

# **21 and 35-53 Broadview Avenue, 344 Eastern Avenue and 18-34 and 40 Lewis Street – Official Plan Amendment and Zoning By-law Amendment Applications – Appeal Report**

Date: August 24, 2023

To: Toronto and East York Community Council

From: Director, Community Planning, Toronto and East York District

Ward: 14 - Toronto-Danforth

**Planning Application Number:** 21 210146 STE 14 OZ

**Related Applications:** 22 172304 STE 14 SA and 21 210154 STE 14 RH

## **SUMMARY**

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On September 16, 2021, Official Plan Amendment and Zoning By-law Amendment applications were submitted seeking to permit a 12-storey mixed-use building with an interior block of 15 three-storey townhouse units. A Site Plan Control application was submitted on July 5, 2022. A Rental Housing Demolition application was also submitted to permit the demolition of existing rental dwelling units on the site.

On March 29, 2023, the Applicant appealed the Official Plan Amendment and Zoning By-law Amendment applications to the Ontario Land Tribunal ("OLT") because of City Council not making a decision on the application within the timeframe legislated by the Planning Act.

This report recommends that the City Solicitor and appropriate City staff attend the OLT hearing to oppose the applications in their current form and continue discussions with the applicant in an attempt to resolve outstanding issues.

## **RECOMMENDATIONS**

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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 applications regarding the Official Plan and Zoning By-law Amendment appeals for the lands at 21 & 35-53 Broadview Avenue, 344

Eastern Avenue and 18-34 & 40 Lewis 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 appeal 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 is to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;

b) the final form and content of the draft Zoning By-law Amendment is to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;

c) the required plans and studies, including a peer review of the Compatibility & Mitigation Study, Noise Study and Vibration Study, have been revised to the satisfaction of the Chief Planner and Executive Director, City Planning, the Chief Engineer and Executive Director, Engineering and Construction Services, the General Manager, Transportation Services, the General Manager, Solid Waste Management Services, Director, Urban Forestry, Tree Protection and Plan Review, and the General Manager, Parks, Forestry and Recreation with revisions, as may be necessary, implemented as part of the amending Zoning By-law(s), to the satisfaction of the Chief Planner and Executive Director, City Planning; and

d) City Council has approved Rental Housing Demolition application No. 21 210154 STE 14 RH under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006 to permit the demolition of the existing rental dwelling units on the lands and the Owner has entered into, and registered on title an agreement pursuant to Section 111 of the City of Toronto Act, 2006 to secure all rental-housing related matters necessary to implement City Council's decision, including replacement rental housing and an acceptable Tenant Relocation and Assistance Plan to address Official Plan Policies 3.2.1.6, as applicable.

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

## **FINANCIAL IMPACT**

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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

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Toronto and East York Community Council adopted a Preliminary Report on January 6, 2022 and is viewable [here](#).

The OLT has scheduled a Case Management Conference for the appeal on September 15, 2023.

## SITE AND SURROUNDING AREA

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**Description:** The site lies along the east side of Broadview Avenue, north of Eastern Avenue and includes an assumed severed portion of the rear yards of 18-22, 24-34 & 40 Lewis Street. The site has frontages of 76 metres along Broadview Avenue and approximately 81 metres along Eastern Avenue. There are six City-owned trees within the public boulevard.

**Existing Uses:** The site contains a variety of uses, including a one-storey car dealership at 21 Broadview Avenue; a car mechanic in a two-storey building at 344 Eastern Avenue; one- to two-storey rowhouses at 35-53 Broadview Avenue; and single-detached, semi-detached and rowhouse dwellings at 18-34 & 40 Lewis Street.

## THE APPLICATION

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### Description of Application

**Height:** A 12-storey (39.76 metres including mechanical penthouse) mixed-use building along Broadview Avenue and Eastern Avenue, with 3-storey (9.27 metres) townhouses internal to the block.

**Density:** 6.36 times the area of the lot.

**Dwelling Units, Affordable Housing and Amenity Space:** The proposal includes 28,583 square metres of residential gross floor area (GFA). A total of 340 condo dwelling units are proposed, comprised of 110 one-bedroom units (32%), 197 (58%) two-bedroom units and 33 (10%) three-bedroom units. No on-site affordable housing is currently proposed. 575 square metres of indoor (1.7 square metres per unit) and 470 square metres of outdoor amenity space (1.4 square metres per unit) are proposed.

**Access, Parking and Loading:** Pedestrian access to the 12 storey building is proposed from Broadview, with mid-block pedestrian accesses also proposed to serve the townhouse units facing the proposed internal courtyard. Vehicular access to the site is proposed via a private driveway from Broadview Avenue, just north of 12-storey

building, to the interior of the site. A total of 97 vehicular parking spaces (78 resident and 19 visitor/non-residential) are proposed in an underground level of parking. One Type “G” loading space is provided adjacent to the underground parking access.

**Bicycle Parking:** A total of 352 bicycle parking spaces are proposed (318 long term and 34 short term). The short-term spaces are located on the ground floor and the long term spaces are located in the underground parking level.

### **Additional Information**

See Attachments 1 through 7 of this report for a location map, Application Data Sheet, three dimensional representations of the project in context, and a site plan, ground floor plan and elevations. Detailed project information including all plans and reports submitted as part of the application can be found on the City's Application Information Centre at:

<http://app.toronto.ca/AIC/index.do?folderRsn=u4qF%2BPKWpgdH9r8tPgLnIw%3D%3D>.

### **Reasons for Application**

An Official Plan Amendment was submitted to redesignate the lands at 35-53 Broadview Avenue from Neighbourhoods to Mixed Use Areas. The existing land-use designations for the rest of the site permit the types of development proposed.

The Zoning By-law Amendment was submitted seeking permission to increase the permitted height and density, and to establish other provisions to accommodate the proposed development. A future consent application is proposed to sever the rear yards of 18-34, 40 Lewis Street to permit the townhouse block.

