

1196-1210 Yonge Street and 2-8 Birch Avenue – Zoning By-law Amendment, Site Plan Control, and Rental Housing Applications – Appeal Report

Date: August 30, 2023

To: Toronto and East York Community Council

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

Ward: 12 - Toronto-St. Paul's

Planning Application Numbers: 21 239174 STE 12 OZ, 22 137869 STE 12 SA

Related Applications: 21 239179 STE 12 CD, 21 239181 STE 12 RH

SUMMARY

On November 18, 2021, Zoning By-law Amendment and Rental Housing Demolition Applications were submitted to demolish 8 rental dwelling units and allow for the construction of a 15-storey (55-metre excluding mechanical penthouse) mixed-use building containing 67 dwelling units (including 8 rental replacement units) and 201 square metres of grade-related retail space. A Site Plan Control application was also submitted on April 25, 2022.

On February 23, 2023, the applicant appealed the Zoning By-law Amendment application and referred the Site Plan Control application to the Ontario Land Tribunal (OLT) due to Council not making a decision within the time frame in the Planning Act (OLT case numbers OLT-23-000155 and OLT-23-000156).

The related Rental Housing Demolition Application is not appealable to the OLT and is still being reviewed by City Staff. 8 replacement rental units are proposed, and Staff will continue to work with the applicant on ensuring a tenant relocation plan is secured.

The report recommends that the City Solicitor with the appropriate City staff attend the OLT hearing to oppose the applications in their 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 applications regarding the Zoning By-law Amendment and Site Plan Control appeals for the lands at 1196-1210 Yonge Street and 2-8 Birch Avenue, 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 Zoning By-law is to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;

b) the applicant has provided confirmation of water, sanitary and stormwater capacity to the satisfaction of the Chief Engineer and executive Director, Engineering and Construction Services, or the Chief Engineer and Executive Director, Engineering and Construction Services has determined that holding provisions are required in the Zoning By-law amendment;

c) the applicant has addressed all outstanding issues raised by Urban Forestry, Tree Protection and Plan Review as they relate to the Zoning by-law Amendment application, to the satisfaction of the Supervisor, Tree Protection and Plan Review; and

d) the owner has submitted a Revised Heritage Impact Assessment that includes a conservation strategy for the on-site significant heritage resource, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;

e) the owner has entered into a Heritage Easement Agreement with the City for the properties at 1196-1204 and 1206-1210 Yonge Street, substantially in accordance with the Revised Heritage Impact Assessment required in Recommendation 2.d., subject to and in accordance with the approved Conservation Plan required in Recommendation 2.f., all to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning, including execution and registration of such agreement to the satisfaction of the City Solicitor;

f) the owner provides a detailed Conservation Plan, prepared by a qualified heritage consultant, that is substantially in accordance with the conservation strategy set out in the Revised Heritage Impact Assessment required by Recommendation 2.d. above, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;

g) the owner has submitted an application and gained approval in writing under S.33 of the Ontario Heritage Act for the proposed alterations to the heritage properties at 1196-1204 and 1206-1210 Yonge Street.

h) City Council has dealt with the Rental Housing Demolition Application No. 21 239181 STE 12 RH under Chapter 667 of the Toronto Municipal Code to demolish 8 existing residential rental dwelling units at 1196-1210 Yonge Street and 2-8 Birch Avenue.

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

On April 21, 2022, a Preliminary Report was adopted by Toronto and East York Community Council endorsing the arrangements made between City Planning staff and the applicant to give notice of the February 1, 2022, Community Consultation Meeting. The decision of the Toronto and East York Community Council can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2022.TE32.34>

On August 25, 2022, the applicant filed two Heritage Permit Applications to demolish 1196-1204 Yonge Street and 1206-1210 Yonge Street. City Council issued a decision refusing the demolition permits on November 23, 2022. The applicant has appealed this decision to the OLT (OLT case numbers OLT-23-000025 and OLT-23-000026).

On September 28, 2022, City Council affirmed its intention to designate the properties at 1196-1204 and 1206-1210 Yonge Street under Part IV, Section 29 of the Ontario Heritage Act. That recommendation can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2022.CC47.39>

On November 7, 2022, the applicant appealed Council adopted By-laws 1241-2022 and 1242-2022 to designate 1196-1204 Yonge Street and 1206-1210 Yonge Street pursuant to Part IV, subsection 29 of the Ontario Heritage Act (OLT case numbers OLT-22-004779 and OLT-22-004780).

