

18 Portland Street and 1-9 Niagara Street – Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision Applications – Appeal Report

Date: January 3, 2023

To: Toronto and East York Community Council

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

Ward: 10 - Spadina-Fort York

Planning Application Numbers : 22 151499 STE 10 OZ, 21 232793 STE 10 OZ & 21 232800 STE 10 SB

SUMMARY

On November 5, 2021, Zoning By-law Amendment and Draft Plan of Subdivision applications were submitted seeking approvals for a 23-storey mixed-use building with retail space on the ground floor, office space on the ground, second and third-storeys and 182 residential condominium units above.

On March 10, 2022, the Applicant appealed the Zoning By-law Amendment and Draft Plan of Subdivision applications to the Ontario Land Tribunal ("OLT") as a result of City Council not making a decision on the application within the timeframe legislated by the Planning Act. City Council has delegated decisions on Draft Plan of Subdivision to the Chief Planner, including matters under appeal, and therefore directions on the Draft Plan of Subdivision are not required from City Council pursuant to Chapter 415-18.1 of the Toronto Municipal Code.

On May 25, 2022, an Official Plan Amendment application was submitted out of an abundance of caution as the proposal does not conform with the Council adopted, but under appeal King-Spadina Secondary Plan Update (Official Plan Amendment 486). The Applicant appealed the application to the OLT on October 21, 2022 as a result of City Council not making a decision on the application within the timeframe legislated by the Planning Act.

As submitted, the application is not supportable. It represents an overdevelopment of the site, which is reflected in its built form and massing, as well as shadow impacts, among other concerns. This report recommends that the City Solicitor, with appropriate City staff, attend the OLT hearing to 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 current Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision application appeals for the lands at 18 Portland Street and 1-9 Niagara Street and to continue discussions with the applicant in an attempt to resolve outstanding issues.

2. In the event that the Ontario Land Tribunal allows the appeals in whole or in part, in addition to any direction to the City Solicitor from the Chief Planner on the Draft Plan of Subdivision appeal, City Council authorize the City Solicitor to request the Tribunal withhold any Order on the proposed appeals until such time as the City Solicitor advises that:

a. the proposed Official Plan Amendment(s) are in a content and form satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor;

b. the proposed Zoning By-law Amendment(s) are in a content and form satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor;

c. the owner has, at its sole expense:

i. submitted a revised Functional Servicing Report, including confirmation of water and fire flow, sanitary and storm water capacity, Stormwater Management Report and Hydrogeological Report (the "Engineering Reports") to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with the General Manager, Toronto Water;

ii. secured the design and the provision of financial securities for any upgrades or required improvements to the existing municipal infrastructure and/or new municipal infrastructure identified in the accepted Engineering Reports to support the development, all to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that improvements or upgrades and/or new infrastructure are required to support the development;

iii. submitted a revised Transportation Impact Study, including streetscape and curb extension provisions, acceptable to, and to the satisfaction of, the General Manager, Transportation Services, and Chief Engineer and Executive Director, Engineering and Construction Services and that such matters arising from such study, be secured if required;

iv. submitted a revised Heritage Impact Assessment that includes a detailed conservation strategy for the property at 18 Portland Street, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning;

v. submitted a detailed Conservation Plan, prepared by a qualified heritage consultant, that is substantially in accordance with the conservation strategy set out in the accepted revised Heritage Impact Assessment required by above, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, City Planning; and

vi. submitted a revised Arborist Report, Landscape Plan (with a public utility plan underlay in an updated soil volume plan) and Tree Protection Plan acceptable and satisfactory to the General Manager, Parks, Forestry and Recreation.

3. City Council authorizes the City Solicitor and City staff to take any necessary steps to implement City Council's decision.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

DECISION HISTORY

A Preliminary Report was received by Toronto and East York Community Council on February 16, 2022 to acknowledge the community consultation meeting conducted by staff on February 15, 2022. The decision of the Toronto and East York Community Council can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.TE31.32>.

On September 28, 2022, City Council indicated its intention to designate 18 Portland Street under Part IV, Section 29 of the Ontario Heritage Act. On December 14, 2022, City Council affirmed its decision to designate 18 Portland Street. A letter of objection was received from the landowner's legal counsel. City Council's decision to designate the property under the Ontario Heritage Act can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.CC50.10>.

On December 14, 2022, City Council considered the owner's objection to the Notice of Intention to Designate. Council enacted the designation by-law and designated the property under section 29 of the Ontario Heritage Act. City Council's decision may be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2023.CC2.20>

By-law 69-2023 enacted on December 14, 2022, designating 18 Portland Street under Part IV, Section 29 of the Ontario Heritage Act may be found here:

<https://secure.toronto.ca/council/report.do?meeting=2023.CC2&type=decisions>

SITE AND SURROUNDING AREA

Site Description and Dimensions: The subject site is located at the southwest corner of Portland Street and Niagara Street and is generally rectangular in shape with an approximate area of 1,365 square metres. It has a frontage of approximately 32.9 metres along Portland Street and 41.5 metres along Niagara Street. The site is generally flat and contains 6 trees within the public boulevard.

Existing Uses: The subject site is currently occupied by a 4-storey office building (1 Niagara Street), 1-storey retail building (9 Niagara Street) and a 1-storey vacant heritage building (former Toronto Hydro Utility Building - 18 Portland Street).

THE APPLICATION

Description of Application

Height: A 23-storey (75.2 metres, including a 7.2 metre mechanical penthouse) mixed-use building with a 6-storey (23.95 metre) streetwall height.

Density: 13.95 times the area of the lot.

Dwelling Units: Of the 182 dwelling units proposed, 67 would be one-bedroom units (37%), 97 are two-bedroom units (53%), and 18 are three-bedroom units (10%).

Access, Parking and Loading: Vehicular access to the development is proposed at the southeast corner of the subject site, off of Portland Street. A total of 54 vehicular parking spaces are proposed within a 2-level underground parking garage. An internalized Type-G loading space is proposed with the same vehicular access point as the underground parking garage.

