

5051-5061 Yonge Street – Official Plan and Zoning Amendment Application – Appeal Report

Date: April 21, 2023
To: North York Community Council
From: Director, Community Planning, North York District
Ward: 18 - Willowdale

Planning Application Number: 20 229112 NNY 18 OZ

SUMMARY

On December 14, 2020, an Official Plan and Zoning By-law Amendment application was submitted to permit a 42 storey (135 metres excluding mechanical penthouse) mixed-use building with non-residential uses on the first 6 storeys, and residential uses above with a total of 350 units. On October 26, 2022 a revised application was submitted proposing a 39 storey (126 metres excluding mechanical penthouse) mixed-use building with non-residential uses on the first two storeys, and residential uses above with a total of 365 units.

On January 18, 2023, the Applicant appealed the application to the Ontario Land Tribunal ("OLT") due to Council not making a decision within the 120-day time frame in the *Planning Act*. A Case Management Conference was held on April 14, 2023. A Second Case Management Conference is scheduled to be held on July 4, 2023.

This report recommends that the City Solicitor with the appropriate City staff attend the OLT hearing to oppose the application in its current form and to continue discussions with the Applicant to resolve outstanding issues.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct the City Solicitor and appropriate City staff to attend the Ontario Land Tribunal in opposition to the current Application regarding the Official Plan and Zoning By-law Amendment appeal for the lands at 5051-5061 Yonge Street and to continue discussions with the Applicant in an attempt to resolve outstanding issues.
2. In the event that the Ontario Land Tribunal allows the appeals in whole or in part, City Council authorize the City Solicitor to request that the issuance of any final Orders be withheld until such time as the City Solicitor advises that:

- a) the final form and content of the draft Official Plan amendment and Zoning By-laws are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- b) the owner has submitted a revised Travel Demand Management Plan acceptable to, and to the satisfaction of, the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services;
- c) the owner has made satisfactory arrangements with Engineering and Construction Services and entered into the appropriate agreement with the City for the design and construction of any improvements to the municipal infrastructure, should it be determined that upgrades are required to the infrastructure to support this development, according to the Functional Servicing Report accepted by the Chief Engineer and Executive Director, Engineering and Construction Services;
- d) in the event the updated servicing reports referred to in 2.c identify necessary upgrades to the servicing or functional items above, the owner shall enter into financially secured agreement(s) for the construction of any such improvements all to be completed at no cost to the City and to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services or alternatively, a holding provision may be required in the implementing zoning by-law, to ensure the necessary infrastructure is in place before any development can proceed;

3. City Council authorizes the City Solicitor and City staff to take any necessary steps to implement City Council's decision.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

DECISION HISTORY

A Preliminary Report was adopted by North York Community Council on March 1, 2021 authorizing staff to conduct a community consultation meeting with an expanded notification area. The decision of the North York Community Council can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2021.NY22.12>

A Virtual Community Consultation Meeting was hosted by City staff on May 4, 2021.

SITE AND SURROUNDING AREA

Site Description and Dimensions: The site is located at the southeast corner of Yonge Street and Hillcrest Avenue. The generally "L" shaped site is 2,885 square metres in size, has a frontage of approximately 59 metres on Yonge Street and 46 Metres on Hillcrest Avenue.

Existing Use: One and two storey retail buildings and surface parking

Surrounding uses include:

North: To the north of the site, is Hillcrest Avenue, a municipal road. Further north is a 10 storey retail/office building.

East: To the east of the site is an existing 31 storey residential building and surface parking.

South: To the south of the site are two storey retail/commercial buildings and surface parking.

West: To the west of the site, is Yonge Street, a municipal road. Further west is the Toronto District School Board Office and Mel Lastman Square.

THE APPLICATION

Description

The Official Plan and Zoning By-law Amendment application proposes to redevelop the lands at 5051-5061 Yonge Street to permit a 39-storey mixed-use building with 26,954 square metres of residential gross floor area ("GFA") and 2,029 square metres of non-residential GFA.

Height: 39-storeys (130.9 metres, including a 5.0 metre mechanical penthouse)

Density (Floor Space Index): 10.15 times the area of the lot.

Unit count: 365 dwelling units (27 studio (7.4%), 194 one-bedroom units (53.15%), 101 two-bedroom units (27.67%) and 43 three-bedroom units (11.78%)).

Parks and Open Spaces: A 308.10 square metre Privately Owned Public Space ("POPS") is proposed on-site along the Yonge frontage. No onsite parkland is proposed, and the applicant will provide cash-in-lieu at the time of building permit.

Additional Information

See Attachments 1-5 of this report for a location map, Application Data sheet, three dimensional representations of the project in context and a site plan of the proposal.

The Application Data Sheet contains additional details on the proposal including: site area and dimensions; floor area; unit breakdowns; and parking counts.

All plans and reports submitted as part of the application can be found on the City's Application Information Centre at:
<https://www.toronto.ca/city-government/planning-development/application-information-centre/>

Reasons for Application

The Official Plan Amendment Application is required to amend the North York Centre Secondary Plan to permit residential uses on the entirety of the site, and to change development criteria such as an increase in the permitted density and height, and a reduction in the required parking supply.

The Zoning By-law Amendment Application proposes to amend former City of North York Zoning By-law 7625 to vary performance standards including: building height; building setbacks; floor space index; amenity space and parking space requirements. Additional amendments to the Zoning By-law may be identified as part of the ongoing application review.

Site Plan Control

The proposal is subject to Site Plan Control. A Site Plan Control application has not yet been submitted.

POLICY CONSIDERATIONS

Official Plan Designation: The site designated as *Mixed Use Areas* on Land Use Map 16 of the Official Plan. The site is located within a Centre as identified on Map 2 of the Official Plan. The site is located within the North York Centre Secondary Plan (the "NYCSP"). The NYCSP designates the majority of the site as Mixed Use Area A and a portion of the site at the east as Mixed Use Area C. City Council has directed staff to undertake a review of the NYCSP ([Agenda Item History - 2021.PH20.2 \(toronto.ca\)](#)). This review will commence in 2023.

