

102 Berkeley Street – Zoning Amendment Application – Preliminary Report

Date: January 24, 2022

To: Toronto and East York Community Council

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

Ward 13 - Toronto Centre

Planning Application Number: 21 221292 STE 13 OZ

Current Use on Site: A one-storey building containing approximately 920 square metres of retail uses

SUMMARY

This report provides information and identifies a preliminary set of issues regarding the application located at 102 Berkeley Street for a 20-storey mixed-use building with 357 square metres of retail space on the ground floor and 181 dwelling units above. Staff are currently reviewing the application. It has been circulated to all appropriate agencies and City divisions for comment. Staff will proceed to schedule a community consultation meeting for the application with the Ward Councillor. At this stage in the review, staff note that the application is not supportable in its current form

RECOMMENDATIONS

The City Planning Division recommends that:

1. Staff schedule a community consultation meeting for the application located at 102 Berkeley Street together with the Ward Councillor.
2. Notice for the community consultation meeting be given to landowners and residents within 120 metres of the application site, and to additional residents, institutions and owners to be determined in consultation with the Ward Councillor, with any additional mailing costs to be borne by the applicant.

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

The subject property formed part of a larger site that connected east-west across the block and consisted of 53-65 Ontario Street and 102 Berkeley Street. In 2016, the

Ontario Land Tribunal approved a proposal for a 25-storey building for the 53-65 Ontario Street portion of the property and severed 102 Berkeley Street from the larger site to create a separate property, with no changes proposed on the severed portion of the site (File Nos. 15 113777 STE 28 OZ and B0010/16TEY).

THE APPLICATION

Complete Application Submission Date

October 5, 2021

Application Description

This application proposes to amend the Zoning By-law for the property at 102 Berkeley Street to permit a 20-storey (70.1 metres including the mechanical penthouse) mixed-use building with 357 square metres of retail space on the ground floor and 12,653 square metres of residential floor area consisting of 181 dwelling units. The dwelling units consist of 117 studio units (64.6%), 17 one-bedroom units (9.4%), 28 two-bedroom units (15.5%) and 19 three-bedroom units (10.5%). Additionally, a portion of the studio units are proposed to be located and designed so that they can be converted to provide an additional 18% two-bedroom units. 183 bike parking spaces and 41 vehicle parking spaces are proposed, with access provided from Ontario Street using the existing driveway through the adjacent 53-65 Ontario Street building to the west of the subject property.

Detailed project information is found on the City's Application Information Centre at: <https://www.toronto.ca/city-government/planning-development/application-information-centre/>

See Attachments 1-4 and 7 of this report for a location map, three dimensional representations of the project in context, the proposed site plan and application data.

Reasons for the Application

Amendments to Zoning By-laws 438-86 and 569-2013 are proposed to vary performance standards including building height, building setbacks, amenity space and vehicle parking requirements. Additional amendments to the Zoning By-law may be identified as part of the ongoing application review.

Site Plan Control

The application is subject to Site Plan Control. A Site Plan Control application has not been submitted.

POLICY CONSIDERATIONS

Provincial Policy Statement and Provincial Plans

Any decision of Council related to this application is required to be consistent with the Provincial Policy Statement (2020) (the "PPS"), and to conform with applicable Provincial Plans which, in the case of the City of Toronto, includes: A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020). The PPS and all Provincial Plans may be found on the Ministry of Municipal Affairs and Housing website.

Growth Plan for the Greater Golden Horseshoe (2020)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) (the "Growth Plan (2020)") came into effect on August 28, 2020. This was an amendment to the Growth Plan for the Greater Golden Horseshoe, 2019. The Growth Plan (2020) continues to provide a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part. The Growth Plan (2020) establishes policies that require implementation through a Municipal Comprehensive Review (MCR), which is a requirement pursuant to Section 26 of the Planning Act.

Policies not expressly linked to a MCR can be applied as part of the review process for development applications, in advance of the next MCR. These policies include:

- Directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, contribute to environmental sustainability and provide for a more compact built form and a vibrant public realm;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;
- Achieving complete communities with access to a diverse range of housing options, protected employment zones, public service facilities, recreation and green space, and better connected transit to where people live and work;
- Retaining viable lands designated as employment areas and ensuring redevelopment of lands outside of employment areas retain space for jobs to be accommodated on site;
- Minimizing the negative impacts of climate change by undertaking stormwater management planning that assesses the impacts of extreme weather events and incorporates green infrastructure; and
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas.

The Growth Plan (2020), 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 (2020) take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. In accordance with Section 3 of the Planning Act all decisions of Council in

respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan (2020). Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan (2020).

Planning for Major Transit Station Areas

The Growth Plan contains policies pertaining to population and employment densities that should be planned for in major transit station areas (MTSAs) along priority transit corridors or subway lines. MTSAs are generally defined as the area within an approximately 500 to 800 metre radius of a transit station, representing about a 10-minute walk. The Growth Plan requires that, at the time of the next MCR, the City update its Official Plan to delineate MTSA boundaries and demonstrate how the MTSAs plan for the prescribed densities.