Bicycle Parking: The proposed development includes a total of 198 bicycle parking spaces, comprised of 144 long term and 54 short term spaces, located on the ground floor and mezzanine levels.

Additional Information

See Attachments 1 through 5 of this report for a location map, Application Data Sheet, three dimensional representations of the project in context, site plan and ground floor 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/city-government/planning-development/application-informationcentre/>.

Reason for the Application

The Zoning By-law Amendment application proposes to revise Zoning By-law 569-2013 performance standards for the site including: building height; building setbacks; loading space requirements; vehicular and bicycle parking space requirements. Additional amendments to the Zoning By-law may be identified as part of the application review.

Site Plan Control

A Site Plan Control application (File Number 22-201238 STE 10 SA) was submitted on September 13, 2022. The application is currently under review.

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 located within the Downtown and Central Waterfront area and is designated Regeneration Areas in the Official Plan. The site is also designated Mixed Use Areas 2 - Intermediate in the Downtown Plan and the Council-adopted King-Spadina Secondary Plan (2020) and is within the West Precinct of the King-Spadina Secondary Plan. The Site is also located within the West Precinct, and subject to Transition Zone F and the Wellington Place Area of Special Identity of the King-Spadina Secondary Plan.

Zoning

The zoning for the site is Commercial Residential Employment (CRE (x76)), with a height limit of 23.0 metres. This zoning category permits a wide range of residential and non-residential uses including retail, office, institutional and light industrial uses. There are no maximum densities specified, rather the building envelope is guided by building height, setbacks and stepbacks.

COMMUNITY CONSULTATION

A Virtual Community Consultation Meeting was hosted by City staff on February 15, 2022. The meeting was attended by approximately 53 members of the public, as well as representation from the Ward Councillor's Office and the applicant's team.

Concerns raised by members of the public included:

- The proposed building height in the context of the immediate neighbourhood;
- Shadow impact on Victoria Memorial Square and adjacent properties;
- Impact of additional vehicular traffic along Portland Street and Niagara Street;
- Impact on water, sanitary and stormwater capacity, as there are many other buildings currently under construction in the surrounding area;
- Impacts to the potentially heritage significant building at 18 Portland Street and Victoria Memorial Square;
- Lack of community benefits (such as affordable housing, parkland, or open space); and,
- Impacts from noise, traffic and dust from construction.

The issues and feedback raised through community consultation have informed staff's approach to assessing the application and the identification of issues to be resolved.

COMMENTS

The proposal has been reviewed against the Planning Act, Provincial Policy Statement (PPS), Growth Plan, Official Plan, Downtown Plan, Council-adopted updated King-Spadina Secondary Plan (2020) and relevant design guidelines.

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 have reviewed the current proposal for consistency with the Provincial Policy Statement and conformity with the Growth Plan. While the site is an appropriate location for growth and intensification consistent with the PPS and Growth Plan, the proposed development is not consistent with PPS and Growth Plan policies concerning appropriate development standards, proposed level of intensification that can be accommodated on the lands, heritage conservation, the proposed built form and the implementation of appropriate development standards through the Official Plan and other supporting documents. All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS, and shall conform to provincial plans.

Built Form

City Planning staff are of the opinion that the proposed height and massing do not confirm with the direction of relevant Official Plan policies. The proposed development should be contextually appropriate and fit within the planned context. Given the site's size, configuration and location, the proposed 23-storey building is at an inappropriate height, mass and scale. The proposed building massing, including setbacks and stepbacks, are not acceptable and does not achieve the intent of or conform with the planning framework applicable to the subject site. The proposed shadow impacts on Victoria Memorial Square are also not acceptable.

Heritage Impact

The Designation By-law for Portland Street identifies the property's cultural heritage value as a Toronto Hydro-Electric System substation designed in 1924-25 by architect Albert E. Salisbury in the Beaux-Arts style with Edwardian Classical influences. The property is part of a collection of other substations designed by Salisbury in a similar style. The Portland Substation supplied the critical resource of electricity to the surrounding area for the remainder of the twentieth-century and into the next. In close proximity to several listed and Part IV designated factory/warehouse type buildings dating to the same period, the property's clear expression as an early twentieth-century industrial building continues to support the former industrial character of the King-Spadina neighbourhood.

The proposed development includes the incorporation of the reconstructed front (east) elevation, with partial returns of the north and south (side) elevations and a portion of the roof. These elements will be reassembled approximately 4.3 metres northward atop a new concrete foundation.

Heritage staff have reviewed the Heritage Impact Assessment and require additional information including a detailed conservation strategy and a detailed conservation plan. The setback above the roofline of the heritage building should be increased to provide more depth and present the heritage building in its three-dimensional form. The proposal does not conserve the heritage attributes of 18 Portland Street.

Shadow Study

The proposed development introduces new shadows on Victoria Memorial Square. The City's Downtown Plan and King-Spadina Secondary Plan require that net-new shadow be adequately limited on Victoria Memorial Square, as measured from March 21st and September 21st from 10:18am - 4:18pm. The Downtown Plan also identifies Victoria Memorial Square as a Sun Protected Park. This park is a passive open space which is surrounded by several midrise buildings. It was built in the 18th century as a burial place for those affected by the Fort York war. At the beginning, it was known as St. John's Square and later became a part of Fort York National Historic Site. The park has monuments remembering those who lost their life in the war. By providing appropriate building transition and a compatible built form scale adjacent to this significant and important open space in the King-Spadina area, the development would be able to provide better access to sunlight and create a high quality park space for its users. This may be addressed through a reduction in the overall height of the building and provision of adequate setbacks and setbacks.

Wind Study

The wind study submitted with the application indicates a few locations requiring mitigation measures. For example, parts of the outdoor amenity space on the 22nd floor is shown as being suitable for strolling and walking only in the summer, and

uncomfortable wind conditions on the roof and northeast corner of the sidewalk during the winter months.

