

# **REPORT FOR ACTION**

# 586 Eglinton Avenue East – Zoning By-law Amendment and Site Plan Control Applications – Appeal Report

Date: April 27, 2023 To: North York Community Council From: Director, Community Planning, North York District Ward: 15 - Don Valley West

Planning Application Numbers: 21 219614 NNY 15 OZ and 21 237238 NNY 15 SA

# SUMMARY

On September 29, 2021, an application to amend the Zoning By-law was submitted to permit a 32-storey (108 metres, excluding mechanical penthouse) building with 249 dwelling units, 651 square metres of at-grade retail uses, and 4,021 square metres of office uses. The Zoning By-law Amendment application was deemed complete on December 9, 2021. A site plan control application was also submitted on November 12, 2021 and deemed complete on November 17, 2021.

On November 30, 2022, the applicant appealed the Zoning By-law and Site Plan Control applications to the Ontario Land Tribunal ("OLT") due to Council not making a decision within the respective 90-day and 30-day time frames in the *Planning Act*. A first case management conference ("CMC") took place on April 13, 2023, and a seven day hearing on the Zoning By-law amendment appeal has been scheduled to commence on April 2, 2024. A second CMC has been scheduled for June 26, 2023, at which time it is anticipated that a Procedural Order with Issues List will be finalized. It is anticipated that the hearing will address the appeal on the Zoning By-law application. The appeal regarding the Site Plan application will be held in abeyance pending the outcome of the Zoning By-law Amendment appeal.

This report recommends that City Council instruct the City Solicitor with the appropriate City staff to attend the OLT hearing and oppose the application in its 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 Zoning By-law Amendment for the lands at 586 Eglinton Avenue East.

2. In the event that the Ontario Land Tribunal allows the Zoning By-law appeal in whole or in part, City Council authorize the City Solicitor to request that the issuance of any final Orders be withheld until such time as the City Solicitor advises that:

- a) the final form and content of the draft Zoning By-law Amendment is to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- b) the owner has submitted a Methane Gas Investigation Report acceptable to, and to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, and that such matters arising from such study be secured to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services if required;
- c) the owner has submitted a revised pedestrian level wind study, including the identification of any required mitigation measures to be secured in the zoning by-law amendment and through the site plan control process, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- the owner has submitted an updated complete Toronto Green Standards (TGS) Checklist and Statistics Template, to the satisfaction of the Chief Planner and Executive Director, City Planning;
- e) the owner has submitted a revised Travel Demand Management Plan acceptable to, and to the satisfaction of, the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services; and
- f) the owner has satisfactorily addressed the matters in the Engineering and Construction Services Memorandum dated May 30, 2022, or as may be updated, in response to further submissions filed by the owner, all to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services, and the General Manager, Transportation Services.

3. Should it be determined that upgrades are required to municipal infrastructure to support the development according to the accepted Functional Servicing Report and/or that mitigation is required per the Subsurface Investigation, City Council direct the City Solicitor and appropriate City staff to request that a Holding provision ("H") be included in the final form of the site-specific Zoning By-law Amendment, not to be lifted until such time as the owner has made satisfactory arrangements, including entering into

appropriate agreement(s) with the City for required mitigation, as well as the design and construction of any improvements to the municipal infrastructure and the provision of financial securities to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

4. City Council authorize the City Solicitor and appropriate City staff to continue discussions with the applicant to address outstanding issues, including but not limited to those outlined in this report.

5. City Council authorize 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**

A Preliminary Report was adopted by North York Community Council on February 23, 2022, authorizing staff to conduct a community consultation meeting with an expanded notification area. The decision of the North York Community Council can be found here: <a href="https://secure.toronto.ca/council/agenda-item.do?item=2022.NY30.17">https://secure.toronto.ca/council/agenda-item.do?item=2022.NY30.17</a>

On November 30, 2022, the applicant appealed the Zoning By-law and Site Plan Control applications to the Ontario Land Tribunal ("OLT") due to Council not making a decision within the respective 90-day and 30-day time frames in the *Planning Act*. A first case management conference ("CMC") took place on April 13, 2023, and a seven day hearing on the Zoning By-law amendment appeal has been scheduled to commence on April 2, 2024. A second CMC has been scheduled for June 26, 2023, at which time it is anticipated that a Procedural Order with Issues List will be finalized. It is anticipated that the hearing will address the appeal on the Zoning By-law application. The appeal regarding the Site Plan application will be held in abeyance pending the outcome of the Zoning By-law Amendment appeal.

