

## **Demolition of a Designated Heritage Property – 33 Avenue Road**

**Date:** November 24, 2016

**To:** Toronto Preservation Board, Toronto-East York Community Council

**From:** Chief Planner and Executive Director, City Planning Division

**Wards:** 27 – Toronto Centre-Rosedale

### **SUMMARY**

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This report recommends that City Council refuse the proposed demolition of all heritage structures on the property at 33 Avenue Road (the property includes municipal addresses 33-41 & 45-49 Avenue Road & 142-148 Yorkville Avenue), which is designated under Part IV of the Ontario Heritage Act by By-law No. 0052-2015, enacted by City Council on July 8, 9, 10 and 11, 2014.

In this case, if City Council fails to make a decision on the application within 90 days of issuing a Notice of Receipt of the application, the application is deemed to be permitted under Section 34 of the Ontario Heritage Act. The applicant must be notified of the decision by January 31, 2017.

### **RECOMMENDATIONS**

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The Chief Planner and Executive Director recommends that:

1. City Council refuse the issuance of a demolition permit for the heritage property at 33 Avenue Road, in accordance with Section 34 of the Ontario Heritage Act.
2. If the owner appeals City Council's decision to refuse the issuance of a demolition permit under Section 34 of the Ontario Heritage Act for the heritage property at 33 Avenue Road, City Council authorize the City Solicitor and the necessary City staff to attend the Ontario Municipal Board hearing in opposition to the appeal.

### **FINANCIAL IMPACT**

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There is no financial impact resulting from the adoption of the recommendations in this report.

## **DECISION HISTORY**

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The property at 33 Avenue Road was designated by City Council under Part IV of the Ontario Heritage Act by By-law No. 0052-2015, enacted by City Council on July 8, 9, 10 and 11, 2014.

<http://www.toronto.ca/legdocs/bylaws/2015/law0052.pdf>

A complete application for demolition has been received and a Notice of Receipt was served on the applicant. In accordance with the provisions of the Ontario Heritage Act s.34(4), Council is required to issue a decision within 90 days of this date, which in this case is January 31, 2017.

## **ISSUE BACKGROUND**

### **Provincial Policy Statement and the Planning Act**

The Planning Act and associated Provincial Policy Statement guide development in the Province. Under the Planning Act, section 2 (d) the "conservation of features of significant architectural, cultural, historical, archaeological or scientific interest" is a matter of Provincial interest. The Provincial Policy Statement is issued under Section 3 of the Planning Act. The Planning Act requires that all decisions affecting land use planning matters "shall be consistent with" the Provincial Policy Statement.

The Provincial Policy Statement, 2014 (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 key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

Policy 2.6.1 of the PPS reads "Significant built heritage resources and significant cultural heritage landscapes shall be conserved".

The Growth Plan for the Greater Golden Horseshoe (the "Growth Plan") was prepared under the Places to Grow Act, 2005 and is a growth management framework for the Golden Horseshoe region. Under policy 4.2.4, the Growth Plan requires that Municipalities develop official plan policies in support of conservation objectives including cultural heritage conservation to foster a "culture of conservation".

### **Ontario Heritage Act**

Section 34 (1) of the Ontario Heritage Act (OHA) states that no owner of property designated under section 29 shall demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property unless the owner applies to the council of the municipality in which the property is situated and receives consent in writing to the demolition or removal. After receiving a complete application for demolition, City Council is required to issue a Notice of Receipt

to the applicant. Within 90 days of issuing the notice of receipt, City Council must issue a decision, or else council will be deemed to have consented to the application.

Section 34.1 (1) indicates that if Council refuses the permit applied for, or gives the permit with terms and conditions attached, the owner of the property may appeal the decision to the Ontario Municipal Board (OMB).

### **Official Plan**

Section 3.1.5 of the Official Plan contains a series of heritage conservation policies that apply to the subject property.