To improve the wind conditions of the outdoor amenity space, it is recommended that a taller parapet be included around the perimeter of the amenity space. For the uncomfortable wind conditions at the northeast corner during the winter months, modified corner massing should be considered for wind control. Other mitigation measures may include a large canopy wrapping around the corner as well as screens or dense marcescent/coniferous trees along the sidewalks. The mitigation measures identified in the Wind Study should be reflected in the proposal and amendments made to improve wind conditions prior to approval of the Zoning By-law amendment.

Streetscape

The proposed streetscape dimensions along Niagara Street and Portland Street are acceptable, subject to the proposed plans be revised to show the relocation of the existing hydro poll to ensure the pedestrian clearway of 2.1 metres is unobstructed. Transportation Services requires a curb extension at the north side of Niagara Street at Portland Street and tactile walking surface indicator plates are to be provided. Further review of the proposed locations of the streetscape elements is required.

Tree Preservation

The Arborist Report and Landscape Plan submitted in support of the application indicates that 6 City-owned trees are proposed to be removed. The Plans also propose the planting of 8 new trees, one at the southwest corner of the subject site and seven on the public right-of-way along Niagara Street and Portland Street. Urban Forestry staff have reviewed the Arborist Report and Landscape Plan, and require revisions and additional information such as indicating the soil depth and a composite utility plan prior to approval of the Zoning By-law amendment.

Amenity Space

Zoning By-law 569-2013 requires a combined indoor and outdoor amenity space of 4.0 square metres per unit. The proposal includes 416.1 square metres of indoor amenity space (2.28 square metres per unit) and 365.3 square metres of outdoor amenity space (2 square metres per unit). The proposed amount and location of indoor and outdoor amenity space is acceptable.

Parking and Loading

The Transportation Impact Study submitted in support of the application concludes that the proposed parking supply of 43 resident parking spaces (0.24 spaces per unit) and 11 visitor parking spaces (0.06 spaces per unit) is appropriate for the proposed development with the availability of and proximity to transit and cycling infrastructure. Vehicular access to the site is proposed via the southeast corner of the site, off of Portland Street. There is one Type G loading space proposed for both residential and office use.

Transportation Services staff have reviewed the proposed parking supply and have determined that it is acceptable. Staff suggest that car-share parking spaces be provided. Additionally, one (1) Type G loading space has been proposed and deemed acceptable by Transportation Services staff.

Servicing

A Functional Servicing and Stormwater Management Report and associated plans have been submitted for the subject site and have been reviewed by Engineering and Construction Services. A number of revisions and additional information are required. In the event that the OLT allows the Zoning By-law Amendment appeal in whole or in part, the Final Order should be withheld pending the confirmation of water, sanitary and stormwater capacity from the Chief Engineer and Executive Director, Engineering and Construction Services, or the determination of whether holding provisions and/or the posting of securities are required in the Zoning By-law amendment.

Parkland

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.

In accordance with [Chapter 415, Article III of the Toronto Municipal Code](#), the Owner is proposing to satisfy the parkland dedication requirement through cash-in-lieu. The non-residential component of this proposal is subject to a 2% parkland dedication while the residential component is subject to a cap of 10% 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 Building Permit and is valid for six months. Payment will be required prior to the issuance of said permit.

Toronto Green Standard

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. Should the proposal be approved in some form by the OLT, applicable performance measures for the Tier 1 development features would be secured in the site-specific Zoning By-laws at a minimum and others through the Site Plan Control application.

Community Benefits

Changes to Section 37 of the Planning Act have replaced increased height and/or density bonusing with a new growth funding tool called the Community Benefits Charge (CBC). The application will be reviewed under the new Community Benefits Charges framework, once enacted.

Draft Plan of Subdivision Application

The Draft Plan of Subdivision application was submitted to separate the ownership of the various uses of the proposed mixed-use building. The application is currently under review.

Further Issues

City Planning continues to receive additional information regarding this application as a result of ongoing review by City commenting divisions and materials submitted in response to the proposal. Planning staff may also be required to evaluate supplementary or revised plans and supporting materials submitted by the applicant after the date of this report. As a result, 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 Official Plan Amendment and Zoning By-law Amendment, in their current form, are not consistent with the policies of the PPS (2020), the Growth Plan (2020), the Toronto Official Plan, and does not maintain the intent and purpose of applicable City guidelines intended to implement Official Plan policies.

Staff recommend that City Council direct the City Solicitor, together with the appropriate City staff, to attend the OLT in opposition of the appeal of the application. Staff also recommend City Council authorize the City Solicitor and appropriate staff to continue discussions with the applicant to address the issues outlined in this report.

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SIGNATURE

Willie Macrae, BA, MES, MCIP, RPP
Acting Director, Community Planning
Toronto and East York District