# SITE AND SURROUNDING AREA

**Description:** The site is rectangular in shape and has an approximate area of 1645.20 square metres, with a frontage of approximately 38.53 metres along Eglinton Avenue East, and a depth of approximately 42.65 metres. The site slopes downward from the Eglinton frontage towards the north (rear) lot line.

**Existing Use:** 8-storey commercial office building with driveway access onto Eglinton Avenue East, atop a concrete parking garage that is accessed from the rear lane.

Surrounding uses include:

North: A public lane and townhouses.

East: A 5-storey apartment building.

**South:** Across Eglinton Avenue East to the south are 9-storey apartment buildings at 525 Eglinton Avenue East and 551 Eglinton Avenue East, detached houses, and two sites with active applications for a 25-storey mixed use building (537-547 Eglinton Avenue East) and 12-storey mixed-use building (501-503 Eglinton Avenue East, 383-389 Cleveland Street).

West: Low-rise commercial building, and Bruce Park Avenue.

## THE APPLICATION

#### Description

Height: 32-storeys (108 metres high, plus a 6.5 metre high mechanical penthouse).

**Gross Floor Area:** 16,989 square metres of residential gross floor area and 4,672 square metres of non-residential gross floor area.

Density (Floor Space Index): 13.17 times the area of the lot.

**Unit count:** 249 dwelling units, which includes 139 one-bedroom units (55.8%), 83 twobedroom units (33.3%) and 27 three-bedroom units (10.8%).

Vehicular Parking Spaces: 80 (72 residential and 8 visitor/office spaces).

**Bicycle Parking Spaces:** 271 (225 residential long-term, 25 residential short-term, 9 non-residential long-term and 12 non-residential short-term).

See Attachments 1-5 of this report for a location map, Application Data Sheet, three dimensional representations of the project in context and a site plan of the proposal. The Application Data Sheet contains additional details on the proposal including: site area and dimensions; floor area; unit breakdowns; and parking counts.

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: <a href="https://www.toronto.ca/city-government/planning-development/application-information-centre/">https://www.toronto.ca/city-government/planning-development/application-information-centre/</a>

## **Reasons for Application**

The application proposes to amend Zoning By-laws no. 569-2013 and 438-86 to permit the proposed 32-storey development and also to establish site specific performance standards including but not limited to floor space index, building height, building setbacks, and parking space rates.

Staff Report for Action - Preliminary Report - 586 Eglinton Avenue East

The proposal is also subject to Site Plan Control, which examines the design and technical aspects of a proposed development to ensure it is attractive and compatible with the surrounding area and contributes to the economic, social and environmental vitality of the City. Features such as building design, site access and servicing, waste storage, parking, loading and landscaping are reviewed.

## 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 Designation:** The site is designated *Mixed Use Areas* on Map 17 of the Official Plan, and more specifically *Mixed Use Areas "B"* on Map 21-4 of the Yonge-Eglinton Secondary Plan (the Yonge-Eglinton Secondary Plan). The site is located within the Station Area Core of the Leaside Protected Midtown Transit Station Area, as depicted on Map 21-3, and the Bayview Focus Area on Map 21-2. For excerpts of these maps, see Attachments 6 and 7.

**Zoning:** Under City of Toronto Zoning By-law no. 569-2013, the site is zoned Commercial Residential Zone (CR) with a maximum height of 18.0 metres and a maximum permitted gross floor area of 2.5 times the lot area resulting in a maximum gross floor area of 4,113 square metres. The site is zoned Mixed Use District (CR) Zone under the former Toronto Zoning By-law no. 438-86. For excerpts of these maps, see Attachments 10.

## **Design Guidelines**

- Tall Building Design Guidelines;
- Growing Up Guidelines: 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;
- Toronto Accessibility Design Guidelines.

The City's Design Guidelines can be found here:https://www.toronto.ca/citygovernment/planningdevelopment/officialplanguidelines/ design-guidelines/

# COMMUNITY CONSULTATION

A virtual Community Consultation Meeting was hosted by City staff on March 21, 2023. Approximately 30 members of the public and the Office of the Ward Councillor participated. The following comments and issues on the proposed development were made by community members prior to and during the meeting:

- Lack of fit and transition with the existing and planned contexts of the adjacent low density neighbourhood;
- Concerns with parking demand;
- More infrastructure and facilities are needed to keep up and accommodate the scale of development in the area;
- Need the provision of on-site facilities to accommodate increasing pet population;
- The existing building contains medical office uses that are important for local residents;
- Support for office space replacement and narrow retail storefronts;
- Need for affordable housing; and
- The retaining wall of the adjacent public lane should be reinforced.