See Attachment 6 of this report for the Official Plan Land Use Map. See Attachments 7, 8 and 9 of this report for the North York Centre Land Use Map, Density Map and Height Map.

Zoning:

Former City of North York Zoning By-law 7625

The former City of North York Zoning By-law 7625 zones the property as General Commercial (C1). Permitted uses in the C1 zone include any use permitted in the Residential Multiple Zone (RM5) zone such as an apartment house dwelling, multiple attached dwelling, nursing home, and hospital; a wide range of commercial uses, including restaurants, retail stores, personal service shops, banks, business and

professional offices, medical offices, fitness centres, hotels, and any use permitted in the One-Family Detached Dwelling Zone (R5), among other uses. Some of the performance standards associated with this zone state that the maximum lot coverage for all other buildings than residential is 33.3% and the maximum permitted gross floor area within this zone is equal to 100% of the area of the lot.

See Attachment 10 of this report for the existing Zoning By-law Map.

Citywide Zoning By-law 569-2013

The site is not subject to Citywide Zoning By-law 569-2013 and the application does not propose to incorporate the site into it.

COMMUNITY CONSULTATION

A Virtual Community Consultation Meeting was hosted by City staff on May 4, 2021. Approximately 100 people participated, as well as the Ward Councillor. Following a presentation by City staff and the Applicant, a number of comments and issues were raised, including in particular:

- Need for retention of large retail spaces for bigger stores, loss of large space for much smaller ones
- What opportunities exist for affordable housing in the project
- Loss of views for existing residents in neighbouring buildings
- Traffic impacts from the proposed development on Hillcrest Avenue
- Is there the opportunity for a direct connection to the Subway

The issues raised through community consultation have been considered through the review of the application.

COMMENTS

Provincial Framework

Staff's review of this application has had regard for the relevant matters of provincial interest set out in the *Planning Act*. Staff has reviewed the current proposal for consistency with the Provincial Policy Statement, and conformity with the Growth Plan. Although the proposal to be generally consistent with the PPS and with the Growth Plan, an increase to the non-residential GFA proposed as discussed in relation to the Official Plan below would also be consistent with the direction of these provincial documents. All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS, and shall conform to provincial plans.

Land Use

The site is primarily located in the Mixed Use Area A area which does not permit residential uses (or it requires that portion of the site to be 100 percent non-residential uses). The easternmost portion of the site is in the Mixed Use Area C area which permits 100% residential uses on that portion of the site. The application in its current form proposes a mix of uses across the entire site of 7.5 percent non-residential uses and 92.5 percent residential uses. The original proposal submitted in 2020 provided for 28.6 percent non-residential uses and 71.4 percent residential uses. Neither the original application or the amended application comply with the provisions of the NYCSP. The original application, which did not comply with the NYCSP, would be more in keeping with the policies and intent of the NYCSP to promote the creation of a complete community containing a mix of non-residential and residential opportunities throughout the Centre.

Density

The NYCSP permits a maximum Floor Space Index ("FSI") of 4.5 times the area of the lands for the subject site, however, density incentives of no more than 33 percent of the base density may be permitted subject to the provision of specific uses and facilities in accordance with the Plan. For the subject site, a maximum FSI of 5.99 (which includes the 33 percent increase for the provision of incentives), is permitted. The proposed density of 10.15 when calculated in accordance with the plan exceeds the NYCSP permissions. Further, as discussed above, the land use permissions contemplate a very different mix of uses within the density permitted than is proposed by this application.

Built Form

Planning staff have reviewed the proposed built form, including height, massing and transition, against the policies of the Official Plan, NYCSP, as well as relevant design guidelines.

Height

The proposed height of 39-storey (130.9 metres, including 5.0 metre mechanical penthouse) exceeds the NYCSP height permission of 100 metres for the western portion of the site where the tall building element is proposed to be located. The proposed height increase can be considered under the NYCSP if the City is satisfied that the increase in height is necessary to provide desirable flexibility in built form and that the proposal meets the Urban Design objectives of the plan. The NYCSP also discourages height increases which are sought in order to facilitate increased density above the plan's permissions. As discussed in relation to sun/shadow and wind impacts below, the applicant has not satisfied staff that the proposal meets the provisions of the NYCSP for appropriate increases in permitted height.

Site Organization and Massing

The proposed site organization and building massing fails to address a number of setbacks and massing issues. The proposed POPS space on Yonge Street, while appreciated, is designed with edges that are non-active, and there are wind issues

identified in the winter months with potentially uncomfortable conditions in the POPS as a result of the proposed building.

The proposed base building does not provide the required 10 metre curb to building face setback as required by the NYCSP. An increased setback to Hillcrest Avenue is also encouraged to align with the neighbour to the east. An additional setback is also needed for the base building to the east property line.

The tower portion of the building does not conform to the requirements of the NYCSP or the Tall Building Guidelines. The tower should provide additional setbacks from the base building along Yonge Street and Hillcrest Avenue. The tower setbacks from the base building to the south and east property lines should be increased to provide appropriate separation while maintaining adequate separation to the existing tall building to the east.

Sun and Shadow

The shadow study submitted incorrectly shows an "as of right" shadow which cannot be confirmed to correctly identify a building that meets the permissions of the NYCSP. The shadow study should be updated to more clearly show the impacts of the proposed building. The shadow impacts of a tall building on this site need to be further assessed with updated shadow studies to understand the impacts of the building on the public realm, particularly on Mel Lastman Square and Yonge Street.

Wind

The wind impacts resulting from the proposal are not acceptable based on the study submitted. The proposal does not currently meet the policies of the Official Plan and the intent of the Tall Buildings Guidelines.

