

STAFF REPORT ACTION REQUIRED

722, 750 and 783 College Street – Zoning Amendment – Final Report

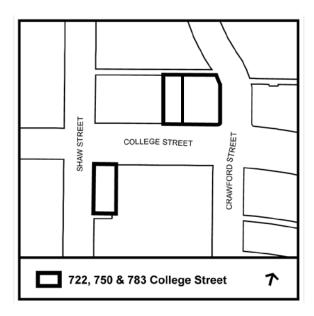
Date:	October 26, 2017
To:	Toronto and East York Community Council
From:	Acting Director, Community Planning, Toronto and East York District
Wards:	Ward 19 – Trinity-Spadina
Reference Number:	17 152699 STE 19 OZ

SUMMARY

On June 14, 2016, Toronto and East York Community Council directed City Planning Staff to review the Zoning By-law provisions for three existing music and entertainment venues on College Street between Shaw Street and Crawford Street, and consider measures to mitigate their impacts on adjacent uses and neighbourhoods.

Through consultation and internal staff review further to Community Council direction, staff have determined that the in-progress, City-wide review of live music venues is the appropriate mechanism to address permanent By-law standards associated with main street music venues.

As the City is continuing to undertake the review of Zoning By-law permissions to support live music venues, the City does not object to the continuing operation of the three existing music and entertainment venues referenced in this report. This City-initiated application proposes to add the permitted uses of "Entertainment Place of Assembly" and "Nightclub", as defined in By-law 569-2013 as well as "Concert Hall" and "Entertainment Facility" as defined in By-law 438-86, subject to site-specific performance standards, to the properties at 722, 750 and 783 College Street, on a temporary basis for 3 years.



The intent of the By-law amendment is to allow the existing music and entertainment uses to continue to function until such time as City-wide standards are employed to better support and regulate these uses.

This report also summarizes ongoing work being undertaken by various City Divisions to support and grow Toronto's live music venues.

RECOMMENDATIONS

The City Planning Division recommends that:

- 1. City Council amend Zoning By-law 438-86, for the lands at 722, 750 and 783 College Street substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 4 to the report (October 26, 2017) from the Director of Community Planning, Toronto and East York District;
- 2. City Council amend City of Toronto Zoning By-law 569-2013, for the lands at 722, 750 and 783 College Street substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 5:
- 3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.

Financial Impact

The recommendations in this report have no financial impact.

DECISION history

At the December 7, 2016 Toronto and East York Committee of Adjustment meeting, variances were requested to alter the existing four-storey building at 722 College Street by expanding the second-storey mezzanine space for a Nightclub use, as defined in By-law 569-2013, and Entertainment Facility, as defined in By-law 438-86. The variances were granted for a period of two years, expiring December 7, 2018.

No development applications have been submitted at 750 and 783 College Street.

Origin

On June 14, 2016, Toronto and East York Community Council directed City Planning Staff to review the Zoning By-law provisions for existing live music and performance venues on College Street between Shaw Street and Crawford Street, and consider measures to mitigate their impacts on adjacent uses and neighbourhoods.

As part of the review, Staff were also to meet with the owners of the venues and the surrounding community to discuss the operation and impacts of the live music and performance venues.

The motion can be found here: http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE17.118

Issue Background

There are three music and entertainment venues located on College Street between Shaw Street and Crawford Street: Mod Club, El Convento Rico, and Revival, located at 722, 750 and 783 College Street, respectively. These venues all operate somewhat differently, though each often feature live music and other performance events.

The Zoning By-laws applicable to these properties do not contain a use that consistently captures the varied operations of these music and entertainment venues. The uses that most closely reflect the venues on College Street are "Concert Hall" or "Entertainment Facility" in Zoning By-law 438-86 and "Entertainment Place of Assembly" or "Nightclub" in Zoning By-law 569-2013. These uses are generally not permitted along main streets outside the Downtown area, with the exception of "Entertainment Place of Assembly".

In many cases, the City has found that venues, such as the three discussed in this report, operate as a "Restaurant", "Nightclub", or other uses. While the Zoning By-law definitions and performance criteria for these uses do not explicitly restrict live music and other types of live performances they also offer limited use in adequately addressing potential land use compatibility issues created by live music and entertainment venues and adjacent uses. As part of a city-wide review, performance standards that may help mitigate potential land use compatibility issues will be explored.