# COMMENTS

## **Provincial Framework**

Staff have reviewed the current proposal for consistency with the Provincial Policy Statement (PPS) and conformity with the Growth Plan. The Provincial Policy Statement requires development which may cause environmental or public health and safety concerns to be avoided. The site is within 250 metres of a closed municipal landfill. As such, a methane gas investigation report is required to confirm public health and safety. However, a report has not been submitted. Until a report has been submitted, Staff find that the proposal is not consistent with the PPS and does not conform with the Growth Plan.

The Official Plan, as amended, is consistent with the PPS and conforms to the Growth Plan, and outlined below is a detailed assessment of the proposed development against the policies of the Official Plan.

## Land Use

The subject site is designated *Mixed Use Areas "B"* in the Yonge-Eglinton Secondary Plan. The proposed dwelling units, retail uses, and office uses in a mixed use building form are appropriate. The submitted plans and reports does not provide information regarding the existing office gross floor area in the existing building including floor plans, detailed statistics of all floors, office units, and rooms, and a detailed tenancy inventory (as of December 9, 2021). Therefore, it has not been demonstrated that the proposed office gross floor area will adequately replace existing office gross floor area, in accordance with land use policies of the Yonge-Eglinton Secondary Plan.

## **Built Form**

Pursuant to the policies in the Official Plan and the Yonge-Eglinton Secondary Plan, and further detailed in the Tall Building design guidelines, matters such as appropriate tower height, tower separation, setbacks, stepbacks, and massing are needed to achieve a contextually-sensitive tall building that provides transition to the *Neighbourhood* and to abutting lands. Given the site size, the proposal does not provide for adequate tower separation distance to the abutting lands and to the

*Neighbourhood* lands. Consideration should be given to the consolidation of landholdings to achieve a property size that can support a tall building and does not impact the orderly development of the adjacent properties designated *Mixed Use Areas* and built form patterns in the Leaside Midtown Transit Station Area.

The built form of the proposal does not conform to the relevant policies of the Official Plan and the Yonge-Eglinton Secondary Plan. The applicant has not demonstrated that the site can appropriately accommodate the tall building as currently proposed.

## Sun and Shadow

The submitted shadow study depicts net new shadowing on Charlotte Maher Park, a municipal park, as well as lands in the *Neighbourhoods* and Midtown Transit Station Area's Built-Up Zone. The Yonge-Eglinton Secondary Plan requires that development be located and designed to provide adequate access to sunlight on Charlotte Maher Park during the Spring and Autumn equinoxes. Elements such as increased setbacks, increased stepbacks, decreased tower floorplates, and improved massing can be investigated to minimize shadow impacts.

## Wind

The Pedestrian Level Wind Study prepared by Gradient Wind, dated October 7, 2020, does not provide a detailed account of existing wind conditions during the four seasons of the year, which is needed to compare with the future wind conditions caused by the proposal. Therefore any impacts that will result from the proposal on the site, the adjacent public realm and adjacent lands, cannot be properly evaluated. An updated Pedestrian Level Wind Study is required.

## Public Realm

In accordance with the Yonge-Eglinton Secondary Plan, consideration is required to create a consistent and continuous streetwall along Eglinton Avenue East which is identified as a planned Priority Retail Street. The proposal should be revised to limit the width of the residential lobby to maximize retail frontage while maintaining narrow store frontages, and provide additional landscaping elements that improve and animate the public realm and help to transition to the "green spine" on adjacent lands in the Eglinton East Apartment High Streets.

## Parkland

The site is approximately 120 metres walking distance away from Howard Talbot Park, a municipal park.

The City of Toronto Parkland Strategy is a 20-year strategic city-wide plan that guides long-term planning for new parks, park expansions and improvements, and improved access to existing parks. The Strategy includes a new methodology to measure and assess parkland provision, using the baseline of residential population against the area of parkland available across the city. According to the Strategy's methodology, the

development site is currently in an area with 4 to 12 m2 of parkland per person, which is below the city-wide average provision of 28 m2 of parkland per person (2016).

