

3237 Bayview Avenue – Zoning By-law Amendment Application – Request for Direction Report

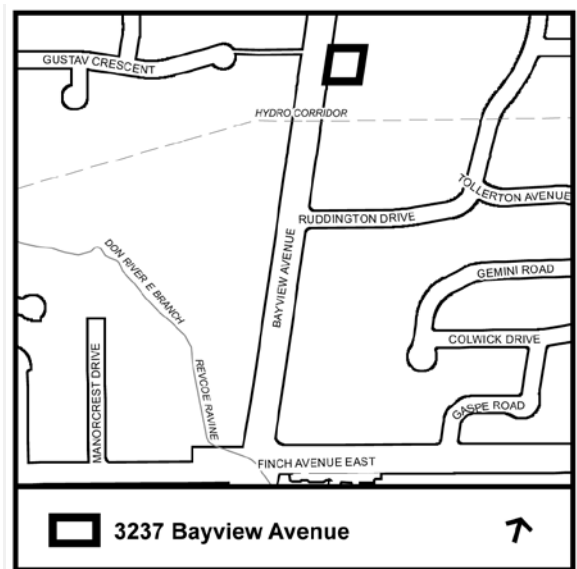
Date:	October 26, 2015
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 24 – Willowdale
Reference Number:	15 112180 NNY 24 OZ

SUMMARY

The applicant has appealed the Zoning By-law Amendment application to the Ontario Municipal Board (OMB) due to Council's failure to make a decision on the applications within the time prescribed by the *Planning Act*. A prehearing was held on October 21, 2015.

This application proposes to amend the zoning by-law at 3237 Bayview Avenue to permit a fourteen storey residential building with retail uses at grade. The proposed building has a gross floor area of 13,780 square metres including 5834 square metres of retail space. The overall density is approximately 6.6 times the area of the lot. A total of 165 residential units and 187 parking spaces are proposed. Parking will be located at grade (14 visitor spaces) and in a three level below grade garage (154 spaces for residents and an additional 19 visitor spaces).

This report recommends that the City Solicitor, together with City Planning staff, attend the OMB hearing in opposition to the current proposal.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct the City Solicitor, together with City Planning staff and other appropriate staff, to attend the OMB hearing to oppose the zoning by-law amendment application in its current form.
2. Should the OMB approve the applications, City Council authorize the City Solicitor to request that the OMB withholds its Order(s) approving the applications until such time as:
 - a. The Board has been advised by the City Solicitor that the proposed zoning by-law amendment is in a form satisfactory to the City; and
 - b. The applicant has submitted an application for Site Plan Control and all pre-approval conditions have been met.
3. Should the Ontario Municipal Board approve the application, City Council direct the City Solicitor to advise the Board that the zoning by-laws should not be approved without the provision of such services, facilities or matters pursuant to Section 37 of the Planning Act, as may be considered appropriate by the Chief Planner in consultation with the applicant and the ward councillor.
4. The City Solicitor and appropriate staff be authorized to continue discussions with the applicant to address the issues outlined in this report and to report back to City Council on the outcome, including proposed Section 37 contributions relating to any revised proposal, as appropriate.

Financial Impact

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

The current application was received on February 4, 2015 and on April 14, 2015 North York Community Council adopted a Preliminary Report on the application. Community Council deferred consideration of the report to permit the applicant to address the issues outlined in the Preliminary Report. Community Council further directed that upon receipt of a revised proposal, City Planning staff schedule a community consultation meeting with the Ward Councillor with an expanded notification area 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-78555.pdf>

The applicant has not filed a revised submission but in light of the appeal by the applicant on July 8, 2015, the local councillor moved a motion at the September 8, 2015 meeting of

North York Community Council to hold a community consultation meeting to discuss the current proposal. Community Council's direction can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.NY8.47>

The site has previously been the subject of several planning applications for Site Plan Control (file no. 01 035163 ATB 24 SA) and Minor Variance with respect to the former gas station (file nos. CA-85-0231 and A037/01U).

ISSUE BACKGROUND

Proposal

The proposed development is a fourteen storey mixed-use building. The ground floor would contain retail space, visitor parking and service areas while the upper floors would contain 165 residential units. The residential units are a mixture of unit types as follows:

- 54 one bedroom
- 60 one bedroom plus den
- 33 two bedroom
- 16 two bedroom plus den
- 2 three bedroom

Overall, the building would have a gross floor area of 13,780 square metres of which 542 square metres would be retail. With a lot area of approximately 0.2 hectares, the overall density would be 6.6 times the lot area. A building setback of 0.5 metres is proposed from all property lines.

A total of 231 square metres of indoor amenity space for the residential component of the development would be provided in two rooms on the second floor. Outdoor amenity space for residents would be provided by way of a 333 square metre terrace on the second storey. The outdoor amenity space would be connected to the indoor space.

The building would have a height of 45 metres (47.7 metres including the mechanical penthouse). The second storey of the building steps back from all property lines while further step backs from property lines are provided at higher storeys.

The retail component of the proposal would be located on the ground floor along the northerly portion of the Bayview Avenue frontage and along a portion of the north wall facing the abutting mall.

Access to loading and parking facilities would be from Bayview Avenue at the south end of the site. A total of 187 parking spaces would be provided including 33 for visitors to both the retail and residential portions of the building. Fourteen of the visitor spaces would be located at grade. A Type G loading space would be provided at the rear of the site using the same vehicular entrance. A total of 132 bicycle parking spaces are also proposed at grade, with 12 designated for visitors.

Site and Surrounding Area

The property is approximately 2090 square metres in size and has a frontage on the east side of Bayview Avenue of 46.1 metres. The site is currently vacant but was previously used as a gas station.