Policy 3.1.5.4 directs that properties on the Heritage Register will be conserved and maintained consistent with the Standards and Guidelines for the Conservation of Historic Places in Canada, as revised from time to time and as adopted by Council. Policy 3.1.5.5 directs that proposed alterations, development, and/or public works on or adjacent to, a property on the Heritage Register will ensure that the integrity of the heritage property's cultural heritage value and attributes will be retained. Policy 3.1.5.6 states that the adaptive re-use of properties on the Heritage Register is encouraged. Policy 3.1.5.26 states that new construction on or adjacent to a property on the Heritage Register will be designed to conserve the cultural heritage values, attributes and character of that property and to mitigate visual and physical impact on it. Policy 3.1.5.27 states that the conservation of whole or substantial portions of buildings, structures and landscapes on Heritage Register properties is desirable and encouraged. The retention of facades alone is discouraged.

### **Standards and Guidelines for the Conservation of Historic Places in Canada**

In 2008, Toronto City Council adopted the Parks Canada Standards and Guidelines for the Conservation of Historic Places in Canada (the "Standards & Guidelines") as the official document guiding decisions on the planning, stewardship and conservation approach for all listed and designated heritage resources within the City of Toronto.

<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-03-03-cc17-dd.pdf>

The Standards & Guidelines include a set of 14 fundamental standards for Preservation, Rehabilitation and Restoration. The standards establish a philosophical framework and a set of general principles to guide conservation work. The following standards apply to the demolition application for 33 Avenue Road:

- Conserve the heritage value of an historic place. Do not remove, replace or substantially alter its intact or repairable character-defining elements. Do not move a part of an historic place if its current location is a character-defining element.
- Conserve heritage value by adopting an approach calling for minimal intervention.
- Find a use for an historic place that requires minimal or no change to its character-defining elements.
- Evaluate the existing condition of character defining elements to determine the appropriate intervention needed. Use the gentlest means possible for any intervention. Respect heritage value when undertaking an intervention.

## **Heritage Property Description**

The property at 33 Avenue Road is located at the northeast corner of Avenue Road and Yorkville Avenue, north of Bloor Street West (Attachment No.1). Between 1968 and 1969, the property was redeveloped with a set of red brick modernist structures known as York Square, which adaptively re-used and framed seven older semi-detached and row houses from c. 1900, which were located at the corner of the property. The redevelopment scheme integrated the existing historic buildings through a combination of materials and detailing at the ground floor, along with an urban design strategy that created an enclosed pedestrian square at the rear.

In a time before provincial heritage legislation, the project was notable for its rehabilitation of the much older buildings with a new use, and the project was widely recognized for its innovative design. The redevelopment of this property contributed significantly to the revitalization of the Yorkville neighbourhood.

The complex is historically associated with the careers of the influential and nationally and internationally acclaimed architects A J Diamond (b. 1932) and Barton Myers (b. 1934). It embodies principles of urban revitalization through the rehabilitation of existing buildings, appropriate infill, low-rise/high density and the creation of humanly-scaled, well-designed urban space.

The designation by-law describes the property as a close-knit assembly of buildings that together make up a unified complex. (Attachment 4 - Reasons for Designation)

## **DEMOLITION APPLICATION**

The subject demolition application includes all municipal addresses within the development site and sets out the reason for the demolition request as "to permit the construction of a temporary sales centre and future mixed-use condominium tower".

The demolition application is therefore associated with a current zoning by-law amendment application and site plan application (12 113502 STE 27 OZ & 16 126210 STE 27 SA) which is before the Ontario Municipal Board. If approved, the planning applications would permit the redevelopment of the site with a 30-storey mixed-use tower with two floors of grade-related retail and residential uses above. In the architectural plans submitted with the planning applications, the west and south facades of the Victorian buildings located on the Avenue Road frontage of the property, are proposed to be retained. The subject application to demolish all structures on the property contradicts the conservation strategy that is proposed for the appealed planning applications.