In accordance with Chapter 415, Article III of the Toronto Municipal Code, the applicant is required to satisfy the parkland dedication requirement through cash-in-lieu. The residential component of this proposal is subject to a cap of 10% parkland dedication while the non-residential component is subject to a 2% parkland dedication. The value of the cash-in-lieu of parkland dedication will be appraised through Real Estate Services. The appraisal will be conducted upon the submission of an application for the first above ground building permit and is valid for six months. Payment will be required prior to the issuance of said permit.

## **Urban Forestry**

The application is subject to the provisions of the City of Toronto Municipal Code. An Arborist Report, Tree Inventory and Preservation Plan, and other materials were submitted in support of the applications.

The application proposes to add new private trees within the front yard, adjacent to the Eglinton Avenue East right-of-way. Staff require revisions to the aforementioned materials to demonstrate they meet City standards. These standards include adequate soil volumes for proposed new trees, Quality Level A (QL-A) information to ensure no conflict with below-grade utilities, and other matters detailed in the Urban Forestry memorandum dated May 16, 2022. It should be noted that adequate soil volume may result in additional setback of the building or a smaller building footprint.

The Terms of Reference for the Tree Preservation Plan, Soil Volume Plan, and QL-A Plan are available at the following link: <u>https://www.toronto.ca/city-government/planning-development/application-forms-fees/building-toronto-together-a-development-guide/application-support-material-terms-of-reference/</u>

## **Road Widening**

Staff have determined that the site must convey to the City, a 0.4 metres wide strip of land along Eglinton Avenue East in order to satisfy the planned right-of-way width of 27 metres for Eglinton Avenue East, as required in Policy 3 of Section 2.2 of the Official Plan. The conveyance must be free of any above and below grade encroachments. The proposal does not provide this on its plans and drawings. The widening will be secured as part of the site plan approval process.

## Transportation

With respect to the adjacent public laneway, the existing condition may need to be further explored as part of the review process, given the proposed increase in intensity of use for the site. With respect to alternative transportation matters, staff have reviewed the report prepared by BA Group, dated July 2021, and have determined that the proposal should confirm and provide Travel Demand Management and site design measures, to address matters such as parking reduction, site-related vehicular traffic issues, and bicycle parking facility design and location, and other matters that may arise through the Site Plan Control process.

The Council-approved <u>Eglinton Connects Planning Study</u> provides a long term vision for Eglinton Avenue as a complete street, in the context of future Eglinton Crosstown LRT line. The proposal should coordinate with the City, the TTC, and Metrolinx with respect to implementation of interim and final Eglinton Connects streetscape and traffic improvements along the frontage of the subject site and the adjacent intersection of Hoyle Avenue and Eglinton Avenue East.

With regards to other site plan control matters, staff require additional information that satisfactorily demonstrates the provision of 2.1m wide pedestrian clearway along Eglinton Avenue East, on-site transition areas connecting to existing sidewalks, grading of the parking ramp, accessible parking, and layout and access to proposed parking. These matters are discussed in the Engineering and Construction Services memorandum dated May 30, 2022. Other matters may arise through resubmissions during the Site Plan Control process. It should be noted that such Site Plan matters may affect performance standards related to site organization.

## Waste Management Services

A portion of the site lies within 250 metres of a closed municipal landfill. Therefore, the owner of the property is required to retain a qualified person (as that term is defined in Ontario Regulation 153/04) (the "Qualified Person") to conduct a subsurface investigation for the possible presence of methane gas at the property. To date, a study has not been provided and as such, the proposal is not supportable at this time.

In addition, site plan control matters related to the location and configuration on-site waste collection and storage facility may impact the proposed site and underground organization and related performance standards.

#### **Servicing and Stormwater Management**

As outlined in the memorandum from Engineering and Construction Services dated May 30, 2022, staff have reviewed the submitted materials and determined that the application must provide for review revisions and additional information to plans, drawings, and the Functional Servicing Report.

In the event that the OLT allows the Zoning By-law Amendment application appeal in whole or in part, the final Order should be withheld pending confirmation that the Functional Servicing and Stormwater Management Report has been revised to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and it is demonstrated that the municipal water, waste, sanitary and storm

sewer systems can support the proposed development and whether upgrades or improvements of the existing municipal infrastructure are required.

