

38 Walmer Road and 188 Lowther Avenue – Zoning By-law Amendment and Site Plan Control Applications – Appeal Report

Date: August 30, 2023
To: Toronto and East York Community Council
From: Director, Community Planning, Toronto and East York District
Ward: 11 - University-Rosedale

Planning Application Numbers: 22 179831 STE 11 OZ and 22 179830 STE 11 SA

SUMMARY

On August 4, 2022, Zoning By-law Amendment and Site Plan Control applications were submitted to permit an 80-metre (20-storey excluding mechanical penthouse) mixed-use building, containing 162 dwelling units and 1,950 square metres of non-residential gross floor area. The application proposes the alteration of the Walmer Road Baptist Church at 38 Walmer Road and the demolition of the Sunday School building at 188 Lowther Avenue.

On May 31, 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.

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 38 Walmer Road and 188 Lowther 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-laws are 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 resources, 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 property at 38 Walmer Road and 188 Lowther Avenue, 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 the required approval in writing under s.33 and S.34 of the Ontario Heritage Act for the proposed demolition and alterations to the heritage property at 38 Walmer Road and 188 Lowther 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 July 19, 2023, City Council stated its intention to designate the property at 38 Walmer Road and 188 Lowther Avenue under Part IV, Section 29 of the Ontario Heritage Act. The City has 120 days from that decision to issue the designation by-law, which may subsequently be appealed to the Ontario Land Tribunal. Council's decision on the intention to designate may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PB7.1>

THE SITE

Description: The site is located at the northwest corner of the intersection of Walmer Road and Lowther Avenue, approximately 200 metres north of the Spadina TTC Station entrance on Walmer Road. The site is an irregularly shaped lot that is generally flat with frontages of 25 metres on Walmer Road and 75 metres on Lowther Avenue and an area of 3,300 square metres.

Existing Uses: The site is comprised of a place of worship with additional ancillary uses, including a food bank, theatre initiative, daycare, and rental space for community organizations and local institutions. There is a surface parking lot at the rear of the site in the interior of the block.

Heritage: Council stated its intention to designate 38 Walmer Road and 188 Lowther Avenue on July 19, 2023. The property consists of three elements of heritage significance, including the 1889 Sunday School building fronting onto Lowther Avenue, the 1892 Sanctuary building fronting onto Walmer Road, and the 1913 Memorial Building.

THE APPLICATIONS

Description: A 20-storey (80-metre excluding mechanical penthouse) mixed-use development, containing 162 dwelling units and 1,950 square metres of non-residential gross floor area. The proposal includes the retention and alteration of the sanctuary building.

Density: 5.66 times the area of the lot.

Dwelling Units and Amenity Space: A total of 162 dwelling units, including 91 one-bedroom (56%), 54 two-bedroom (33%), and 17 three-bedroom units (11%). A total of 367 square metres of indoor amenity space (2.3 square metres per unit) and 282 square metres of outdoor amenity space (1.7 square metres per unit) is proposed.

Access, Parking and Loading: Vehicle and loading access would be provided from Lowther Avenue. A total of 55 vehicular parking spaces (44 residential, 3 visitor and 8 congregational), 180 bicycle parking spaces (146 long term, 17 short term), and a Type G loading space are proposed to be provided in a shared 2-storey underground garage.

Heritage: The application proposes to conserve and alter the Sanctuary building at 38 Walmer Road and to demolish the Sunday School and Memorial buildings. As a Notice of Intention to Designate under Part IV, Section 29 of the Ontario Heritage Act has been issued by City Council, a heritage application would be required to permit the proposed development.

Additional Information

See Attachments 2, 3 and 4 of this report for the Application Data Sheet, a three-dimensional representation of the project in context, and a site plan of the proposal respectively. 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: www.toronto.ca/38WalmerRd

Reasons for the Applications

The Zoning By-law Amendment application proposes to bring the subject site into Zoning By-law 569-2013 and seeks to vary performance standards, including: use, maximum building height, maximum building depth, minimum setbacks, maximum gross floor area, minimum amenity space, minimum landscaping requirements, permitted encroachments and projections, and minimum parking standards.

Site Plan Control

A Site Plan Control application was submitted on August 4, 2022. On May 31, 2023, the applicant referred the application to the OLT due to Council not making a decision within the time frame in the City of Toronto Act, 2006.