Abutting uses include:

North: A retail plaza known as "The Bayview Mall"

South: A utility corridor owned by the Hydro Electric Power Commission of Ontario which includes the Finch Corridor Trail

East: A thirteen storey residential building with frontage on Ruddington Drive

West: Bayview Avenue and then a three storey commercial building and a two storey City of Toronto building housing Toronto Fire Station 111 and Toronto EMS Station 20.

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. The PPS sets the policy foundation for regulating the development and use of land. The key 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.

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 be consistent with the PPS and to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe. Staff have reviewed the proposal for consistency with the PPS and for conformity with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The Official Plan designates the site, on Map 16, as *Mixed Use Areas* which provides for a broad range of uses. Development in these areas will provide a balance of high quality commercial, residential and institutional uses. These uses should reduce automobile dependency and meet the needs of the local community. It is expected that *Mixed Use Areas* will absorb a large amount of the expected growth within the city however not all *Mixed Use Areas* will experience the same scale or intensity of development. Bayview Avenue is identified as a *major street* on Map 3 of the Official Plan and requires a right-of-way width of 36 metres. The Official Plan also contains policies respecting built form, transportation and the public realm.

Section 4.5 of the Official Plan sets out policies for development within *Mixed Use Areas*. New buildings should frame the edges of streets and parks with good proportion and maintain sunlight and comfortable wind conditions for pedestrians. The pedestrian environment should be attractive, comfortable and safe while service areas should be located to minimize the impact on adjacent streets and residences. Multi-unit residential developments should include indoor and outdoor recreation space.

The policies in Section 4.4 deals with lands designated as *Utility Corridors* such as the abutting lands to the south. Policy 4.4.4 states that development adjacent to *Utility Corridors* should provide access to pedestrian trails and open spaces where they exist. The adjacent utility corridor contains the "Finch Corridor Trail". Adjacent development should also screen and secure the property edge through things such as setbacks, fencing, landscaping, building treatment and construction techniques.

The Built Form policies in Section 3.1.2 of the Official Plan relate to ensuring that new development in the city can fit harmoniously within the existing area. This includes providing appropriate transition to the existing surrounding area to ensure that the new development will fit within the existing and/or planned context. Development should be massed with good proportions to fit within the existing and planned context and to ensure sunlight and skyview from adjacent streets. Transition in scale may be achieved with many "geometric relationships and design methods in different combinations" including angular planes, stepping of heights, location and orientation of the buildings and the use of setbacks and stepbacks of building mass.

Section 5.1.1 allows the City to approve height and/or density increases greater than permitted by the zoning by-law pursuant to Section 37 of the *Planning Act* for developments which exceed 10,000 square metres and increase the permitted density by at least 1500 square metres and/or significantly increase the permitted height.

The Toronto Official Plan is available on the City's website at:
http://www.toronto.ca/planning/official_plan/introduction.htm

Zoning

The site is currently zoned General Commercial Zones (C1) by former City of North York Zoning By-law 7625. This zone permits a range of commercial and institutional uses. Residential uses which are permitted in the One-family Detached Dwelling Fifth Density Zoned (R5) and the Multi-family Dwellings Fifth Density Zoned (RM5) are also permitted. This includes detached dwellings, multiple attached dwellings and apartment house dwellings. A residential building is permitted to a maximum height of 11.5 metres and a maximum lot coverage of 35 percent.

The site is zoned CR 1.0 (c1.0; r1.0) SS3 by City of Toronto Zoning By-law 569-2013 which is currently under appeal. This zone permits uses such as retail, service shop, home occupation, group home and residential. Residential uses are permitted in apartment

buildings, mixed-use buildings and townhouses. A maximum lot coverage of 33 percent and a maximum height of 10.5 metres and 3 storeys is permitted.

By-law 569-2013 is available on the City's website at: <http://www.toronto.ca/zoning>.

Site Plan Control

The proposal is subject to Site Plan Control under Section 41 of the *Planning Act* and Section 114 of the *City of Toronto Act* however no application has been filed.

City-Wide Tall Building Design Guidelines

In May 2013, Toronto City Council adopted the updated city-wide Tall Building Design Guidelines and directed City Planning staff to use these Guidelines in the evaluation of all new and current tall building development applications. Tall buildings are generally defined as buildings with heights which are greater than the width of the adjacent street right-of-way. The Guidelines establish a unified set of performance measures for the evaluation of tall building proposals to ensure they fit within their context and minimize their local impacts.

The Guidelines are available at <http://www.toronto.ca/planning/tallbuildingdesign.htm>.

Community Consultation

Staff submitted a Preliminary Report to the North York Community Council meeting of April 14, 2015. Community Council deferred consideration of the report to permit the applicant to address the issues outlined in the Preliminary Report. Community Council further directed City Planning staff to only schedule a community consultation meeting once the applicant had submitted a revised proposal. To date, a revised submission has not been received.

In light of the applicant's appeal, at its meeting of September 6, 2015 North York Community Council directed staff to hold a community consultation meeting. Staff are in the process of scheduling the meeting.

COMMENTS

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) 2014 and the Growth Plan for the Greater Golden Horseshoe are high-level and broad reaching documents. The City is a development area and infill is encouraged under these policies. However, the tenor of both the PPS and the Growth Plan is that planning authorities are responsible for identifying appropriate locations for growth. Intensification and redevelopment is to be provided in areas that take into account the existing building stock or area and availability of infrastructure and public service facilities that meet projected needs.

Within this framework, the PPS recognizes that the Official Plan is the most important vehicle for implementing PPS requirements and that comprehensive, integrated and long

term planning is best achieved through municipal official plans. The City's Official Plan meets the requirements of the PPS however the proposal does not meet the policies of the Official Plan as discussed below.