THE SITE

Description: The site is located on the northwest corner of Yonge Street and Birch Avenue. The site is generally rectangular with an area of 1,062 square metres with a 35 metre frontage on Yonge Street and a 32 metre frontage on Birch Avenue. The site topography is generally flat with a slope downward from north to south encompassing a total elevation change of approximately 2 metres.

Existing Uses: A four-storey mixed-use building and is occupied by commercial uses at grade and 8 residential rental dwelling units on the upper levels.

Heritage: By-laws 1241-2022 and 1242-2022 adopted by City Council in September 2022 to designate the properties at 1196-1204 and 1206-1210 Yonge Street under Part IV of the Ontario Heritage Act have been appealed by the applicant.

THE APPLICATION

Description: A 15-storey mixed-use building including 200 square metres of grade-related retail space.

Density: 9.81 times the area of the lot.

Dwelling Units and Amenity Space: A total of 67 residential dwelling units, including 8 rental replacement, of which there are 3 bachelor (5%), 13 one-bedroom (19%), 41 two-bedroom (61%), and 10 three-bedroom (15%) units. A total of 276 square metres of indoor amenity space (4 square metres per unit) and 135 square metres of outdoor amenity space (2 square metres per unit) is proposed.

Rental Housing Demolition and Conversion By-law: On November 18, 2021, a Rental Housing Demolition application was submitted to demolish 8 rental dwelling units on the site, 6 of which were occupied at the date of this application. The application proposes to replace all 8 existing rental units. Staff will continue to work with the applicant on securing rental replacement and ensuring a tenant relocation and assistance plan is provided.

Access, Parking and Loading: Vehicle and loading access would be provided from Birch Avenue on the south side of the site. A total of 105 vehicular parking spaces (95 residential, 7 visitor, and 3 retail), 72 bicycle parking spaces (68 long-term and 4 short-term), and 1 Type G loading space in a 3-storey underground parking garage.

Additional Information

See Attachments 2, 3, and 7 of this report for a three-dimensional representation of the project in context, a site plan of the proposal, and the Application Data Sheet, respectively. Detail project information including all plans and reports submitted as part of the application can be found on the City's Application Information Centre at:

www.toronto.ca/1196YongeSt

Reasons for the Application

The Zoning By-law Amendment application seeks to amend Zoning By-law 569-2013 to vary performance standards, including: maximum building height, minimum setbacks, maximum gross floor area, and parking rates and dimensions.

The Rental Housing Demolition application under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006 has been submitted to demolish the 8 existing rental housing units on the lands. This proposal requires Council approval under both Chapters 363 and 667 of the Toronto Municipal Code because it involves the demolition of at least 6 dwelling units and at least 1 rental unit.

Site Plan Control

The Site Plan Control application was submitted on April 25, 2022.

POLICY CONSIDERATIONS

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

The site is designated Mixed Use Areas in the Official Plan.

Yonge-St. Clair Secondary Plan

The site is designated Mixed Use Areas C in the Yonge-St. Clair Secondary Plan.

Zoning

The site is zoned Commercial Residential (CR 3.0 (c2.0; r2.5) SS2 (x2524) under Zoning By-law 569-2013 with a maximum height limit of 16 metres. See Attachment 6 of this report for the Zoning Map.

Design Guidelines

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

- Tall Building Design Guidelines
- Growing Up Guidelines Planning for Children in New Vertical Communities
- Pet Friendly 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

A virtual Community Consultation Meeting was held on February 22, 2022 and approximately 51 people attended. At the meeting, City staff and the applicant's team gave presentations on the site and surrounding area, the existing planning framework, and the proposed development. Following the presentations, City staff led a question and answer format meeting. Comments and questions provided by the meeting attendees included:

- Concern over the height and massing of the proposed building, including building form, setbacks, and step backs;
- Proximity and facing conditions of the proposed building to adjacent properties;
- Desire for affordable housing within the proposal;
- Appropriate conservation of heritage properties;
- Relationship of the proposal and impact on views of the Summerhill Station clock tower;
- Adequate vehicular pick up and drop off as well as vehicular and bicycle parking;
- Traffic impacts on Birch Avenue, Yonge Street and other nearby streets;
- Concern over the carbon impact of the proposed development;
- Appropriate mitigation of construction impacts from the proposed building on the surrounding neighbourhood.