Ambiguity in the Zoning By-laws regarding music and entertainment venues, and the use under which these venues fall in the Zoning By-law, creates uncertainty for the owners and operators of these venues, for the City with regard to licensing and enforcement, and for adjacent landowners, businesses, and residents. It also may be an impediment to the establishment of new live music venues in the City. This is also a matter that the City-wide review will explore.

As detailed later in this report, the Official Plan encourages entertainment and cultural uses, such as live music and performance venues, within *Mixed Use Areas* across the City. In the view of City Planning staff, permitting and regulating live music and performance venues outside the downtown is consistent with the intent of the Official Plan.

While it is more appropriate that these matters be addressed through a comprehensive city-wide review of permissions related to live music venues, City Planning is recommending temporary By-law amendments to allow the existing uses on these three sites to continue for a period of three years to allow the City to complete the City-wide review of permissions related to live music venues.

Proposal

City Planning Staff recommend proposed Amendments to Zoning By-laws 438-86 and 569-2103 (Attachments 4 and 5). The proposed amendments would permit the continued use of the existing establishments by adding the uses of "Concert Hall" and "Entertainment Facility" in By-law 438-86, as well as "Nightclub" and "Entertainment Place of Assembly", in By-law 569-

2013, with performance standards related to each specific site. The By-law amendment establishes a maximum floor area of these uses on each site, corresponding generally to their existing size. For all three venues, the proposed By-law requires that the front entrance to the venue be situated facing a main street.

These amendments are proposed to be temporary, lasting for a period of 3 years, allowing these uses to continue, while allowing the City sufficient time to report on possible city-wide amendments to the Zoning By-law to better regulate and support the function of live music venues.

Site and Surrounding Area

The subject properties, 722, 750 and 783 College Street, all front onto College Street. The property at 783 College Street also has side yard frontage on Shaw Street. Music and entertainment venues are located at each of these addresses. The Mod Club, the largest of the three venues with a capacity of 618 persons and a size of 2100 square metres, is located in the four storey commercial building at 722 College Street. El Convento Rico, with a capacity of 367 persons and a size of approximately 600 square metres, is located on the basement level of the one-storey commercial building at 750 College Street. The Revival, with a capacity of 120 persons and a size of 300 square metres, is located within a two-storey building at 783 College Street.

The surrounding uses are as follows:

North: Low-rise residential units including detached and semi-detached dwellings.

West: Low-rise mixed-use and residential buildings fronting onto College Street.

South: Surface parking lot and a one-storey grocery store. Low-rise residential units,

including detached and semi-detached dwellings are situated further south.

East: Low-rise mixed-used buildings fronting onto College Street.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (2014) (the "PPS") provides policy direction Province wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- the efficient and wise use and management of land and infrastructure over the long term in order to minimize impacts on air, water and other resources;
- building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment;
- residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit; and

- encouraging a sense of place in communities, by promoting well-designed built form and by conserving features that help define local character.

The City of Toronto uses the PPS to guide its Official Plan and to inform decisions on other planning and development matters. The PPS is issued under Section 3 of the *Planning Act* and all decisions of Council affecting land use planning matters "shall be consistent with" the PPS.

The Growth Plan for the Greater Golden Horseshoe (2017) (the "Growth Plan") provides a strategic framework for managing growth in the Greater Golden Horseshoe region including:

- setting minimum density targets within settlement areas and related policies directing
 municipalities to make more efficient use of land, resources and infrastructure to reduce
 sprawl, cultivate a culture of conservation and promote compact built form and betterdesigned communities with high quality built form and an attractive and vibrant public
 realm established through site design and urban design standards;
- building complete communities with a diverse range of housing options, public service facilities, recreation and green space that better connect transit to where people live and work; and,
- retaining viable employment lands and encouraging municipalities to develop employment strategies to attract and retain jobs;

Like other provincial plans, the Growth Plan builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. All decisions by Council affecting land use planning matters are required by the *Planning Act*, to conform, or not conflict, as the case may be, with the Growth Plan

Official Plan

The proposed Zoning By-law amendments have been reviewed against relevant policy sections of the Official Plan, which include the policy sections noted below. The Official Plan is intended to be read as a comprehensive and cohesive whole.

