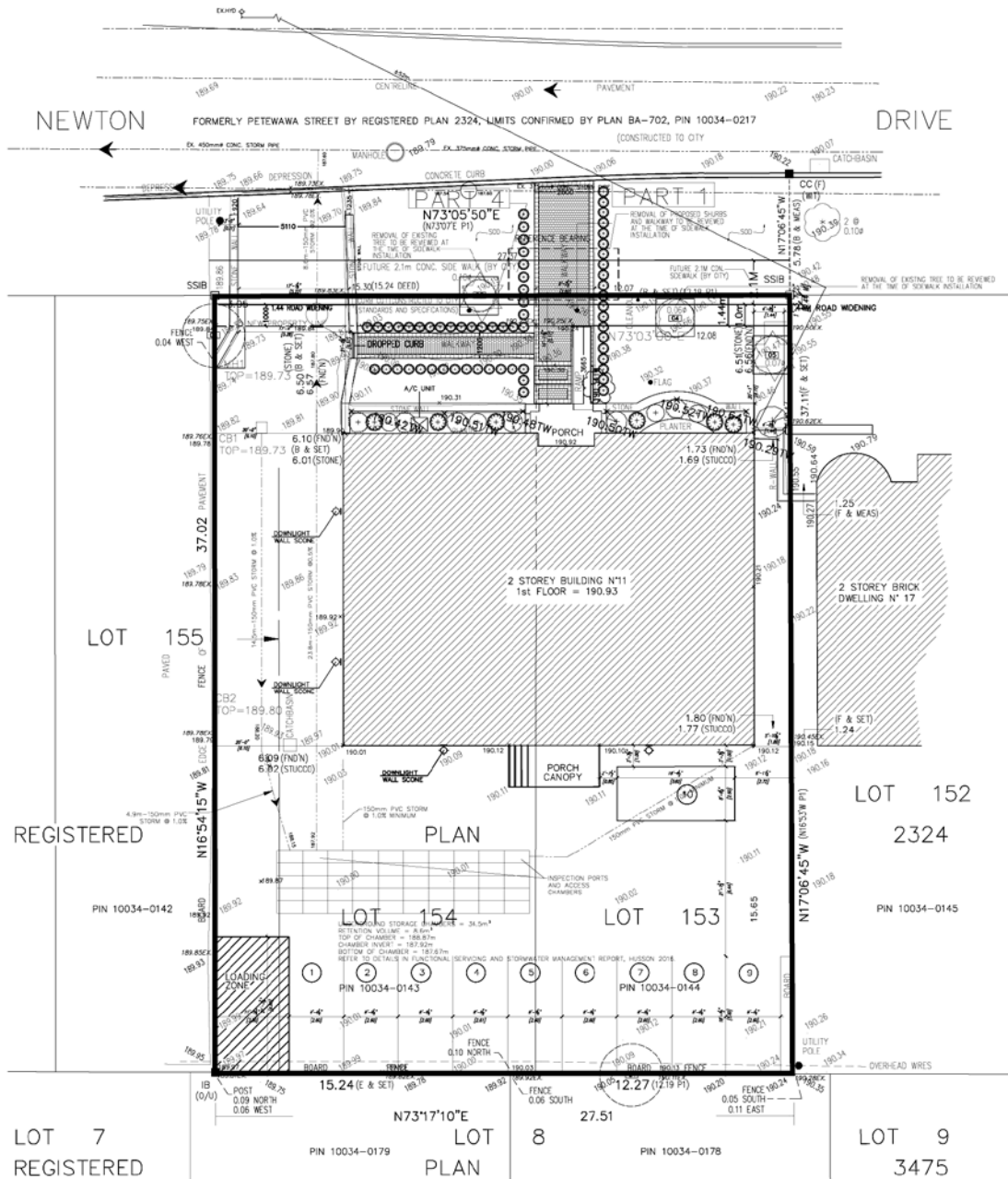
Attachment 3: Official Plan

Attachment 4: Zoning By-law No. 7625

Attachment 5: Zoning By-law No. 569-2013

Attachment 6: Application Data Sheet

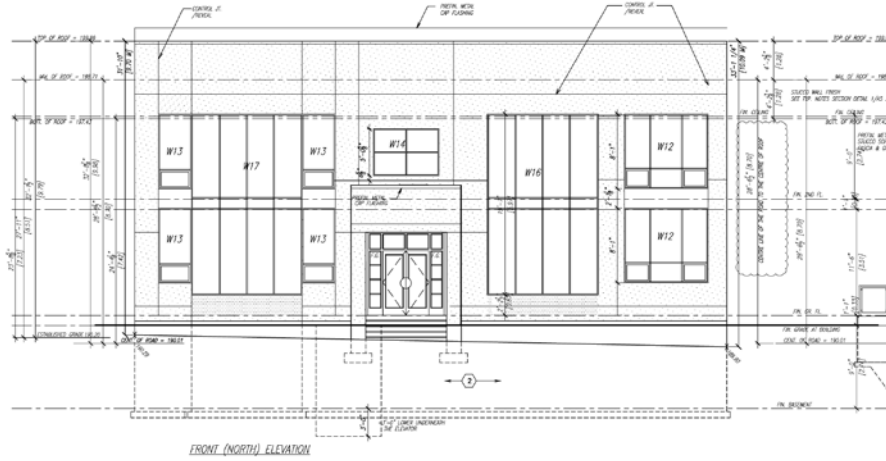
Attachment 1: Site Plan



Site Plan
Applicant's Submitted Drawing