Toronto Official Plan Policies and Planning Studies

The City of Toronto Official Plan is a comprehensive policy document that guides development in the City, providing direction for managing the size, location, and built form compatibility of different land uses and the provision of municipal services and facilities. Authority for the Official Plan derives from The Planning Act of Ontario. The PPS recognizes the Official Plan as the most important document for its implementation. Toronto Official Plan policies related to building complete communities, including heritage preservation and environmental stewardship may be applicable to any application. Toronto Official Plan policies may be found here:

<https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>

The application is located on lands within the Downtown and Central Waterfront area on Map 2 and is designated Regeneration Areas on Land Use Map 18 of the Official Plan, as shown on Attachment 5 of this report.

The Downtown Plan

City Council adopted Official Plan Amendment 406 ("OPA 406" or the "Downtown Plan") on May 22, 2018. OPA 406 included amendments to the Downtown section and Map 6 of the Official Plan and brought forward a new Secondary Plan for the entire Downtown area. The Ministry of Municipal Affairs and Housing approved OPA 406 with modifications on June 5, 2019.

The western portion of the site is designated Mixed Use Areas 2 - Intermediate on Map 41-3-B and the eastern portion of the site along the Berkeley Street frontage is designated Mixed Use Areas 4 - Local on Map 41-3-D. Development in Mixed Use Areas 2 will include building typologies that respond to their site context, including midrise and some tall buildings, and development in Mixed Use Areas 4 will be of a low-rise scale, generally four storeys or less in height, which will be compatible with the existing physical character of the neighbourhood as well as the planned context.

The site is located within the King-Parliament Cultural Precinct on Map 41-14 and the Downtown Film Precinct on Map 41-15.

The Downtown Plan can be found here:

<https://www.toronto.ca/legdocs/mmis/2019/cc/bgrd/backgroundfile-135953.pdf>

King-Parliament Secondary Plan

The site is within the boundary of the King-Parliament Secondary Plan ("KPSP"). The main objectives of the KPSP is to encourage reinvestment in the area for a mixture of uses that reinforces the historic built form and public realm, while ensuring growth is mutually compatible and complements the existing built form character and scale of the area.

The site is designated Regeneration Area 'A' (Jarvis Parliament) on Map 15-1 - Land Use Plan. The area designated Regeneration Area 'A' in the KPSP is targeted for significant growth, having a mix of compatible land uses including commercial, industrial, institutional, residential, live/work and entertainment uses within new buildings and existing ones, including the numerous historically and architecturally significant buildings in the area.

Berkeley Street is identified as a Special Street on Map 15-1, with a small-scale and fine-grained character that is to be maintained and enhanced.

The King-Parliament Secondary Plan can be found here:

<https://www.toronto.ca/wp-content/uploads/2017/11/9063-cp-official-plan-SP-15-KingParliament.pdf>

Official Plan Amendment 525 - King-Parliament Secondary Plan Review

On May 22, 2018, City Council directed staff to undertake a review of the King-Parliament Secondary Plan and the area north of Queen Street East between Jarvis Street and River Street. The review focused on the three themes of built form, public realm and heritage. On October 29, 2019, City Council directed staff to apply the policies of the proposed King-Parliament Plan on current development applications.

On May 5, 2021, City Council approved the updated King-Parliament Secondary Plan and supplementary Zoning By-laws. The applicant has appealed both the Secondary Plan and the supplementary Zoning By-law.

The site is located in the Old Town Policy Area, which is intended to accommodate context-specific growth that is responsive to the form and scale of surrounding buildings, and will support a balance of residential, commercial and institutional uses.

The updated King-Parliament Secondary Plan can be found here:

<https://www.toronto.ca/city-government/planning-development/planning-studiesinitiatives/king-parliament-secondary-plan-review/>

Official Plan Amendment 352 - Downtown Tall Building Setback Area

On October 5-7, 2016, City Council adopted OPA 352 – Downtown Tall Building Setback Area. The purpose of OPA 352 is to establish the policy context for tall building setbacks and separation distances between tower portions of tall buildings Downtown. At the same meeting, City Council adopted area-specific Zoning By-laws 1106-2016 and 1107-2016, which provide the detailed performance standards for portions of buildings above 24 metres in height. OPA 352 and Zoning By-laws 1106-2016 and 1107-2016 were appealed to the OLT following City Council's adoption of the planning instruments.

On November 25, 2020 and February 2, 2021, City Council approved modifications to OPA 352 and the Zoning By-laws with the intention of resolving the appeals. On May 28, 2021, the OLT partially approved modifications to OPA 352 and the Zoning By-laws. OPA 352 and Zoning By-laws 1106-2016 and 1107-2016 are in-force for this site.

Official Plan Amendments 479 and 480 - Public Realm and Built Form Official Plan Policies

On September 21, 2020 the Minister of Municipal Affairs and Housing Issued Notices of Decision approving OPAs 479 and 480. OPA 479 (Public Realm) and OPA 480 (Built Form) were adopted as part of the Five-Year Official Plan Review. The OPAs replace Sections 3.1.1, 3.1.2 and 3.1.3 of the Official Plan with new and revised policies for the public realm, built form and built form types, which respond to Council's direction to amend the urban design policies of the Official Plan. The Official Plan Amendment can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.PH11.4>

Zoning By-laws

The site is zoned Reinvestment Area (RA) in the former City of Toronto Zoning By-law 438-86, as amended. This zoning category permits a range of uses, some of which are constrained by various exceptions. The site has a height limit of 12 metres.

The site is zoned Commercial Residential Employment (CRE (x12; x23)) in the City of Toronto Zoning By-law 569-2013, as amended. The same height restrictions and exceptions in By-law 438-86 have been carried forward into By-law 569-2013.