The Official Plan is available here:

http://www1.toronto.ca/static_files/CityPlanning/PDF/chapters1_5_dec2010.pdf

Avenues (2.2.3)

The subject sites are located on an *Avenue*, as noted on Map 2 of the Official Plan. Section 2.2.3 of the Official Plan states that *Avenues* are "important corridors along major streets where reurbanization is anticipated and encouraged to create new housing and job opportunities, while improving the pedestrian environment, the look of the street, shopping opportunities and transit service for community residents".

Healthy Neighbourhoods (2.3.1)

The properties abutting the subject sites to the north, in the case of 722 and 750 College Street, and to the west, in the case of 783 College Street, are designated as *Neighbourhoods* by the Official Plan. The Healthy Neighbourhoods Section of the Official Plan (Section 2.3.1) intends that established Neighbourhoods will benefit from development and a mix of uses along the City's Avenues while ensuring the general amenity of Neighbourhoods is not adversely affected.

Mixed Use Areas (4.5)

The sites are also located within the Mixed Use Areas land use map, as noted on Map 18 of the Official Plan (Attachment 1). The *Mixed Use Areas* designation permits a broad range of commercial, residential and institutional uses that meet the needs of the local community, while also providing a transition between areas of different development intensity and scale.

Toronto's Economic Health (3.5)

Section 3.5.2 of the Official Plan contains policies regarding the creation of cultural capital. The Official Plan recognizes that great cities offer and promote a vibrant cultural life and that a flourishing cultural life is a magnet attracting new residents to the City and convincing existing residents to stay.

Zoning By-laws 438-86 and 569-2013

The subject properties are zoned 'MCR'— Mixed use by By-law No. 438-86, as amended (Attachment 2). The 'MCR' zone permits a range of uses, such as Residential, Retail Store, Office and Restaurant uses. Certain uses are permitted within the zone but are subject to performance standards. The maximum permitted building height is 16.0 metres, while the maximum permitted density is 2.5 times the site area.

The subject sites are zoned 'CR' – Commercial-Residential by Zoning By-law 569-2013 (Attachment 3). Zoning By-law 569-2013 permits generally the same uses, height and density on the subject site as By-law 438-86.

Toronto Music Strategy

In December 2013, City Council voted in favour of the creation of the Toronto Music Advisory Council (TMAC). TMAC includes 30 volunteer members representing a wide spectrum of Toronto's music sector, along with six City Councillors and two City staff. The members of TMAC reached consensus in creating a Music Strategy to guide the short and long-term growth of Toronto's music sector. The Music Strategy focuses on the following:

- Support an environment friendly to music creators;
- Encourage the business of music in Toronto;
- Support music education;
- Promote Toronto's music sector locally and internationally;
- Foster alliances with other music cities around the world; and
- Implement a process for monitoring progress and measuring success.

A link to the Music Strategy can be found here: http://www.toronto.ca/legdocs/mmis/2017/te/bgrd/backgroundfile-102235.pdf

The Agent of Change Principle

On February 13, 2017, the Toronto Music Advisory Council recommended that the general manager of Economic Development and Culture and the Chief Planner and Executive Director of City Planning consider the Agent of Change principle as a measure of protecting live music and performance venues.

Under the Agent of Change principle, consultation and review of new development within an established radius of an existing live music venue would include the Economic Development and Culture Division including the Film and Entertainment Industries Office. In these instances a developer may be required to mitigate the impacts of nearby venues on the new development by disclosing the presence of such venues to future occupants/purchasers and by installing necessary soundproofing adjustments to proposed building.

Municipal Code Licensing and Noise Review

At its meeting of January 22, 2016, Licensing and Standards Committee directed the Executive Director, Municipal Licensing and Standards (ML&S) to report back with revised amendments to the Toronto Municipal Code Chapter 591, Noise. The objective of the By-law review is to implement changes to ensure that the by-law is modern, up-to-date, easy for residents, property owners and businesses to understand, and appropriately considers the operation of businesses such as live music venues. ML&S will be reporting to a future Licensing and Standards Committee Meeting with proposed amendments to the noise by-law.