The applicant has also submitted a Rental Housing Demolition application under Chapter 667 of the Toronto Municipal Code for the demolition of existing rental units, as the subject lands contain six or more residential units, of which at least one is rental.

### **Site Plan Control**

The application is subject to Site Plan Control and a Site Plan Control application was submitted on July 5, 2022. The Site Plan Control application under review is not subject to the appeal.

## **POLICY CONSIDERATIONS**

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### **Provincial Land-Use Policies**

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (PPS) and shall conform to Provincial plans.

## **Official Plan Designation**

21 Broadview Avenue is designated Mixed Use Areas, 35-53 Broadview Avenue and 18-34 & 40 Lewis Street are designated as Neighbourhoods, and 344 Eastern Avenue is designated as General Employment Areas.

The application is also located on lands within the Lower Don: Don River Special Policy Area. This Special Policy Area permits development within the area, on condition that the development is flood protected to at least the 1:350 year flood level. Until removal of the site from the floodplain, development requires approval from both the Ministry of Municipal Affairs and Housing and the Ministry of Northern Development, Natural Resources and Forestry, along with permits from the Toronto & Region Conservation Authority (TRCA).

## **Zoning**

The former City of Toronto Zoning by-law 438-86 zones 21 Broadview Avenue and 344 Eastern Avenue as Industrial District 2 (I2 D3), permitting a maximum height of 18 metres, density of 3 times the area of the lot and a range of non-residential uses. 35-53 Broadview Avenue and 18-34, 40 Lewis Street are zoned Residential 3 (R3 Z1.0), permitting a maximum height of 12 metres, density of 1 times the area of the lot, and a variety of residential uses and building types.

The consolidated City of Toronto Zoning By-law 569-2013 zones 344 Eastern Avenue as E 3.0 (x297) and permits employment uses with a similar maximum height of 18 metres and maximum density of 3 times the area of the lot. 35-53 Broadview Avenue and 18-34, 40 Lewis Street are zoned R(d1.0)(x7). The maximum permitted height is 12 metres, maximum density 1 times the area of the lot, and residential uses are permitted in a variety of building types. 21 Broadview Avenue is not included in Zoning By-law 569-2013.

## **Design Guidelines**

The following design guidelines have been used in the evaluation of this application:

- Mid-rise Building Performance Standards;
- Growing Up Guidelines: Planning for Children in New Vertical Communities;
- Pet Friendly Design Guidelines;
- Best Practices for Bird-Friendly Glass;
- City's Complete Streets and Pedestrian Priority Guidelines;
- Best Practices for Effective Lighting; and
- Toronto Accessibility Design Guidelines.

The City's Design Guidelines can be found here:

<https://www.toronto.ca/citygovernment/planning-development/officialplanguidelines/design-guidelines/>

## Toronto Green Standard

The TGS is a set of performance measures for green development. Applications for Zoning By-law Amendments, Draft Plans of Subdivision and Site Plan Control are required to meet and demonstrate compliance with Tier 1 of the Toronto Green Standard. The TGS can be found here: <https://www.toronto.ca/citygovernment/planning-development/official-plan-guidelines/toronto-green-standard/>

## COMMUNITY CONSULTATION

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A Community Consultation Meeting was held on April 19, 2022. City Planning staff, the Ward Councillor, and 83 people attended. Following presentations by City staff and the applicant, the following comments and issues were raised by participants:

- Organization of building massing, height and density on the site;
- Ensuring appropriate transitions to Neighbourhoods;
- Mitigating impacts of privacy and overlook;
- Development without public frontage;
- Opportunities for improved streetscaping;
- Opportunities for tree preservation and replacement
- Present conditions of the homes at 35-53 Broadview Avenue; and
- Opportunities for affordable housing on-site

## COMMENTS

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### 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 have reviewed the current proposal for consistency with the Provincial Policy Statement and conformity with the Growth Plan. Staff find that while the proposed intensification and land uses are generally consistent with the PPS and conform with the Growth Plan, the proposal is not consistent with PPS policies concerning appropriate development standards and does not conform to Growth Plan policies relating to complete communities, built form and the implementation of appropriate development standards through the Official Plan and other supporting 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.

### Built Form

City Planning staff are of the opinion that the proposed height, massing and transition to Neighbourhoods conflict with certain applicable Official Plan policies. The proposed development should be contextually appropriate and fit within the planned and built context.

The proposed 12-storey building does not transition appropriately to lower-scale Neighbourhoods lands. It also casts significant shadows on the adjacent residential neighbourhoods and Saulter Street Parkette, as well as the proposed townhouse block.

The 12-storey building also does not create a building scale and street frontage that is contextually appropriate within the built context. Taller buildings should provide stepbacks at the upper floors at 80% of the road right-of-way width, as directed by the Mid-Rise Building Performance Standards.

Additionally, development criteria for Neighbourhoods requires infill developments, such as the proposed townhouse block, to front onto existing or newly created public streets. The proposed townhouse block is located within the interior and does not abut any public street.

### **Parkland**

In accordance with Chapter 415, Article III of the Toronto Municipal Code, Parks, Forestry and Recreation staff have determined that the applicant will be required to satisfy the parkland dedication requirement through cash-in-lieu payment.

The Official Plan Amendment and Zoning By-law Amendment applications propose a public park, at 344 Eastern Avenue, to be dedicated to the City. The subsequently submitted Site Plan Control application removed 344 Eastern Avenue from the site and therefore the proposed public park from the proposal. It is anticipated that the applicant will formally request the OLT to remove 344 Eastern Avenue from the site. The public park, therefore, is anticipated to be removed from the proposal.