A Pedestrian Level Wind Study prepared by RWDI does not provide the impacts for Spring and Fall to demonstrate the potential wind impacts on the public realm and rooftop amenity areas. The study demonstrates potential wind issues including uncomfortable conditions around the western corners of the building on the public realm, the proposed POPS area and rooftop amenity in the winter months.

Streetscape

The proposed building does not provide the 10 metre curb to building face area combining the public and private realm as required by the NYCSP. This results in a compromised streetscape which is not in keeping with the Plan's requirements or the existing context and does not provide for the future implementation of the Council approved REimagining Yonge Streetscape works.

Servicing

A Functional Servicing and Stormwater Management Report and associated plans have been submitted for the site and are currently under review by Engineering and Construction Services.

In the event that the OLT allows the Zoning By-law Amendment appeal in whole or in part, the final Order should be withheld pending the confirmation of water, sanitary and stormwater capacity from the Chief Engineer and Executive Director, Engineering and Construction Services, or the determination of whether holding provisions are required in the Zoning By-law amendment.

Parkland

The Official Plan contains policies to ensure that Toronto's systems of parks and open spaces are maintained, enhanced and expanded. The site is in a parkland acquisition priority area, as per Chapter 415, Article III of the Toronto Municipal Code.

In accordance with Section 42 of the *Planning Act*, the owner is required to satisfy the parkland dedication requirement through cash-in-lieu. As per Toronto Municipal Code Chapter 415-29, the appraisal of the cash-in-lieu will be determined under the direction of the Executive Director, Corporate Real Estate Management. Additionally, the Toronto Municipal Code Chapter 415-28, requires that the payment be made prior to the issuance of the first above-ground building permit for the land to be developed.

Tree Preservation

The Application is subject to the provisions of the City of Toronto Municipal Code. An Arborist Report and Tree Inventory and Preservation Plan were submitted by the Applicant. The Applicant proposes to remove one City-owned Street Tree. There are no by-law protected trees on private property proposed to be removed.

Indoor/Outdoor Amenity Space

The application is proposing a total of 881.94 square metres of indoor amenity space and 741.43 square metres of outdoor amenity space.

The North York Centre Secondary Plan provides a density incentive for 1.5 square metres of amenity space per unit to be exempted from the calculation of Gross Floor Area. The proposed amenity space exceeds this amount and represents approximately 2.0 square metres of indoor amenity and 2.0 square metres of outdoor amenity for a total of 4.0 square metres of combined amenity space. This amount of amenity space is consistent with the requirements of Zoning By-law 569-2013 if it applied to the site and is appropriate.

Parking and Loading

A total of 196 vehicle parking spaces are proposed in a 4-level below-grade parking garage, accessed from Hillcrest Avenue. A type-G and type-B loading space are proposed on the ground floor.

An Urban Transportation Considerations Report was submitted for the site and is currently under review by Transportation Services and Engineering and Construction Services.

Travel Demand Management (TDM)

A TDM plan was included as part of the applicant's Urban Transportation Considerations Report. The TDM plan specified considerations such as a bicycle repair station, pre-loaded Transit Passes, and real time transit information displays in the building lobby to reduce the single occupancy auto vehicle trips generated by the proposed development. However additional details are required regarding these measures. In addition, the TDM plan only identifies these measures as "considerations", and confirmation is required in order for staff to assess the appropriateness of the proposed TDM Plan. Additional TDM measures are also required for this site in order to support the proposed parking reduction, address the site related vehicular traffic issues and satisfy the requirements in the Toronto Green Standard.

Further Issues

City Planning continues to receive additional information regarding this application as the result of ongoing review by City commenting divisions, materials submitted in support of the proposal, and through deputations made by members of the public to Community Council. Planning staff may also be required to evaluate supplementary or revised plans and supporting materials submitted by the applicant after the date of this report. As a result, Planning staff may continue to identify further issues or supplement the reasons provided in this report. Where substantive changes to the proposal are made by the applicant, Staff may report back to City Council as necessary.

Conclusion

The application has been reviewed against the policies of the PPS (2020), the Growth Plan (2020), the Official Plan, and applicable City guidelines intended to implement Official Plan policies. As currently proposed, the proposal does not conform to the Official Plan, North York Centre Secondary Plan, or the Tall Building Guidelines.

This report recommends that the City Solicitor, with appropriate staff, attend the OLT in opposition to the application in its current form and to continue discussions with the applicant in an attempt to resolve outstanding issues. This recommendation is consistent with the PPS and conforms with the Growth Plan.

CONTACT

Stephen Gardiner, Senior Planner
Tel. No. (416) 392-5460
E-mail: Stephen.Gardiner@toronto.ca