A link to the follow-up report can be found here: http://www.toronto.ca/legdocs/mmis/2016/ls/bgrd/backgroundfile-92915.pdf

Staff from ML&S are also undertaking a review of Toronto Municipal Code Chapter 545, Licensing. ML&S staff have advised that currently music venues may hold licences as 'eating establishments', 'nightclubs', or 'public halls', but that there is no licensing category specific to live music venues in Chapter 545. The potential inclusion of a new licensing category for live music venues is being reviewed by ML&S Staff.

Community Consultation

City Planning staff held a community Consultation meeting at 319 Ossington Avenue on June 15, 2017. Councillor Layton, representatives from ML&S, and the City's Film & Entertainment Industries Office were present at the meeting. Approximately twenty members of the public attended the meeting. The following comments were made regarding the proposed amendment:

- General support for live music venues on main streets and as institutions which contribute to the City's cultural and entertainment identity and employment base;
- General concern regarding the negative noise impacts of live music venues on adjacent residential areas;
- Concern regarding crowd control and noise impact of patrons exiting the venue en masse once the shows end;

- Concerns were raised regarding the location of the queues prior to the live music and performances;
- Concern regarding the location and time of tour vehicle parking and loading; and
- General support from many in attendance for creating specific criteria and performance standards for live music and performance venues to mitigate their impact on adjacent residential areas.

Consultation with Venue Representatives

On May 9, 2017, City Planning Staff organized a meeting that was attended by representatives from El Convento Rico and the Mod Club. Representatives from Revival were unable to attend the meeting. City staff representing the Music Development Unit of Film & Entertainment Industries, Economic Development and Culture, were also present at the meeting. At the meeting, the venue representatives expressed concerns that the existing Zoning By-law definitions did not properly address music venues or their current operations.

On October 20, 2017, prior to the completion of this report and the attached By-law amendments, City Planning Staff, along with and Film & Entertainment Industries Staff, met again with venue representatives from El Convento Rico, the Mod Club, as well as Revival. Planning Staff provided an update and a summary of the draft by-law amendments. The venue representatives did not object to the draft By-law amendments. The City-wide review of live music and performance venues in the By-laws was encouraged and supported.

Comments from industry representatives at these meetings were valuable in the preparation of this report and will be helpful in informing the City's broader initiatives to support live music and performance venues.

COMMENTS AND DISCUSSION

City staff in the Municipal Licensing and Standards and Economic Development and Culture Divisions, and Toronto Buildings have reviewed and contributed to the analysis and recommendations contained in this report.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) 2014, recognizes that local context and character is important and recognizes the Official Plan as the most important vehicle for implementation of this PPS. The proposal conforms to the Official Plan's objective of building vibrant main streets, and promoting and supporting a full range of arts and cultural activities in a format that is compatible with its surrounding context.

Staff are of the opinion that the proposed Zoning By-law amendment application is consistent with the PPS and conforms (and does not conflict) with the Growth Plan.

Official Plan

The Official Plan acknowledges and encourages cultural institutions, such as live music and performance venues, provides direction on land use designations where such establishments should be permitted, and directs that potential impacts of these uses on adjacent areas be mitigated where necessary.

Land Use

Policy 2.2.3 directs that *Avenues* are important corridors encouraged to, among other functions, create new job opportunities.

Policy 4.5.1 encourages a broad range of uses, including entertainment and cultural uses, intended to achieve a multitude of planning objectives, within *Mixed Use Areas*.

Section 3.5.2 of the Official Plan directs that a full range of arts and cultural activities will be promoted and supported.

Live music and entertainment venues such as those discussed in this report, are drivers of employment in the City's cultural and entertainment sector, enabling job creation both on-site and in related industries. Permitting these types of venues on *Avenues* is consistent with the intent of Official Plan Policy 2.2.3.

Temporarily permitting the use of a "Concert Hall", "Night Club", and 'Entertainment Place of Assembly", in their corresponding By-laws, subject to conditions, until such time as the City concludes its broader review of live music venues, is consistent with the intent of Official Plan Policies 3.5.2. and 4.5.

