

## **40 Walmer Road – Zoning By-law Amendment Application – Decision Report – Refusal**

Date: January 8, 2024

To: Toronto and East York Community Council

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

Ward: 11, University-Rosedale

**Planning Application Number:** 23 217877 STE 11 OZ

**Related Rental Housing Demolition Application Number:** 23 221261 STE 11 RH

### **SUMMARY**

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On October 24, 2023, a Zoning By-law Amendment application was submitted to permit a 35-storey (111.65 metres, including mechanical penthouse) residential building containing 365 dwelling units, including 33 replacement rental units. The application was deemed complete on November 15, 2023.

The existing building located at 40 Walmer Road contains 33 rental dwelling units. A related Rental Housing Demolition and Conversion application to demolish and replace the existing rental dwelling units is under review.

This report recommends refusal of the application to amend the Zoning By-law because the proposal does not conform with the Official Plan or the Downtown Plan, and does not meet the intent of the Tall Building Design Guidelines or the Downtown Tall Buildings: Vision and Supplementary Design Guideline.

### **RECOMMENDATIONS**

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The Director, Community Planning Toronto and East York North District recommends that:

1. City Council refuse the application for the Zoning By-law Amendment in its current form, for the lands municipally known as 40 Walmer Road.
2. In the event the application is appealed to the Ontario Land Tribunal, City Council, pursuant to subsection 34(11.0.0.1) of the Planning Act, use mediation, conciliation or other dispute resolution techniques in an attempt to resolve the Zoning By-law Amendment application, to the satisfaction of the Chief Planner and Executive Director, City Planning and City Solicitor.

3. City Council direct the City Solicitor to request that, in the event of an appeal to the Ontario Land Tribunal, the Tribunal withhold its final order, until the following conditions are met:
  - a. the final form of the Zoning By-law Amendments are to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor, including any appropriate holding (H) provisions;
  - b. City Council has approved Rental Housing Demolition Application 23 221261 STE 11 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 and the owner has entered into, and registered on title to the lands, one or more agreements with the City, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, securing all rental housing-related matters necessary to implement City Council's decision including:
    - i. replacement of the existing 33 rental housing units, including the same number of units, bedroom type and size and with similar rents; and
    - ii. acceptable Tenant Relocation and Assistance Plan addressing the right for existing tenants to return to a replacement rental unit on the lands at similar rents, the provision of rent gap assistance, and other assistance to lessen hardship, all to the satisfaction of the Chief Planner and Executive Director, City Planning;
  - c. the owner has submitted a revised Heritage Impact Assessment that demonstrates how the proposed development fits into its context and protects the heritage attributes of the adjacent designated property under Part IV of the Ontario Heritage Act at 38 Walmer Road and adjacent properties included on the City's Heritage Register at 35 and 44 Walmer Road, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, and City Planning;
  - d. the owner has provided revised plans and revised sun shadow and pedestrian level wind studies with recommendations implemented as part of Zoning By-law Amendment and the City has advised that any building envelope changes to address the findings of the studies have been made, to the satisfaction of the Chief Planner and Executive Director, City Planning;
  - e. the owner has provided confirmation of water, sanitary and stormwater 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;
  - f. the owner 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;

- g. the owner has addressed all outstanding issues raised by Transportation Services, as they relate to the Zoning By-law Amendment application, to the satisfaction of the General Manager, Transportation Services; and
  - h. in the event that a parkland dedication is required by Parks Development, further direction from City Council will be required to approve and secure all necessary conditions of parkland conveyance by the owner to the City.
4. City Council authorize the City Solicitor and other appropriate 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.

## **THE SITE**

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**Description:** The site is located on the west side of Walmer Road between Lowther Avenue and Kendal Avenue, and Gwendolyn MacEwen Park is to the east. The site is approximately 1,605 square metres in size with a frontage of 29 metres and 59 metres in depth.

**Existing Use:** A 4-storey (12-metre) residential apartment building containing 33 rental dwelling units.

## **THE APPLICATION**

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**Description:** A 35-storey (116.65 metres, including mechanical penthouse) residential building containing 365 dwelling units.

**Density:** 14.19 times the area of the lot.

**Dwelling Units:** A total of 365 dwelling units (including 33 rental replacement dwelling units), are proposed comprised of 9 studio (2.5%), 267 one-bedroom (73%), 56 two-bedroom (15.5%), and 33 three-bedroom (9%) units.

**Amenity Space:** The proposal includes 1,460 square metres of amenity space, including 1,133 square metres of indoor amenity space (3.1 square metres per unit) and 326 square metres (0.89 square metres per unit) of outdoor amenity space.

**Access, Loading and Parking:** Vehicle and loading access would be provided on Walmer Road. A Type G loading space is provided. A total of 44 parking spaces are provided in a below-grade parking garage, and a total of 403 bicycle parking spaces provided at various locations throughout the building.