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 Apartment Neighbourhoods in the Official Plan.

Downtown Plan

The site is located within the Annex Park District and Lowther Avenue is designated a Priority Cycling Route in the Downtown Plan.

Zoning

The site is zoned R (d2.0) (x901) in City of Toronto Zoning By-law 569-2013, with a maximum height limit of 14 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 and the Downtown Tall Buildings Vision and Supplementary Design Guidelines;
- Growing Up Guidelines Planning for Children in New Vertical Communities; and
- 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 December 8, 2022 and approximately 110 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:

- Height and massing of the proposed building, including setbacks, step-backs, and balcony encroachments;
- Need for more density in proximity to transit;

- Concern over the privately owned publicly-accessible space and retail use in the rear of the proposed building;
- Concern over the proposed non-residential space in the sanctuary building;
- Need for an appropriate unit mix and sizes, particularly providing more larger units for families;
- Need for affordable housing and rental units in this development;
- Appropriate conservation of heritage properties;
- Shadow impacts on surrounding residential areas, surrounding schools, and on Gwendolyn MacEwan Park;
- Concern over the proposed number of vehicular parking spaces and impacts on surrounding street parking and the need for appropriate pick up and drop off space on the site;
- Need for more elementary school capacity in the area;
- Desire to minimize the carbon impacts of the proposed building; and
- Appropriate mitigation of construction impacts from the proposed building on the surrounding neighbourhood;

Six additional working group meetings were held between November, 2022 and March, 2023 dealing with matters of massing, heritage, transportation, and sustainability. City Staff also met with representatives from the community and the applicant team on November 23, 2022.

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. Both documents establish standards for the conservation of heritage, which have not been satisfied by the proposal.

Built Form

The proposal does not conform to the Official Plan and the Downtown Plan, and is not in keeping with the Tall Building Design Guidelines. The property has an irregular lot and the proposed orientation of the building results in a rectangular tower with the longer face of the building running perpendicular to Lowther Avenue at a depth of 45 to 52 metres and a floor plate ranging between 770 and 850 square metres above the 10th storey. The tower is setback 1.8 metres from the western property line adjacent to low-rise townhouses, 3.0 metres from the eastern property line adjacent to a 4-storey rental building, and 0.8 metres from the northern property line adjacent to the Loretto Lofts development, a complex of low-rise townhouses and a 5-storey residential building.

The proposed massing of the building, including setbacks, step backs, tall building separation distances, floor plate size, and heights are not acceptable in their current form. The proposal would result in a tall building with an inappropriate depth and relationship to adjacent properties.

Public Realm

The proposed privately owned publicly-accessible space is not acceptable as it is not sited in a highly visible location and is not integrated and connected into the broader public realm. City Planning will continue to work with the applicant to ensure the proposed streetscape and privately owned publicly-accessible space is consistent with the public realm objectives of the Official Plan and the Downtown Plan.

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.

Heritage

The applicant is proposing to demolish the Sunday School and Memorial Building at 188 Lowther Avenue and to significantly alter the Sanctuary building at 38 Walmer Road. The proposed conservation strategy does not conform with Official Plan policies or Provincial Planning policy which seek to conserve significant heritage resources. Staff believe that their design solutions which would allow for the construction of a tall building on this property without the need for such extensive alterations and demolition of the heritage values and attributes to significant heritage resources on the site.

Parking and Loading

Vehicle and loading access for the site is proposed to be provided from Lowther Avenue. While the proposed parking rates, access/egress route and traffic impact assessment is generally acceptable to Transportation Services, the proposed driveway width should be reduced as much as possible and the final location of the proposed driveway may require further review should its position change.