The City's Zoning By-law 569-2013 may be found here: <https://www.toronto.ca/city-government/planning-development/zoning-by-law-preliminary-zoning-reviews/zoning-by-law-569-2013-2/>

As part of the King-Parliament Secondary Plan Review, the site was rezoned from CRE (x12) to CR SS1 (x339) under Zoning By-law 569-2013. The amending by-law (By-law 393-2021) updated zone categories for the Old Town Policy Area to be consistent with existing and planned Mixed Use Areas land use designations in the Downtown Plan as well as maximum permitted building heights. This zone permits a wide range of residential, commercial and institutional uses, and a height of 12 metres up to a depth of 12 metres from the Berkeley Street frontage and 90.0 metres for the remaining portion

of the property. The applicant has appealed both the Secondary Plan update and the supplementary Zoning By-law. Amending By-law 393-2021 may be found here: <https://www.toronto.ca/legdocs/bylaws/2021/law0393.pdf>

See Attachment 6 of this report for the existing Zoning By-law Map.

Design Guidelines

The following design guidelines will be used in the evaluation of this application:

- Tall Building Design Guidelines;
- King-Parliament Urban Design Guidelines;
- Growing Up: Planning for Children in New Vertical Communities;
- Pet Friendly Design Guidelines;
- Retail Design Manual;
- Best Practices for Bird-friendly Glass;
- Best Practices for Effective Lighting; and
- Toronto Accessibility Design Guidelines.

The City's Design Guidelines may be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/design-guidelines/>

Toronto Green Standard (Climate Mitigation and Resilience)

Climate change mitigation and resilience are key concerns of the City. On October 2, 2019, City Council declared a Climate Emergency and set a new goal to achieve net zero greenhouse gas emissions by 2050 or sooner. In 2021, an updated TransformTO Net Zero Strategy will be presented to Council, outlining the necessary climate action to reach net zero GHG emissions community-wide. In June 2019, the Resilience Strategy was published, which set out that new development should be resilient to a changing climate.

The Toronto Green Standard (the "TGS") sets out the key sustainable performance measures new developments are required to meet to address climate mitigation and resilience. The TGS is a critical component of the City's efforts to achieve zero emissions buildings by 2030, to meet 2050 citywide greenhouse gas reduction targets, and to build a more resilient city. The TGS also supports other City-wide strategies related to environmental sustainability, including TransformTO, the Resilience Strategy, Ravine Strategy and Biodiversity Strategy.

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 TGS. Tier 1 performance measures are secured on site plan drawings and through a site plan agreement or registered plan of subdivision. Tiers 2+ are voluntary higher levels of performance with financial incentives (post-construction development charge refunds) intended to facilitate the foregoing objectives. Applicants are strongly encouraged to pursue higher tiers of the TGS wherever possible. Applications must use the documentation required for the version of the TGS in effect at the time of the initial site

plan application. TGS Version 3.0 applies to new applications submitted on or after May 1, 2018. TGS Version 4.0 will apply to all new applications submitted on or after May 1, 2022.

The Toronto Green Standard can be found at the following link:

<https://www.toronto.ca/city-government/planning-development/officialplanguidelines/toronto-green-standard/>

COMMENTS

ISSUES TO BE RESOLVED

The application has been circulated to City divisions and public agencies for comment. At this stage in the review, staff note that the application is not supportable in its current form. The following preliminary issues have been identified to be resolved:

Provincial Policies and Plans Consistency/Conformity

Staff will continue to evaluate the application to determine its consistency with the PPS and conformity with the Growth Plan (2020) as amended.

Official Plan Conformity

Staff will continue to evaluate the application to determine its conformity with the Official Plan, including the Downtown Plan, the King-Parliament Secondary Plan and the King-Parliament Secondary Plan update.

Built Form, Planned and Built Context

Staff will assess the suitability and appropriateness of the proposed massing, height and other built form issues based on applicable planning framework, including Provincial policies, Official Plan policies, Downtown Plan policies, King-Parliament Secondary Plan and update policies, OPA 352, and the City's Design Guidelines, and identify necessary changes to arrive at a proposal that is supportable by staff.

The following preliminary issues have been identified:

- The appropriateness of the site for a tall building, and the suitability of the proposed scale, height and massing, including setbacks and stepbacks, in relation to the area's existing and planned built form character and scale, and site characteristics.
- The appropriateness of the tower floorplate dimensions, tower setbacks and separation distances, and the relationships to adjacent properties.
- The appropriateness of the base building's mass and height, including compliance with the Mixed Use Areas 4 designation.
- The conservation of adjacent heritage resources.

- The impacts of new shadowing on the public realm.
- The impacts of any changes to the pedestrian-level wind conditions along nearby streets, surrounding properties, open spaces and outdoor amenity spaces.
- Proposed shared site access, and provision and location of the loading space.
- Adequacy of the bike parking supply.
- The adequacy of the location and amount of proposed outdoor amenity space.
- The mix of uses and the desire to achieve a better balance between residential and non-residential uses in the area.