ATTACHMENTS

Attachment 1: Location Map

Attachment 2: Application Data Sheet

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

Attachment 4: 3D Model of Proposal in Context Looking Northeast

Attachment 5: Site Plan

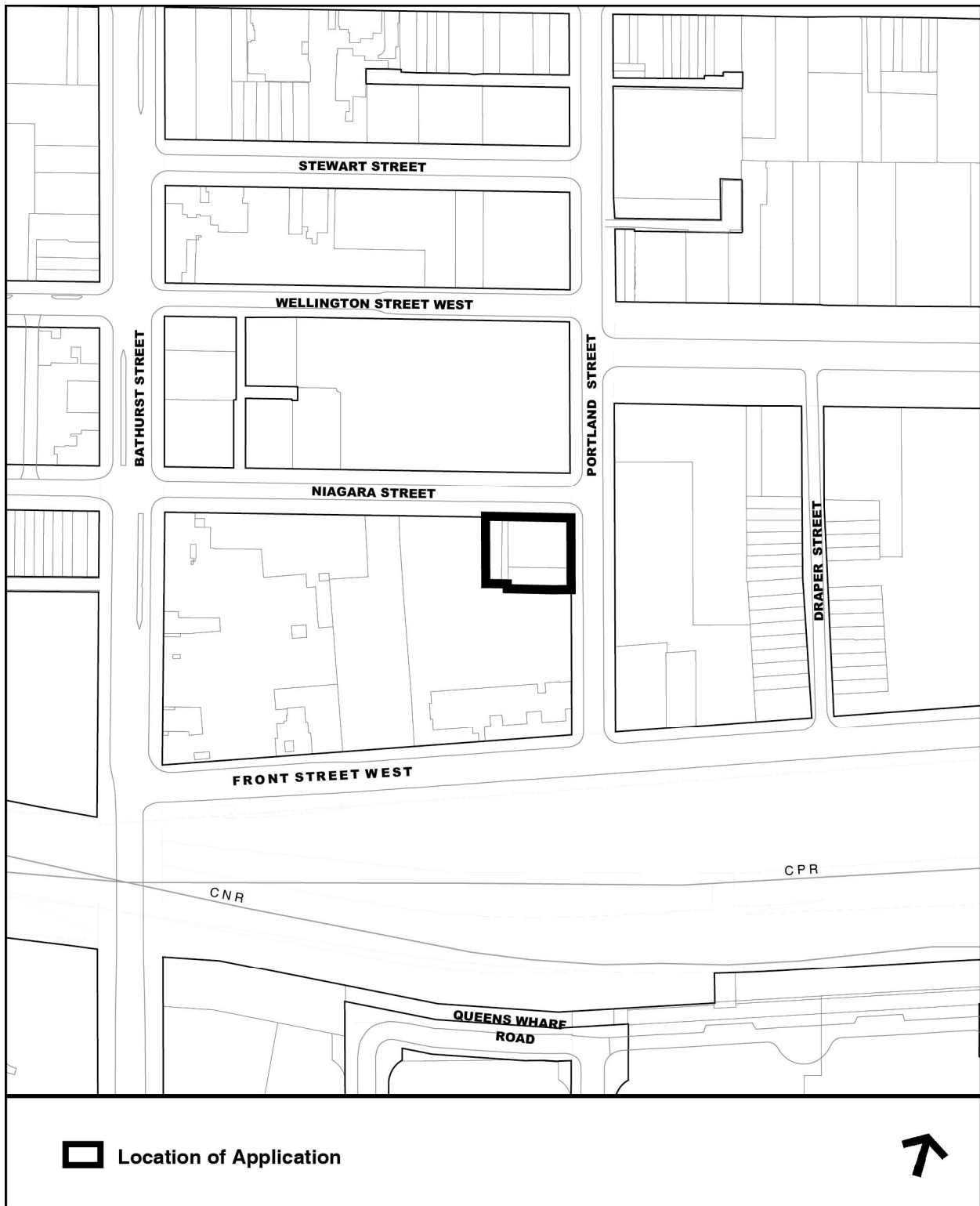
Attachment 6: Official Plan Land Use Map

Attachment 7: Downtown Plan Land Use Map

Attachment 8: King-Spadina Secondary Plan Map

Attachment 9: Existing Zoning By-law Map

Attachment 1: Location Map



Attachment 2: Application Data Sheet

APPLICATION DATA SHEET

Municipal Address: 18 PORTLAND ST Date Received: November 1, 2021

Application Number: 21 232793 STE 10 OZ

Application Type: OPA / Rezoning, Rezoning

Project Description: Application to amend the Zoning By-law Amendment to permit the development of the site with a 23-storey mixed-use building with a non-residential gross floor area of 2,640 square metres, and a residential gross floor area of 14,459.90 square metres. A total of 182 residential dwelling units are proposed.

Applicant	Agent	Architect	Owner
MHBC Planning Limited	MHBC Planning Limited	Raw Design Inc	2779317 ONTARIO INC.

EXISTING PLANNING CONTROLS

Official Plan Designation: Regeneration Areas Site Specific Provision: King-Spadina

Zoning: CRE(x1) Heritage Designation: Y

Height Limit (m): 23 Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq m): 1,326 Frontage (m): 33 Depth (m): 42

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):	940		859	859
Residential GFA (sq m):			14,460	14,460
Non-Residential GFA (sq m):	2,303		2,640	2,640
Total GFA (sq m):	2,303		17,100	17,100
Height - Storeys:	4		23	23
Height - Metres:			75	75

Lot Coverage Ratio (%): 64.77 Floor Space Index: 12.9

Floor Area Breakdown Above Grade (sq m) Below Grade (sq m)

Residential GFA: 14,460
 Retail GFA: 99
 Office GFA: 2,541
 Industrial GFA:
 Institutional/Other GFA:

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:				
Freehold:				
Condominium:			182	182
Other:				
Total Units:			182	182

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:			67	97	18
Total Units:			67	97	18