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 have reviewed the current proposal for consistency with the Provincial Policy Statement and conformity with the Growth Plan. Staff find the proposal to be consistent with the PPS and in conformity with the Growth Plan.

Built Form

The proposal does not conform to the Official Plan or the Yonge-St. Clair Secondary Plan, and is not in keeping with the Tall Building Guidelines. The proposed massing, including setbacks, step backs, building separation distances, and heights are not acceptable. The proposal does not fit within the existing and planned context and would

result in a tall building with insufficient setbacks from the north and west property lines, negatively impacting adjacent properties.

Public Realm

The proposed streetscape along Yonge Street and Birch Avenue is not acceptable. The proposal does not improve the quality of the public realm with regard to the scale and proportion of the base building, street wall heights, or provide adequate setbacks to allow for optimal landscaping conditions and adequate space for tree infrastructure.

Servicing

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

Tree Preservation

The proposal is subject to the provisions of the City of Toronto Municipal Code. An Arborist Report and Tree Inventory and Preservation Plan prepared by The Planning Partnership and dated November 9, 2021, were submitted by the applicant. The applicant proposes to remove 4 privately-owned trees regulated by the Private Tree By-law. The proposal does not provide adequate replacement of large growing native shade trees and is not acceptable.

Heritage

By-laws 1241-2022 and 1242-2022 designating 1196-1204 and 1206-1210 Yonge Street under Part IV, Section 29 of the Ontario Heritage Act have been appealed by the applicant. The properties have been identified as having design, associative and contextual value, having been adapted to align with the 1914-1916 regrading of Yonge Street to accommodate construction of the CPR rail line grade separation. The properties stand as surviving examples of the historic main street streetscape prior to the regrading, and visually demonstrate the evolution of Yonge Street in Summerhill with the introduction of transportation infrastructure.

The application proposes to demolish the existing heritage properties. The application does not demonstrate that the heritage properties would be conserved in accordance with the policies of the City's Official Plan.

Rental Housing

The properties contain 8 residential rental units above the ground floor commercial uses, 6 at 2-6 Birch Avenue, and 2 at 1202 and 1204 Yonge Street. The units consist of 3 bachelor units, and 5 two-bedroom units.

The application proposes to replace all 8 rental units on the second floor of the new building in accordance with Official Plan Policy 3.2.1.6. A tenant relocation and assistance plan addressing the right to return to occupy a replacement rental unit at similar rents and other assistance to lessen tenant hardship is also required.

Parking and Loading

Vehicle and loading access for the site is proposed to be provided from Birch Avenue. A total of 105 vehicular parking spaces are proposed in a 3-storey underground garage. 72 bicycle parking spaces, and a Type-G loading space are also proposed. The proposed 105 vehicular parking spaces exceed the maximum rates in Zoning By-law No. 569-2013 for Policy Area 3.

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 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.