## **COMMENTS**

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The original set of architectural plans submitted with the Zoning By-law Amendment Application show the conservation of a portion of the building complex at the corner of

Avenue Road and Yorkville Avenue. The remainder of the complex was proposed to be removed.

Under the Planning Act, City Council has 120 days after receiving a Zoning By-law Amendment Application to render a decision, after which time the applicant has the right to appeal to the Ontario Municipal Board (OMB). On October 21, 2015, the applicant appealed to the OMB City Council's failure to make a decision within the prescribed time frame. A full hearing is scheduled to commence January 9, 2017. If Council refuses this application to demolish the heritage property, it is likely the applicant will appeal this decision to the OMB in consolidation with the planning application appeal. However, as the applications before the Board contemplate conservation of some site attributes, it is unclear how the applicant will approach the hearing. If the current zoning application is approved at the OMB, the applicant will still require a council decision with respect to the alteration of the property under Section 33 of the OHA.

On May 16th, the applicant submitted a demolition application to Heritage Preservation Services ("HPS ") under the Ontario Heritage Act indicating removal of the northwest portion of the complex (45-49 Avenue Road), leaving the remainder of the heritage property intact. Removal of the northwest portion was being requested for the sole purpose of constructing a temporary sales centre. After being advised that the application did not constitute a demolition under the OHA due to the remaining heritage attributes on the property, the applicant submitted a revised application form on May 18th with an attached map schedule showing that all buildings on the subject property were to be removed. This created confusion as to the true intent of the application and HPS sought clarification from the applicant.

On June 9th the applicant sent HPS a letter clarifying that the owner intended only to "demolish the building with the municipal addresses of 45-49 Avenue Road to permit construction of a temporary sales centre," and had "no intention of demolishing the buildings with the municipal addresses of 33-41 Avenue Road or 142-148 Yorkville Avenue." The June 9th letter established that the May 18th application form and map were not an accurate reflection of the owner's intention and the May 16th application form and map were the basis of permissions being sought. Heritage staff remain of the opinion that such application for the removal of specified heritage attributes of the site is subject to Section 33 of the OHA.

Subsequently, on November 2, 2016, the applicant submitted a consolidated demolition application once again proposing the demolition of all structures on the site. An email from the applicant's lawyer confirmed that the owner "will not be relying on that [previous] application and, pursuant to the Ontario Heritage Act, our client will not take the position that any permit requested pursuant to [the previous] application can or should issue pursuant to Section 34(4). The applicant's lawyer further advised that a complete application to demolish the heritage property was made on November 2, 2016 by the applicant's heritage consultant and he asserts that the 90 review period commence from that day forward. The City issued a Notice of Receipt and confirmed the mutual understanding that January 31, 2017 was the day by which the owner must receive a decision from Council.

Although the application to demolish contradicts the conservation strategy proposed as part of the planning applications, staff are required to process the demolition application in accordance with legislative time frames.

## **CONCLUSION**

The demolition of the heritage property will remove any vestige of the site's cultural heritage value or integrity. Demolition is contrary to the intent of the PPS, the Official Plan, and the Standards and Guidelines for the Conservation of Historic Places in Canada, all of which require conservation of significant built heritage resources.

The designated heritage property at 33 Avenue Road has cultural heritage value under the three categories of design, associative and contextual value prescribed by the Province of Ontario. It has strong associative value based on its successful and innovative strategy for urban regeneration, which helped revitalize the Yorkville neighbourhood. It is historically associated with two internationally acclaimed architects and displays a high degree of craftsmanship in its architectural design.

Staff are recommending that Council refuse the proposed demolition application for the reasons outlined in this report.