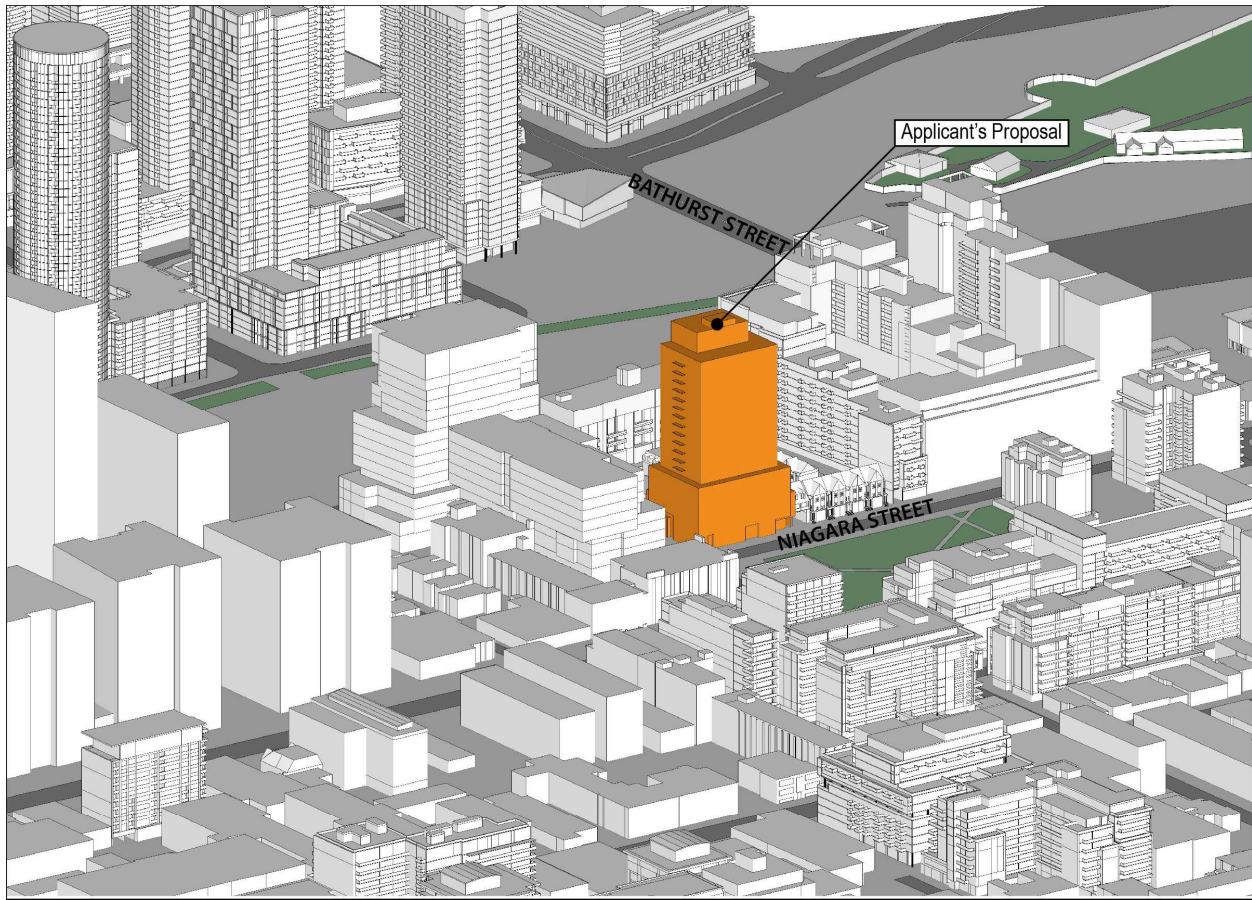
Parking and Loading

Parking Spaces: 54 Bicycle Parking Spaces: 198 Loading Docks: 1

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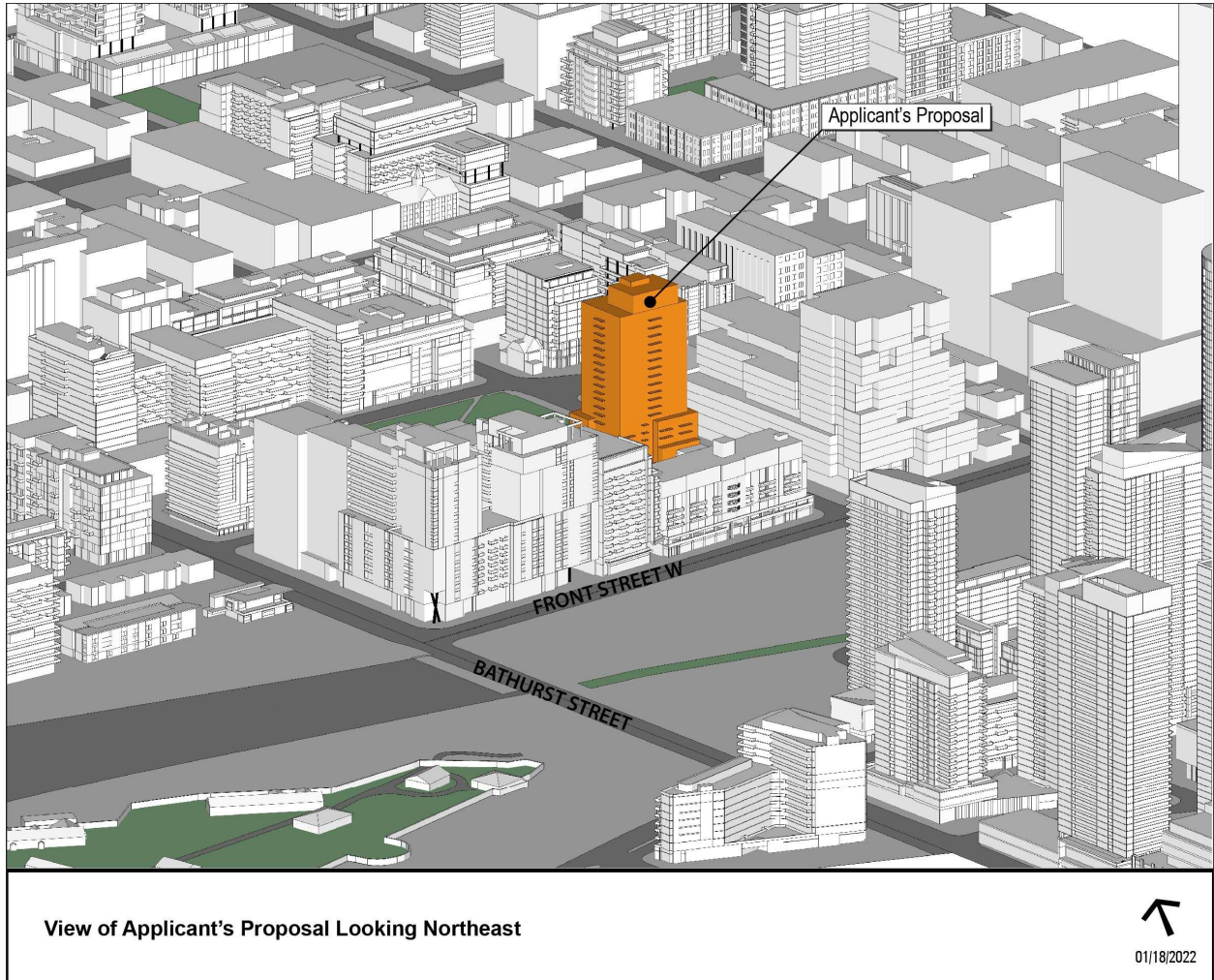
Attachment 3: 3D Model of Proposal in Context Looking Southwest