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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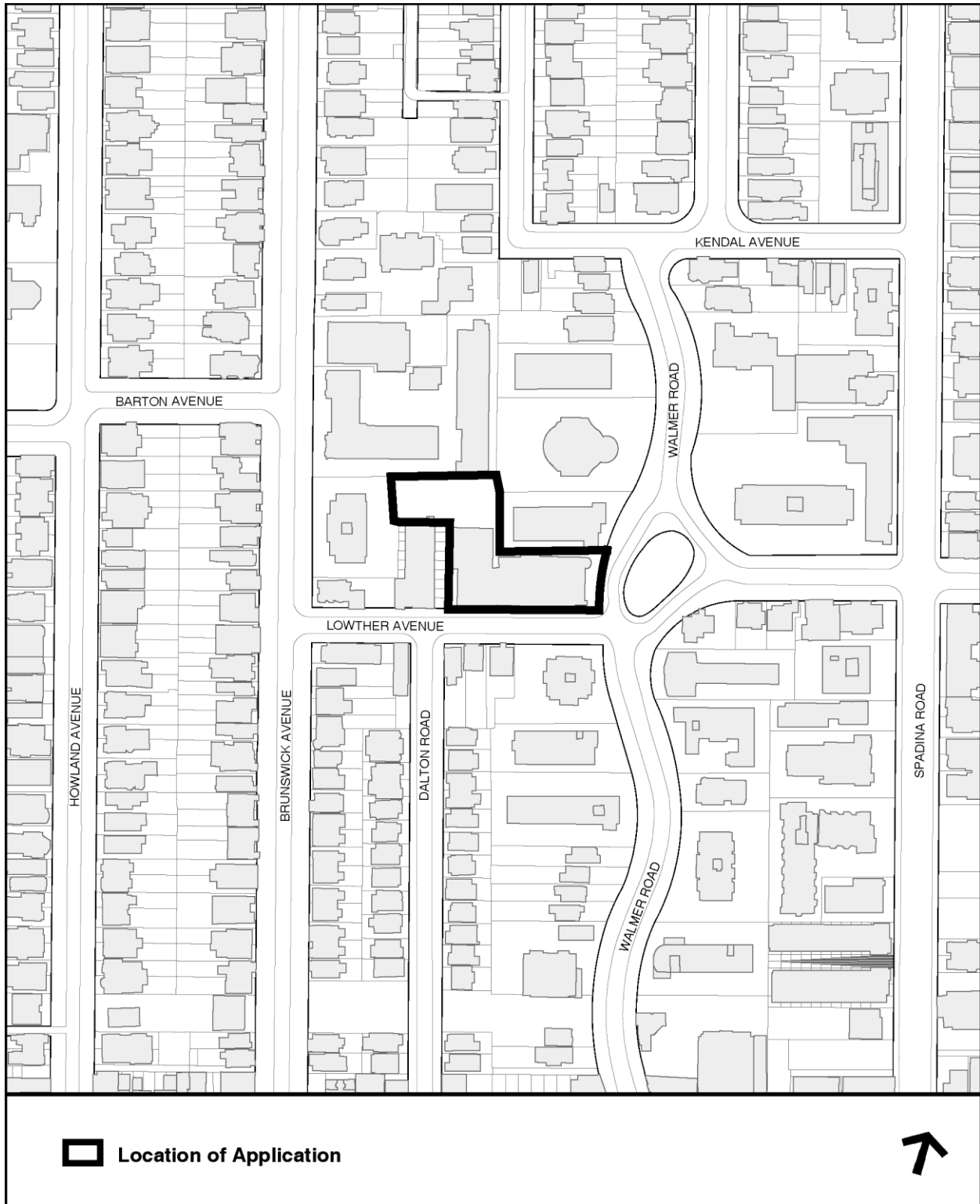
SIGNATURE

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

ATTACHMENTS

Attachment 1: Location Map
Attachment 2: Application Data Sheet
Attachment 3: 3D Model of Proposal in Context (Northeast)
Attachment 4: 3D Model of Proposal in Context (Northwest)
Attachment 5: Site Plan
Attachment 6: Official Plan Land Use Map
Attachment 7: Zoning By-law Map
Attachment 8: East Elevation
Attachment 9: South Elevation
Attachment 10: West Elevation
Attachment 11: North Elevation

Attachment 1: Location Map



Attachment 2: Application Data Sheet

Municipal Address: 38 Walmer Road and 188 Lowther Avenue **Date Received:** August 4, 2022

Application Number: 22 179831 STE 11 OZ

Application Type: Rezoning

Project Description: A 20-storey (80 metres excluding mechanical penthouse) mixed-use building, containing 162 dwelling units, and 1,950 square metres of non-residential gross floor area including retail, community, and congregation space.