CONTACT

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SIGNATURE

Oren Tamir, Acting Director
Community Planning, Toronto and East York District

ATTACHMENTS

Attachment 1: Location Map

Attachment 2: 3D Model of Proposal in Context

Attachment 3: Site Plan

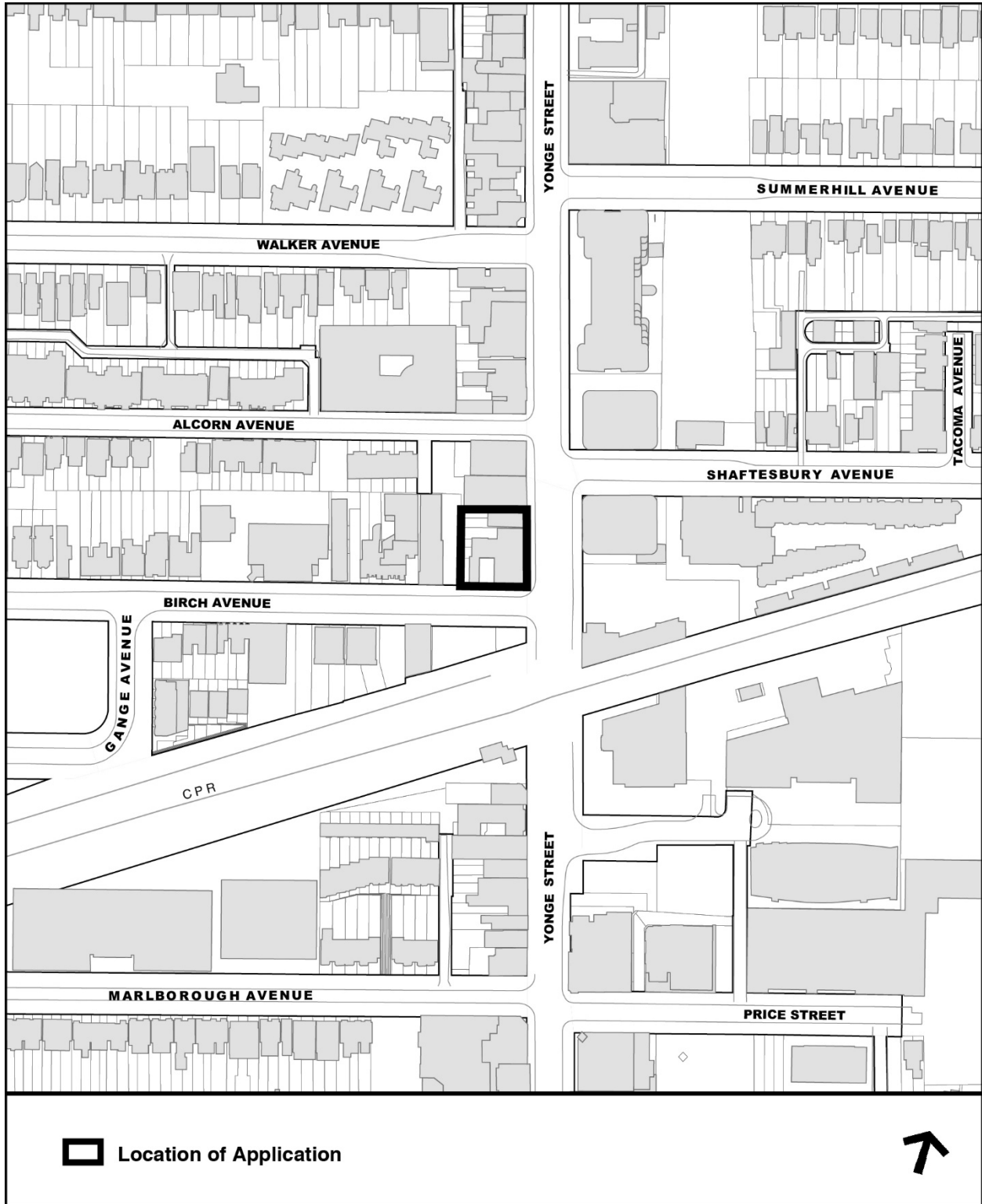
Attachment 4: Official Plan Map

Attachment 5: Yonge-St. Clair Secondary Plan, Mixed Use Areas Map