The Growth Plan 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. The Growth Plan strives, among other things, to direct growth to areas of urban intensification. It requires municipalities to set clear targets for population and employment growth. The Growth Plan also directs growth to *urban growth centres, intensification corridors, major transit station areas, brownfield sites* and *greyfields* to provide as key focus for transit and infrastructure investments to support future growth. While the site is a *brownfield site* and some development is appropriate, the scale of intensification proposed is not anticipated or appropriate.

Site Organization

The proposed building illustrates setbacks of 0.5 metres from Bayview Avenue and the north, east and south property lines. This would result in a poor streetscape with limited landscaping and a building setback out of character with the surrounding area as required by the Built Form policies of the Official Plan. A minimum setback of 5 metres should be provided from Bayview Avenue in order to provide an opportunity for landscaping and amenity such as patio space for the proposed retail units. This setback will complement other landscape setbacks of buildings on Bayview Avenue, allowing the development to fit within the existing character of Bayview Avenue.

The Official Plan requires development on lands adjacent to *Utility Corridors* to secure the property edge through measures "such as setbacks, fencing, site grading, berms, landscaping, building treatment and construction techniques". Fourteen parking spaces are currently proposed along the south property line within the building. These spaces should be relocated below grade and the space utilized for uses which animate the utility corridor. The tower is setback approximately 3.2 metres from the utility corridor. A minimum 5 metre setback from the utility corridor should be provided to accommodate amenity areas for grade related units, walkways, lighting and landscaping to support and animate the recreational space within the utility corridor. The service area and underground parking access also utilize a significant portion of the ground floor area. These areas should be redesigned or relocated in order to mitigate negative impacts, such as visual and odour impacts, on Bayview Avenue, the lands to the east and the utility corridor.

A greater rear yard setback is recommended to accommodate minimum separation distances to future infill development on the rear property of 50 Ruddington Drive. A setback of 0.5 metres is insufficient to allow for proper separation distances between the proposal and any future development on the abutting site. A rear setback of 7.5 metres to the tower would be appropriate and a greater setback at grade should be provided to allow for landscaping.

The proposed building setbacks are inappropriate, and should be increased to allow for sufficient landscaping and planting, better reflect the character of the neighbourhood and to create a more appropriate relationship to adjacent public street and lots to the north and east and the existing utility corridor to the south. Adjacent lots may redevelop in the future and appropriate separation distances should be provided to ensure that future development is able to occur.

Height and Massing

The site is designated *Mixed Use Areas* in the Official Plan. There are two other sites in the immediate area with this designation: the strip plaza to the immediate north of the site and the gas station at the northeast corner of Bayview Avenue and Cummer Avenue. *Mixed Use Areas* are expected to absorb most of the anticipated new housing in the City. However, not all *Mixed Use Areas* will experience the same scale or intensity of development, with the highest densities found in the *Downtown*, followed by sites in the *Centres* and along the *Avenues*. The proposed density of 6.6 times the area of the lot is inconsistent with the context of Bayview Avenue. The site is neither in the *Downtown*, a *Centre* nor on an *Avenue* and as a result, a lower density is expected, recognizing the existing context.

The Tall Building Guidelines, mentioned earlier, are used to evaluate proposed buildings which have a height which is greater than the width of the right-of-way, such as the proposed building. The proposed building has a floor plate of 1098 square metres which is in excess of what the guidelines permit.

Based on the immediate context, the site is more appropriate for a mid-rise building with a maximum height of 36 metres, which provides a one-to-one relationship to the width of the Bayview Ave right of way and respects a 45 degree angular plane from the lands designated *Neighborhoods* across the street to the west. A one-to-one relationship in combination with front step backs on upper floors would allow for sunlight on the street boulevard thereby creating a comfortable, sunlit and tree lined pedestrian environment along Bayview Avenue. To respond to the low scale character of Bayview Avenue, especially the medical building across the street, a mid-rise building should have a base height of 3 storeys. While there are buildings in excess of 10 storeys in the area, they are on larger sites in *Apartment Neighbourhoods*, set within a landscaped site and are set back from Bayview Avenue and the local streets, or interior to the neighbourhood. The proposed building should be lower in height in order to respect its context and street proportion.

Shadows

The applicant has submitted a shadow study as part of the application requirements. The current proposal would cast unacceptable shadows on the Bayview Avenue boulevard and residential properties within the *Neighborhoods* designation on the west side of Bayview Avenue in the morning. The height should be reduced to remove shadows on the lots designated *Neighborhoods* and to provide 5 hours of sunlight on the Bayview Avenue boulevard between 9:18 am and 2:18 pm between the spring and fall equinoxes. Shadowing would also impact the parking lot to the east in the afternoon between 2:18

pm and 6:18 pm. This parking lot may be redeveloped in the future and as such appropriate access to sunlight should be provided by lowering the height of the proposed building. The proposed building would also create shadowing impacts in the late afternoon on the abutting hydro corridor which includes the Finch Corridor Trail. Enjoyment of recreational spaces should be ensured by minimizing shadowing.

Lot Coverage and Landscaping

The existing by-laws permit a maximum lot coverage of 33 percent (By-law 569-20213) and 35 percent (By-law 7625), however the proposed building would have a lot coverage of 98 percent. Other apartment buildings in the area are setback from the street, are set within a landscaped area, provide outdoor amenity space at grade, provide sufficient building separation to property lines, and as a result have lower lot coverages than that proposed. The proposal represents an over development of the site. As discussed above, the building setbacks should be increased to allow for landscaping and other features on the site and to better respect the character of the area.