Should it be determined that upgrades are required to municipal infrastructure to support the development according to the accepted Functional Servicing Report and/or that mitigation is required per the Subsurface Investigation, a Holding provision ("H") should be included in the final form of the site-specific Zoning By-law Amendment, not to be lifted until such time as the owner has made satisfactory arrangements, including entering into appropriate agreement(s) with the City for required mitigation, as well as the design and construction of any improvements to the municipal infrastructure and the provision of financial securities to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

## **Toronto Green Standard (TGS)**

The applicant is required to meet Tier 1 of the Toronto Green Standard, and is encouraged to achieve Tier 2 or higher to advance the City's objectives for resilience and achieving net-zero emissions by 2040 or sooner. Standards for matters such as tree planting, tree soil volume, and transportation-related requirements as noted previously in this report, have not been met by the proposed development.

#### **Further Issues**

City Planning continues to receive additional information regarding these applications as a result of ongoing review by City commenting divisions, materials submitted in support of the proposal and through deputation made by members of the public to Community Council. 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, 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.

## Conclusion

The proposal has been reviewed against the policies of the PPS (2020), the Growth Plan (2020), the Toronto Official Plan, including the Yonge-Eglinton Secondary Plan, and applicable City guidelines intended to implement Official Plan policies. The current proposal does not conform with the Toronto Official Plan and the Yonge-Eglinton Secondary Plan, and does not meet the intent of relevant Design Guidelines. In addition, at this time, the application cannot be evaluated to determine consistency with the PPS and conformity with the Growth Plan, given potential issues with methane gas and the risk to public health and safety.

This report recommends that City Council direct the City Solicitor, with appropriate staff, to attend the OLT in opposition to the Applications in their current form and to continue discussions with the Applicant in an attempt to resolve outstanding issues.

## CONTACT

Jason Xie, Planner Tel. No. (416) 338-3004 E-mail: Jason.Xie@toronto.ca

# SIGNATURE

David Sit, MCIP, RPP Director, Community Planning North York District

# ATTACHMENTS

Attachment 1:	Location Map
Attachment 2:	Application Data Sheet
Attachment 3:	3D Model of Proposal in Context Looking Northwest
Attachment 4:	3D Model of Proposal in Context Looking Southeast
Attachment 5:	Site Plan
Attachment 6:	Official Plan Land Use Map
Attachment 7:	Yonge-Eglinton Secondary Plan Land Use Map
Attachment 8:	Yonge-Eglinton Secondary Plan Midtown Character Area Map
Attachment 9:	Yonge-Eglinton Secondary Plan Midtown Transit Station Area Map
Attachment 10:	Zoning By-law no. 569-2013 Map