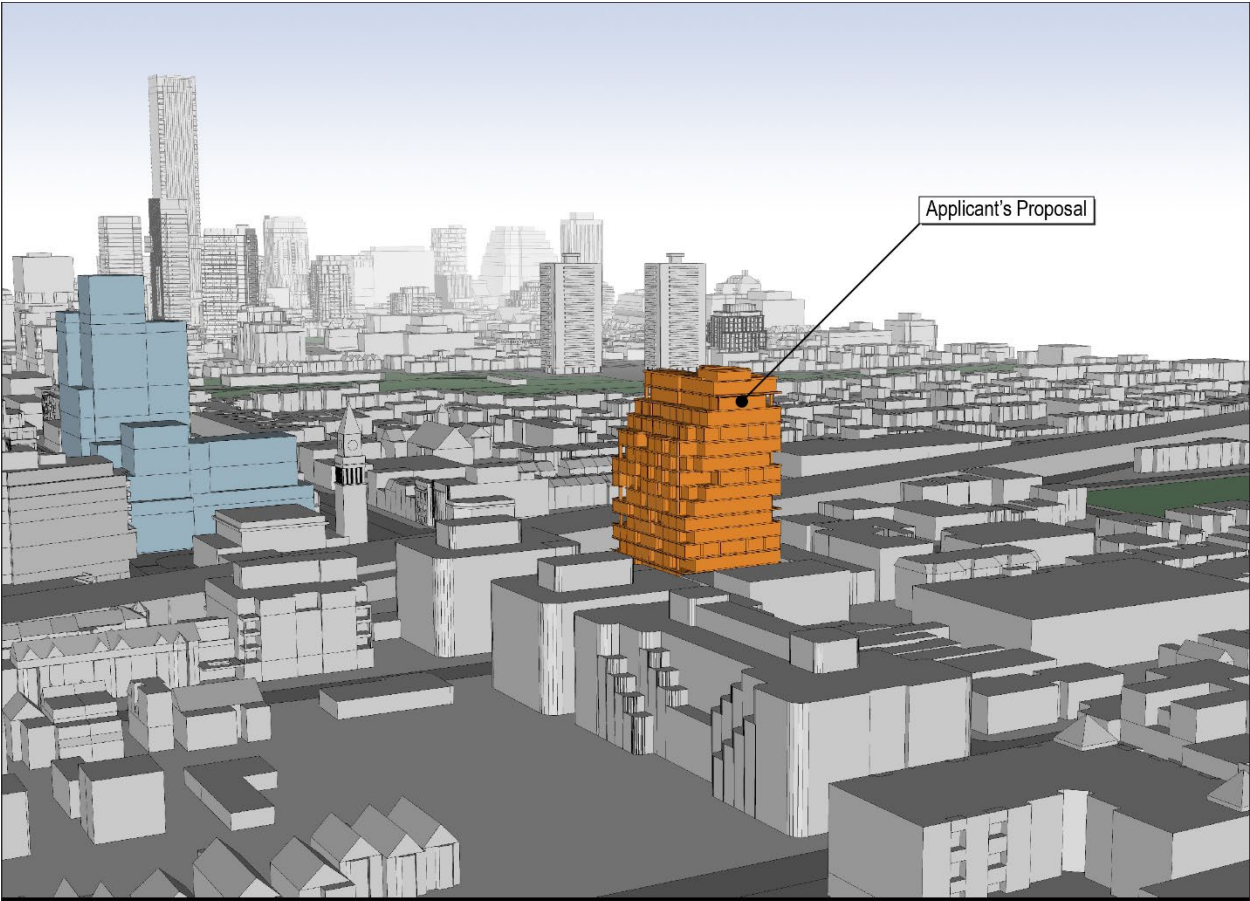
Attachment 6: Zoning By-law Map

Attachment 7: Application Data Sheet

Attachment 1: Location Map



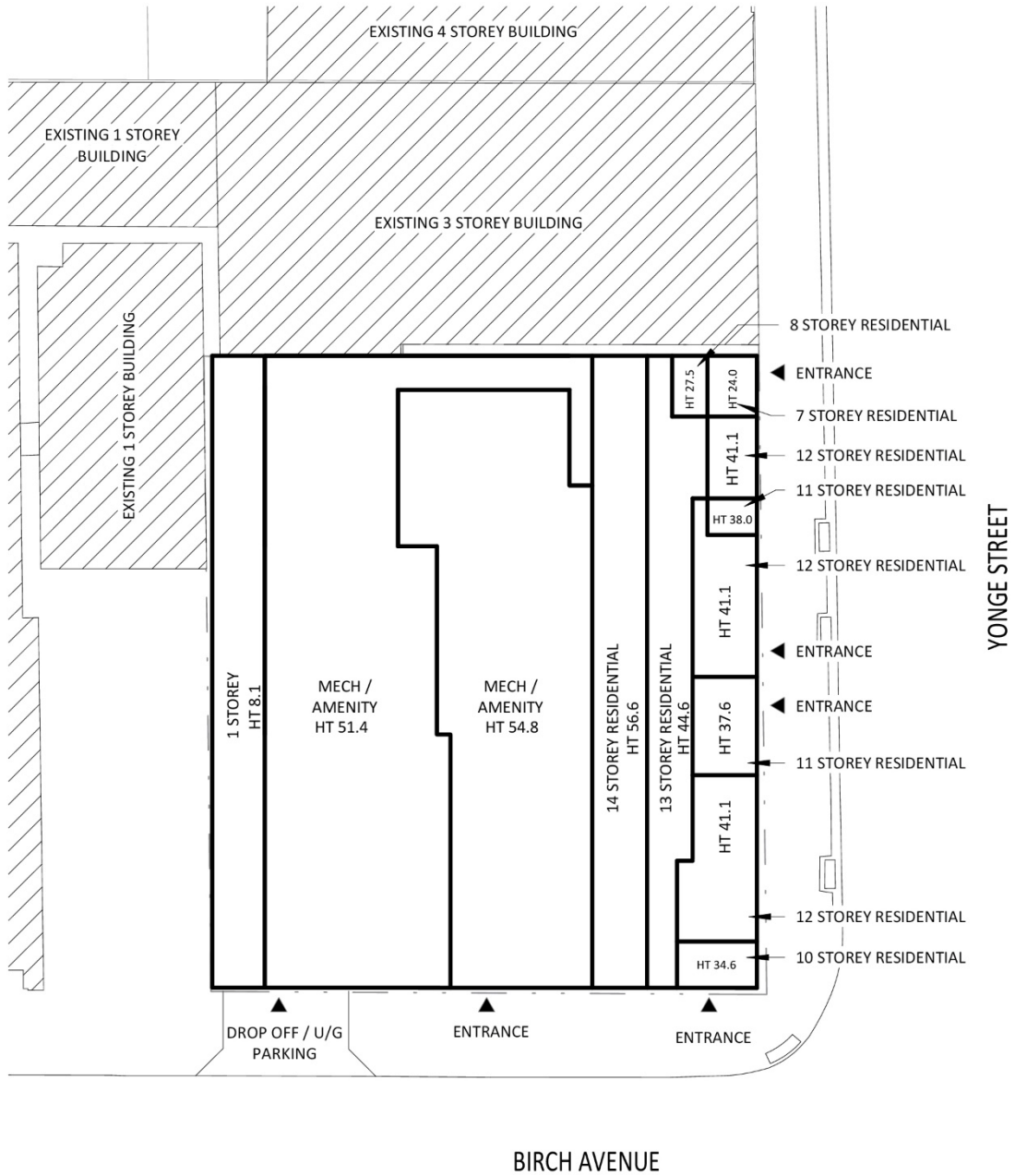
Attachment 2: 3D Model of Proposal in Context