**Additional Information:** See Attachments 1, 2, 3, 4, 5, and of this report, for the location map, application data sheet, three dimensional representations of the project in context, and a site plan of the proposal. 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: <https://www.toronto.ca/40WalmerRd>

**Reasons for the Application:** The proposal requires an amendment to Zoning By-law 569-2013 to vary performance standards including: building height; building setbacks; and floor space index.

## **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:** Apartment Neighbourhoods. See Attachment 6 of this report for the Official Plan Land Use Map.

**Downtown Plan:** The site is within the Annex Park District.

**Zoning:** The site is zoned R (d2.0) (x901) under Zoning By-law 569-2013. This zone permits residential uses, including apartment buildings and some non-residential uses with conditions. The maximum permitted height is 14.0 metres, and the maximum permitted density is 2.0 times the area of the lot. See Attachment 7 of this report for the Zoning By-law Map.

### **Design Guidelines**

The following [design guidelines](#) have been used in the evaluation of this application:

- Tall Building Design Guidelines;
- Downtown Tall Buildings: Vision and Supplementary Design Guidelines;
- Growing Up Guidelines Planning for Children in New Vertical Communities; and Pet Friendly Design Guidelines.

### **Toronto Green Standard**

The Toronto Green Standard (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.

## **Rental Housing Demolition and Conversion By-law**

This application involves the demolition of rental housing. Since the development site contains six or more residential units, of which at least one unit is rental housing, an application is required under Chapter 667 of the City's Municipal Code, the Rental Housing Demolition and Conversion By-law. The By-law requires an applicant obtain a permit from the City allowing the demolition of the existing rental housing units. The City may impose conditions that must be satisfied before a demolition permit is issued.

## **COMMUNITY CONSULTATION**

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A Virtual Community Consultation Meeting was hosted by City staff on December 18, 2023. Approximately 105 people participated, as well as the Ward Councillor. The meeting was also held with a development application for an Official Plan and Zoning By-law Amendment at 171-175 Lowther Avenue (File No. 23 223597 STE 11 OZ) to permit an 11-storey residential building at the southeast corner of Lowther Avenue and Dalton Avenue.

Following a presentation by City staff and the Applicant, the following comments and issues were raised:

- Proposed height, density and massing are inappropriate for the site and neighbourhood and disregards the planning policies for the area;
- insufficient setbacks and step backs;
- concerns regarding overall compatibility and fit with the surrounding area and impact on adjacent properties and heritage features;
- concern with loss of an existing rental building and displacement of tenants;
- concerns regarding affordability/housing needs and lack of affordable rental units in the proposal beyond the replacement rental units;
- high demand in the area for affordable rental with large student population that cannot afford to purchase units but wish to remain in the annex;
- support for proposal to allow for more housing that is walkable and in close proximity to multiple subway stations;
- concern over environmental sustainability of project;
- loss of existing trees and open space that reflects the character of the neighbourhood;
- lack of proposed green and open space;
- sun, shadow, and wind impacts on site and surrounding parks and open space;
- impacts to on-street parking spaces; and
- need for the proposal to be reviewed together with the two adjacent development applications currently under review and their functionality and collective impact on the local area.

Additional comments from the public were received by staff prior to and following the consultation meeting. The issues raised through community consultation have been considered through the review of the application.

## **Tenant Meeting**

As part of the Rental Housing Demolition and Conversion application, City staff will hold a separate consultation meeting with affected tenants.

## **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 has 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 conforms with the Growth Plan.

### **Height**

The proposed 35-storey building does not respect the existing and planned context for the surrounding area, and does not achieve the policies of the Official Plan, the Downtown Plan, the Tall Building Design Guidelines and the Downtown Tall Buildings: Vision and Supplementary Design Guideline.

### **Massing**

The proposed development is not acceptable, does not fit within its local context and does not achieve the policies of the Official Plan, Downtown Plan, or the Tall Building Design Guidelines and the Downtown Tall Buildings: Vision and Supplementary Design Guideline. The application has not demonstrated that a 35-storey tower can be accommodated on this site.

The proposed building setbacks between the property line and the building including: 7.5 metres to the north, 3 metres to the south, 2 metres to the east and 5.5 metres to the west indicate that the size of the site is insufficient to accommodate a tall building that provides suitable step backs, separation distances, open space and landscaping requirements. The proposal limits future development potential on adjacent properties by providing insufficient setbacks on the site.

### **Heritage**

The site is located on lands adjacent to three protected heritage properties including the Walmer Road Baptist Church complex at 38 Walmer Road, and the Loretto Building at 385 Brunswick Avenue which are both designated under Part IV of the Ontario Heritage Act, as well as two apartment buildings at 35 and 44 Walmer Road designed by architect Uno Prii that are included on the City's Heritage Register.

The proposal does not meet Heritage related policies of the Official Plan related to new construction and development adjacent to a property on the Heritage Register. The proposal would visually overwhelm the adjacent heritage buildings which are an important part of the sense of place in the Annex area.