## **CONTACT**

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## **SIGNATURE**

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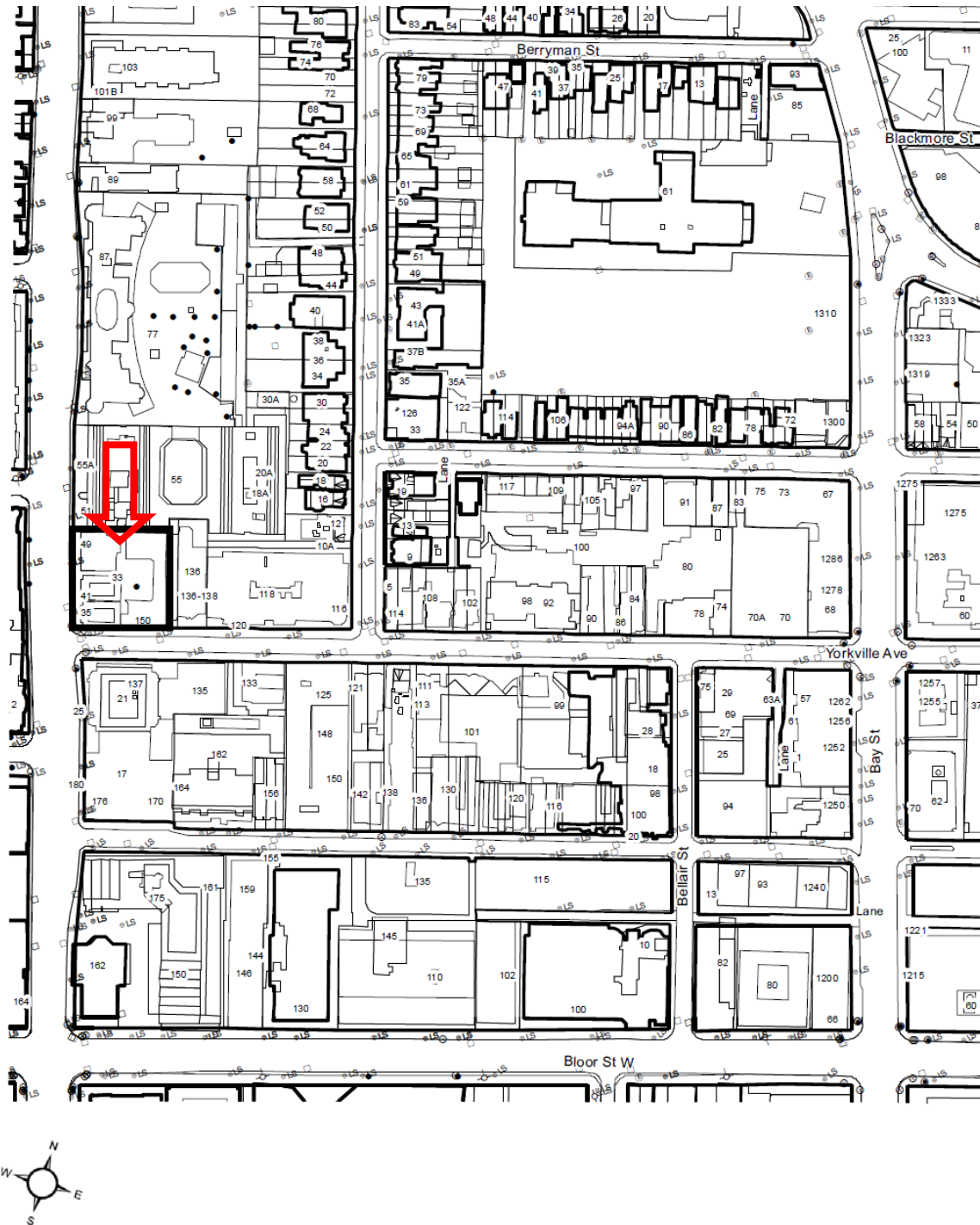
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City Planning Division

## **ATTACHMENTS**

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Attachment No. 1 – Location Map: 33 Avenue Road  
Attachment No. 2 – Photographs: 33 Avenue Road  
Attachment No. 3 – Historic Photograph: 33 Avenue Road  
Attachment No. 4 -- Reasons for Designation: 33 Avenue Road



This location map is for information purposes only; the exact boundaries of the property are not shown.