Public Realm and Streetscape

Staff will evaluate the proposed streetscape and on-site landscape with the aim to enhance and expand the public realm. Staff will assess:

- Potential inclusion of an on-site public park, which would increase the size of the park currently proposed immediately south of the subject property along Berkeley Street through a Zoning By-law Amendment application at 49 Ontario Street and 84-96 Berkeley Street (File No. 19 244188 STE 13 OZ).
- The suitability of the proposed pedestrian realm and the relationship of the building to the street.
- The adequacy and suitability of the amount, location and design of the proposed outdoor open spaces, and their ability to be appropriately landscaped.

Tree Preservation

The application is subject to the provisions of the City of Toronto Municipal Code, Chapter 813 Articles II (Street Trees By-law) and III (Private Tree By-law). The Arborist Report and Tree Preservation Plan submitted in support of the application indicate there are 14 trees both within and immediately adjacent to the subject site. Of these, four trees that do not qualify for protection under the Tree By-laws are proposed to be removed and the remaining 10 trees are proposed to be preserved. Staff will evaluate tree protection and injury mitigation measures as a result of the proposal, and opportunities for new tree planting.

Archaeological Assessment

An archaeological resource assessment identifies and evaluates the presence of archaeological resources also known as archaeological sites. An Archaeological Assessment has been submitted and is under review by staff.

Heritage Impact and Conservation

The subject site is adjacent to the following heritage properties:

- 106-112 Berkeley Street and 461 Richmond Street East to the north are listed on the City's Heritage Register;
- 111 and 115 Berkeley Street to the east of the site are listed on the City's Heritage Register; and

- 93-95 Berkeley Street to the southeast of the site is designated under Part IV of the Ontario Heritage Act.

The Heritage Impact Assessment submitted with the application is under review by staff to evaluate the impact that the proposal will have on the adjacent cultural heritage resources. Staff will seek to ensure that the proposed development conserves and enhances the cultural heritage value of the adjacent properties.

Affordable Housing

Affordable Housing and Smart Urban Growth are key Strategic Actions for the City of Toronto. Section 3.2.1 of the City's Official Plan states that a full range of housing will be provided and maintained to meet the needs of current and future residents. The Growth Plan (2020) also contains policies to support the development of affordable housing and a range of housing to accommodate the needs of all household sizes and incomes. Staff will engage in discussions with the applicant, the Ward Councillor, and other City staff to evaluate potential opportunities for the provision of affordable housing.

Infrastructure/Servicing Capacity

Staff will review the application to determine if there is sufficient infrastructure capacity (roads, transit, water, sewage, hydro etc.) to accommodate the proposed development. The applicant has submitted the following studies and reports, which are being reviewed by Engineering and Construction Services and Transportation Services staff: a Functional Servicing and Stormwater Management Report, Geotechnical Study, Hydrogeological Report and Transportation Impact Study.

Toronto Green Standard

Planning staff will review the TGS Checklist submitted by the applicant for compliance with the Tier 1 performance measures. Staff will encourage the applicant to pursue Tier 2, 3 or 4 in order to achieve a higher level of sustainability.

Section 37 Community Benefits

The Official Plan provides for the use of Section 37 of the Planning Act to pass by-laws for increases in height and/or density not otherwise permitted by the Zoning By-law in return for the provision by the applicant of community benefits in the form of capital facilities. It is standard to secure community benefits in a Section 37 Agreement which is then registered on title.

The proposal at its current height and density would be subject to Section 37 contributions under the Planning Act. Section 37 benefits have not yet been discussed. City staff may apply Section 37 provisions of the Planning Act should the proposal be approved in some form. In the event the applicant provides in-kind benefits pursuant to Section 37 of the Planning Act, the City's Fair Wage Policy and Labour Trades Contractual Obligations will apply to such work.

Other Matters

Additional issues may be identified through the review of the application, agency comments and the community consultation process.

Next Steps

City Planning staff will host a Community Consultation Meeting.

City staff will work with the applicant to resolve the preliminary issues discussed in this report and any additional issues that may be identified by staff and the public. City Planning staff will report back at the appropriate time in the review of the application. If a Final Report is prepared, the report will proceed to the Toronto and East York Community Council meeting which will serve as the Statutory Public Meeting as required by the Planning Act, before being considered by City Council for a decision.