The submitted Heritage Impact Assessment has not demonstrated how the heritage attributes of the protected heritage properties are being conserved and designed to mitigate visual and physical impacts and fit into its context abutting the Walmer Road Baptist Church property to the south at 38 Walmer and the apartment building to the north at 44 Walmer Road.

### **Rental Housing Demolition**

A related Rental Housing Demolition application has been submitted as this application involves the demolition of a total of 33 rental dwelling units.

Official Plan Policy 3.2.1.6 requires that new development that would result in the loss of six or more rental dwelling units replace at least the same number, size, and type of rental units as exist on the site and maintain rents similar to those in effect at the time of application. The policy also requires the applicant to develop an acceptable tenant relocation and assistance plan, addressing the right to return to the replacement units at similar rents and other assistance to lessen hardship. The applicant has proposed replacement of the existing rental units, however further detail is outstanding related to a proposed tenant relocation and assistance plan.

### **Parkland, Public Realm and Streetscape**

The site is located within Downtown Plan's Annex Parks District Public Realm Plan that contemplate a midblock connection along the southern boundary of the site connecting Walmer Road to Brunswick Avenue to the west. The proposal includes a private outdoor open space located at ground level along the southern boundary of the site. A publicly accessible midblock connection should be further explored with the property to the west of the site.

The owner is required to satisfy the parkland dedication requirement through an on-site dedication. The park should be located in the southeast corner of the site and comply with Policy 3.2.3.8 of the Toronto Official Plan. The applicant has not shown an on-site parkland dedication on their submitted plans and drawings.

### **Shadow**

The shadow impacts resulting from the proposal are unacceptable. There are unacceptable shadow impacts by net new shadows being cast on sensitive areas between the spring and fall equinoxes during the afternoon hours, in particular on Gwendolyn MacEwen Park.

### **Wind**

The wind impacts resulting from the proposal are unacceptable and do not meet the policies of the Official Plan and the intent of the Tall Building Guidelines. A Pedestrian Wind Assessment by SLR Consulting dated September 28, 2023 shows some unsuitable wind conditions on the elevated outdoor amenity 6<sup>th</sup> floor terrace, the driveway, and a substantial portion of the Gwendolyn MacEwan Parkette.

## **Tree Preservation**

The application has trees that fall under both the City's Street and Private Tree by-laws. One existing street tree is proposed to be injured and a total of six private trees are proposed for removal. The current landscaping proposal indicates that one new tree is proposed on private property with zero new street trees. The proposal does not demonstrate compliance with the City's tree by-laws or with Tier 1 Toronto Green Standards Version 4 requirements.

## **Servicing**

A Functional Servicing and Stormwater Management Report and associated plans have been submitted for the site and are being reviewed by Engineering and Construction Services. In the event that the matter is appealed to the OLT, staff recommend the OLT withhold the issuance of any Orders that may approve the application pending the confirmation of 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.

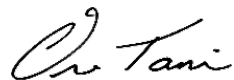
## **CONTACT**

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## **SIGNATURE**

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Oren Tamir  
Director, Community Planning  
Toronto and East York District