The **arrow** marks the site.





View of York Square at the corner of Avenue Road and Yorkville Avenue. The buildings dating from c. 1900 are centred in the foreground of the photograph. To the left is the west elevation of 45-49 Avenue Road



View of west elevation of the building complex. Shown is the portion with the municipal addresses 45-49 Avenue Road.

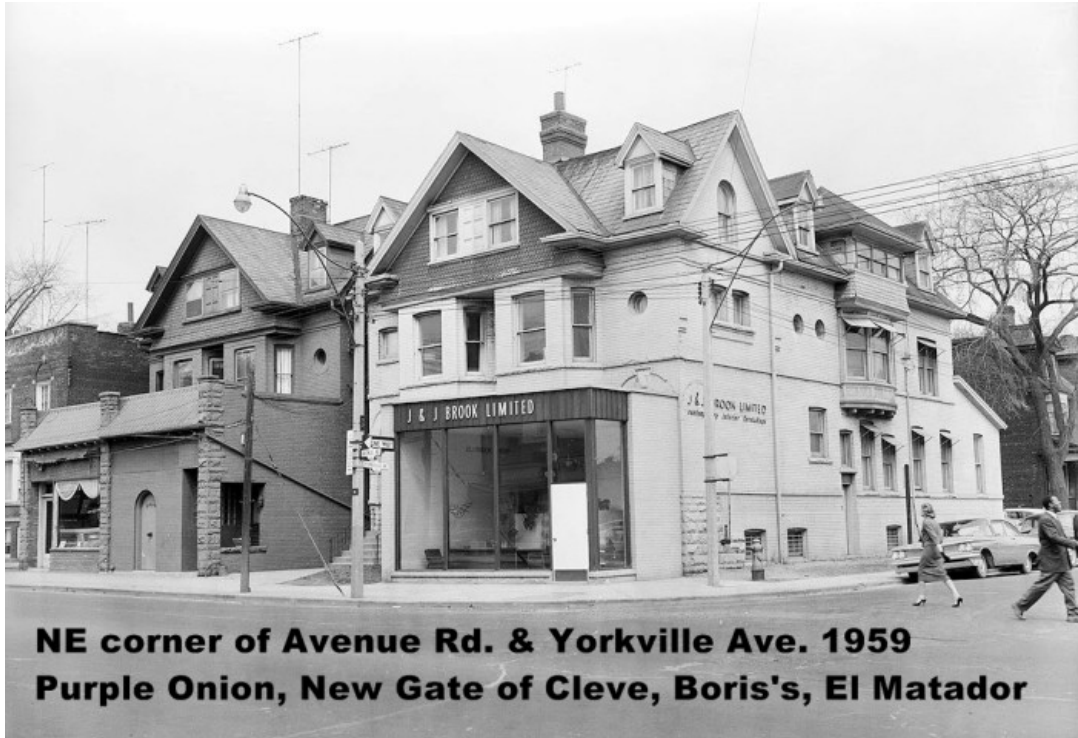




South elevation of the building complex facing Yorkville Avenue



View of the open air courtyard on the interior of the site



Photograph of corner buildings prior to adaptive re-use in 1968.



**REASONS FOR DESIGNATION  
(STATEMENT OF SIGNIFICANCE)**

Description

The property at 33 Avenue Road is worthy of designation under Part IV, Section 29 of the Ontario Heritage Act for its cultural heritage value, and meets the criteria for municipal designation prescribed by the Province of Ontario under the three categories of design, associative and contextual values. York Square (1968-9) is located at 33 Avenue Road. Situated at the north east corner of Avenue Road and Yorkville Avenue, the site contains the building historically known as York Square (1968-9). The complex includes 7 semi-detached and row houses dating from c 1900 on Avenue Road and a new 1960s two-story infill building which extends from Yorkville Avenue into the site behind the historic houses to enclose an open air square with a tree.