 Not to Scale 
 03/14/2017

11 Newton Drive
 File # 15 140421 NNY 24 0Z

Attachment 2: North and East Elevations



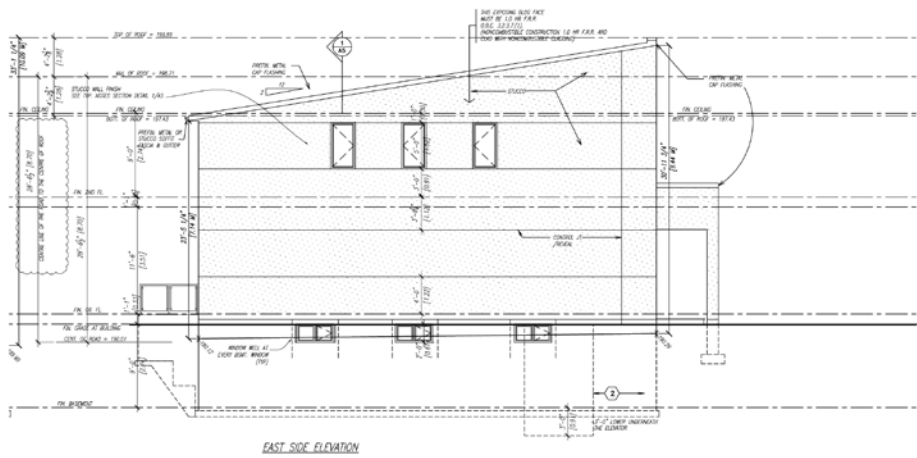
North Elevation

Applicant's Submitted Drawing

Not to Scale
03/14/2017

11 Newton Drive

File # 15 140421 NNY 24 02



East Elevation