SIGNATURE

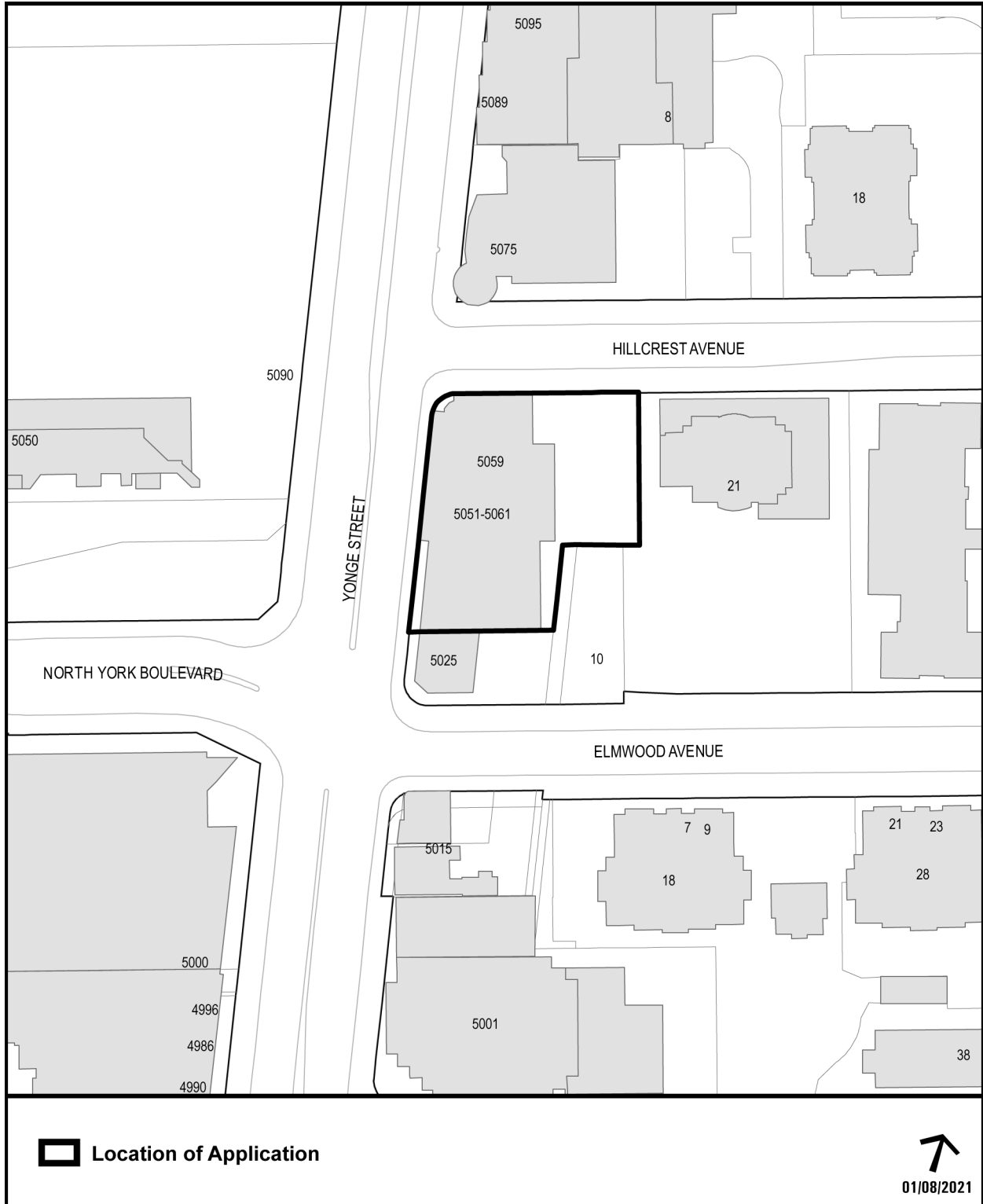


David Sit, MCIP, RPP
Director, Community Planning
North York District

ATTACHMENTS

- Attachment 1: Location Map
- Attachment 2: Application Data Sheet
- Attachment 3: 3D Model of Proposal in Context Looking Southwest
- Attachment 4: 3D Model of Proposal in Context Looking Northeast
- Attachment 5: Site Plan
- Attachment 6: Official Plan Land Use Map
- Attachment 7: North York Centre Secondary Plan Land Use Map
- Attachment 8: North York Centre Secondary Plan Density Map
- Attachment 9: North York Centre Secondary Plan Height Map
- Attachment 10: Former North York Zoning By-law Map No. 7625

Attachment 1: Location Map



Attachment 2: Application Data Sheet

Municipal Address: 5051-5061 YONGE ST **Date Received:** December 14, 2020

Application Number: 20 229112 NNY 18 OZ

Application Type: OPA & Rezoning

Project Description: Official Plan and Zoning By Law Amendment application to permit a 39-storey mixed-use building. The proposed development includes non-residential uses in the first 2-storeys, with grade related retail located along Yonge Street between Hillcrest Avenue and Elmwood Ave, and a residential tower above.

Applicant	Agent	Architect	Owner
URBAN STRATEGIES INC	URBAN STRATEGIES INC	KIRKOR ARCHITECTS	FCHT HOLDINGS (ONTARIO) CORPORATION

EXISTING PLANNING CONTROLS

Official Plan Designation: Mixed Use Areas Site Specific Provision: N

Zoning: C1 & R4 Heritage Designation: N

Height Limit (m): Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq m): 2,855 Frontage (m): 101 Depth (m): 52

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			1,474	1,474
Residential GFA (sq m):			26,954	26,954
Non-Residential GFA (sq m):	3,466	0	2,029	2,029
Total GFA (sq m):	3,466	0	28,983	28,983
Height - Storeys:	2		39	39
Height - Metres:			126	126

Lot Coverage Ratio (%): 51.63 Floor Space Index: 10.15

Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	26,595	359
Retail GFA:	1,565	
Office GFA:		
Industrial GFA:		
Institutional/Other GFA:	464	

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:				
Freehold:				
Condominium:			365	365
Other:				
Total Units:			365	365

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:		27	194	101	43
Total Units:		27	194	101	43