### **Streetscape**

In accordance with the Broadview Avenue Extension Environmental Assessment, the future design of Broadview Avenue, between Queen Street East and Eastern Avenue, plans for a 23-metre right-of-way width. A road dedication of three metres along the entirety of the western side of the site, along Broadview Avenue, is required. Appropriate connections to area cycling networks will also be pursued.

Additionally, an unencumbered minimum 4.8-metre wide sidewalk zone (from curb to building face) along Broadview Avenue and Eastern Avenue is required to provide a safe and comfortable public realm that will also ensure appropriate landscaping can be grown. Staff will explore with the applicant and City Divisions opportunities to improve the corner of Broadview and Eastern for pedestrians and cyclists, with options to include a corner plaza and sidewalk bump-out at the corner. Currently, a 4.5-metre wide sidewalk zone is provided along Broadview Avenue. The sidewalk zone is not annotated for Eastern Avenue.

## **Tree Preservation**

The proposal is subject to the provisions of the City of Toronto Municipal Code. The Arborist Report submitted in support of the application indicates there are six City-owned trees, with three proposed to be removed.

Urban Forestry staff have reviewed the Arborist Report and Landscape Plan and Details, and require revisions and additional information such as: options to preserve the three trees proposed for removal; detailed landscape plans; notations for the soil depths; and submission of a composite public utility plan.

## **Land Use**

The proposal contains a mix of residential and commercial uses. The 12-storey building is a mixed-use residential building with a total of 794 square metres of commercial (non-residential) uses on the ground floor along Broadview Avenue. As 35-53 Broadview Avenue are on lands designated as Neighbourhoods, an Official Plan Amendment application is required in order to permit the proposed mixed-use building and larger-scale non-residential uses. The townhouse block to the rear is solely comprised of residential uses, which are permitted uses in this location.

A Compatibility & Mitigation Study was submitted due to the proposed residential uses being adjacent and near to Employment Areas. A peer review of this study and noise and vibration studies is required at the cost of the applicant to determine if the proposed development is appropriately designed and buffered from Employment Areas. The peer review has not started due to non-payment of peer-review fees.

## **Affordable Housing**

Affordable Housing is a significant priority for the City and City Planning staff advocate for the inclusion of affordable housing units on any project where it is possible. The applicant will be subject to a Community Benefit Charge (CBC) requirement at the time of Building Permit. The CBC can be satisfied by a cash payment or the City may allow for affordable housing to be provided as a CBC in-kind contribution, provided both the applicant and City agree to the proposal. At this time, the applicant has not indicated that affordable housing will be offered as a CBC contribution, however staff have requested that the applicant consider this and will continue to pursue this possibility.

## **Rental Housing**

Official Plan Policy 3.2.1.6 requires new development that would result in the loss of six or more rental dwelling units to replace at least the same number, size, and type of rental units at similar rents to those in effect at the time of application. The policy also requires the applicant to provide an acceptable tenant relocation and assistance plan, addressing the right of existing tenants to return to the replacement units at similar rents and other assistance to mitigate hardship.



Based on information identified through a staff site visit, the site contains six or more existing rental dwelling units. The Rental Housing Demolition application has not proposed to replace the existing rental dwelling units that would be demolished. Accordingly, the applications, in their current form, do not satisfy the requirements of Policy 3.2.1.6 of the Official Plan. City Planning staff have requested the applicant submit a Housing Issues Report addendum outlining a revised rental replacement strategy that satisfies the requirements of Policy 3.2.1.6 or provide further documentation to confirm less than six existing rental dwelling units are proposed to be demolished.

Should the OLT allow the appeals in whole or in part, City staff recommend that the City Solicitor request the Tribunal to withhold its final Order until it has been advised that City Council has approved the Rental Housing Demolition application under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006.

### **Dwelling Unit Mix**

The proposal includes 28,583.2 square metres of residential gross floor area (GFA). A total of 340 dwelling units are proposed, comprising of 110 one-bedroom units (32%), 197 (58%) are two-bedroom units and 33 (10%) are three-bedroom units.

The unit mix meets the policy direction of the Official Plan to provide a full range of housing. It also meets the unit mix objectives of the Growing Up Guidelines to provide a minimum of 15% two-bedroom and 10% three-bedroom units within new developments.

### **Amenity Space**

Zoning By-law 569-2013 requires 4 square metres of amenity space per unit, of which a minimum of 2 square metres shall be indoor amenity space. The proposed amount of amenity space is deficient, with 575.4 square metres of indoor (1.7 square meters per unit) and 470.6 square metres of outdoor amenity space (1.4 square meters per unit) proposed. The amount of indoor and outdoor amenity spaces should, at minimum, be compliant with the Zoning By-law.

### **Transportation**

Transportation Services staff has reviewed the Transportation Impact Study submitted in support of the application. Transportation Services generally accept the findings of the Transportation Impact Study.

Transportation Services staff have requested revisions to the proposed streetscape configuration along Eastern Avenue to provide a furnishing/planting zone between the pedestrian clearway and curb.

## **Servicing**

A Functional Servicing and Stormwater Management Report and associated plans have been submitted for the subject site and have been reviewed by Engineering and Construction Services. A number of revisions and additional information are required.

## **Solid Waste**

Solid Waste Solid Waste Management Services have reviewed the application and require further details and revisions be made to the servicing and architectural plans to annotate. A number of revisions and additional information are required for multi-residential and non-residential collection.

## **Toronto Green Standard**

All applications are required to meet Tier 1 of the Toronto Green Standard, Version 4. City staff encourage the applicant to meet a higher tier to support the City's objectives for resilience and achieving net-zero emissions by 2040 or sooner.

## **Community Infrastructure**

The Official Plan establishes and recognizes that the provision of and investment in community services and facilities supports healthy, safe, liveable, and accessible communities. Community services and facilities are the building blocks of our neighbourhoods and include matters such as recreation, libraries, childcare, schools, public health, and human and cultural services. Providing a full range of community services and facilities in areas that are inadequately serviced or experiencing growth is a shared responsibility.