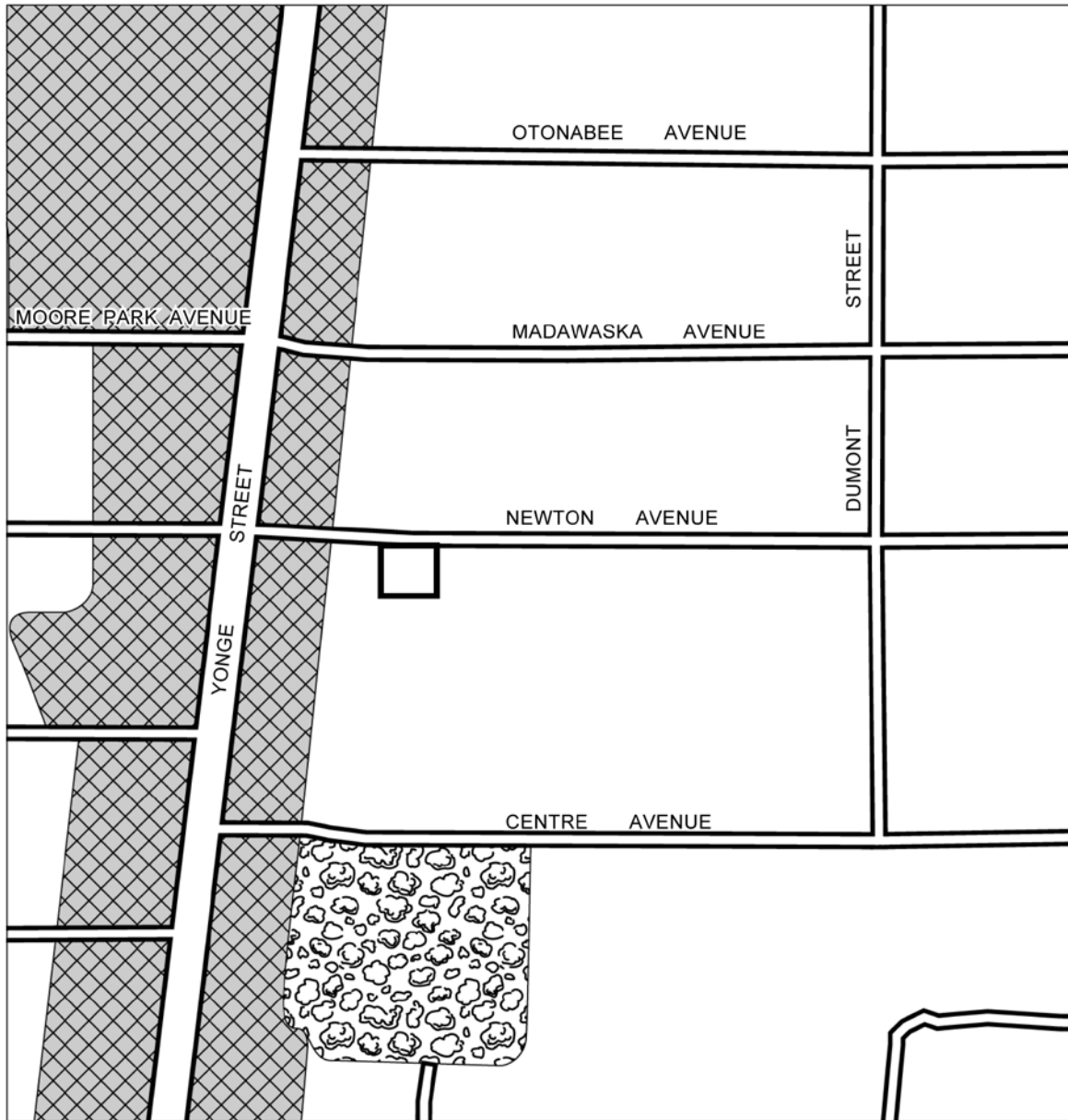
Applicant's Submitted Drawing

Not to Scale
03/14/2017

11 Newton Drive

File # 15 140421 NNY 24 02

Attachment 3: Official Plan



TORONTO City Planning
Extract from Official Plan

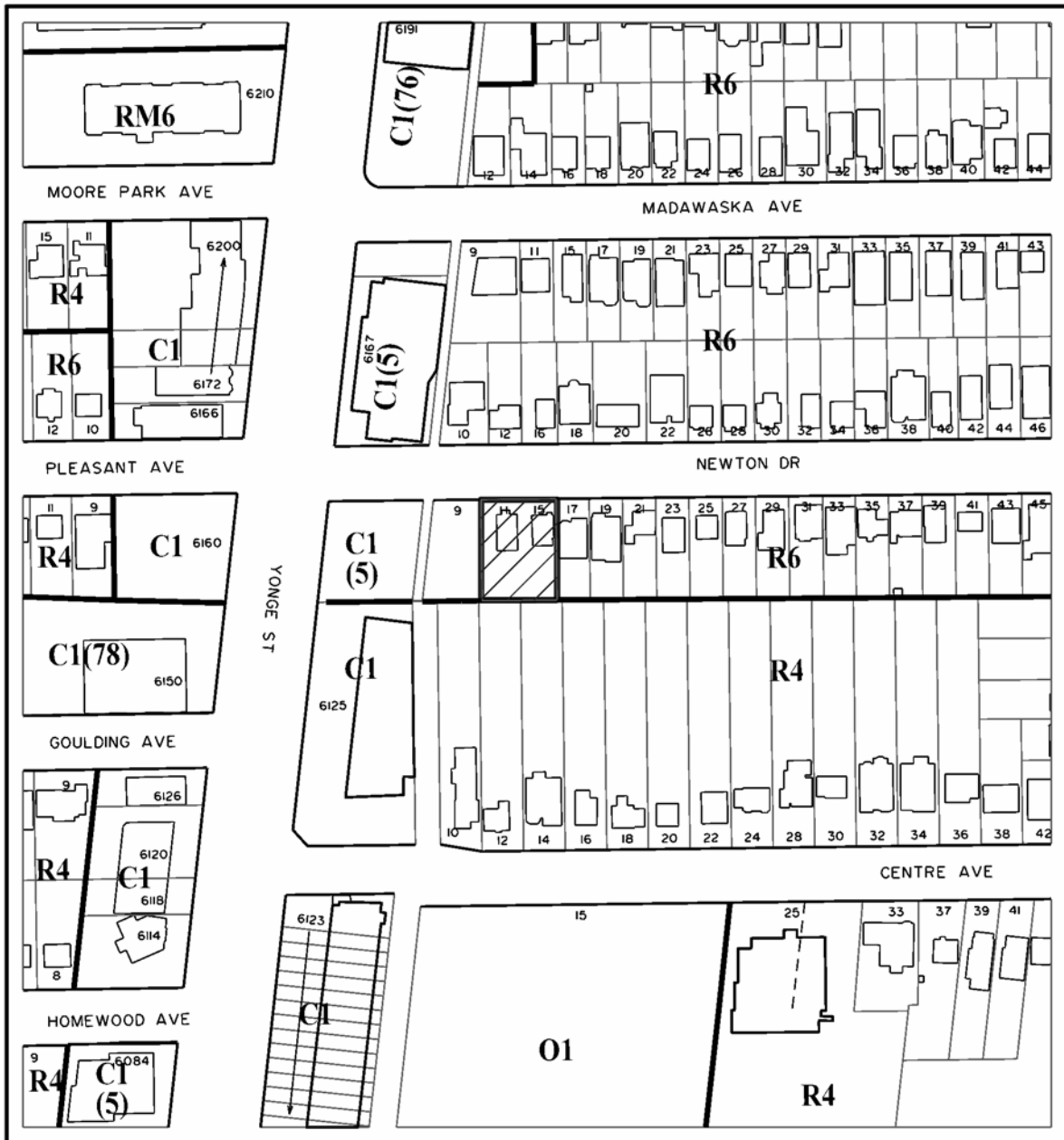
11 Newton Avenue