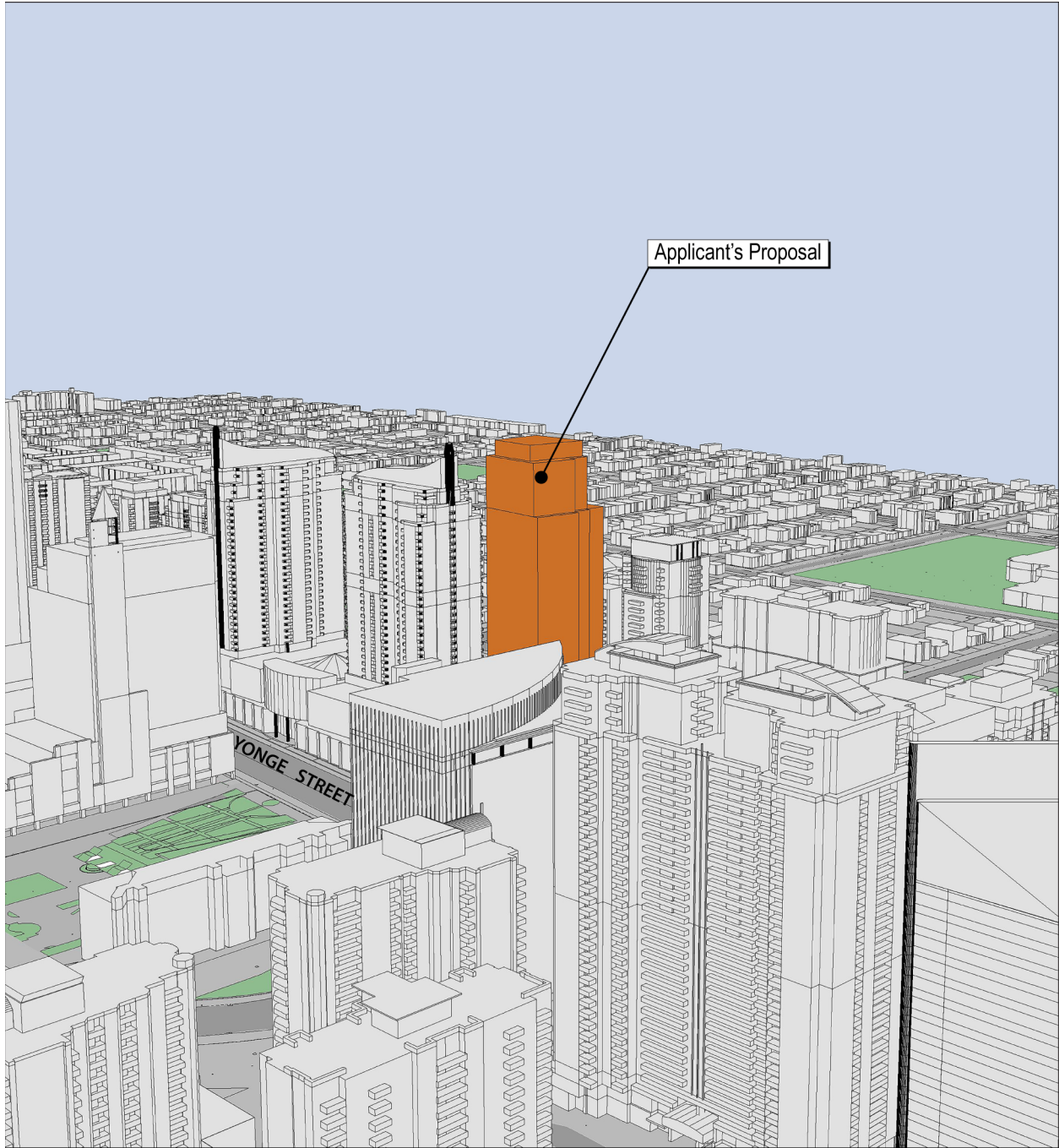
Parking and Loading

Parking Spaces: 210 Bicycle Parking Spaces: 285 Loading Docks: 2

CONTACT:

Stephen Gardiner, Senior Planner, Community Planning
(416) 392-5460
Stephen.Gardiner@toronto.ca