View of Applicant's Proposal Looking Southwest



Attachment 3: Site Plan



Site Plan










Attachment 4: Official Plan Map




Official Plan Land Use Map #17

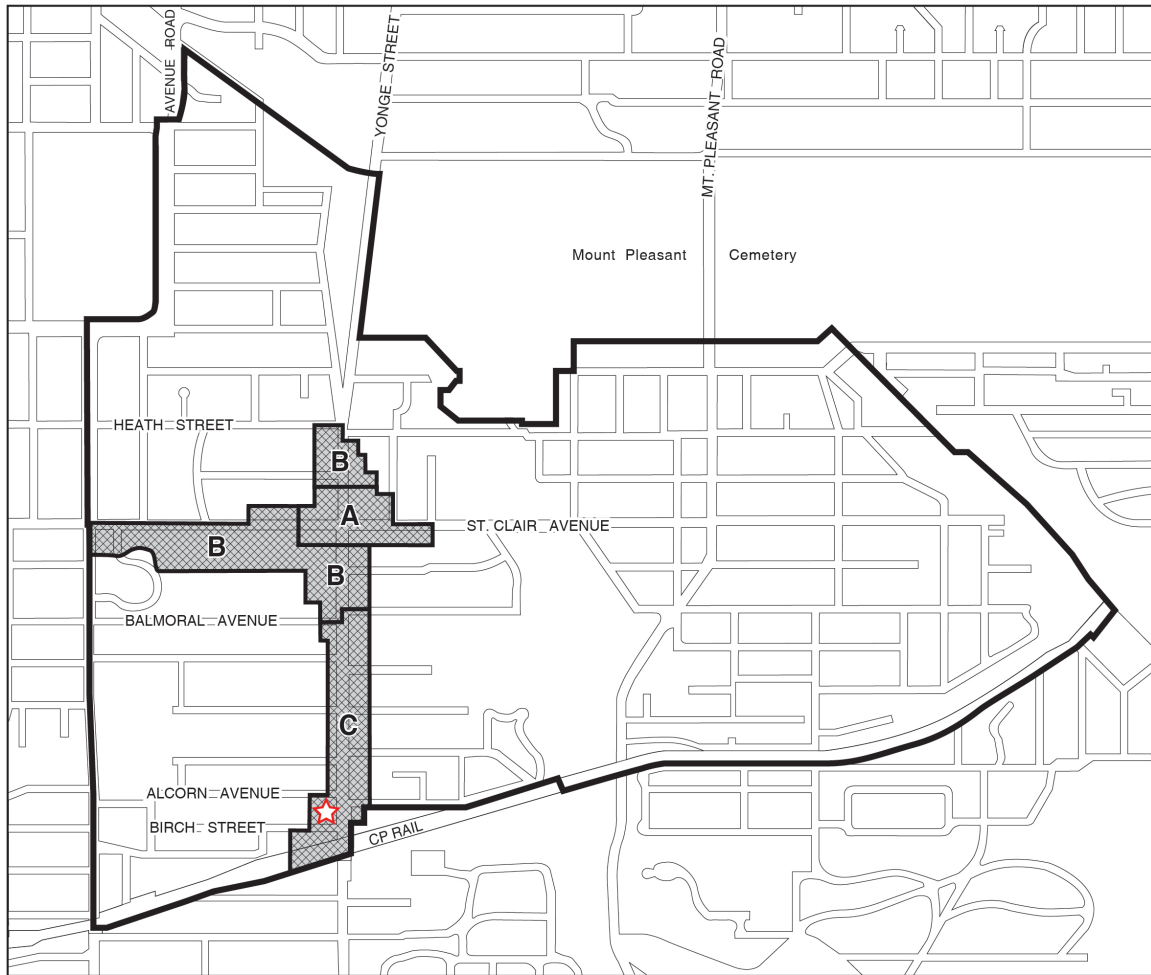
1196-1210 Yonge St, 2-8 Birch Avenue

File # 21 239174 STE 12 0Z

-  Location of Application
-  Neighbourhoods
-  Apartment Neighbourhoods
-  Mixed Use Areas
-  Parks
-  Other Open Space Areas
-  Utility Corridors