View of Applicant's Proposal Looking Southwest

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01/18/2022

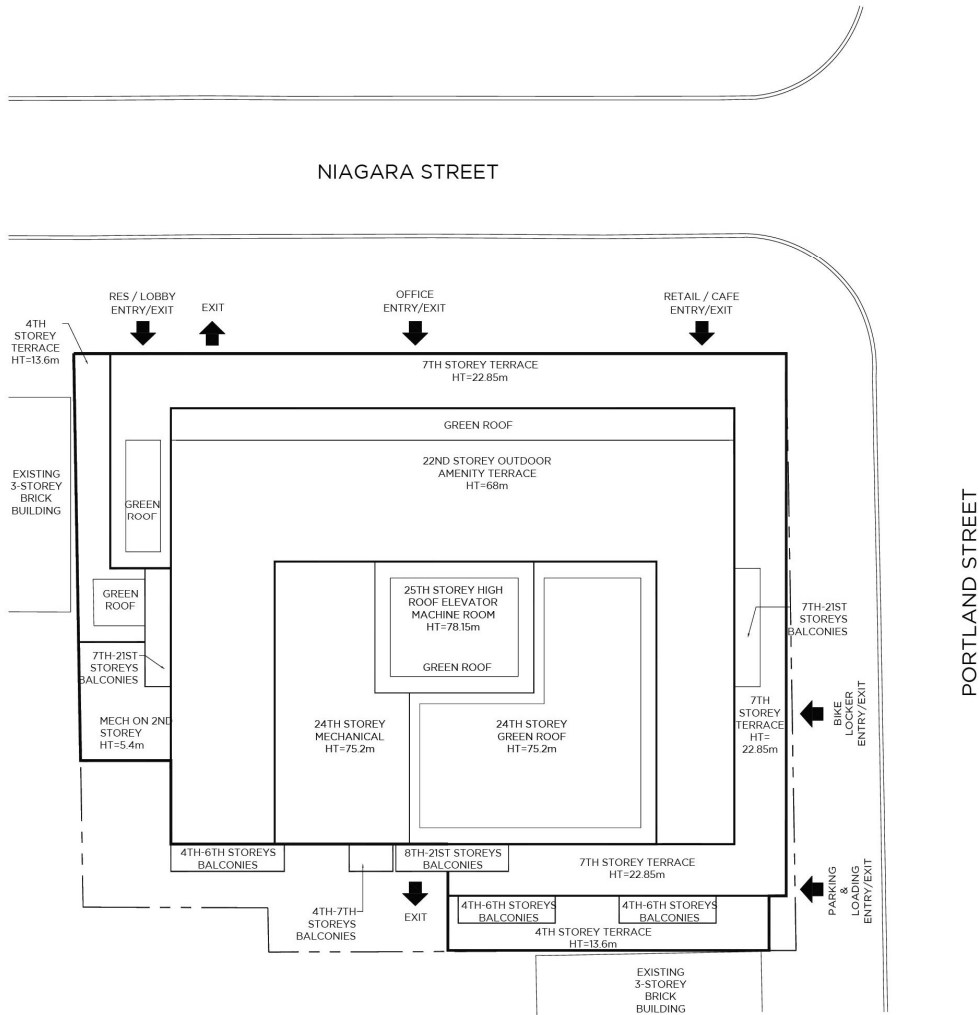
Attachment 4: 3D Model of Proposal in Context Looking Northeast



View of Applicant's Proposal Looking Northeast

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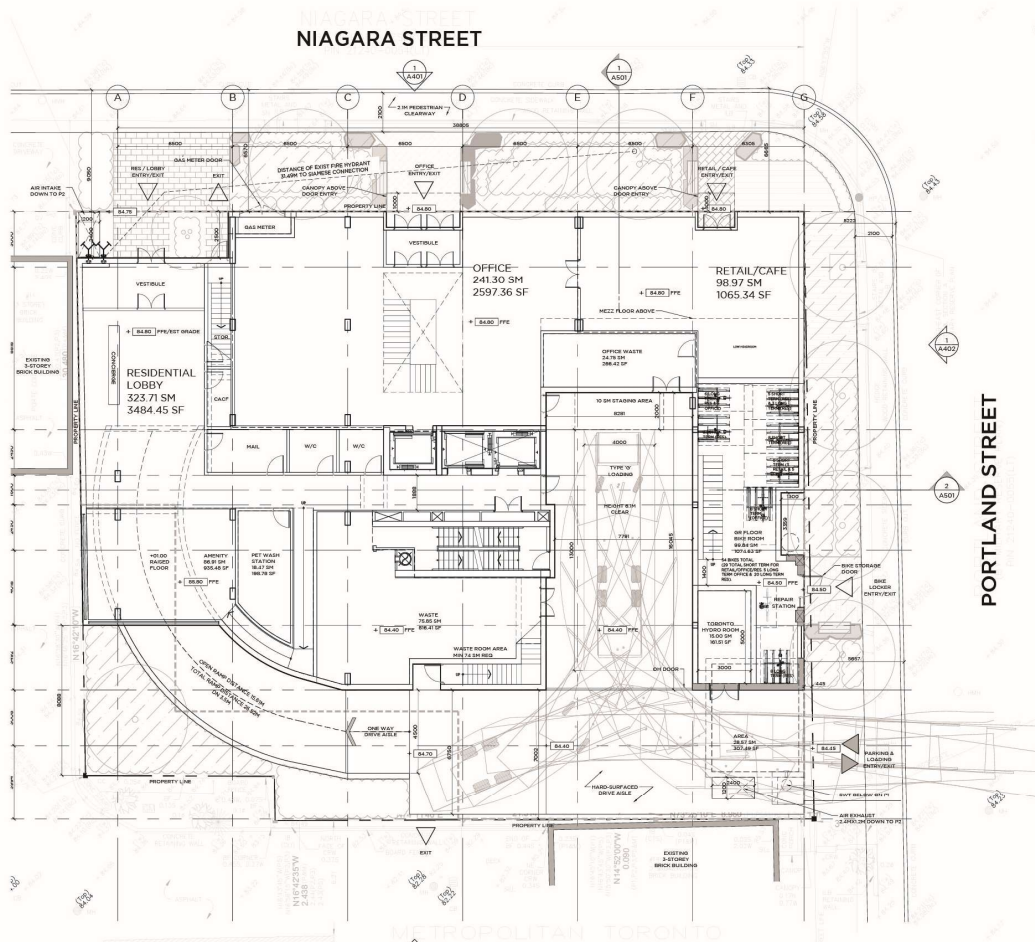
Attachment 5: Site Plan