Attachment 3: 3D Model of Proposal in Context Looking Northeast

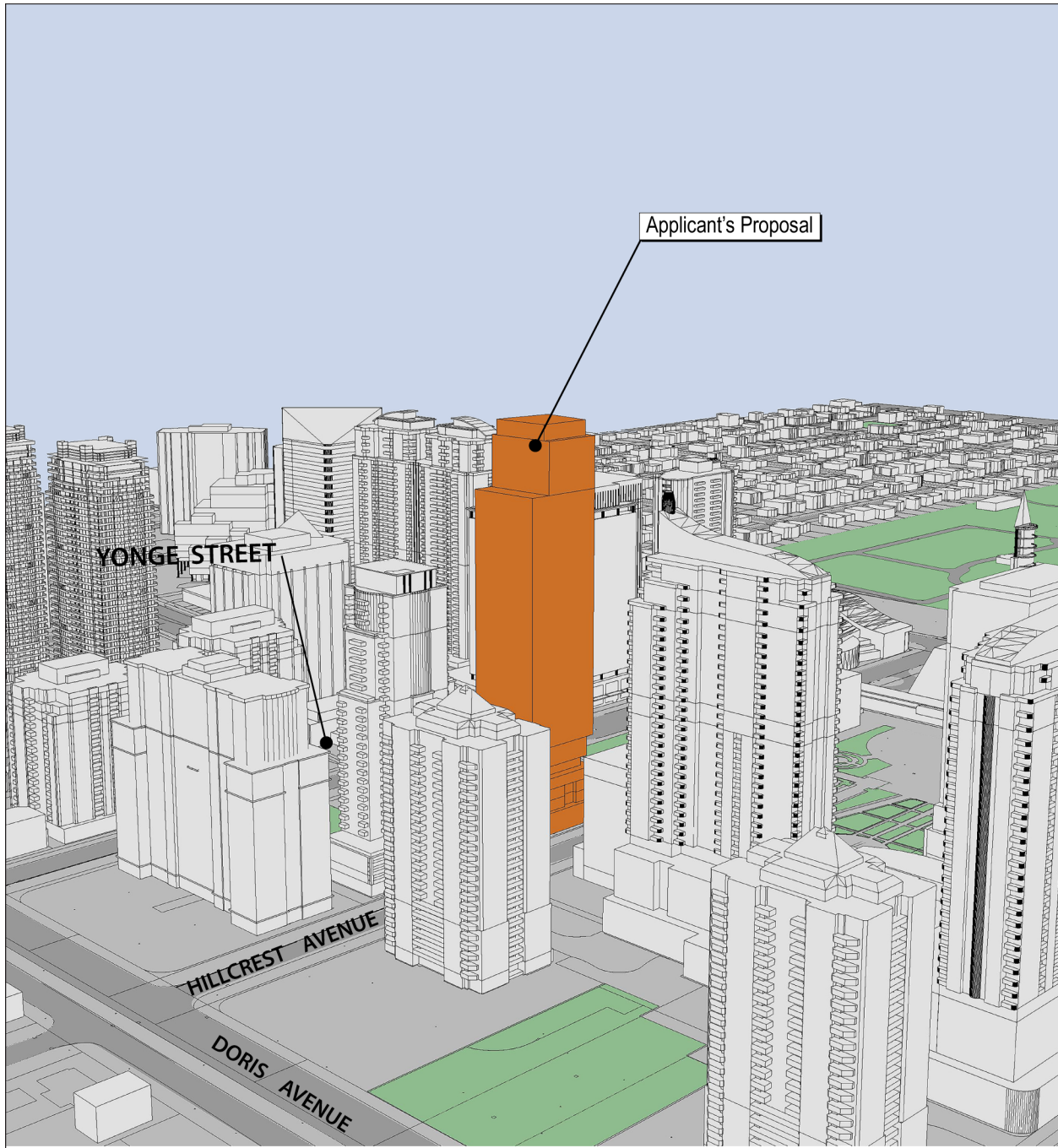


View of Applicant's Proposal Looking Northeast



04/13/2023

Attachment 4: 3D Model of Proposal in Context Looking Southwest

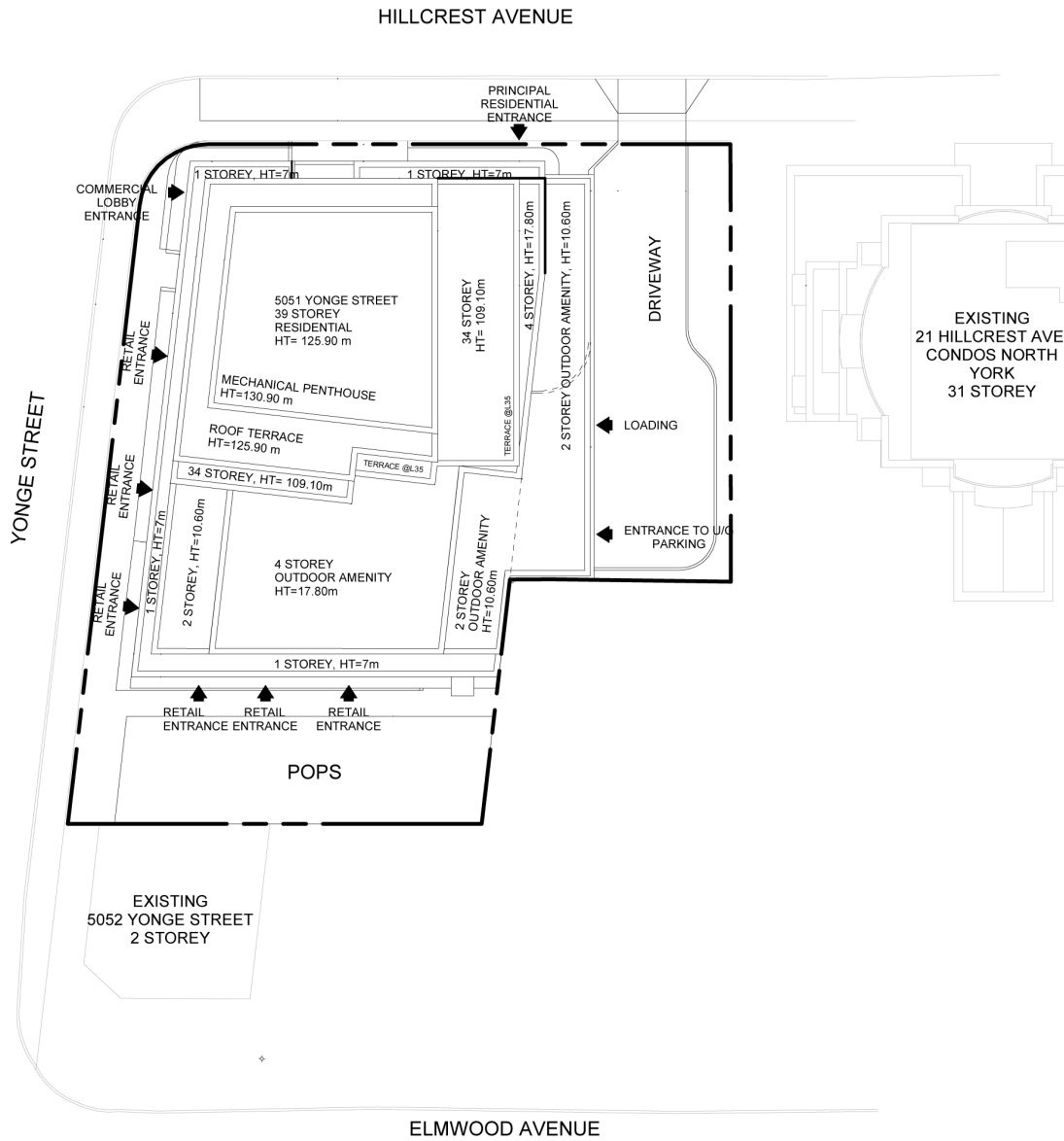


View of Applicant's Proposal Looking Southwest



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Attachment 5: Site Plan



Site Plan








Attachment 6: Official Plan Land Use Map



5051 - 5061 Yonge Street

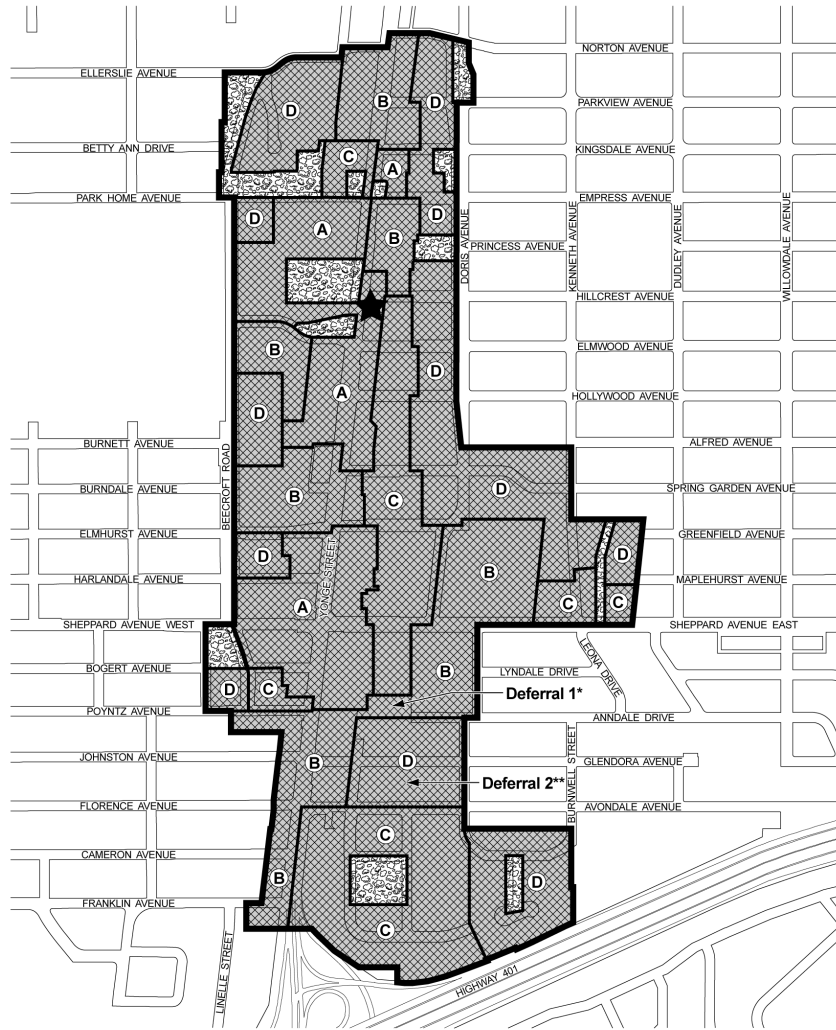
Official Plan Land Use Map #16

File # 20 229112 NNY 18 0Z

- | | |
|---|--|