Applicant	Architect	Owner
38WR LP (TAS)	ZAS Architects Inc.	Trustees of the Walmer Road Baptist Church

EXISTING PLANNING CONTROLS

Official Plan Designation:	<i>Apartment Neighbourhoods</i>		
Zoning:	R (d2.0) (x901)		
Height Limit (m):	14	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq m): 3,297.17 **Frontage (m):** 25 (Walmer); 75.3 (Lowther) **Depth (m):** 60

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):	1,666.3	745.3	454.23	1,199.53
Residential GFA (sq m):	0	0	16,850.29	16,850.29
Non-Residential GFA (sq m):	3,026.85	956.96	862.52	1,819.48
Total GFA (sq m):		956.96	17,712.81	18,669.77
Height - Storeys:			20	20
Height - Metres:			80	80 (excl. MPH)

Lot Coverage Ratio (%): **Floor Space Index:** 5.11

Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	16,816.79	33.5
Retail GFA:	61.79	
Office GFA:		
Industrial GFA:		
Institutional/Other GFA:	1,729.86	27.83

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:				
Freehold:				
Condominium:			162	162
Other				
Total Units:			162	162

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:	0	91	54	17	
Total Units:	0	91	54	17	

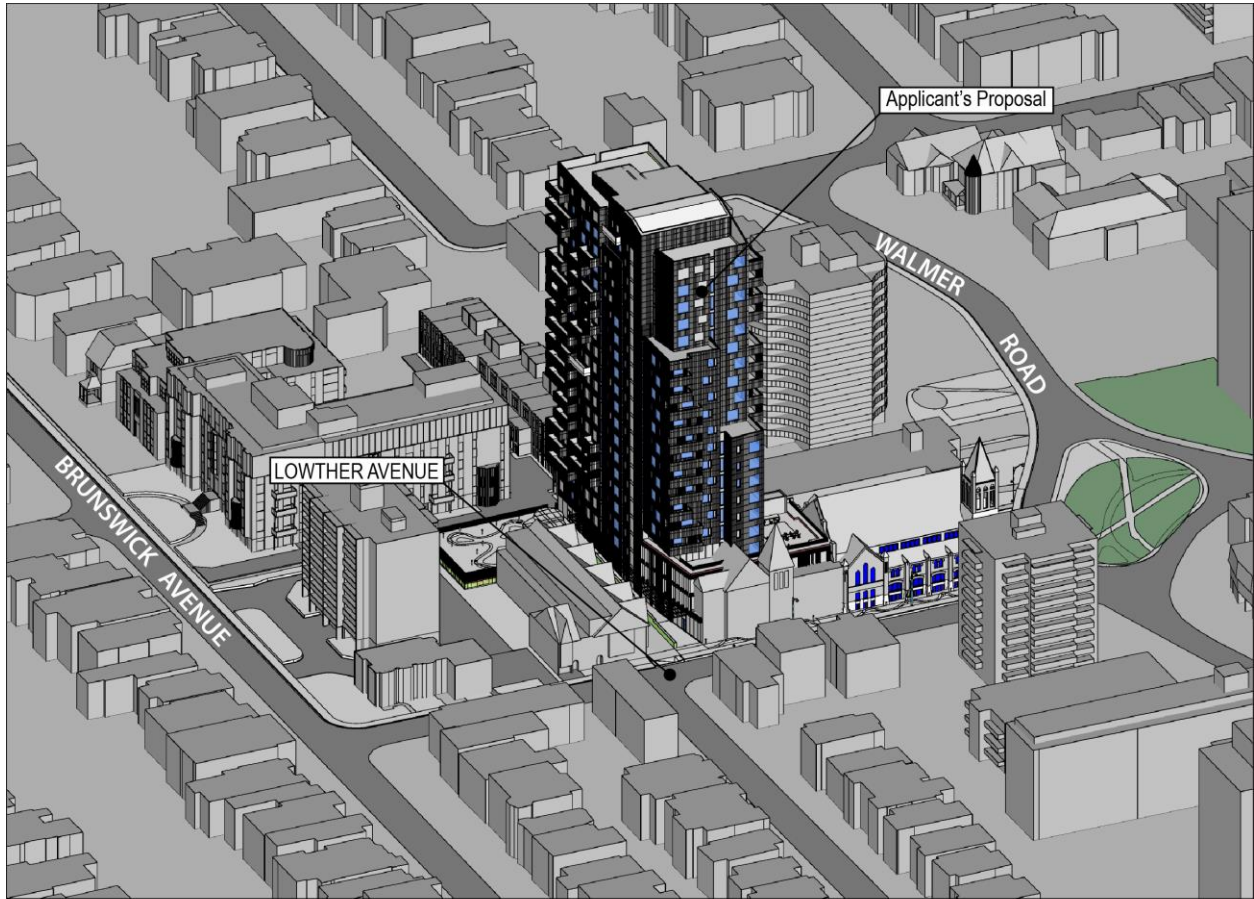
Parking and Loading

Parking Spaces: 55 **Bicycle Parking Spaces:** 180 **Loading Docks:** 1 Type G

CONTACT:

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Attachment 3: 3D Model of Proposal in Context (Northeast)



View of Applicant's Proposal Looking Northeast



Attachment 4: 3D Model of Proposal in Context (Northwest)

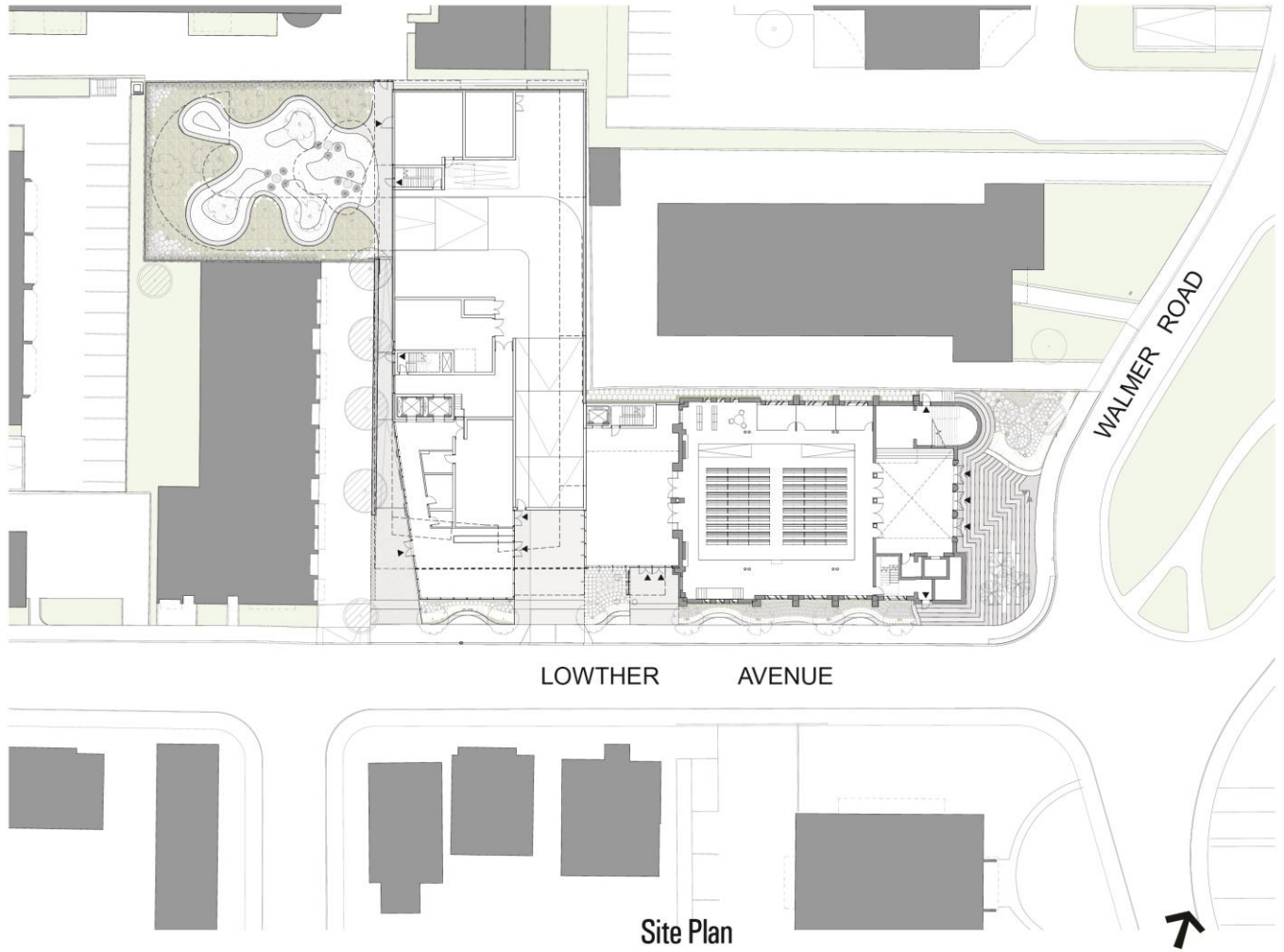


View of Applicant's Proposal Looking Northwest