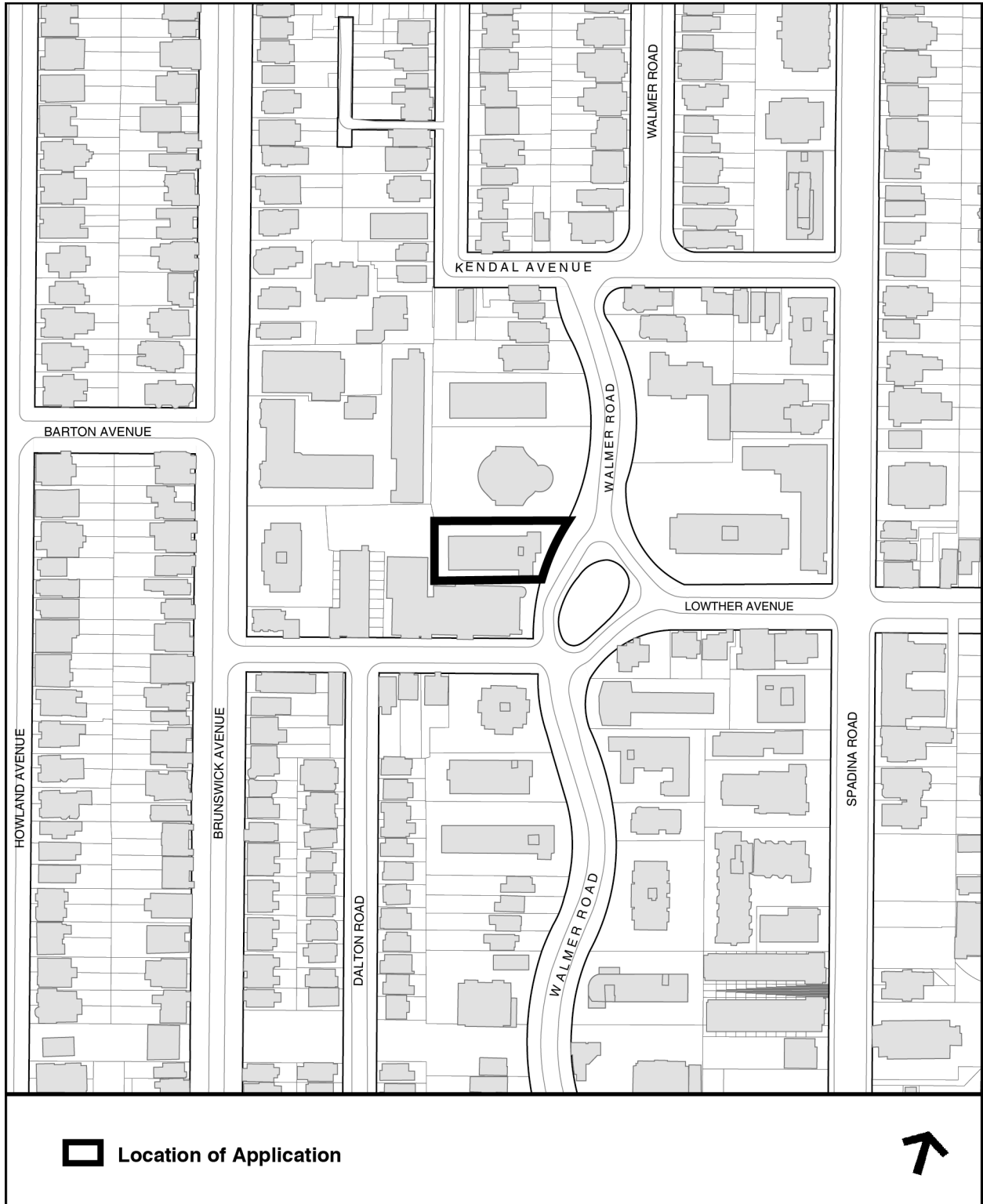
## **ATTACHMENTS**

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- Attachment 1: Location Map
- Attachment 2: Application Data Sheet
- Attachment 3: Applicant's Submitted 3D View looking Northeast
- Attachment 4: Applicant's Submitted 3D View looking Southwest
- Attachment 5: Applicant's Submitted Site Plan
- Attachment 6: Official Plan Land Use Map
- Attachment 7: Existing Zoning By-law Map



Attachment 1: Location Map



## Attachment 2: Application Data Sheet

**Municipal Address:** 40 Walmer Road      **Date Received:** October 24, 2023

**Application Number:** 23 217877 STE 11 OZ

**Application Type:** Rezoning

**Project Description:** A 35-storey (111.65 metres excluding mechanical penthouse) residential building, containing 365 dwelling units (including 33 replacement rental units).

<b>Applicant</b>	<b>Agent</b>	<b>Architect</b>	<b>Owner</b>
SGL Planning & Design, 1547 Bloor Street W, Toronto, ON, M6P 1A5	SGL Planning & Design, 1547 Bloor Street W, Toronto, ON, M6P 1A5	Turner Fleischer, 67 Lesmill Rd, Toronto, ON M3B 2T8	2114778 ONTARIO INC. 25 Sable Street, Toronto, ON M6M 3K8

### EXISTING PLANNING CONTROLS

Official Plan Designation: Apartment Neighbourhood  
Zoning: R (d2.0) (x901)      Heritage Designation: N  
Height Limit (m): 14      Site Plan Control Area: Y

### PROJECT INFORMATION

Site Area (sq m): 1,605      Frontage (m): 29      Depth (m): 59

<b>Building Data</b>	<b>Existing</b>	<b>Retained</b>	<b>Proposed</b>	<b>Total</b>
Ground Floor Area (sq m):	688		583	<b>583</b>
Residential GFA (sq m):	2,660		22,774	<b>22,774</b>
Non-Residential GFA (sq m):				
<b>Total GFA (sq m):</b>	<b>2,660</b>		<b>22,774</b>	<b>22,774</b>
Height - Storeys:	4		35	<b>35</b>
Height - Metres:	12		111	<b>111</b>

Lot Coverage Ratio (%): 36.4      Floor Space Index: 14.19

<b>Floor Area Breakdown</b>	<b>Above Grade (sq m)</b>	<b>Below Grade (sq m)</b>
Residential GFA:	22,655	118
Retail GFA:		
Office GFA:		
Industrial GFA:		
Institutional/Other GFA:		

<b>Residential Units by Tenure</b>	<b>Existing</b>	<b>Retained</b>	<b>Proposed</b>	<b>Total</b>
Rental:	33		33	<b>33</b>
Freehold:				
Condominium:			332	<b>332</b>
Other: 0				
<b>Total Units:</b>	<b>33</b>		<b>365</b>	<b>365</b>