|  Location of Application |  Parks & Open Space Areas |
|  Neighbourhoods |  Parks |
|  Mixed Use Areas |  Other Open Space Areas |

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Not to Scale
01/14/2021

Attachment 7: North York Centre Secondary Plan Land Use Map



North York Centre Secondary Plan

MAP 8-3 North York Centre South Land Use Areas

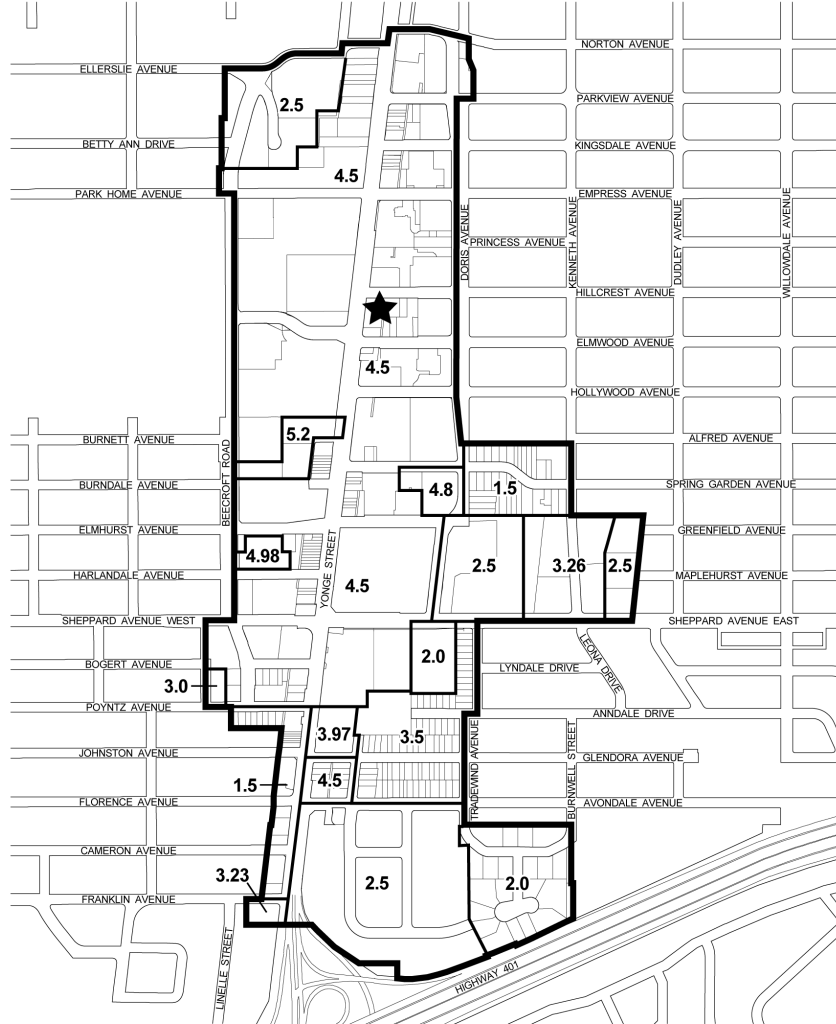
- ★ Subject Property
- Secondary Plan Boundary
- ▨ Mixed Use Areas
 - Area A - 0% Residential Use
 - Area B - Maximum 50% Residential Use
 - Area C - Maximum 100% Residential Use
 - Area D - Maximum 100% Residential Use
- ▨ Parks and Open Space Areas