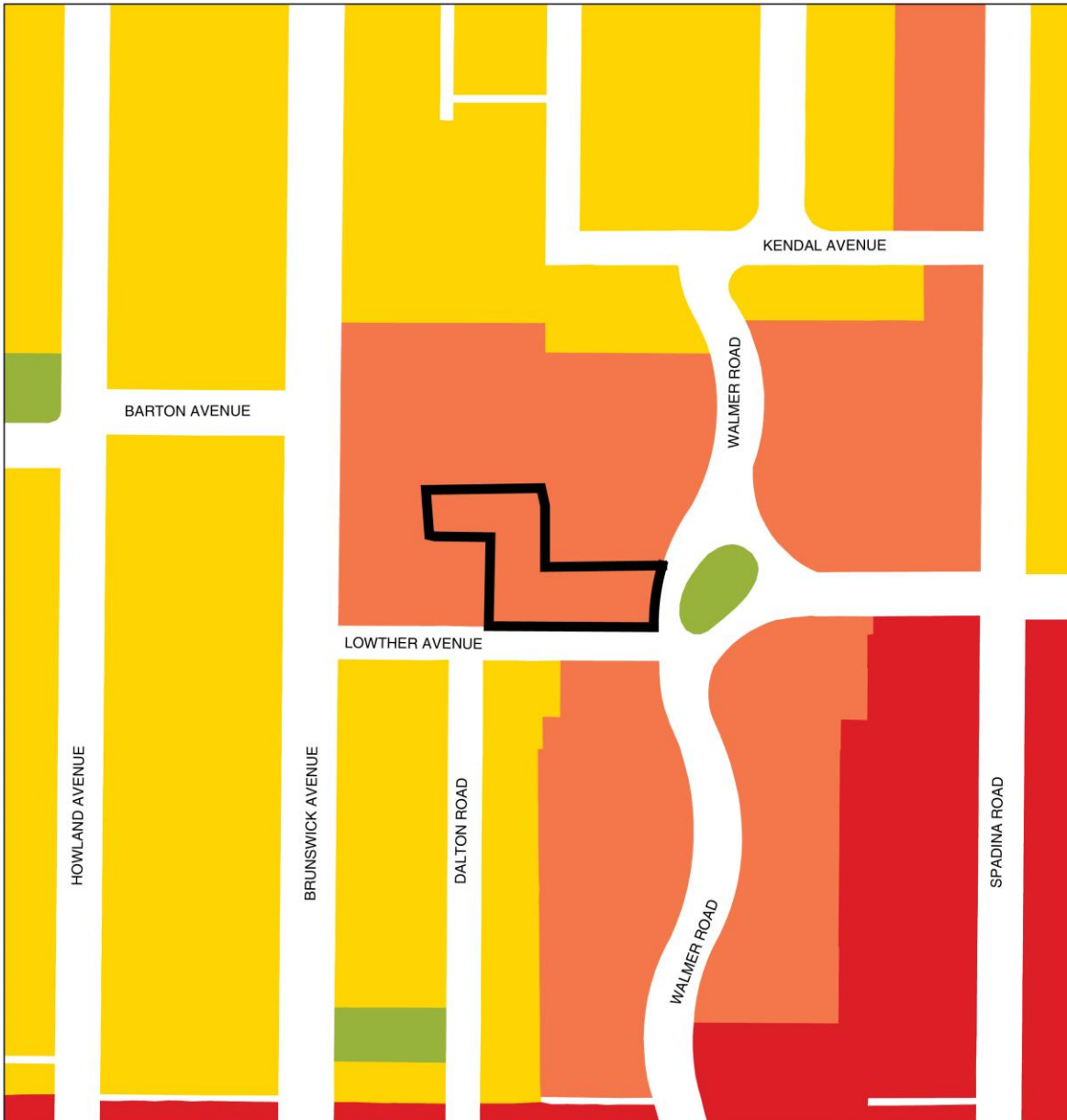


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Attachment 5: Site Plan



Attachment 6: Official Plan Map



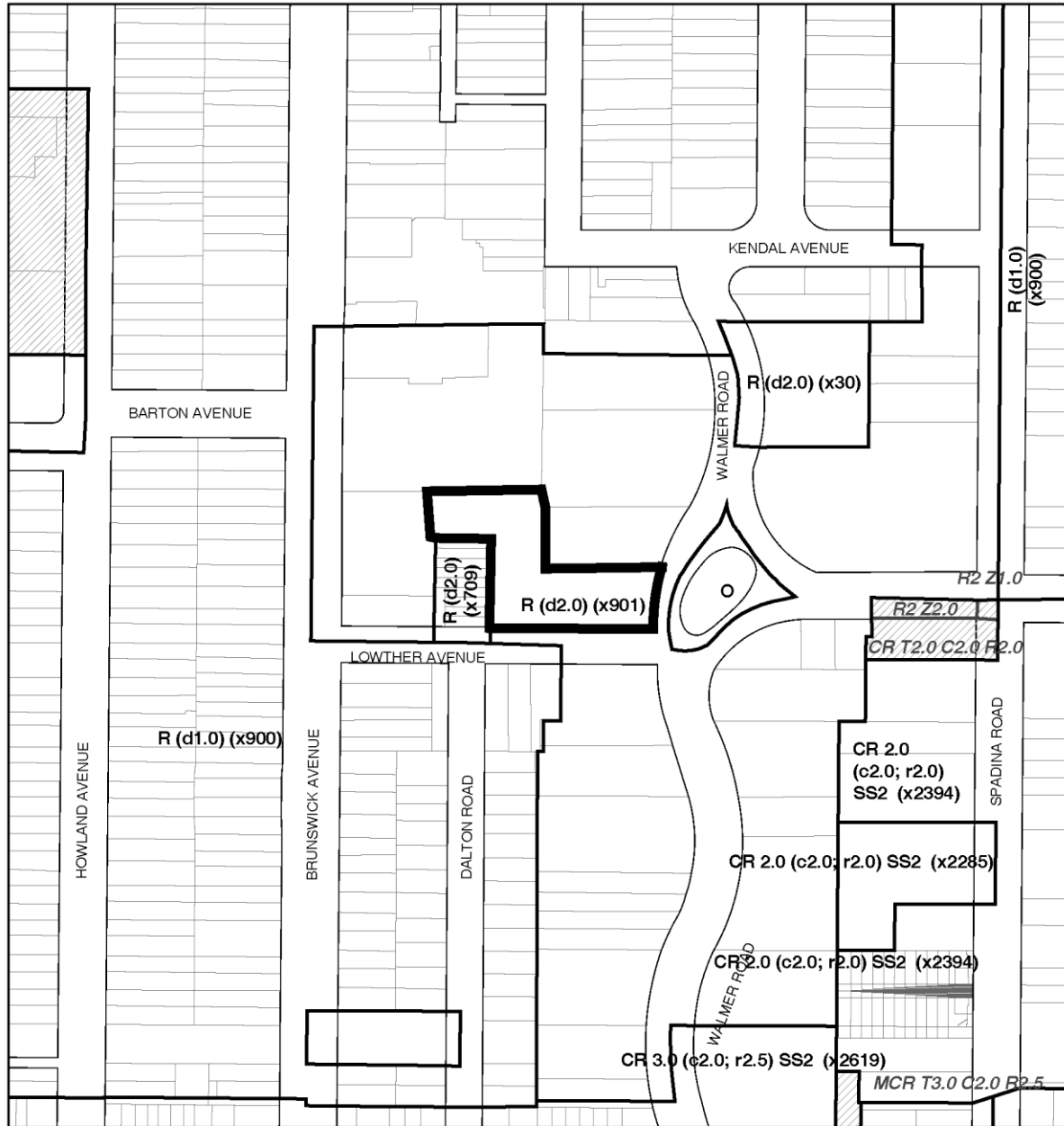
Official Plan Land Use Map #17

38 Walmer Road
File # 22 179831 STE 11 0Z

- Location of Application
- Neighbourhoods
- Apartment Neighbourhoods
- Mixed Use Areas
- Parks

Not to Scale
Extracted: 07/25/2022

Attachment 7: Zoning By-law Map




Zoning By-law 569-2013

38 Walmer Road

File # 22 179831 STE 11 0Z

-  Location of Application
- R** Residential
- CR** Commercial Residential
- O** Open Space
- OR** Open Space Recreation