#### **Total Residential Units by Size**

	<b>Rooms</b>	<b>Bachelor</b>	<b>1 Bedroom</b>	<b>2 Bedroom</b>	<b>3+ Bedroom</b>
Retained:					
Proposed:		9	267	56	33
<b>Total Units:</b>		<b>9</b>	<b>267</b>	<b>56</b>	<b>33</b>

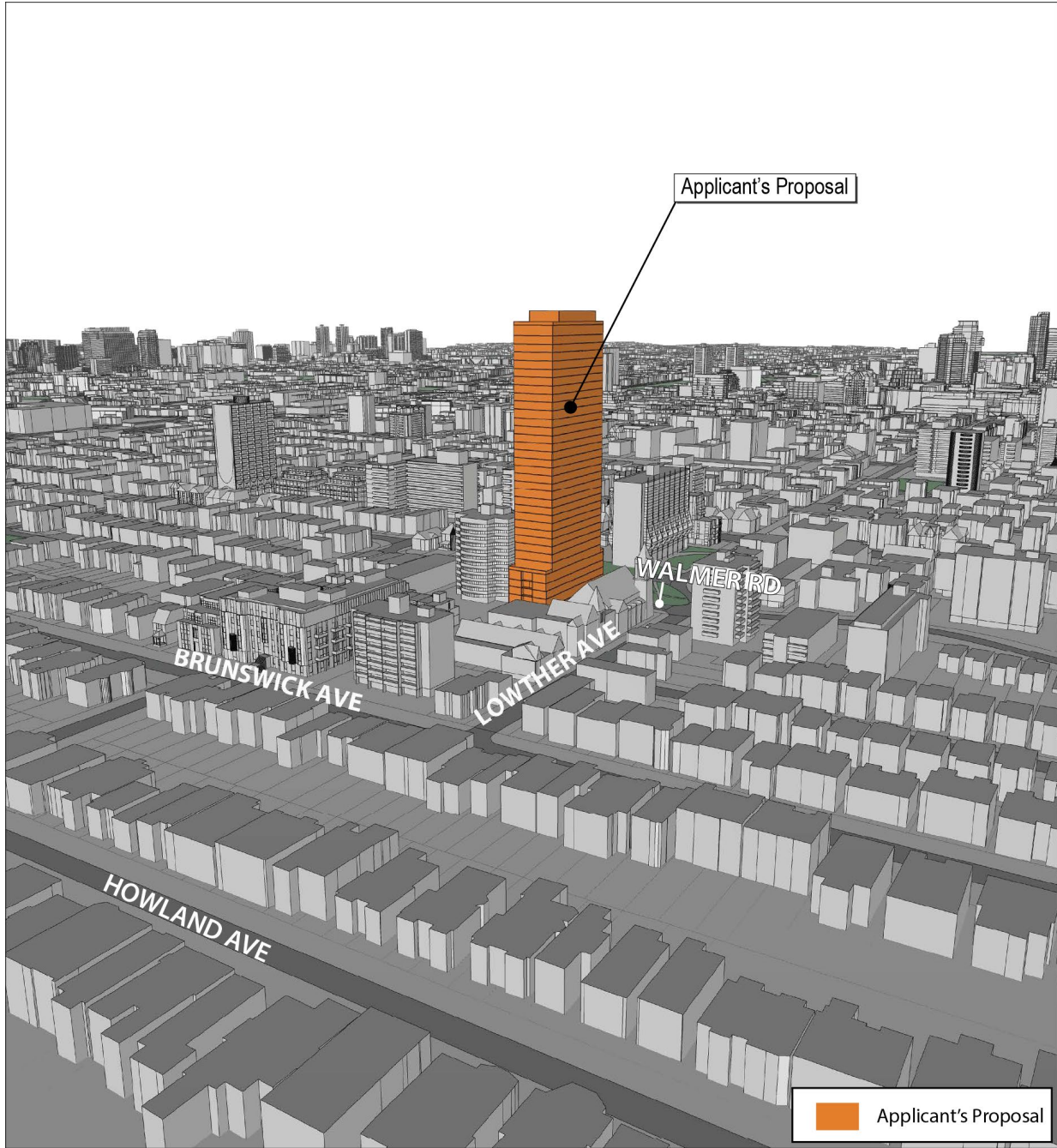
#### **Parking and Loading**

Parking Spaces: 44    Bicycle Parking Spaces: 403    Loading: 1 Type G

#### **CONTACT:**

Aviva Pelt, Senior Planner  
416-392-0877  
[Aviva.Pelt@toronto.ca](mailto:Aviva.Pelt@toronto.ca)

Attachment 3: Applicant's Submitted 3D Model of Proposal in Context looking Northeast