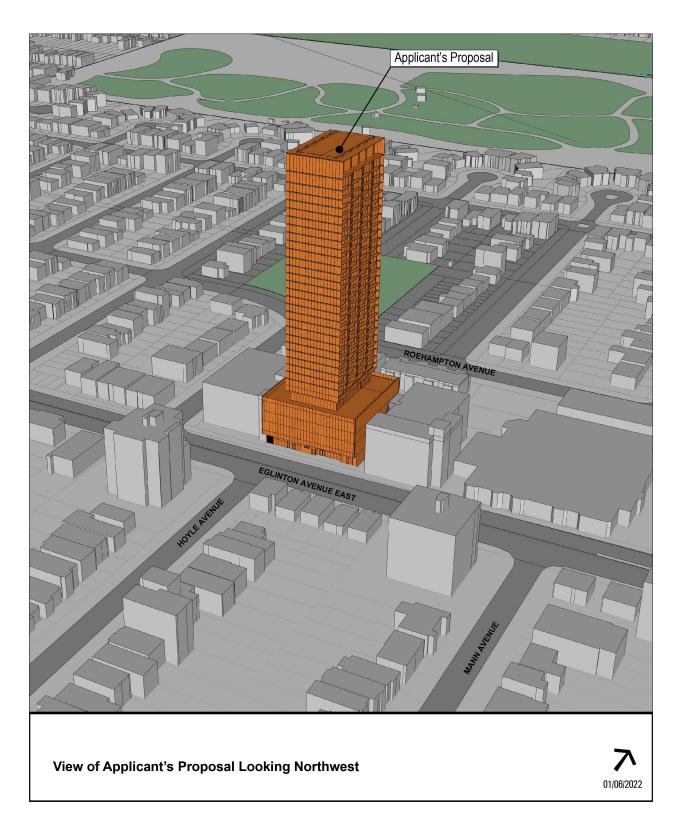


**Attachment 1: Location Map** 

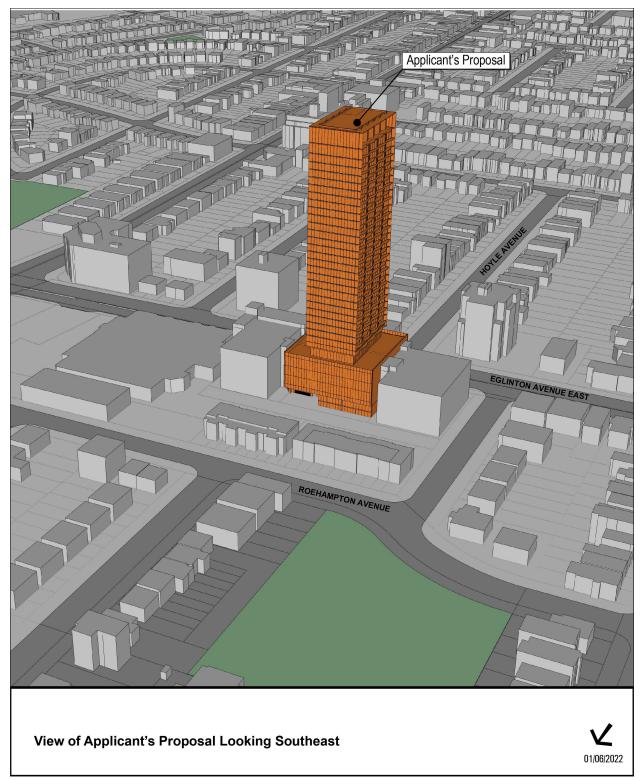
# Attachment 2: Application Data Sheet

Municipal Address: Application Number: Application Type:	AVEN 21 219 21 237	GLINTON UE EAST 9614 NNY 15 C 7238 NNY 15 S jing: Site Plan (	SA	ved:	•	nber 29, 2021 1ber 12, 2021		
	Rezoning; Site Plan Control							
Project Description:	Zoning By-law Amendment and Site Plan Control ap for a 32-storey mixed-use building, comprised of 249 units, 16,989.0 square metres of residential gross flo and 4672.0 square metres of non-residential gross flo					49 dwelling floor area,		
Applicant Agen		Architect			Owner			
BOUSFIELDS (C/O DAVID CHAREZENKO), 3 Church Street, Suite 200, Toronto, ON, M5E 1M2			ARCHITECTS ALLIANCE, 317 Adelaide West, 2nd Flo Toronto, ON, 1P9	Street oor,	SANDERLING DEVELOPMENTS Limited, 40 Wynford Drive, Suite 316, Toronto, ON, M3C 1J5			
EXISTING PLANNING CONTROLS								
Official Plan Designation	on: Mix	xed Use Areas		Provisi	on:			
Zoning: r2.		R 2.5 (c2.0; 5) SS2 2208)	N Heritage Designation: N					
Height Limit (m): 1		,	Site Plan Control Area: Y					
PROJECT INFORMAT	ION							
Site Area (sq m): 1,645.2 Frontage (m): 38.53 Depth (m): 42.65						m): 42.65		
Building Data Ground Floor Area (sq Residential GFA (sq m	,	Existing	Retained	Propo 1,024 16,989		Total 1,024 16,989		
Non-Residential GFA (	4,401		4,672		4,672			
Total GFA (sq m): Height - Storeys:		4,401 8		21,66 <sup>°</sup> 32	1	21,661 32		
Height - Metres:		24		108		108		

Lot Coverage (%):	Ratio	62.24		oor Spa	ace Index: 1	3.17				
Floor Area Bre Residential GF Retail GFA: Office GFA: Industrial GFA Institutional/Ot	A:	Above Grade 16,491 651 4,021	e (sq m)	Below 499	r Grade (sq m	)				
Residential Un by Tenure Rental:	its	Existing	Retained	I	Proposed	Total				
Freehold: Condominium: Other:					249	249				
Total Units:					249	249				
Total Residential Units by Size										
- /	Rooms	Studio	1 Bed	room	2 Bedroom	3+ Bedroom				
Retained: Proposed:			139		83	27				
Total Units:			139		83	27				
Parking and Lo	bading									
Parking Spaces:	80	Bicycle Pa	rking Spac	es: 2	71 Loading	Docks: 1				
CONTACT:										
Jason Xie, Pla 416-338-3004	nner									
Jason.Xie@tor	<u>ronto.ca</u>									