 Not to Scale
 Extracted: 11/22/2021

Attachment 5: Yonge-St. Clair Secondary Plan, Mixed Use Areas Map






Not to Scale 



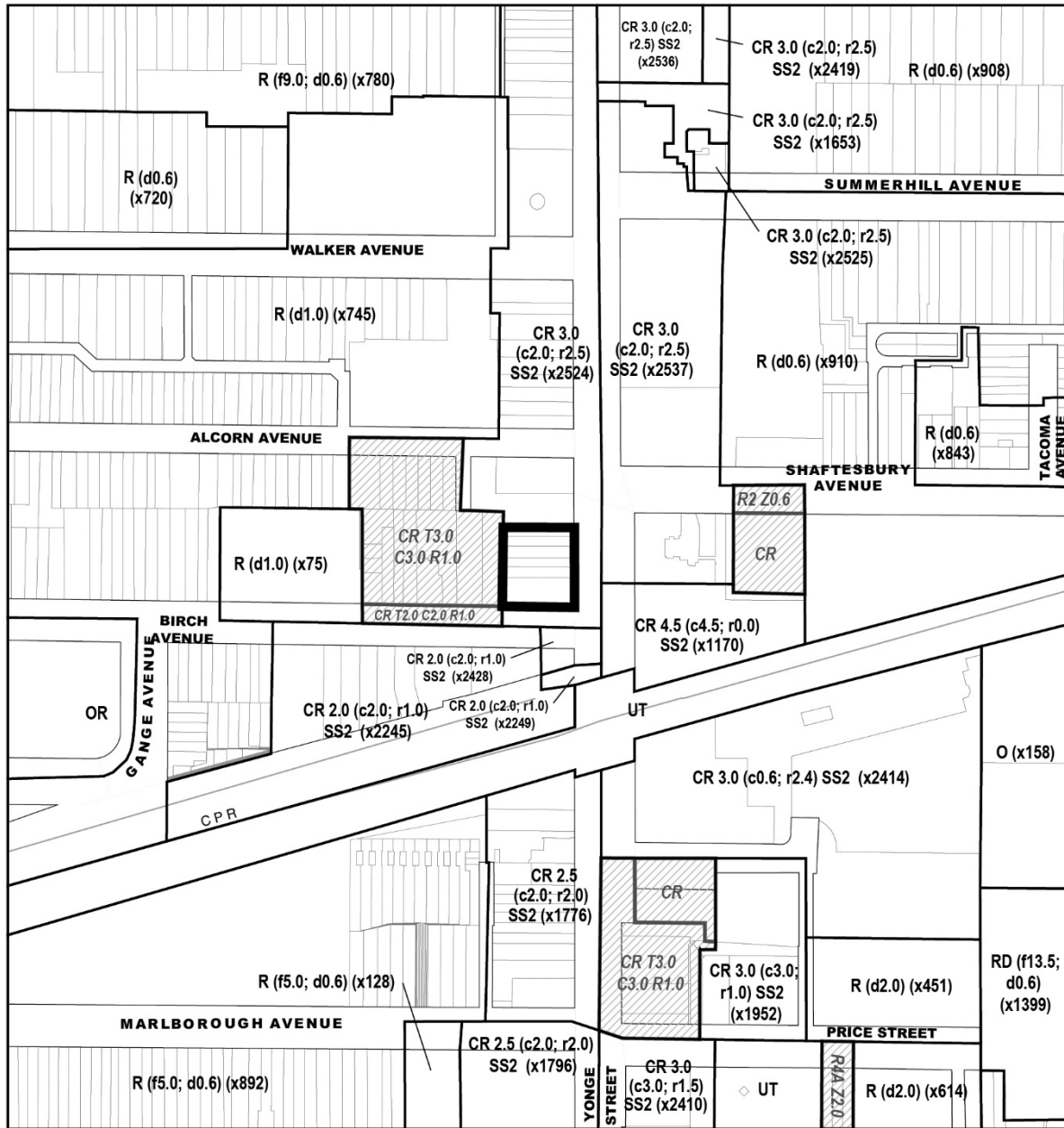
Yonge-St. Clair Secondary Plan

MAP 6-3 Mixed Use Areas

-  Secondary Plan Boundary
-  Mixed Use Areas
-  Location of Application

June 2006

Attachment 6: Zoning By-law Map



Zoning By-law 569-2013

1196-1210 Yonge St, 2-8 Birch Avenue

File # 21 239174 STE 12 0Z

-  Location of Application
- R** Residential
- RD** Residential Detached
- CR** Commercial Residential
- O** Open Space
- OR** Open Space Recreation
- UT** Utility and Transportation

-  See Former City of Toronto By-law No. 438-86
- R2** Residential District
- MCR** Mixed-Use District

↑
Not to Scale
Extracted: 11/22/2021

Attachment 7: Application Data Sheet

Municipal Address: 1196-1210 Yonge Street and 2-8 Birch Avenue
Date Received: December 1, 2021

Application Number: 21 239174 STE 12 OZ

Application Type: Rezoning

Project Description: A 15-storey (57 metre including mechanical penthouse) mixed-use building containing 67 dwelling units (including 8 rental replacement units) and 201 square metres of grade-related retail space.

Applicant	Architect	Owner
Hunter & Associated Ltd. (c/o Benjamin Larson)	KPMB Architects	Birch Equities Limited (c/o Paul Dydula, Woodcliffe)

EXISTING PLANNING CONTROLS

Official Plan Designation:	<i>Mixed Use Areas</i>		
Zoning:	CR 3.0 (c2.0;r2.5) SS2 (x2524)		
Height Limit (m):	16	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq m): 1,062.60 **Frontage (m):** 35 (Yonge) **Depth (m):** 31

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			472	472
Residential GFA (sq m):			10,226.6	10,226.6
Non-Residential GFA (sq m):			200.8	200.8
Total GFA (sq m):			10,427.4	10,427.4
Height - Storeys:	3		15	15
Height - Metres:			55	55 (excl. MPH)

Lot Coverage Ratio (%): 98% **Floor Space Index:** 9.81

Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	7,361.8	2,864.80
Retail GFA:	157.1	43.7
Office GFA:		
Industrial GFA:		
Institutional/Other GFA:	10,226.60	2,908.5

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:	8		8	8
Freehold:				
Condominium:			59	59
Other				
Total Units:			401	401

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:	3	13	41	10	
Total Units:	3	13	41	10	

Parking and Loading

Parking Spaces: 105 **Bicycle Parking Spaces:** 72 **Loading Docks:** 1 Type G

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