Site Servicing

The applicant has submitted engineering reports however Engineering and Construction Services have requested additional information on a number of issues. This includes sanitary sewer analysis to identify required improvements to the existing system to provide for peak sanitary flows generated by the proposal. Currently the applicant has not evaluated the capacity of the receiving sewer downstream which is unacceptable. At this time there are outstanding issues/concerns with the proposed sanitary servicing of the site.

Traffic and Parking

The applicant provided a Transportation Impact Study as part of the application. In a review of the submitted report, a number of issues have been identified including double counting internal trips and using Shopping Centre (as defined in the ITE Trip Generation Manuel) to describe the proposed retail. Transportation Services is unable to concur with the results of the study until the issues outlined in Engineering and Construction Services' memorandum dated April 10, 2015 are addressed and the study is revised.

The applicant is proposing a total of 187 parking spaces on the site, of which 33 would be designated for visitors. Zoning By-law 569-2013 requires a total of 42 parking spaces: 33 for residential visitors and 9 for the retail component. The visitor parking spaces are intended to be shared between the retail and residential components of the building. The submitted study indicates that a minimum of 43 parking spaces (33 for residential and 10 for retail) are required in the evening which is 10 more spaces than are proposed. In the evening shared visitor parking between the retail and residential uses does not meet the expected demand. The proposed parking should be revised to meet the requirements of By-law 569-2013.

Of the proposed 33 visitor parking spaces, 14 are proposed at grade along the south property line. These spaces should be relocated below grade to avoid negative visual

impacts on Bayview Avenue. Relocating these spaces would also allow for at-grade residential units which would animate the utility corridor.

Section 37

The Official Plan contains policies pertaining to the provision of community benefits in exchange for an increase in height and/or density pursuant to Section 37 of the *Planning Act*. As the application is seeking a significant increase in height and density, a Section 37 contribution would be warranted if this application were approved.

To date, staff have not had any discussions with the applicant or Ward Councillor regarding a Section 37 contribution due to the outstanding issues discussed above. In the event that the OMB considers granting additional density and/or height beyond that which is permitted by the by-law, the City will request that the OMB not approve the amending zoning by-law without the provision of such community benefits as are appropriate in the opinion of the Chief Planner in consultation with the applicant and the ward councillor.

Conclusion

The current proposal's proposed setbacks, site organization, height and scale are not appropriate. The proposed built form does not adequately address the existing and planned context and does not provide an appropriate relationship to the abutting utility corridor. The proposal represents an over development of the site and is not consistent with the Official Plan policies.

It is recommended that City Council authorize the City Solicitor and appropriate staff to attend any Ontario Municipal Board hearing in opposition to the current proposal. It is also recommended that City Council direct staff to continue discussions with the applicant to address the issues raised in this report including an appropriate Section 37 contribution for a revised proposal.