CONTACT

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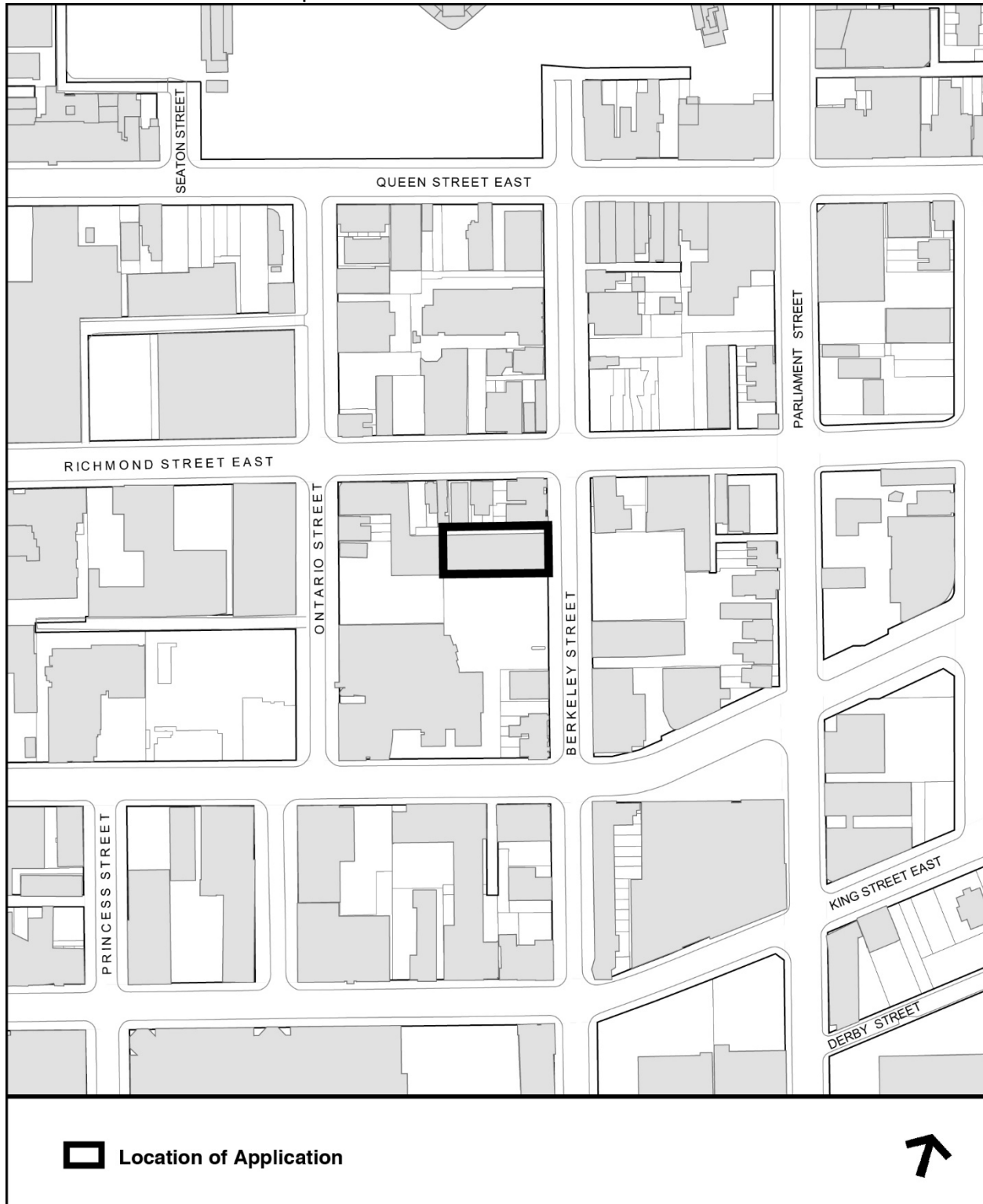
SIGNATURE

Lynda H. Macdonald, MCIP, RPP, OALA, FCSLA,
Director, Community Planning, Toronto and East York District