Mitigating Potential Impacts

Policy 4.5.1 intends that the uses in *Mixed Use Areas*, both in terms of scale and impact, transition appropriately to adjacent areas of different development intensity, particularly towards lower scale *Neighbourhoods*.

The Healthy Neighbourhoods policies (2.3.1) intend that development within *Mixed Use Areas* limits its impact on adjacent Neighbourhoods. While in this instance, the proposed Zoning Bylaw amendments to better acknowledge existing uses is not considered development, the intent of the plans to mitigate impacts on the boundary point between the *Neighbourhoods* and *Avenues* is clear.

In order to limit impacts on adjacent residential areas, the proposed Zoning By-law amendment only permits the "Concert Hall", "Entertainment Facility", "Entertainment Place of Assembly" and "Nightclub" uses to occur at maximum floor areas corresponding generally to the existing operations at 722, 750 and 783 College Street. The proposed amendment also requires that the principle entrance of these venues, where any potential queuing is expected to occur, is located on the College Street frontage.

Licensing and Noise By-law Review

Municipal Licensing & Standards Staff were consulted in the drafting of this report. City Planning staff acknowledge the impact of noise and vibration as a potential issue with the operation of music venues on main streets. City Planning staff have been advised that ML&S Staff are considering amendments to Chapters 545, and 591 of the Municipal Code, respecting Licensing and Noise, respectively, with regard to the operation of live music venues and the objectives of the Toronto Music Strategy.

In consultation with ML&S staff in the preparation of this report it was noted that the current Licensing regime does not align well with the current Zoning By-law definitions with regard to live music venues, therefore it's difficult to determine what the appropriate uses for these, and other similar sites would be from a licensing point of view. There is currently a licensing void that does not adequately capture uses that are more intense than restaurants, but not as impactful as nightclubs.

The creation of a new live music venue definition in the Zoning By-law would provide clarity and could provide an opportunity to create a live music venue licence category.

City Planning, Toronto Buildings, and the Music Sector Development group in the Economic Development and Culture Division generally agree that the consideration of a live music venue definition in the Zoning By-law is necessary and will be undertaken as part of the ongoing Citywide review of existing policies and permissions in support of live music venues.

Toronto Music Strategy

City Planning Staff have consulted the Music Sector Development office in the Economic Development and Culture Division on the Toronto Music Strategy's short and long-term objectives, the content of this report, and the proposed Zoning By-law amendments.

Music Sector Development staff advised that the proposed amendments do not conflict with the objectives of the Toronto Music Strategy but advised that addressing the long term objectives of Toronto Music Strategy will require a coordinated, more comprehensive and supportive response to live music venues within the City's regulatory framework.

Summary of the Proposed Zoning By-law Amendments

The proposed amendments to By-law No. 438-86, as amended, and By-law No. 569-2013 (Attachments 4 and 5) respecting the properties at 722, 750, and 783 Collage Street include the following:

Permitting the uses of "Concert Hall" and "Entertainment Facility" on each of the subject properties as a site specific amendment to Zoning By-law 438-86, with the provision that a "Concert Hall" is not required to have fixed seating or require the audience to be seated throughout the performance, that the principal entrance to the use is located on the College Street frontage, that the uses may serve food and or beverages as an ancillary function that is generally dependent upon live music or live entertainment on site, and that the uses have a maximum floor area of:

- 2,100 square metres at 722 College Street,
- 600 square metres at 750 College Street, and,
- 400 square metres at 783 College Street.
- Permitting the uses of "Entertainment Place of Assembly" and "Nightclub" on each of the subject properties as a site specific amendment to Zoning By-law 569-2013, requiring that the principal entrance is located on the College Street frontage, that the uses may serve food and or beverages as an ancillary function that is generally dependent upon live music or live entertainment on site, and that the uses have a maximum floor area of:
 - 2,100 square metres at 722 College Street,
 - 600 square metres at 750 College Street, and,
 - 400 square metres at 783 College Street.
- Exempting these properties from the parking and loading requirements of the additional uses noted above.

The proposed amendments would form part of a temporary use by-law, which, if approved, will be in force and effect for a period of 3 years.