Site Plan



Attachment 6: Ground Floor Plan



Ground Floor Plan




Attachment 7: Official Plan Land Use Map



Official Plan Land Use Map #18

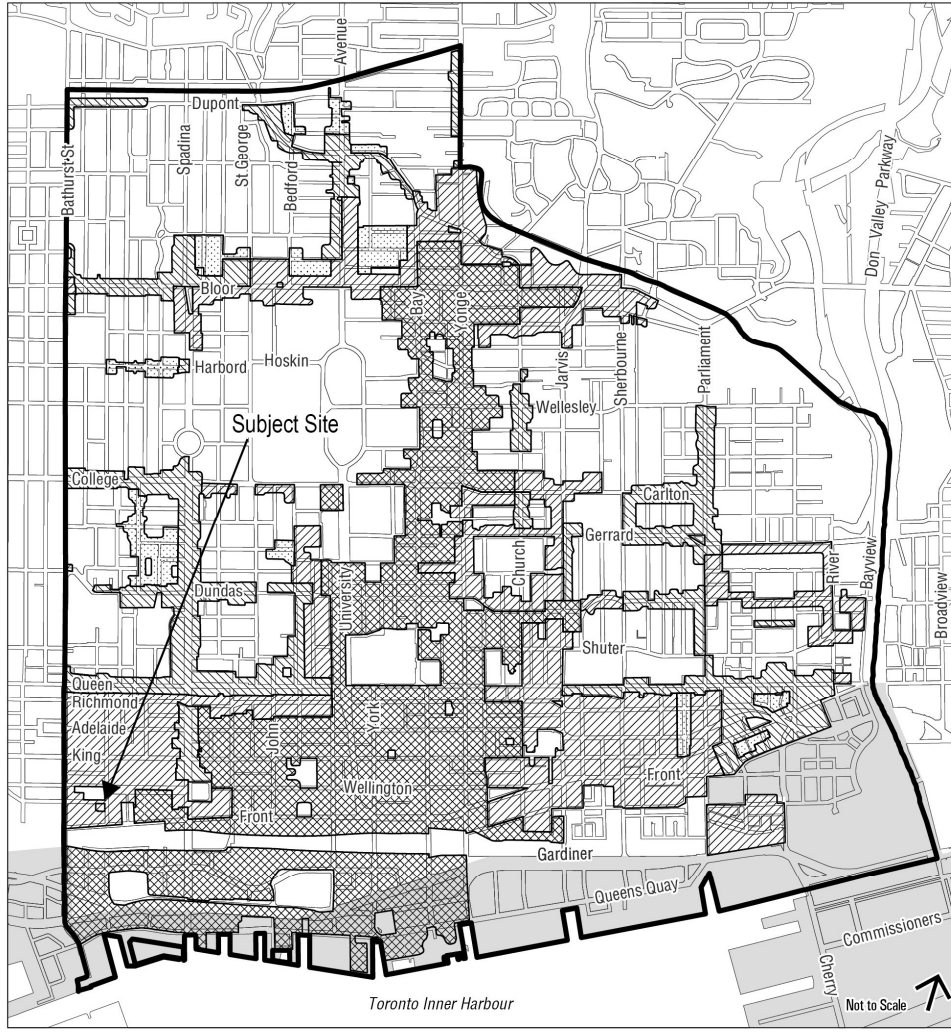
1 & 9 Niagara St & 18 Portland Street

File # 21 232793 STE 10 0Z

-  Location of Application
-  Neighbourhoods
-  Mixed Use Areas
-  Parks
-  Other Open Space Areas
-  Regeneration Areas
-  Utility Corridors


 Not to Scale
 Extracted: 11/08/2021

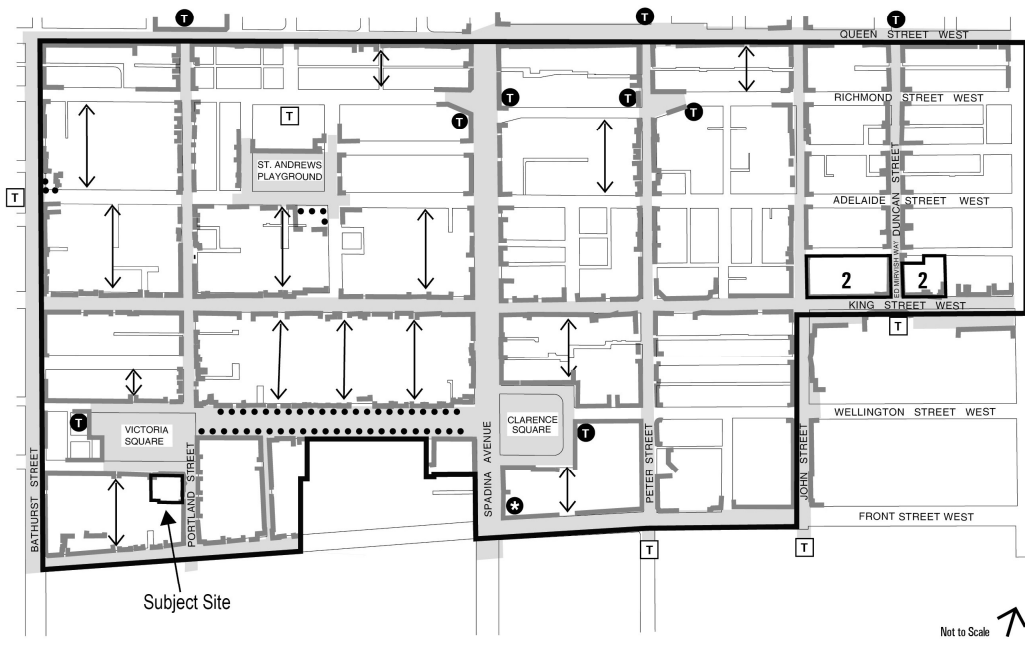
Attachment 8: Downtown Plan Land Use Map