File # 15 140421 NNY 24 0Z

- | | |
|---|--|
|  Site Location |  Parks & Open Space Areas |
|  Neighbourhoods |  Parks |
|  Mixed Use Areas | |


 Not to Scale
 05/5/2015

Attachment 4: Zoning By-law No. 7625



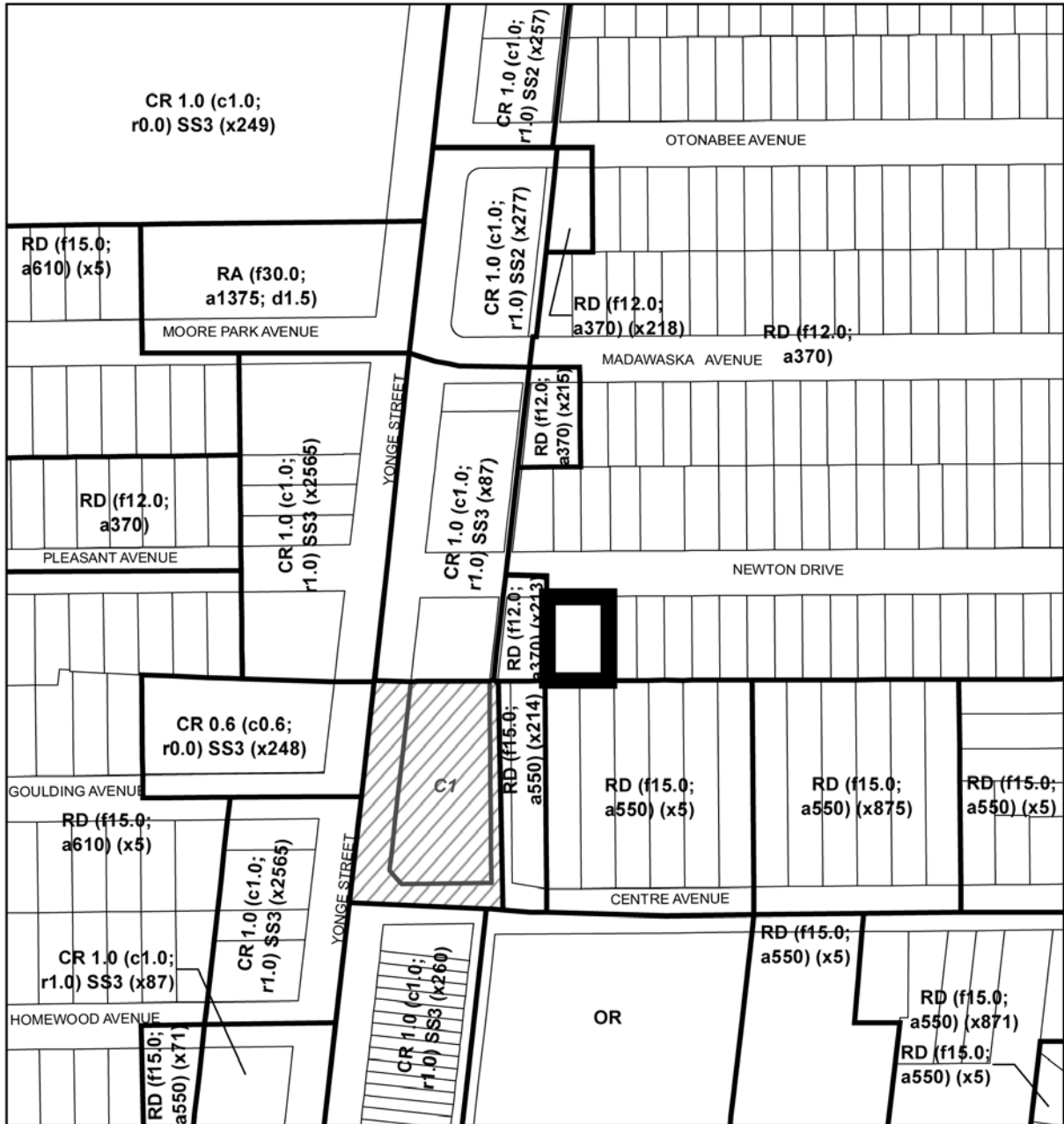
11 Newton Drive
File # 15 140421 NNY 24 0Z