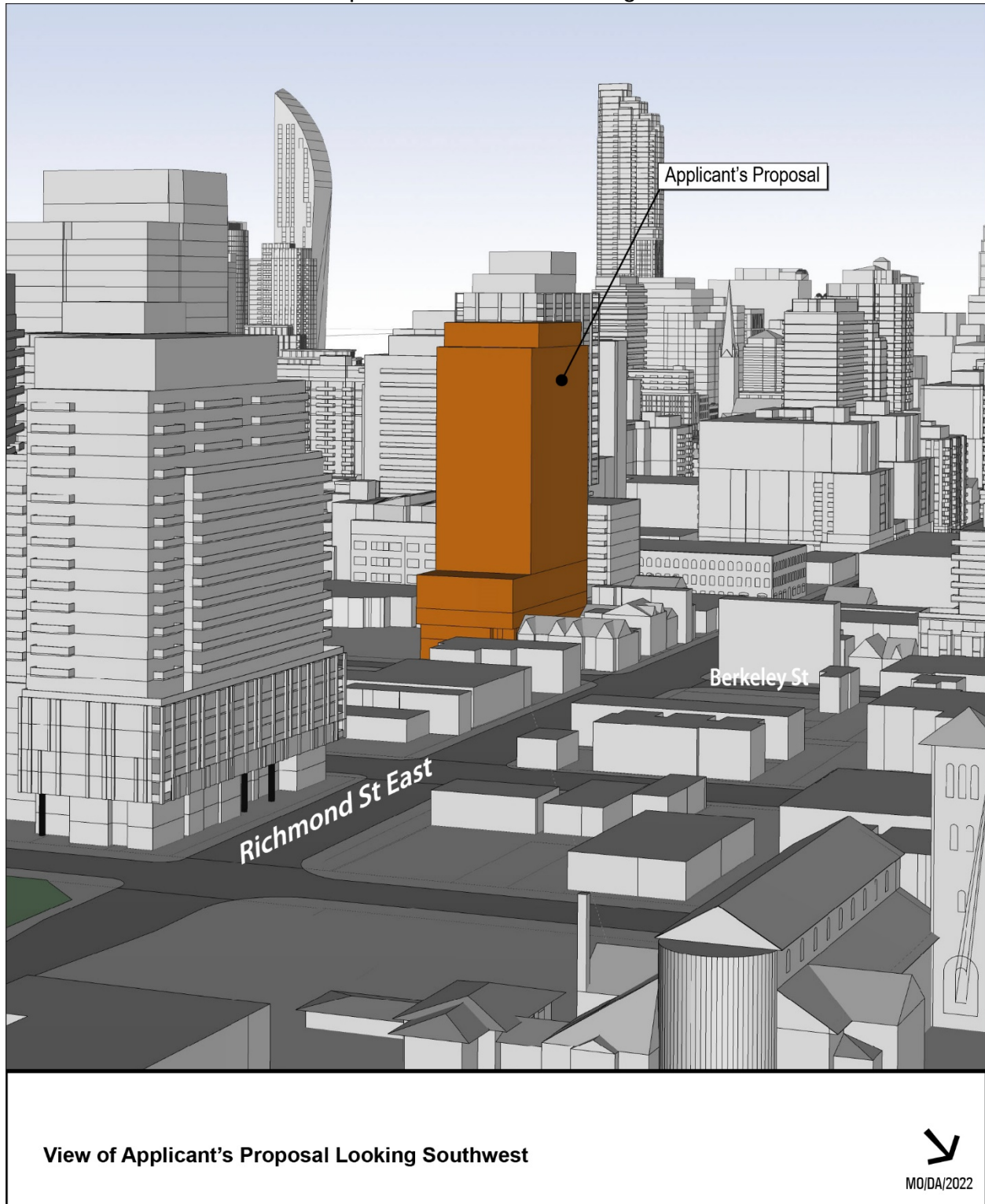
ATTACHMENTS

Attachment 1: Location Map
Attachment 2: 3D Model of Proposal in Context - Looking Southwest
Attachment 3: 3D Model of Proposal in Context - Looking Northeast
Attachment 4: Site Plan
Attachment 5: Official Plan Map
Attachment 6: Zoning By-law Map
Attachment 7: Application Data Sheet