CONTACT

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SIGNATURE

Joe Nanos, Director
Community Planning, North York District

ATTACHMENTS

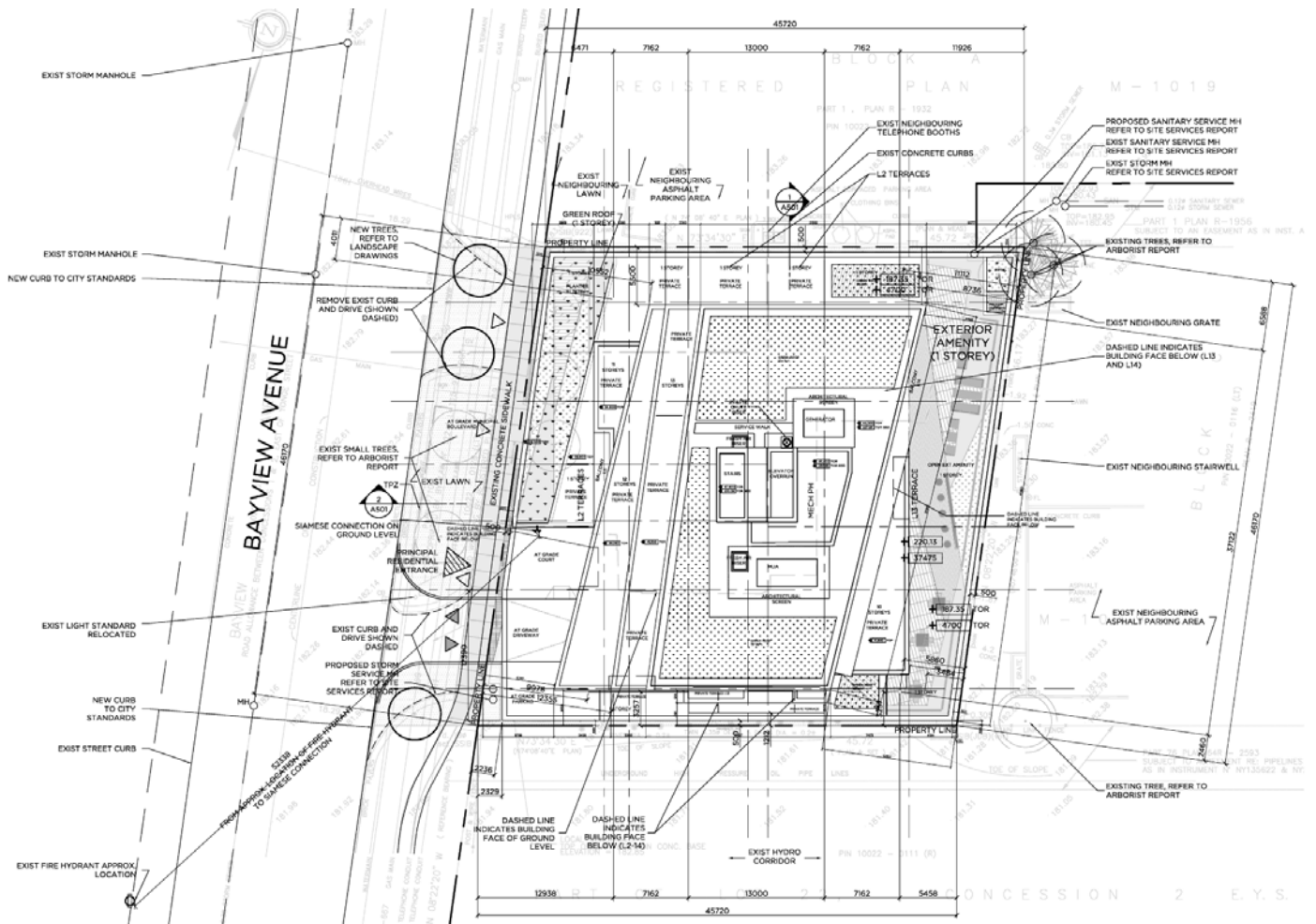
Attachment 1: Site Plan

Attachment 2: Elevations

Attachment 3: Zoning

Attachment 4: Application Data Sheet


Attachment 1: Site Plan



Site Plan

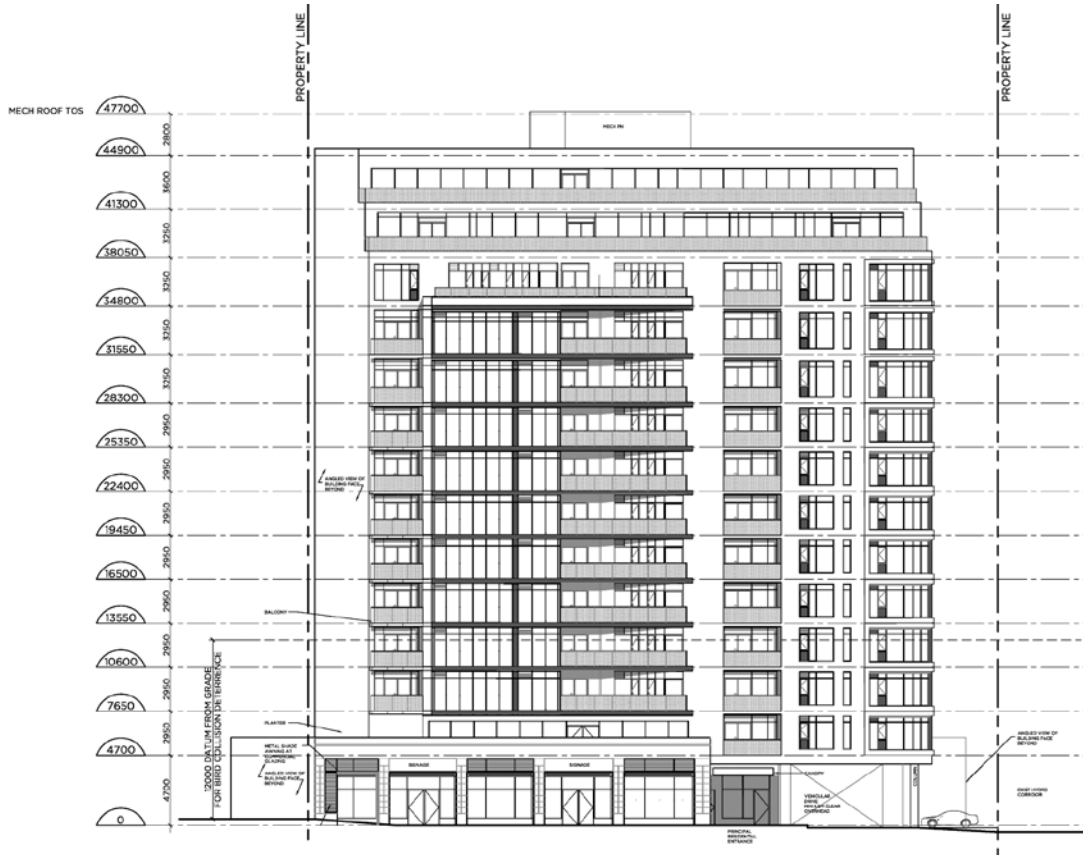
3237 Bayview Avenue

Applicant's Submitted Drawing

Not to Scale 
02/19/2015

File # 15 112180 NNY 24 0Z

Attachment 2: Elevations



West Elevation

3237 Bayview Avenue

Applicant's Submitted Drawing

Not to Scale
02/19/2015

File # 15 112180 NNY 24 0Z



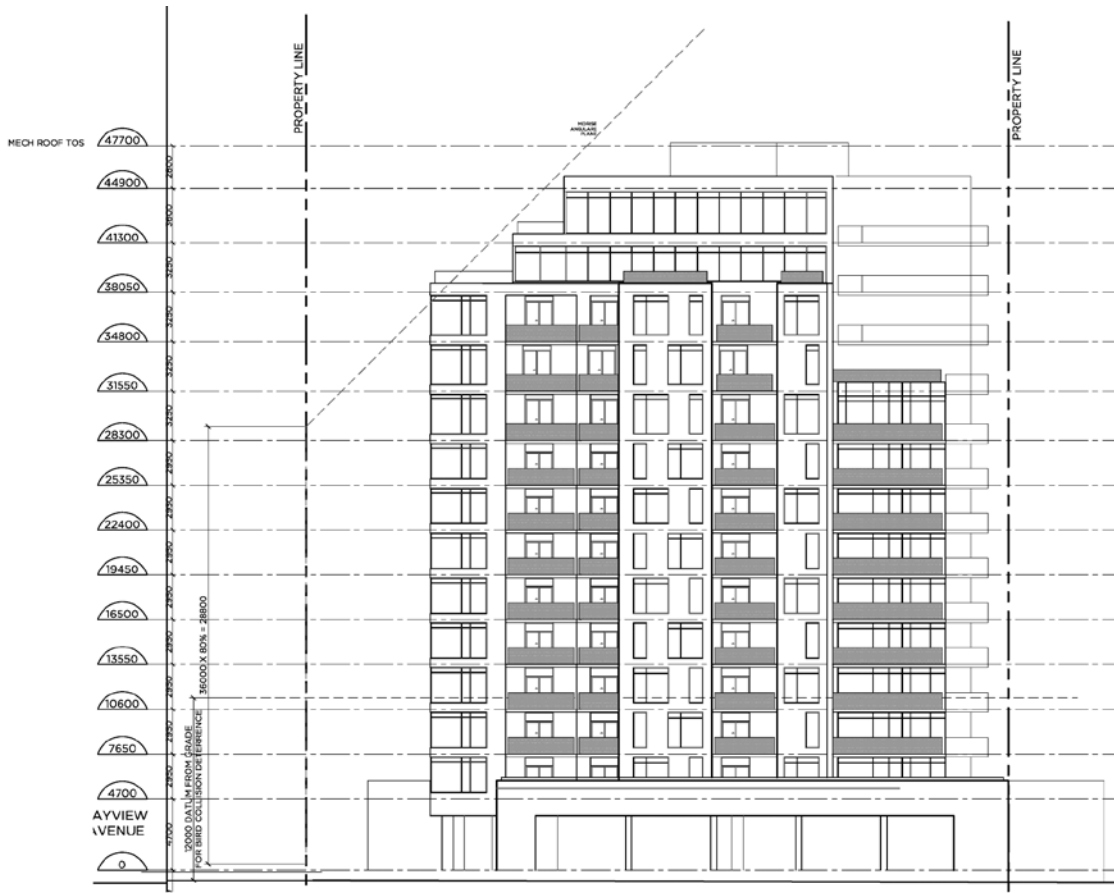
East Elevation

3237 Bayview Avenue

Applicant's Submitted Drawing

Not to Scale
02/19/2015

File # 15 112180 NNY 24 OZ



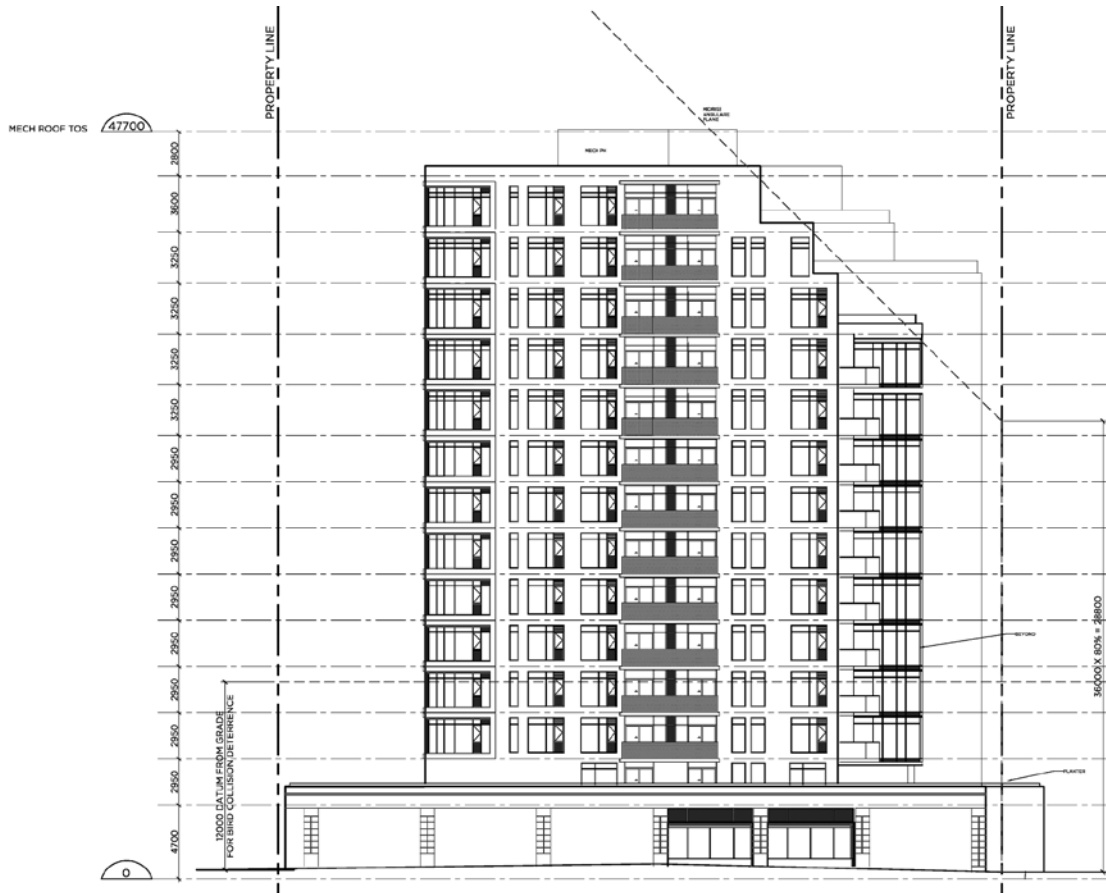
South Elevation

3237 Bayview Avenue

Applicant's Submitted Drawing

Not to Scale
02/19/2015

File # 15 112180 NNY 24 02



North Elevation