- R6 One-Family Detached Dwelling Sixth Density Zone
- R4 One-Family Detached Dwelling Fourth Density Zone
- C1 General Commercial Zone
- O1 Open Space Zone
- NOTE: Numbers in Brackets Denote Exceptions to the Zoning Category



Not to Scale
Zoning By-law 7625 as amended
Extracted 04/29/2015

Attachment 5: Zoning By-law No. 569-2013



Zoning By-Law No. 569-2013

11 Newton Drive

File # 15 140421 NNY 24 0Z

Location of Application

See Former City of North York By-Law No. 7625
C1 General Commercial Zone

RD Residential Detached CR Commercial Residential
RA Residential Apartment OR Open Space Recreation



Not to Scale
Extracted: 04/29/2015

Attachment 6: Application Data Sheet

Application Type	Official Plan Amendment & Rezoning	Application Number:	15 140421 NNY 24 OZ
Details	OPA & Rezoning, Standard	Application Date:	April 14, 2015

Municipal Address: 11 NEWTON DR
 Location Description: PLAN 2324 LOTS 153 AND 154 PT LOT 155 **GRID N2401
 Project Description: To legalize the existing two-storey building into a commercial medical office use.

Applicant:	Agent:	Architect:	Owner:
GOLDBERG GROUP 2098 Avenue Road, Toronto, ON M5M 4A8			1673288 ONTARIO INC

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:	N
Zoning:	R6	Historical Status:	N
Height Limit (m):	8.8 or 2-storeys	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	1017.07	Height:	Storeys:	2	
Frontage (m):	27.37		Metres:	8.33	
Depth (m):	37.02				
Total Ground Floor Area (sq. m):	290.61				Total
Total Residential GFA (sq. m):	0		Parking Spaces:	10	
Total Non-Residential GFA (sq. m):	870.18		Loading Docks	1	
Total GFA (sq. m):	870.18				
Lot Coverage Ratio (%):	28.57				
Floor Space Index:	0.85				

DWELLING UNITS

Tenure Type:
 Rooms:
 Bachelor:
 1 Bedroom:
 2 Bedroom:
 3 + Bedroom:
 Total Units:

0
 0
 0
 0
 0
 0

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Residential GFA (sq. m):	0	0	0
Retail GFA (sq. m):	0	0	0
Office GFA (sq. m):	579.57	579.57	290.61
Industrial GFA (sq. m):	0	0	0
Institutional/Other GFA (sq. m):	0	0	0

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