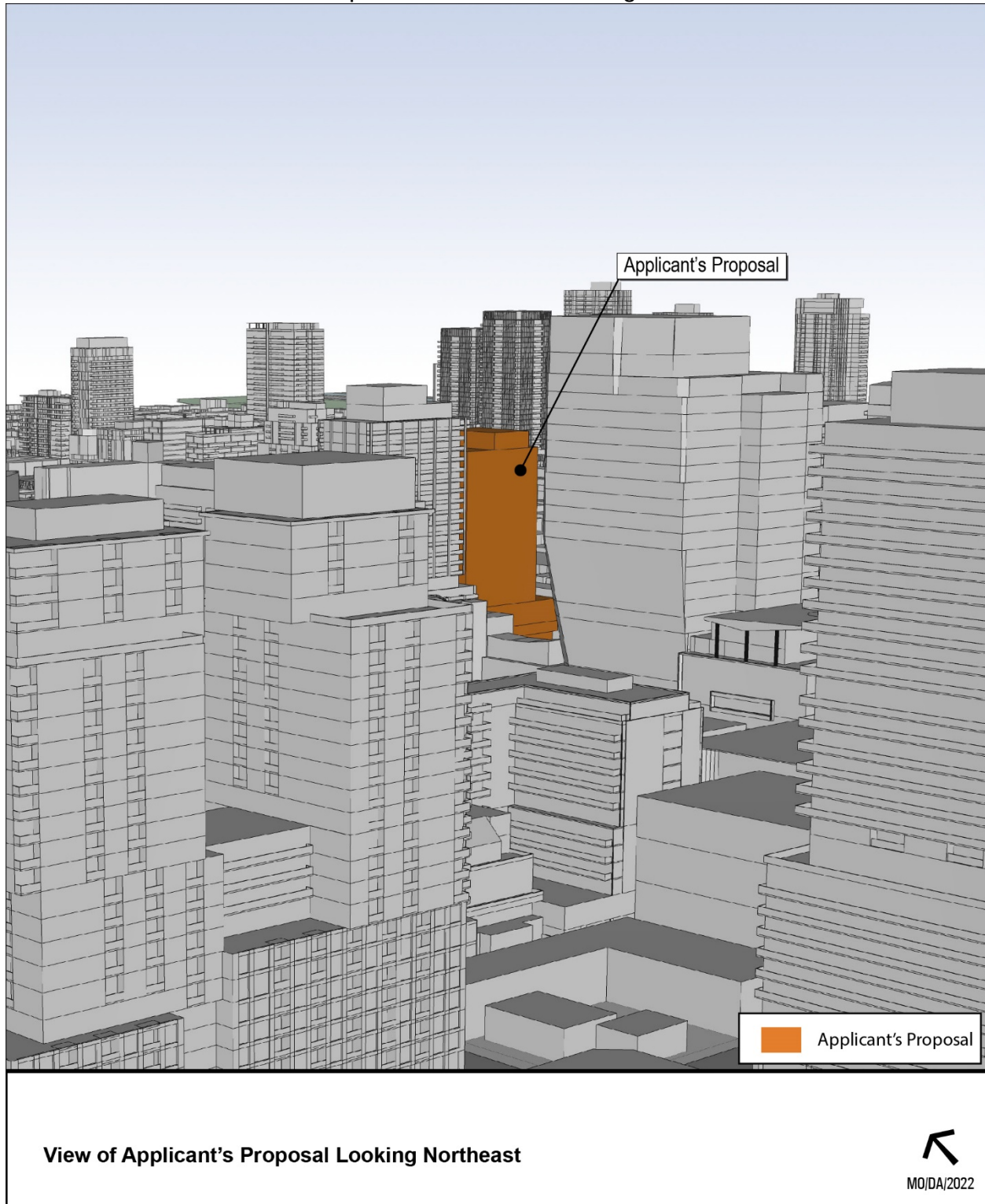
Attachment 1: Location Map



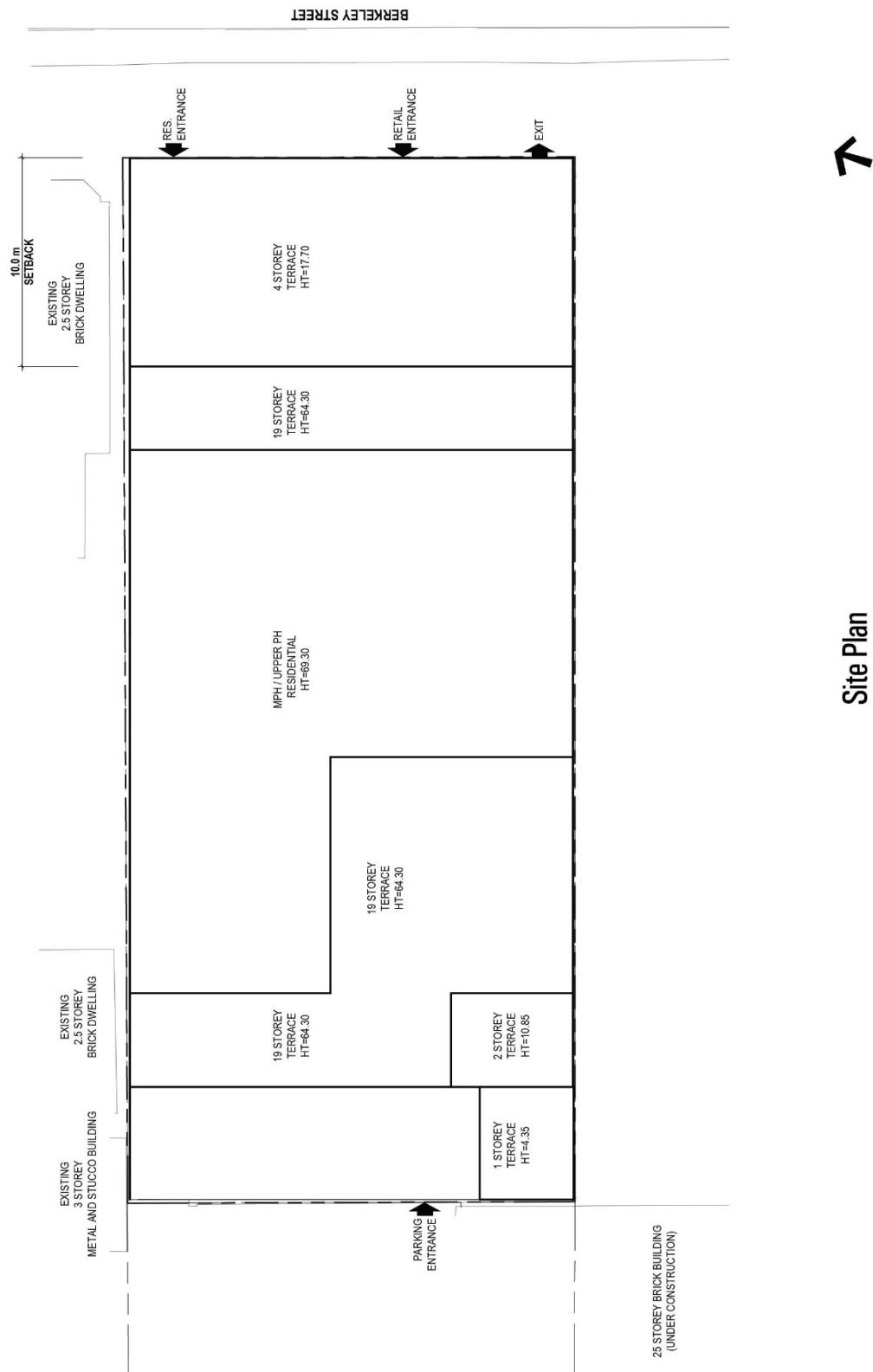
Attachment 2: 3D Model of Proposal in Context - Looking Southwest