Statement of Cultural Heritage Value

York Square (1968-9) has associative value for its significant innovative approach to urban regeneration. It is one of the first examples in Toronto of rehabilitating and integrating historic buildings into a new project which transformed the original buildings with a contemporary use and a new outdoor space which contributed significantly to the revitalisation of the historic Yorkville neighbourhood. York Square set an important precedent for heritage preservation before Ontario's heritage legislation existed, adaptive re-use, and for maintaining existing neighbourhood scale and character in opposition to the then standard practice of demolition.

The building is historically associated with the careers of the influential and nationally and internationally acclaimed architects A J Diamond (b 1932) and Barton Myers (b 1934). It is one of the earliest projects by this Toronto-based partnership of Diamond and Myers. Graduates of the University of Pennsylvania where they were students of both Louis Kahn and Robert Venturi, the South African and American architects immigrated to Toronto and set up an architectural partnership in 1968. York Square introduced principles which would underpin other projects by the firm: urban revitalization through the rehabilitation of existing buildings, appropriate infill, low-rise/high density and the creation of humanly-scaled, well-designed urban space. The work also endorsed an outspoken Modernist sensibility in form and material which combined their principles in future projects such as Eclipse Whitewear (1970), 19 Berryman Street (1970), Innis College (1975), Sherbourne Lanes (1975).

After the dissolution of the practice in 1975 Diamond and Myers have continued to practice independently. Jack Diamond has received numerous awards

including being made an Officer of the Order of Canada as well as Canadian Governor General's Awards for Architecture for work done in partnership with Donald Schmitt. Barton Myers has received Gold Medals from the Royal Architectural Institute of Canada and the American Institute of Architects.

York Square is innovative in creating a new type and style and reinvented the quality of the site on which it is located. The building complex displays a high degree of craftsmanship in its architectural resolution and collage of forms and elements from different periods. Combining Modernist architectural elements while preserving the Victorian-style features of the original early 20th century houses on the site, York Square continues to be a celebrated local landmark in Yorkville as well as an important invention of a new urban prototype in Toronto. The project received an Ontario Association of Architects Award for its design in (1970) and was recognized in both national and international publications for its innovative thinking on urban renewal and for the integration of heritage buildings into a complex that embodied the socially radical and upbeat culture of its time.

Apart from its historical importance for its influential attitudes towards preservation and urban design, York Square maintains the associations with the 19th houses and the historic village of Yorkville. Further it is a significant connecting link to the 1960s when Yorkville was in its heyday as a cultural and commercial destination for youthful social transformation.

Contextually, York Square is a significant local landmark. Its relationship to Avenue Road and Yorkville Avenue are important in maintaining the scale and character of the neighbourhood. The open square at its heart continues to provide an urban oasis with trees and planting a few steps from these busy commercial thoroughfares. The complex is a landmark of historical importance in Yorkville as through its preservation of the historic houses it became an integral part of the neighbourhood's revitalization into a cultural and commercial destination that continues to flourish today.

### Heritage Attributes

The heritage attributes of the property at 33 Avenue Road are:

- The scale, form and massing of the building complex
- The two to two-and-a-half-storey structure combining early 1900s and 1960s buildings with an open courtyard and access from Avenue Road and Yorkville Avenue
- The materials including red brick, painted brick, shingles, wood and metal elements
- The gable roofs and dormer windows of the Victorian buildings and flat roofs of the 1960s buildings,
- On the principal (west and south) façades on Avenue Road and Yorkville Avenue, the combination of the Victorian bay windows, dormer windows

and circular headed windows behind a red brick screen of 1960s circular windows and rectangular windows (originally entrances)

- The open air square
- The 1968-9 red brick two story modern buildings enclosing the square
- The rear facades of the historic buildings and modern buildings facing the square
- The two entrances to the square, one from Avenue Road which passes through adjacent buildings and one from Yorkville Avenue which provides access through an enclosed lobby
- The staircases and access levels providing entrances to the properties facing the square
- The placement of the structure on the north east corner of Avenue Road and Yorkville Avenue