## **Further Issues**

City 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 Official Plan Amendment and Zoning By-law Amendment applications, in their current form, are not supportable by City Planning staff. The applications have 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, staff are of the opinion that the applications are not consistent with certain Provincial and Official Plan policies, in particular respecting the proposal's inappropriate Broadview Avenue massing and mid-block townhouse condition.

Staff recommend that City Council direct the City Solicitor, together with the appropriate City staff, to attend the OLT in opposition to the appeals. Staff also recommend City Council authorize the City Solicitor and appropriate staff to continue discussions with the applicant to address the issues outlined in this report.

## **CONTACT**

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E-mail: Raymond.Tung@toronto.ca

## **SIGNATURE**

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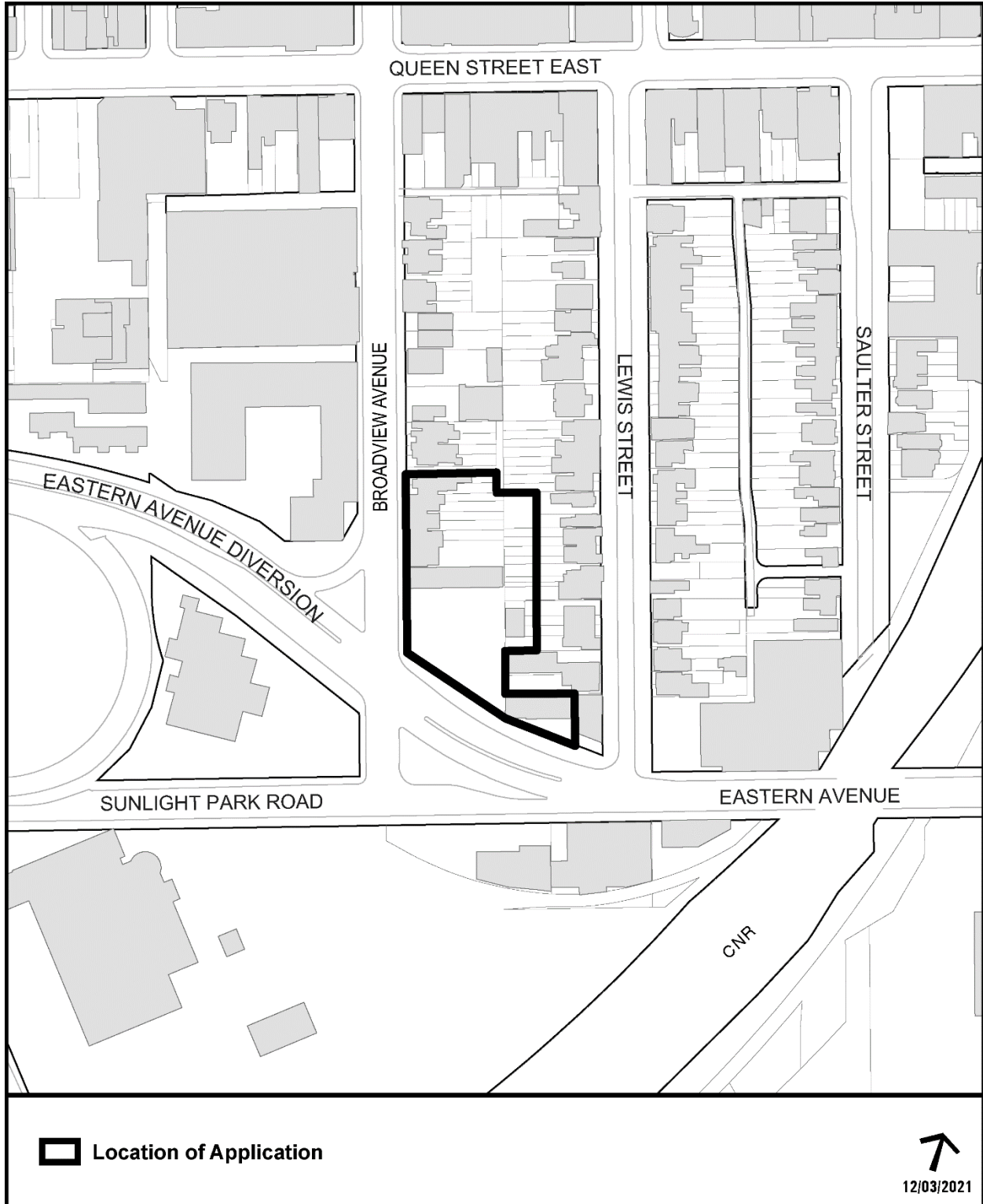
Willie Macrae, BA, MES, MCIP, RPP  
Acting Director, Community Planning  
Toronto and East York District

## **ATTACHMENTS**

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Attachment 1: Location Map  
Attachment 2: Application Data Sheet  
Attachment 3: 3D Model of Proposal in Context Looking Southeast  
Attachment 4: 3D Model of Proposal in Context Looking Northwest  
Attachment 5: Site Plan  
Attachment 6: Ground Floor Plan  
Attachment 7: West Elevation  
Attachment 8: Southwest Elevation  
Attachment 9: Official Plan Land Use Map  
Attachment 10: Existing Zoning By-law Map

Attachment 1: Location Map



Attachment 2: Application Data Sheet

Municipal Address: 21 BROADVIEW AVE Date Received: September 9, 2021

Application Number: 21 210146 STE 14 OZ

Application Type: OPA / Rezoning, OPA & Rezoning

Project Description: Official Plan and Zoning By-law amendment to facilitate the development of the site for a 12-storey mixed-use building having a non-residential gross floor area of 794 square metres, and a residential gross floor area of 28,638 square metres. A total of 340 residential dwelling units are proposed.