Attachment 3: 3D Model of Proposal in Context - Looking Northeast



Attachment 4: Site Plan



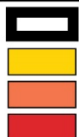
Attachment 5: Official Plan Map



Official Plan Land Use Map #18

102 Berkeley Street

File # 21 221292 STE 13 0Z



Location of Application

Neighbourhoods

Apartment Neighbourhoods

Mixed Use Areas

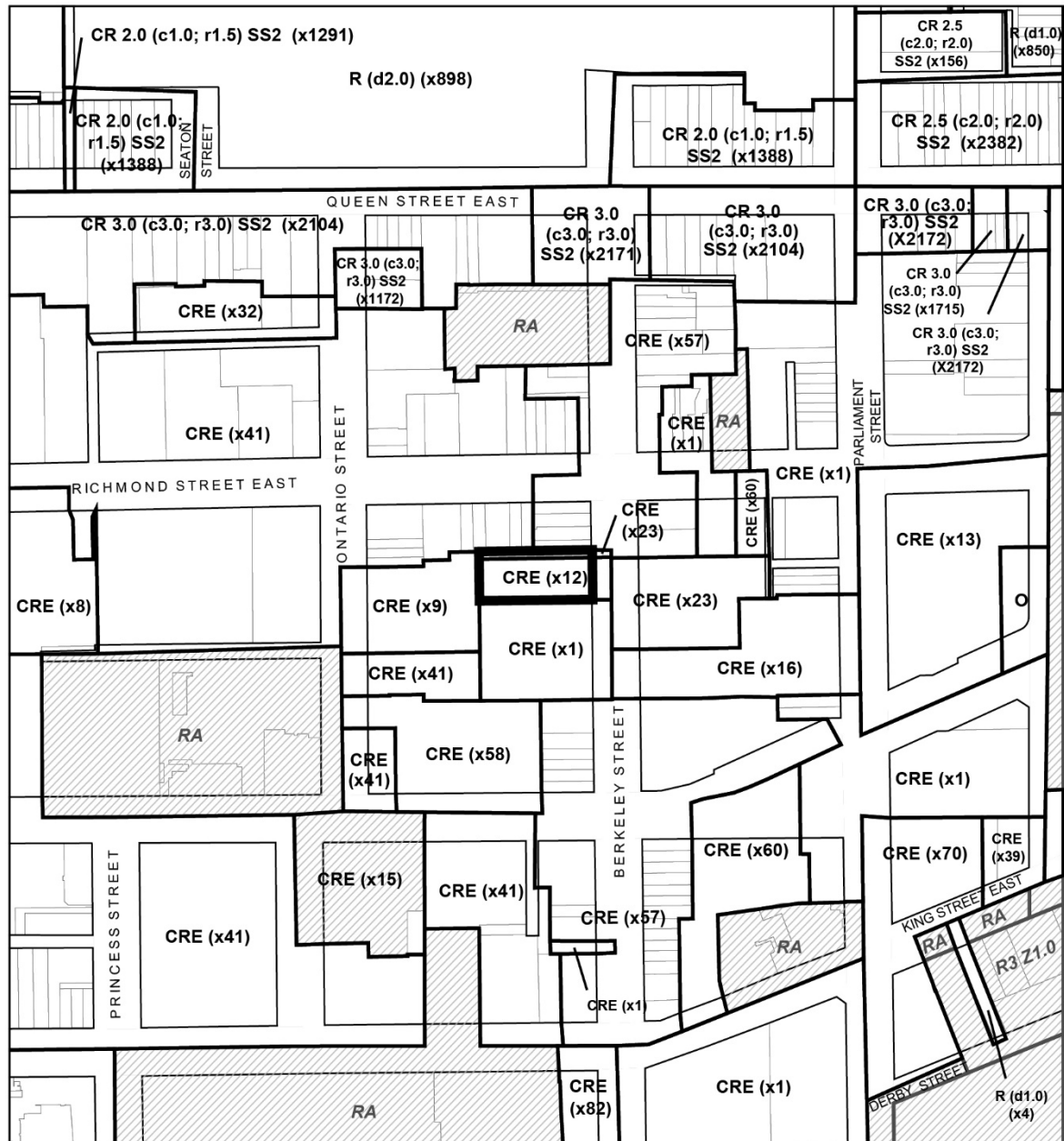
Parks

Regeneration Areas



Not to Scale
Extracted: 10/12/2021

Attachment 6: Zoning By-law Map



Zoning By-law 569-2013

102 Berkeley Street

File # 21 221292 STE 13 0Z



Location of Application

R
CR
CRE
O

Residential
Commercial Residential
Commercial Residential Employment
Open Space



See Former City of Toronto By-law No. 438-86

R3
RA
I1
Residential District
Mixed-Use District
Industrial District



Not to Scale
Extracted: 10/12/2021

Attachment 7: Application Data Sheet

Municipal Address: 102 Berkeley Street Date Received: October 4, 2021

Application Number: 21 221292 STE 13 OZ

Application Type: Rezoning

Project Description: Zoning By-law Amendment application to permit a 20-storey mixed-use building with 357 square metres of retail space on the ground floor and 12,653 square metres of residential floor area consisting of 181 dwelling units above. 183 bike parking spaces and 41 vehicle parking spaces are proposed.

Applicant	Agent	Architect	Owner
Mark Flowers, Davies Howe	Bousfields	A& Architects	BJL Properties Inc.

EXISTING PLANNING CONTROLS

Official Plan Designation:	Regeneration Areas	Site Specific Provision:	King-Parliament Secondary Plan / Downtown Plan
Zoning:	CRE (x12; x23)	Heritage Designation:	N/A
Height Limit (m):	12	Site Plan Control Area:	Yes

PROJECT INFORMATION

Site Area (sq m): 1,076 Frontage (m): 22 Depth (m): 50

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):	920		967	967
Residential GFA (sq m):			12,653	12,653
Non-Residential GFA (sq m):	920		357	357
Total GFA (sq m):	920		13,010	13,010
Height - Storeys:	1		20	20
Height - Metres:			64	64

Lot Coverage Ratio (%)	89.87	Floor Space Index:	12.09
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Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
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Residential GFA: 12,653
 Retail GFA: 357
 Office GFA:
 Industrial GFA:
 Institutional/Other GFA:

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:				
Freehold:				
Condominium:			181	181
Other:				
Total Units:			181	181

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:		117	17	28	19
Total Units:		117	17	28	19

Parking and Loading

Parking Spaces:	41	Bicycle Parking Spaces:	183	Loading Docks:	1
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