Downtown Plan
MAP 41-3 Mixed Use Areas

- Downtown Plan Boundary
- Central Waterfront Secondary Plan
- Mixed Use Areas 1 - Growth
- Mixed Use Areas 2 - Intermediate
- Mixed Use Areas 3 - Main Street
- Mixed Use Areas 4 - Local

Attachment 9: King-Spadina Secondary Plan Map

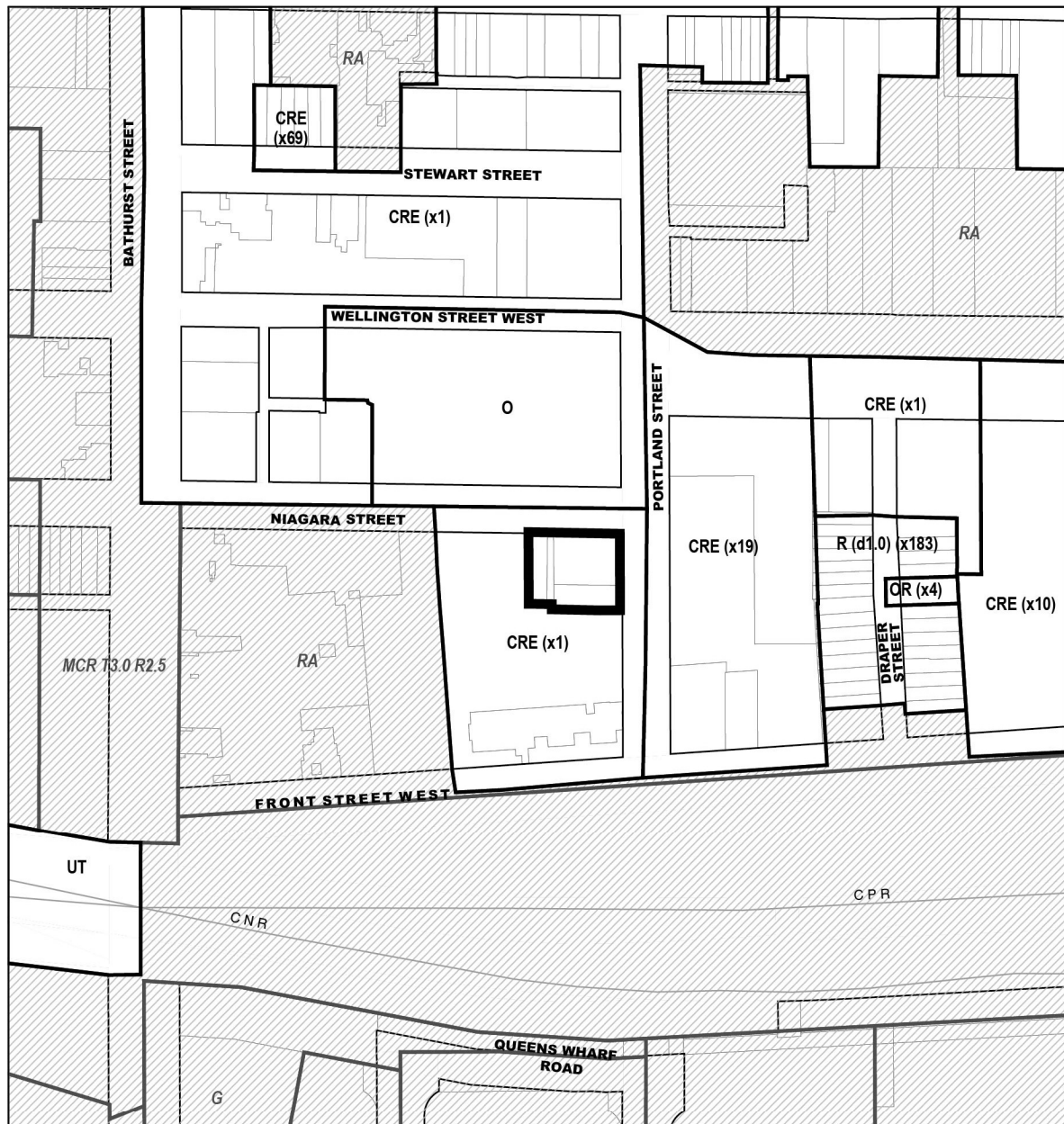


King-Spadina Secondary Plan MAP 16-1 Urban Structure Plan

- Secondary Plan Boundary
- Existing and Potential Building Edge
- Potential Gateway
- Potential View Terminus
- Existing View Terminus
- Potential Mid-block Connections
- Significant Street & Open Space
- Landscape Edge
- 2 Site and Area Specific Policy Areas

October 2015

Attachment 10: Existing Zoning By-law Map



Zoning By-law 569-2013

1 & 9 Niagara St & 18 Portland Street

File # 21 232793 STE 10 0Z

- Location of Application
- R** Residential
- CRE** Commercial Residential Employment
- O** Open Space
- OR** Open Space Recreation
- UT** Utility and Transportation

- See Former City of Toronto By-law No. 438-86
- R3** Residential District
- MCR** Mixed-Use District
- T** Industrial District
- G** Parks District

Not to Scale
 Extracted: 11/08/2021