*Deferral 1 No decision made by Ministry on lands identified as Deferral 1
 **Deferral 2 Lands identified as Deferral 2 have not yet received approval from the OMB



December 2010

Attachment 8: North York Centre Secondary Plan Density Map



North York Centre Secondary Plan

MAP 8-6 North York Centre South Density Limits

- ★ Secondary Plan Boundary
- Secondary Plan Boundary

Note: Density Limits are exclusive of density incentives and transfers



December 2010

Attachment 9: North York Centre Secondary Plan Height Map



North York Centre Secondary Plan

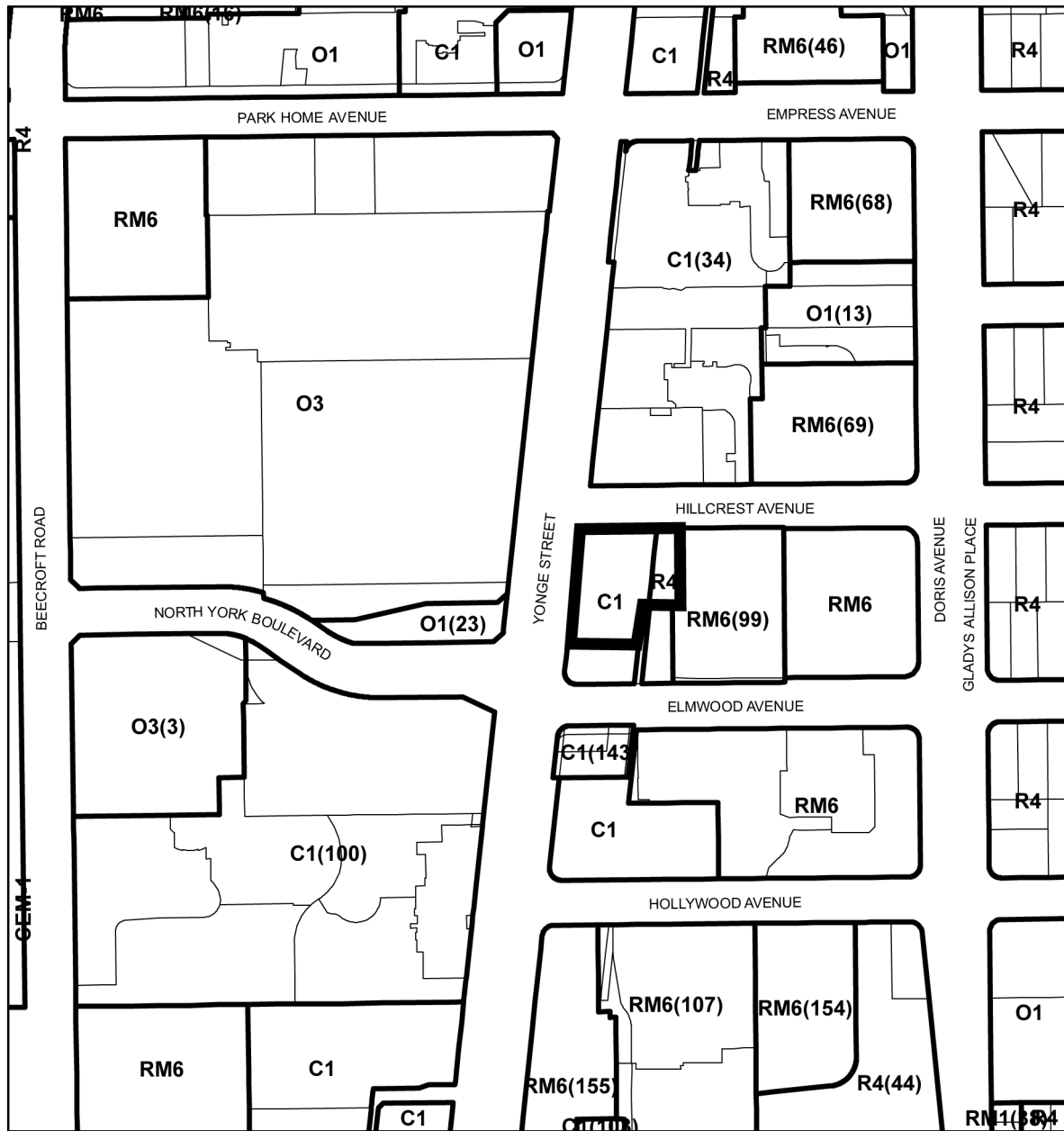
MAP 8-8c Maximum Height Limits

- Subject Site
- Secondary Plan Boundary
- The Lesser of 11m or 3 Storeys
- The Lesser of 18m or 6 Storeys
- The Lesser of 24m or 7 Storeys
- The Lesser of 35m or 12 Storeys
- Maximum 65m Above Grade
- Maximum 86m Above Grade
- Maximum 100m Above Grade
- Maximum 50% Horizontal Distance from RRPL
- Street Facade Limit as per Section 5.3 of this Secondary Plan
- Relevant Residential Property Line (RRPL)



December 2010

Attachment 10: Former North York Zoning By-law Map No. 7625



Zoning By-law 7625

5051 - 5061 Yonge Street

File # 20 229112 NNY 18 0Z

Location of Application

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
O1 Open Space Zone
O3 Semi-Public Open Space Zone
CEM-1 General Cemetery Zone

Not to Scale
 Extracted: 04/06/2023