Applicant	Agent	Architect	Owner
BOUSFIELDS INC		Kasian and CEBRA Architecture	LEWIS STREET INC

EXISTING PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:	N
Zoning:	E3.0; R(d1.0)	Heritage Designation:	N
Height Limit (m):	18, 12	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq m): 4615.6                      Frontage (m): 76                      Depth (m): 81

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			1,791	1,791
Residential GFA (sq m):			28,583	28,583
Non-Residential GFA (sq m):			794	794
Total GFA (sq m):			29,377	29,377
Height - Storeys:	3		12	12
Height - Metres:			39	39

Lot Coverage Ratio (%) : 59.28                      Floor Space Index: 6.36

Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	28,583	

Retail GFA: 794  
 Office GFA:  
 Industrial GFA:  
 Institutional/Other GFA:

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:	4			
Freehold:	9			
Condominium:			340	340
Other:				
<b>Total Units:</b>	<b>13</b>		<b>340</b>	<b>340</b>

**Total Residential Units by Size**

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:			110	197	33
<b>Total Units:</b>			<b>110</b>	<b>197</b>	<b>33</b>

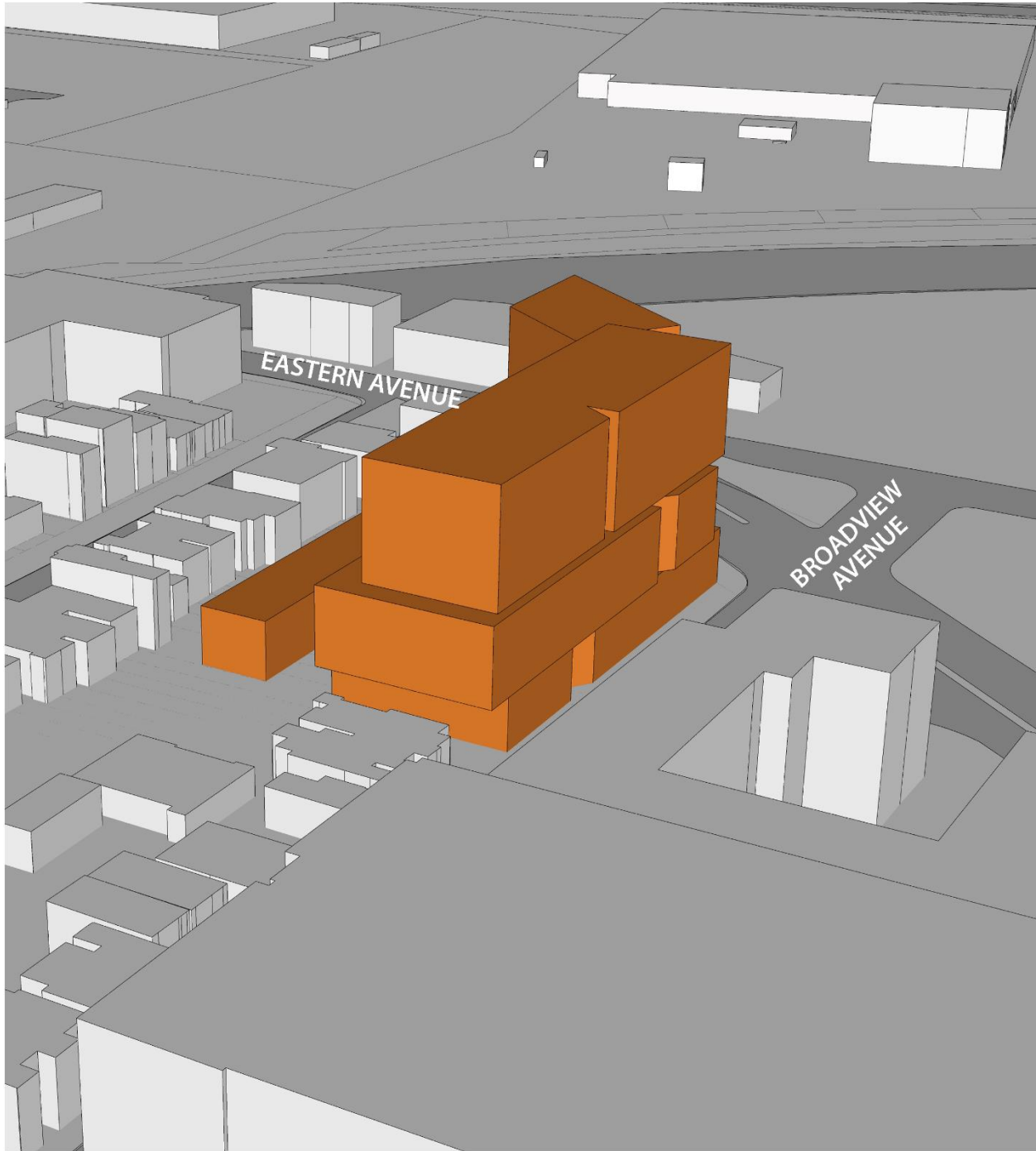
**Parking and Loading**

Parking Spaces: 97      Bicycle Parking Spaces: 352      Loading Docks: 1

**CONTACT:**

Raymond Tung, Planner, Community Planning  
 416-392-3812  
 Raymond.Tung@toronto.ca