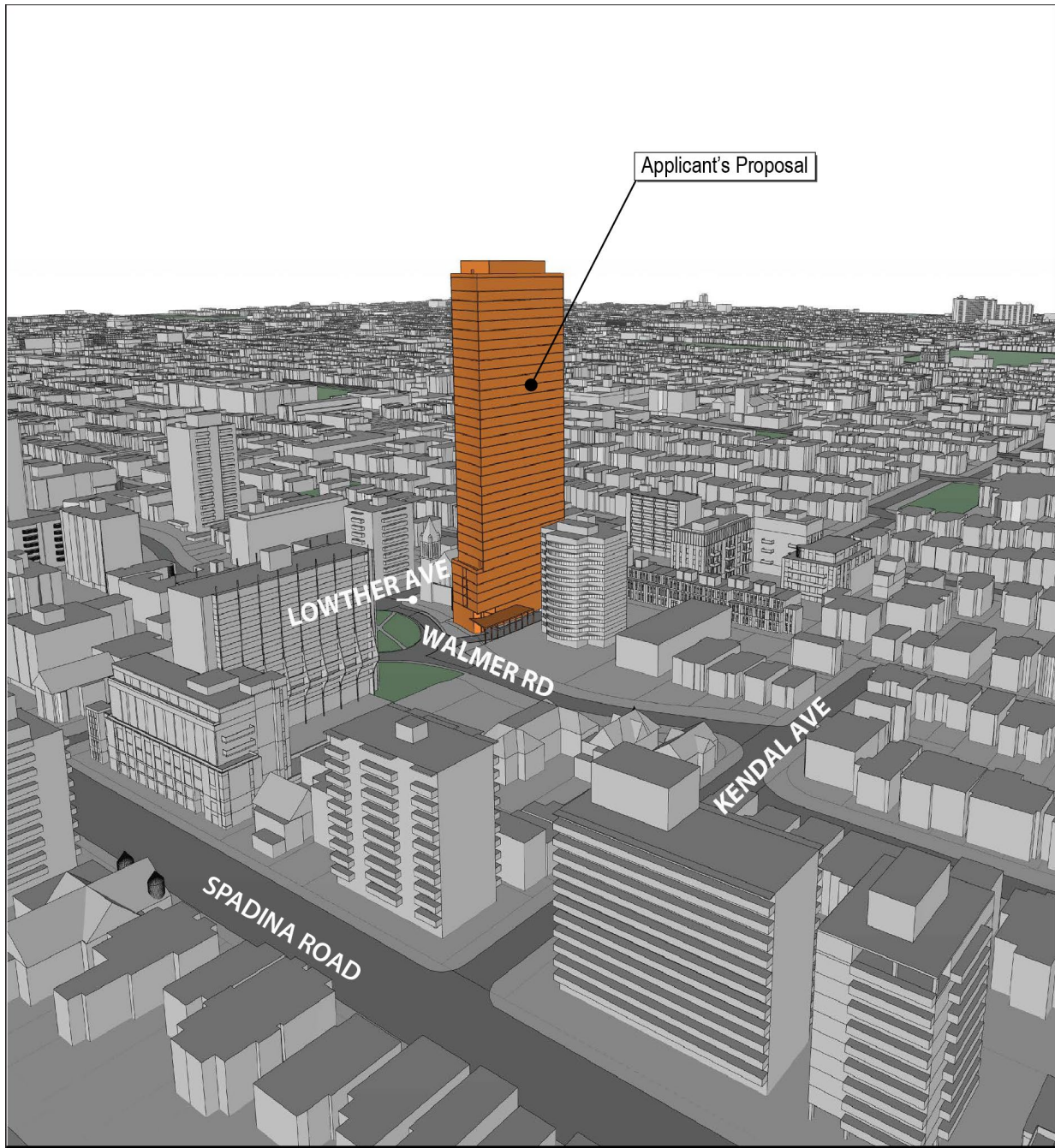


View of Applicant's Proposal Looking Northeast



12/13/2023

Attachment 4: Applicant's Submitted 3D Model of Proposal in Context looking Southwest