Other Regulatory Tools

City Planning staff note that the Zoning By-laws are just one of many regulatory tools at the City's disposal to ensure live music and performance venues can continue to operate and thrive in the City, contributing to Toronto's cultural, recreational, and employment objectives, while appropriately managing any potential impacts on sensitive uses.

Updates to the City's Municipal Code Chapter 545 and 591, as well as the implementation of the Agent of Change principle should also be pursued by appropriate civic representatives in addition to the City-wide review of Zoning By-law permissions necessary to support live music venues.

Resolving the current ambiguity in the Zoning By-laws regarding music and live performance venues creates more clarity for the owners and operators of these venues, city staff, and areas residents and businesses.

Conclusion

This City-initiated application proposes to add the permitted uses of "Entertainment Place of Assembly" and "Nightclub", as defined in By-law 569-2013 as well as "Concert Hall" and "Entertainment Facility" as defined in By-law 438-86, subject to site-specific performance standards, to the properties at 722, 750 and 783 College Street, through a temporary use by-law for a period of 3 years.

While staff in City Planning, Municipal Licencing and Services, Toronto Buildings, and Economic Development and Culture, generally agree that considering a new By-law definition and corresponding licensing category that better distinguishes live music and performance

venues from other uses should be part of a broader strategy to support and provide clarity in the operation of music venues, it is the opinion of City Planning staff that the in-progress, City-wide review of live music venues is the most appropriate mechanism to address permanent by-law standards associated with music venues.

While this report focuses on three specific venues, many live music and performance venues exist across the City. These live music and performance venues contribute to and form part of Toronto's internationally significant arts and culture identity and provide numerous jobs in the entertainment and other industries. Policies in the City's Official Plan, and the direction from the Toronto Music Strategy direct that the city support these types of uses in areas across the City.

The intent of the By-law amendment is to allow the existing live music and entertainment uses to continue to function on these three sites until such time as City-wide standards are employed to better support and regulate these uses.

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SIGNATURE

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Acting Director, Community Planning Toronto and East York District

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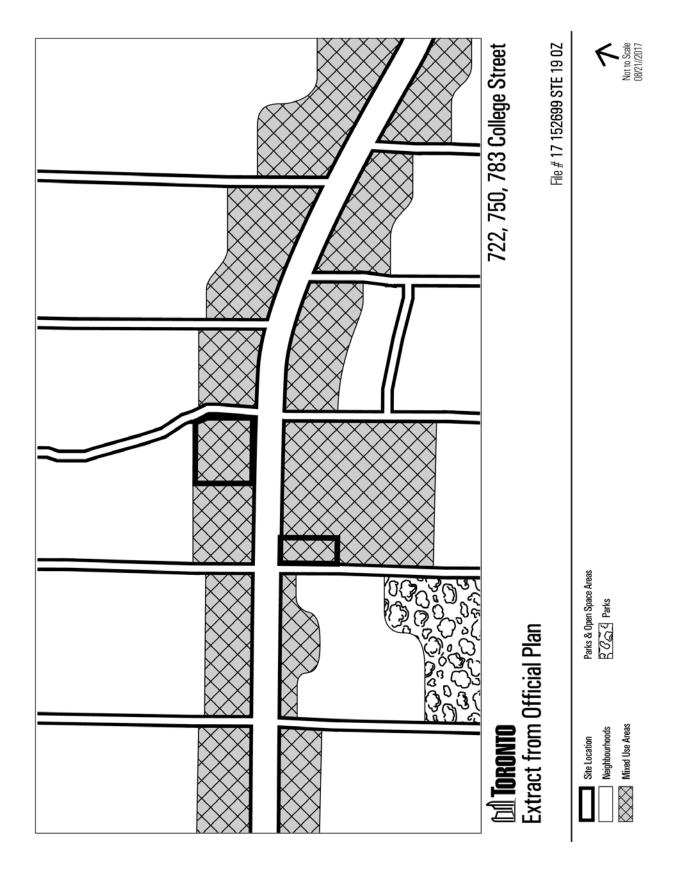
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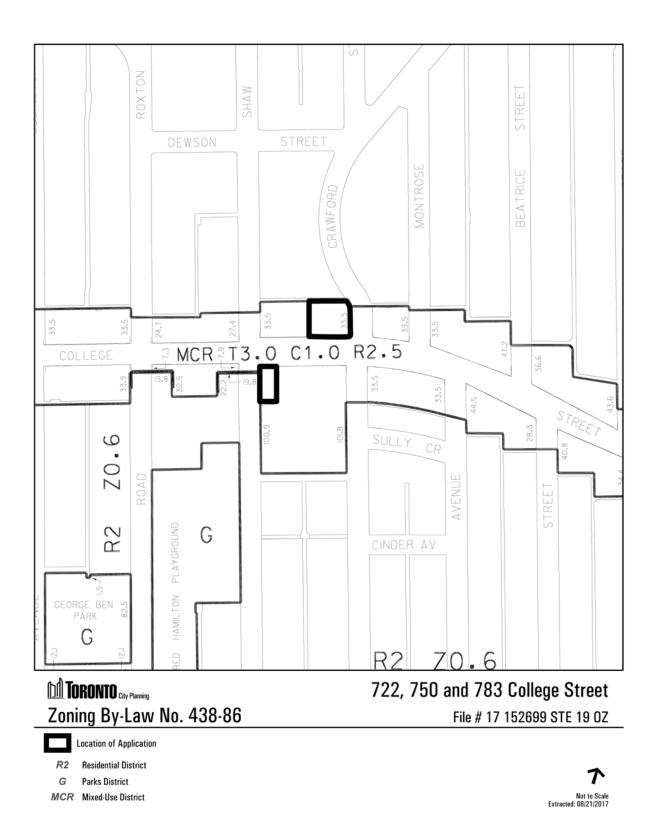
Attachment 1: Official Plan Excerpt – Land Use – Map 18