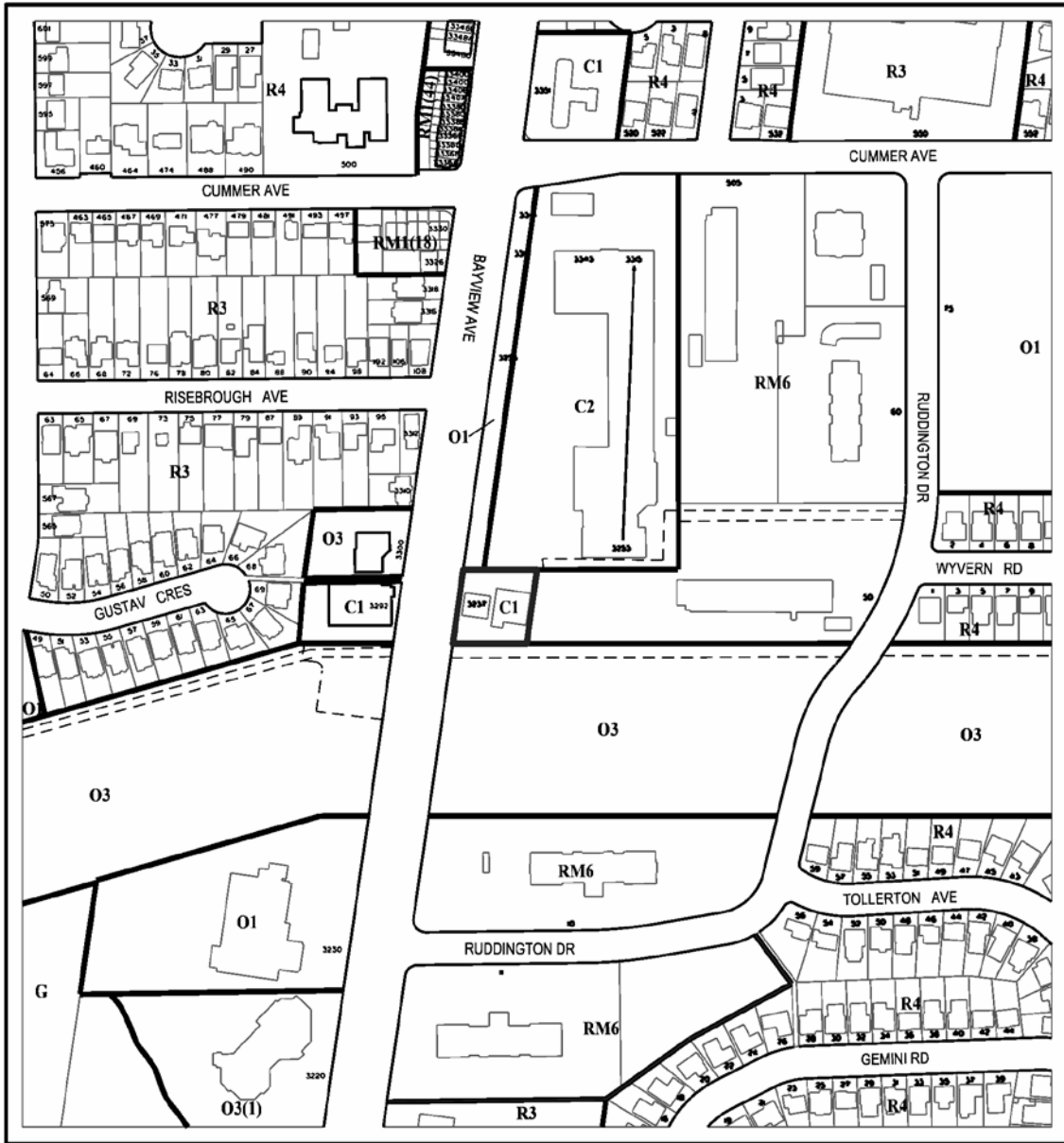
3237 Bayview Avenue

Applicant's Submitted Drawing

Not to Scale
02/19/2015

File # 15 112180 NNY 24 OZ

Attachment 3: Zoning



3237 Bayview Avenue

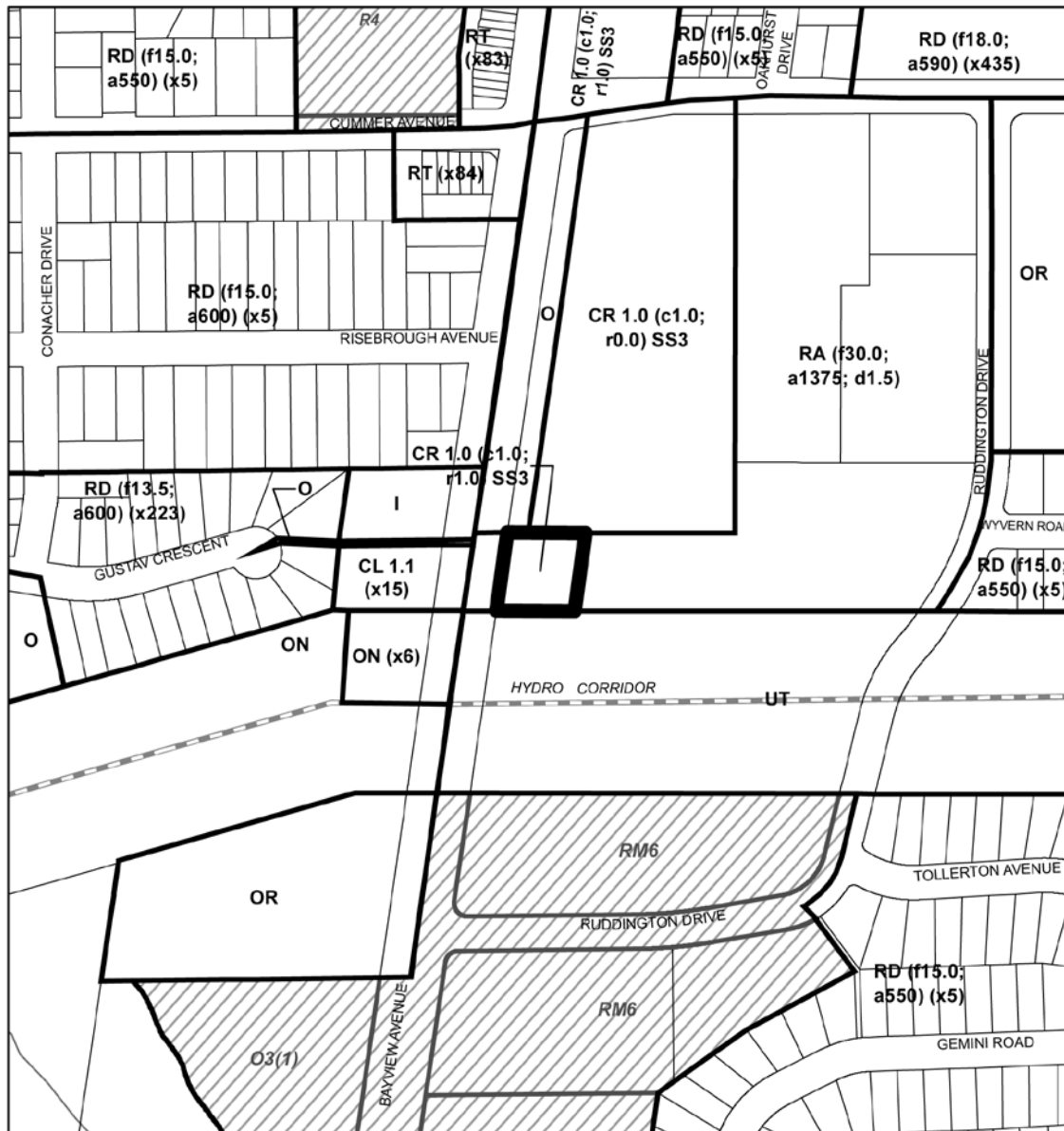
File # 15 112180 NNY 24 02

- R3 One-Family Detached Dwelling Third Density Zone
- R4 One-Family Detached Dwelling Fourth Density Zone
- RM1 Multiple-Family Dwellings First Density Zone
- RM6 Multiple-Family Dwellings Sixth Density Zone
- C1 General Commercial Zone

- C2 Local Shopping Centre Zone
- O3 Semi-Public Open Space Zone
- O1 Open Space Zone
- G Greenbelt Zone



Not to Scale
Zoning By-law 7625 as amended
Extracted 02/19/2015



Zoning By-Law No. 569-2013

3237 Bayview Avenue

File # 15 112180 NNY 24 0Z

 Location of Application

- | | | | |
|----|------------------------|----|----------------------------|
| RD | Residential Detached | I | Institutional |
| RT | Residential Townhouse | O | Open Space |