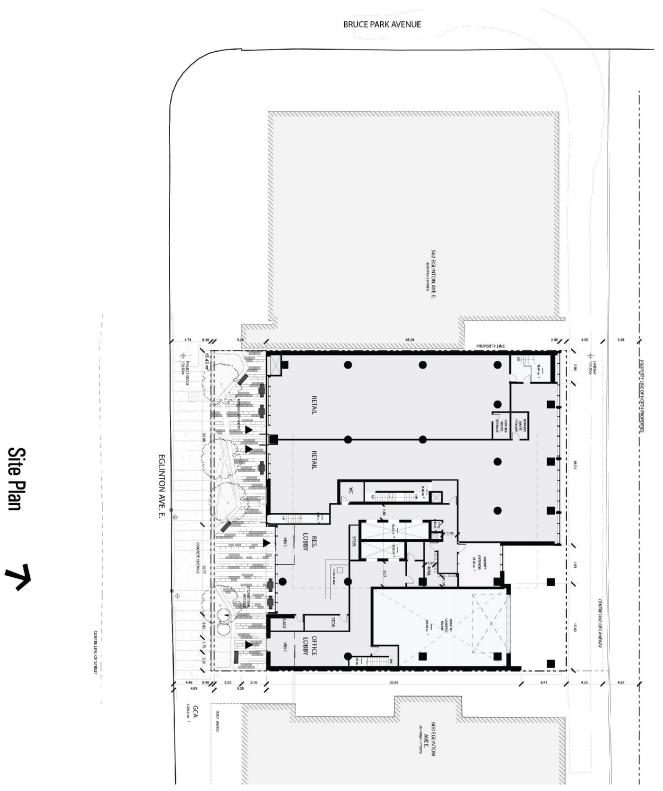


## Attachment 3: 3D Model of Proposal in Context Looking Northwest



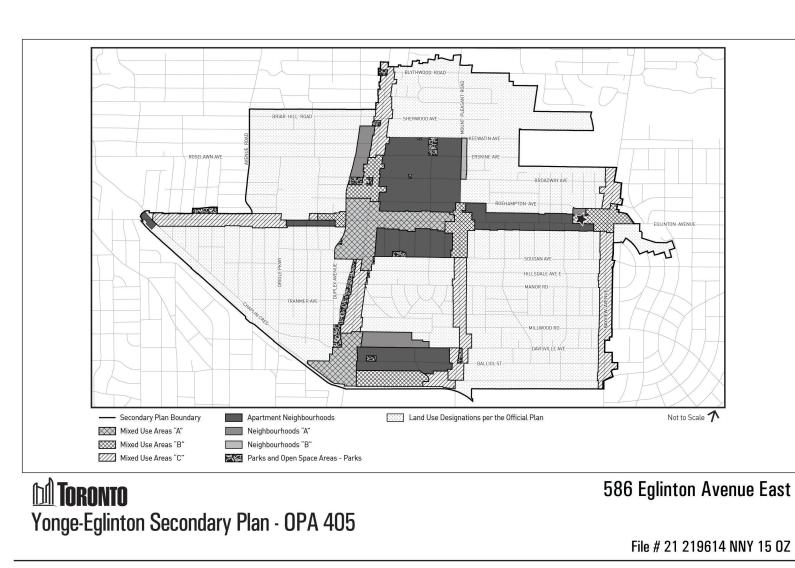
## Attachment 4: 3D Model of Proposal in Context Looking Southeast

# Attachment 5: Site Plan





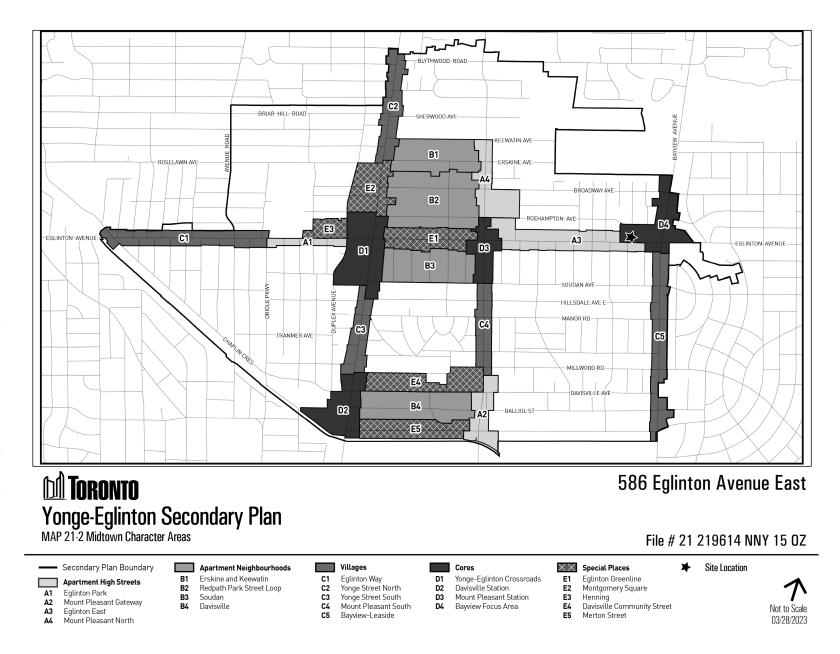
# Attachment 6: Official Plan Land Use Map