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



**View of Applicant's Proposal Looking Southeast**



11/29/2021

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



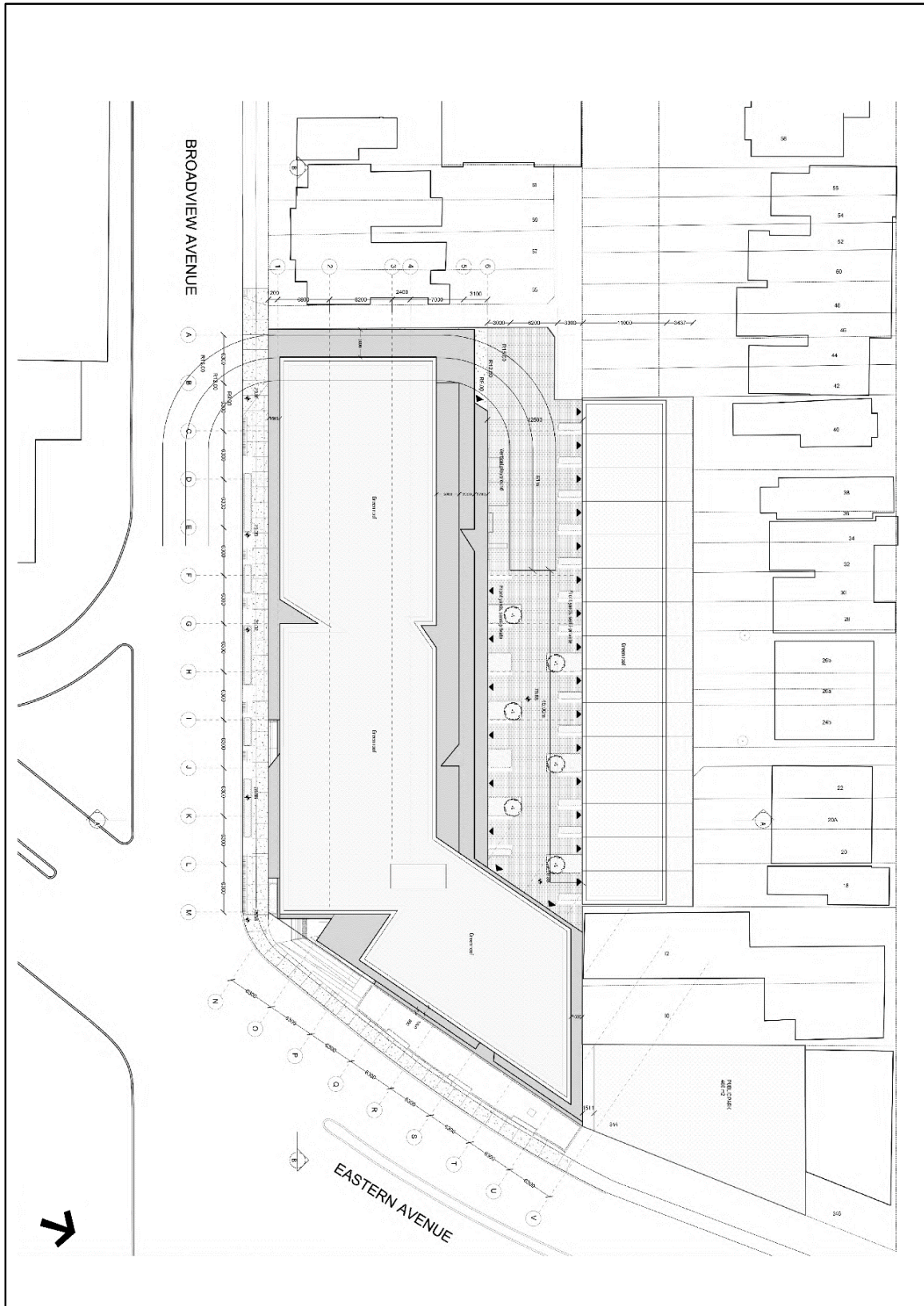
**View of Applicant's Proposal Looking Northwest**



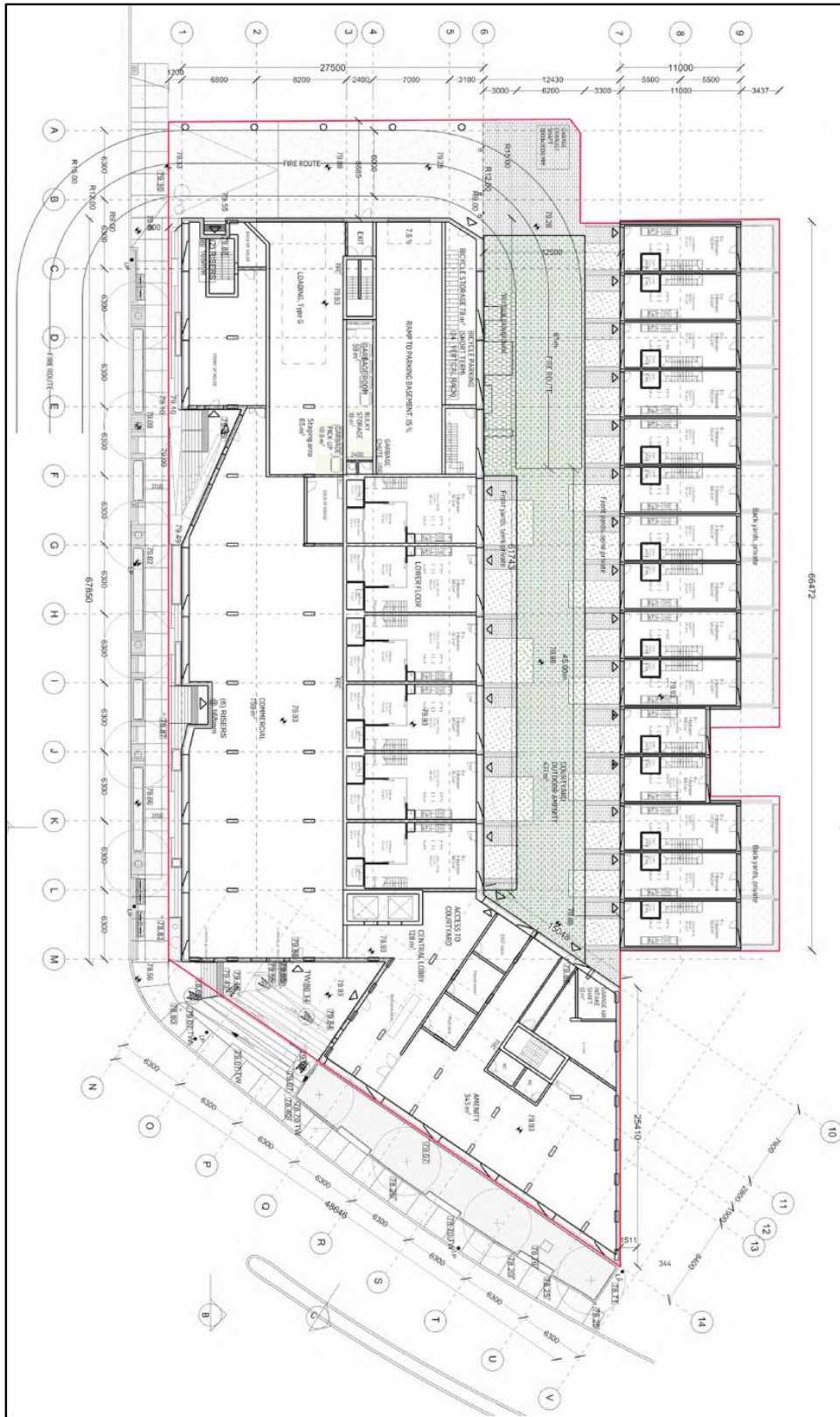
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Attachment 5: Site Plan