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


 Not to Scale
 Extracted: 07/25/2022

Attachment 8: East Elevation



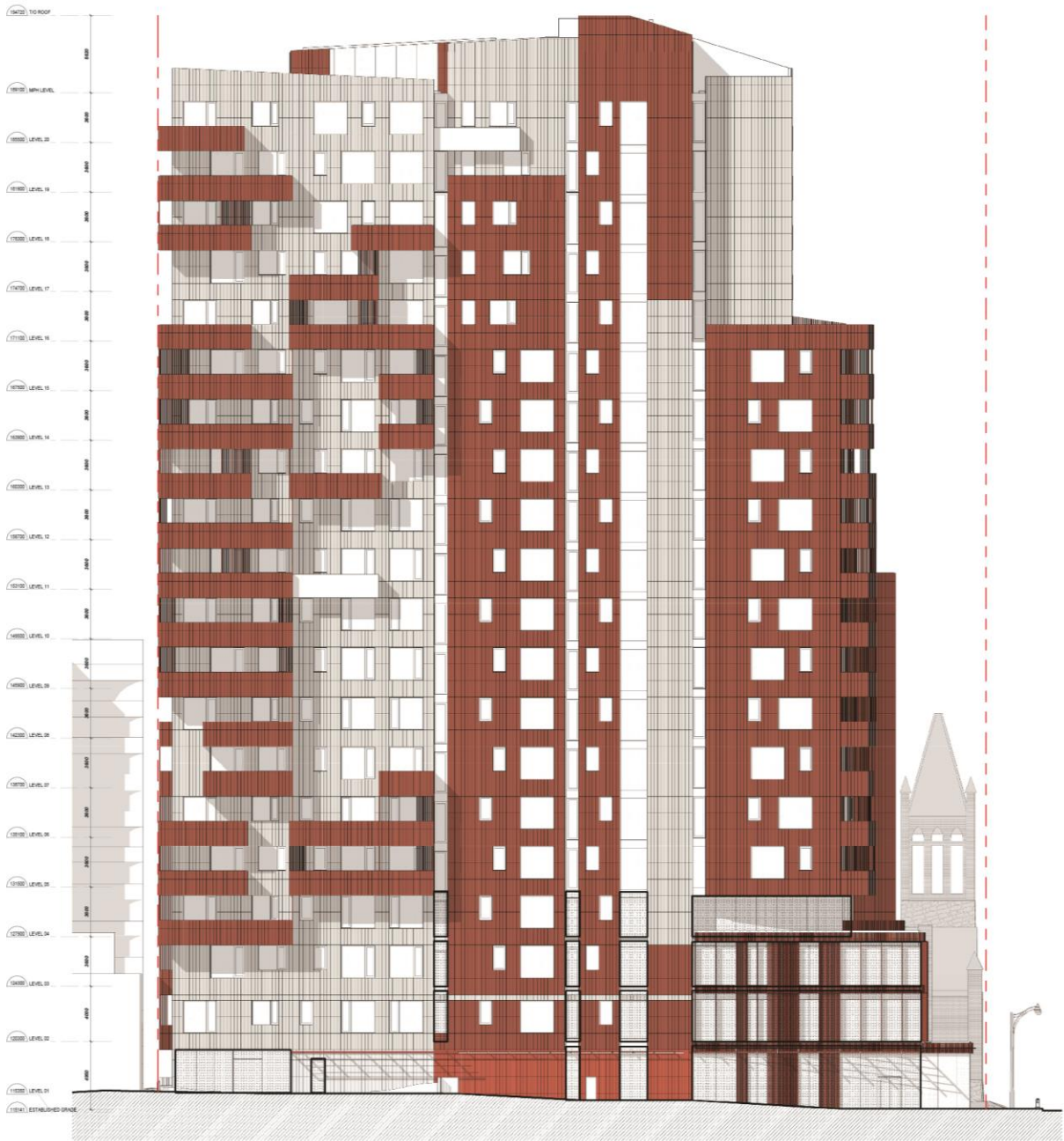
East Elevation

Attachment 9: South Elevation



South Elevation

Attachment 10: West Elevation



West Elevation

Attachment 11: North Elevation



North Elevation