Attachment 2: Zoning By-law Excerpt (438-86) Attachment 3: Zoning By-law Excerpt (569-2013)

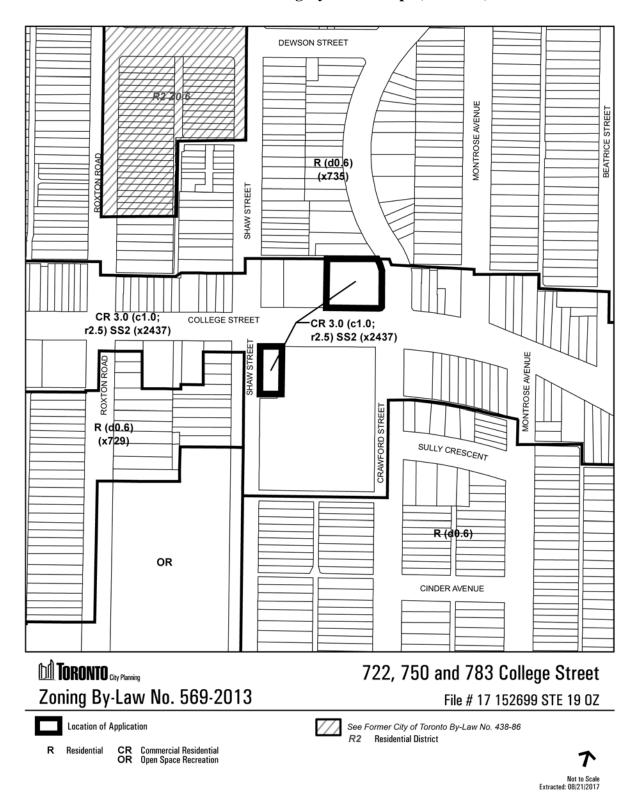
Attachment 4: Draft Zoning By-law Amendment (438-86) Attachment 5: Draft Zoning By-law Amendment (569-2013)

Attachment 1: Official Plan Excerpt – Land Use – Map 18





Attachment 3: Zoning By-law Excerpt (569-2013)



Attachment 4: Draft Zoning By-law Amendment (438-86)

To be provided in advance of November 14, 2017 Toronto and East York Community Council.

Attachment 5: Draft Zoning By-law Amendment (569-2013)

To be provided in advance of November 14, 2017 Toronto and East York Community Council.