# Attachment 6: Ground Floor Plan

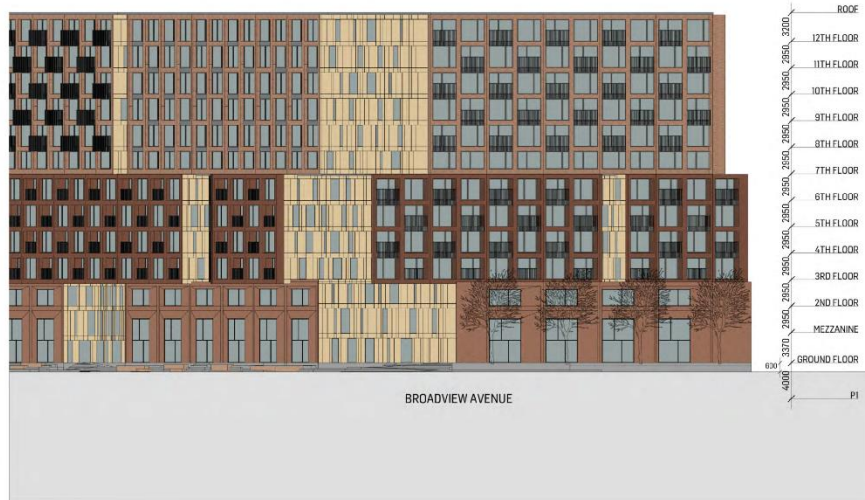


# Attachment 7: West Elevation



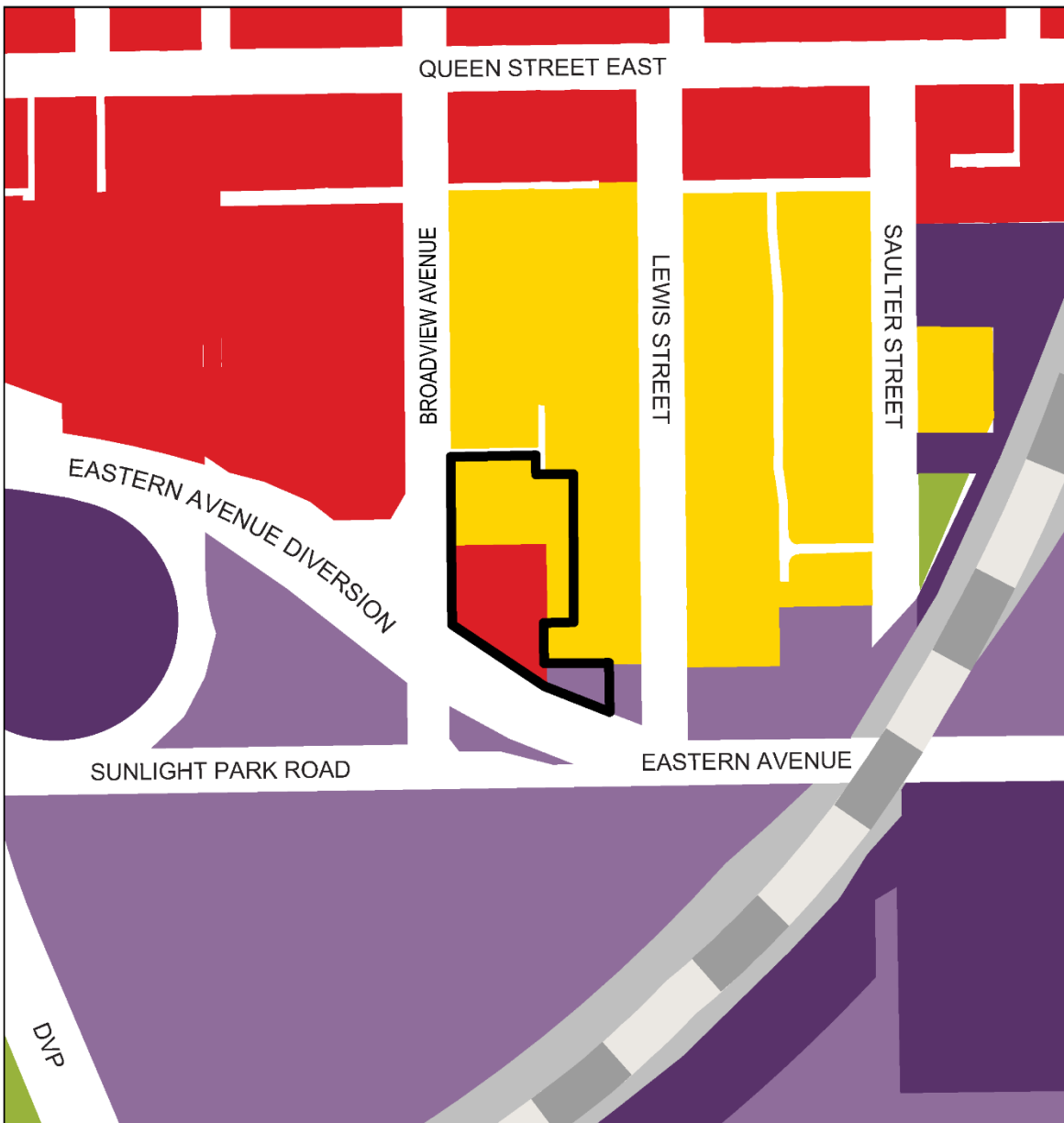
West Elevation

Attachment 8: Southwest Elevation



South-West Elevation

Attachment 9: Official Plan Land Use Map



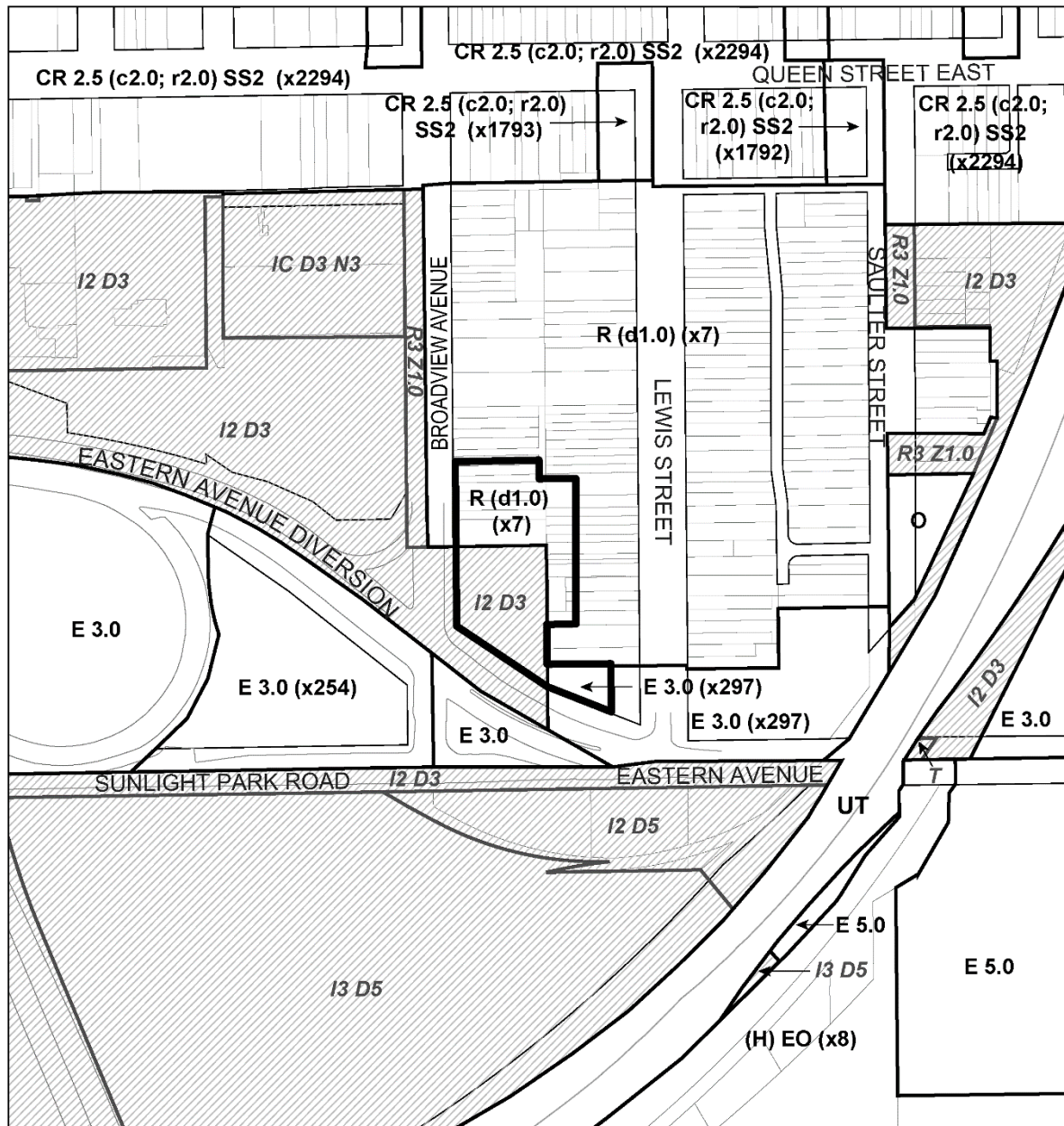
Official Plan Land Use Map #18

21, 35-53 Broadview Ave, 344 Eastern Ave,  
18-34 & 40 Lewis Street  
File # 21 210146 STE 14 0Z



↑  
Not to Scale  
Extracted: 11/26/2021

Attachment 10: Existing Zoning By-law Map




Zoning By-law 569-2013

21, 35-53 Broadview Ave, 344 Eastern Ave,  
18-34 & 40 Lewis Street  
File # 21 210146 STE 14 0Z

-  Location of Application
- R** Residential
- CR** Commercial Residential
- E** Employment Industrial
- EO** Employment Industrial Office
- O** Open Space
- UT** Utility and Transportation

-  See Former City of Toronto By-law No. 438-86
- R3** Residential District
- I2, I3, IC** Industrial District

  
Not to Scale  
Extracted: 11/29/2021