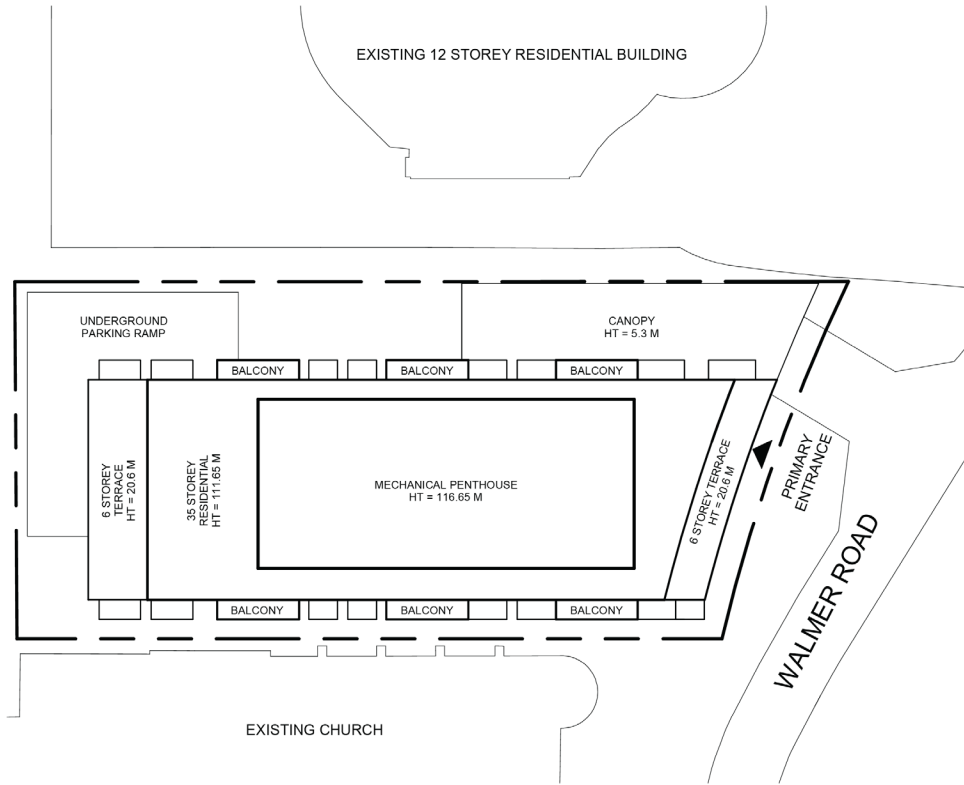


View of Applicant's Proposal Looking Southwest



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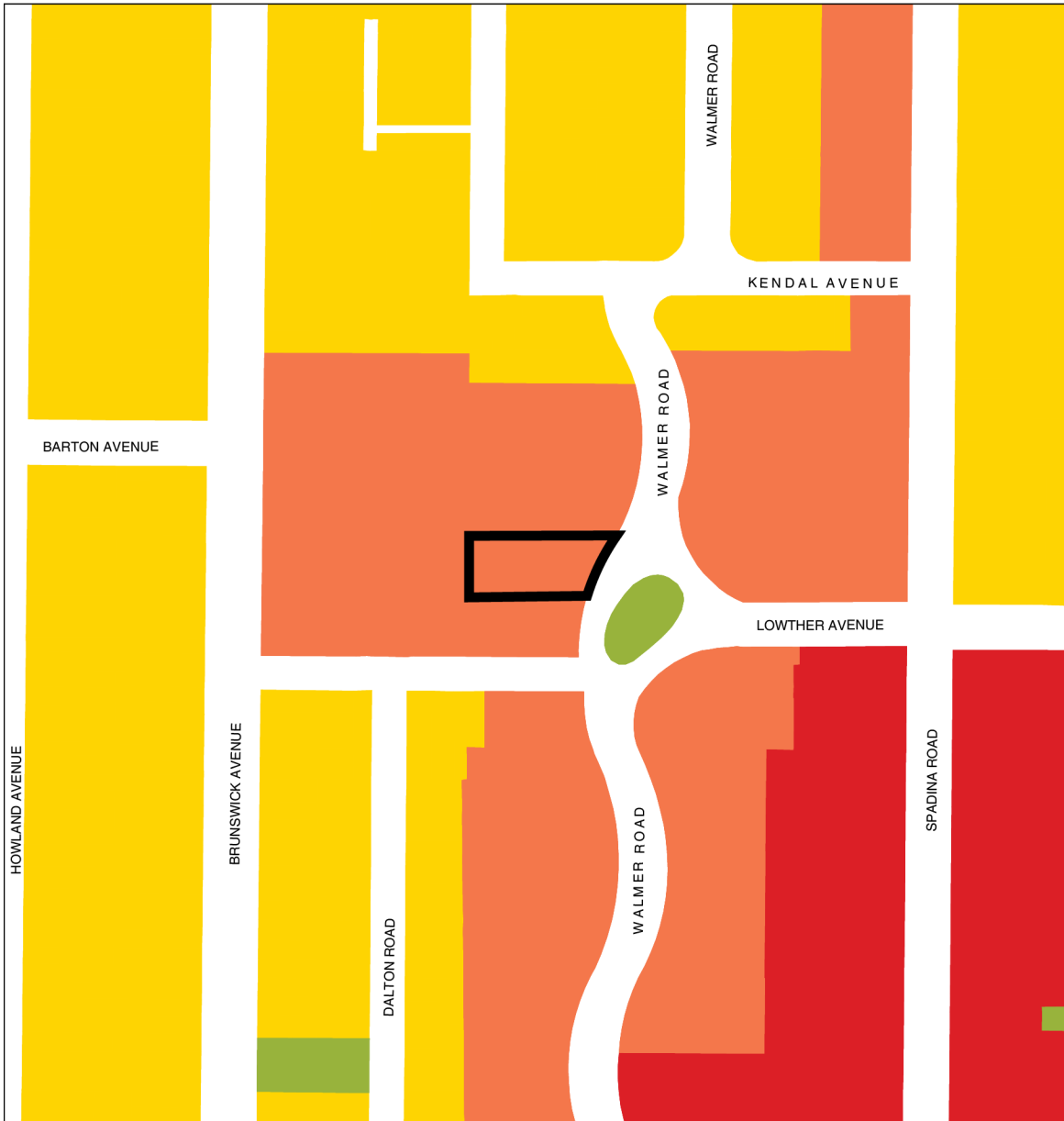
Attachment 5: Site Plan