| RA | Residential Apartment | ON | Open Space Natural |
| CL | Commercial Local | OR | Open Space Recreation |
| CR | Commercial Residential | UT | Utility and Transportation |

 See Former City of North York By-Law No. 7625

- | | |
|-----|--------------------------------------------------|
| R3 | One-Family Detached Dwelling Third Density Zone |
| R4 | One-Family Detached Dwelling Fourth Density Zone |
| RM6 | Multiple-Family Dwellings Sixth Density Zone |
| O3 | Semi-Public Open Space Zone |



Not to Scale
Extracted: 02/19/2015

Attachment 4: Application Data Sheet

Application Type	Rezoning	Application Number:	15 112180 NNY 24 OZ
Details	Rezoning, Standard	Application Date:	February 4, 2015

Municipal Address: 3237 BAYVIEW AVENUE
 Location Description: PLAN M1019 BLK B **GRID N2402
 Project Description: Application to permit a 14-storey mixed-use building consisting of 542 square metres of retail floor area at grade and 13,238 residential gross floor area.

Applicant:	Agent:	Architect:	Owner:
1877298 ONTARIO INC		RAW DESIGN	1877298 ONTARIO INC

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	
Zoning:	569-2013: CR1.0 (c1.0; r1.0) SS33	Historical Status:	N
Height Limit (m):		Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	2090	Height:	Storeys:	14	
Frontage (m):	46.1		Metres:	47.7 m	
Depth (m):	45.7				
Total Ground Floor Area (sq. m):	714				Total
Total Residential GFA (sq. m):	13238		Parking Spaces:	187	
Total Non-Residential GFA (sq. m):	542		Loading Docks	1	
Total GFA (sq. m):	13780				
Lot Coverage Ratio (%):	98				
Floor Space Index:	6.6				

DWELLING UNITS

Tenure Type:	
Rooms:	0
Bachelor:	0
1 Bedroom:	114
2 Bedroom:	49
3 + Bedroom:	2
Total Units:	165

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Residential GFA (sq. m):	13238		0
Retail GFA (sq. m):	542		0
Office GFA (sq. m):	0		0
Industrial GFA (sq. m):	0		0
Institutional/Other GFA (sq. m):	0		0

CONTACT: PLANNER NAME: Guy Matthew, Planner
TELEPHONE: (416) 395-7102