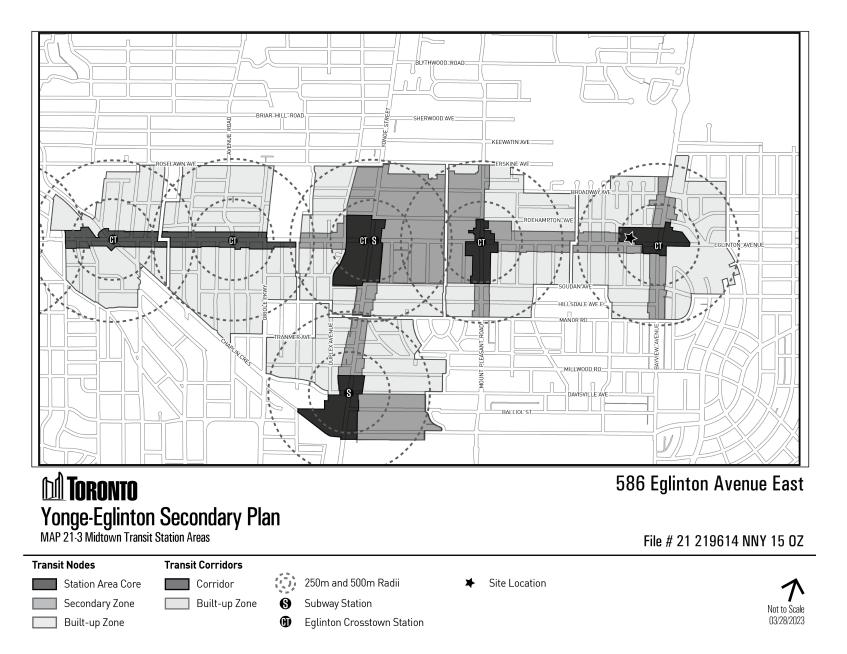
Site Location



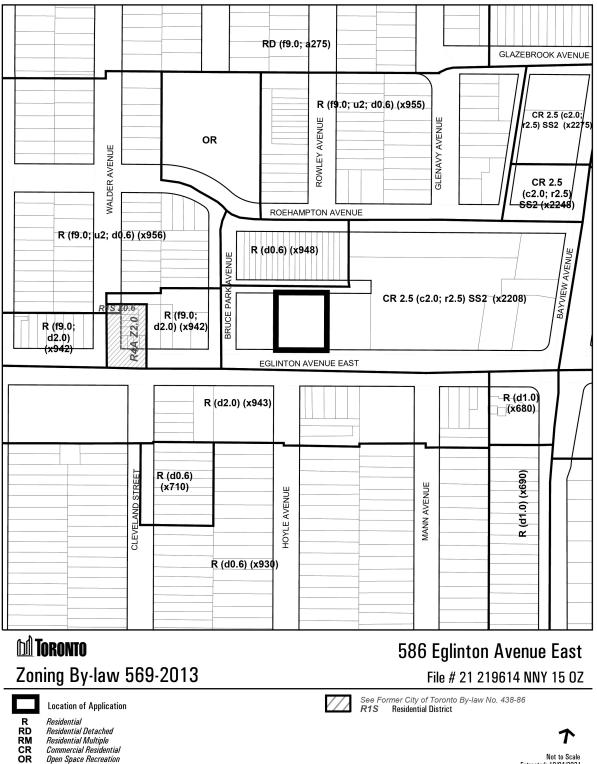
Attachment 8: Yonge-Eglinton Secondary Plan Midtown Character Area Map



Attachment 9: Yonge-Eglinton Secondary Plan Midtown Transit Station Area Map







Commercial Residential Open Space Recreation

Not to Scale Extracted: 10/04/2021