Site Plan




Attachment 6: Official Plan Land Use Map



Official Plan Land Use Map #17

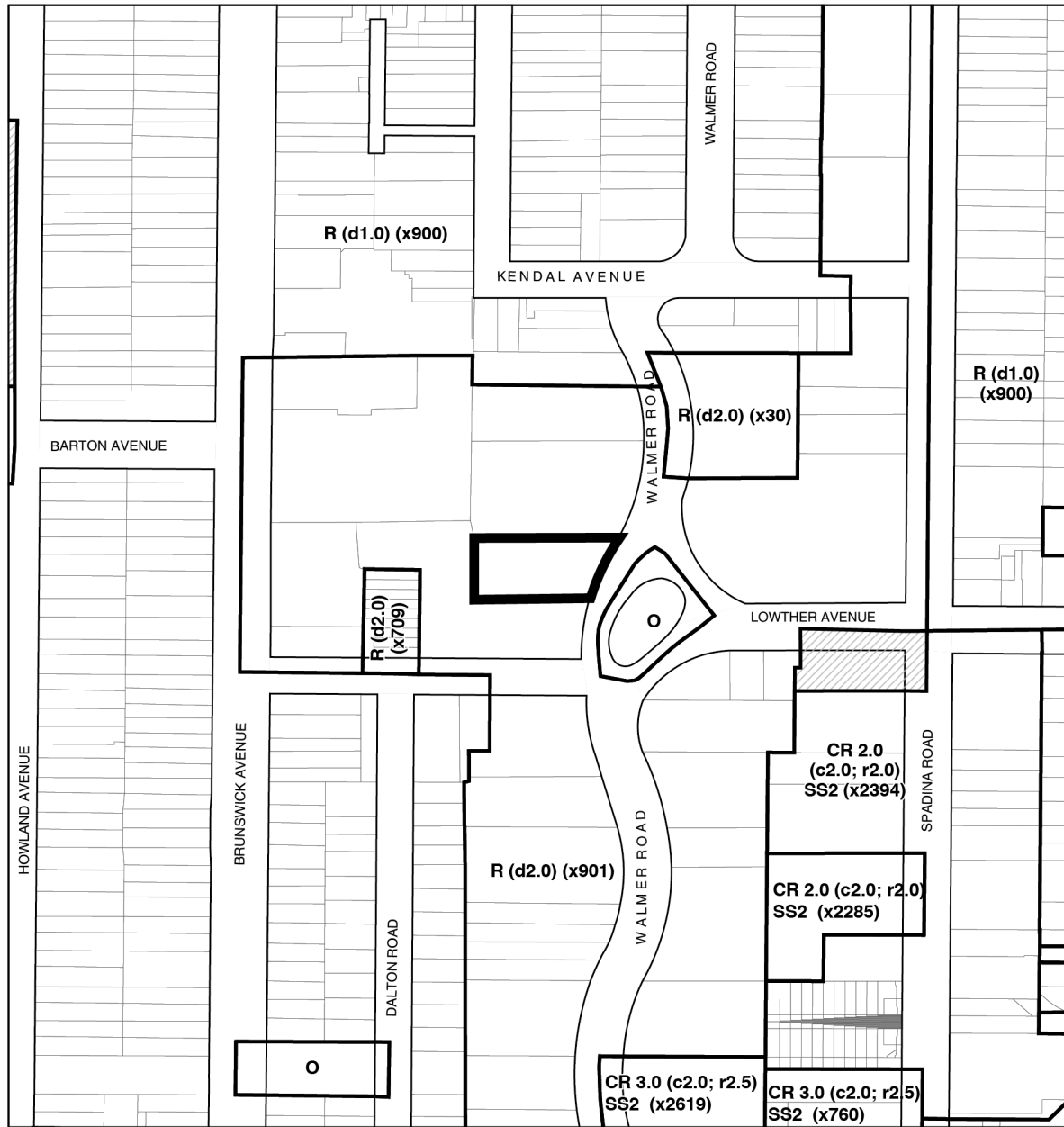
40 Walmer Road  
File # 23 217877 STE 11 0Z

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

  
Not to Scale  
Extracted: 10/31/2023



Attachment 7: Existing Zoning By-law Map



Zoning By-law 569-2013

40 Walmer Road

File # 23 217877 STE 11 OZ

-  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: 10/31/2023