

296-300 King Street East and 56-60 Berkeley Street – Official Plan and Zoning By-law Amendment Application – Appeal Report

Date: January 9, 2023

To: Toronto and East York Community Council

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

Ward: 13 - Toronto Centre

Planning Application Number: 21 235932 STE 13 OZ

SUMMARY

On November 9, 2021, an Official Plan and Zoning By-law Amendment application was submitted to permit a 34-storey mixed-use building with 1,188 square metres of commercial uses and 364 residential units.

On September 26, 2022, the applicant appealed the Official Plan and Zoning By-law Amendment application to the Ontario Land Tribunal (OLT) due to Council not making a decision within the time frame prescribed in the Planning Act.

This report recommends that the City Solicitor with the 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 OLT in opposition to the current application regarding the Official Plan and Zoning By-law Amendment appeal for the lands at 296-300 King Street East and 56-60 Berkeley Street and to continue discussions with the owner in an attempt to resolve outstanding issues.
2. In the event that the OLT allows the 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 Official Plan and Zoning By-law Amendment are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;

b) the owner has provided confirmation of water, sanitary and stormwater capacity to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, or the Chief Engineer and Executive Director, Engineering and Construction Services has determined that holding provisions are required in the Zoning By-law amendment;

c) in the event that improvements or upgrades and/or new infrastructure are required to support the development, the owner shall enter into agreement(s) for the construction of any such improvements to such services, as required, at no cost to the City and to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;

d) the owner has resolved matters related to the Pompadour Lane widening, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;

e) the owner has submitted a revised Heritage Impact Assessment that includes a conservation strategy for the on-site heritage resource, to the satisfaction of the Chief Planner and Executive Director, City Planning;

f) the owner has entered into a Heritage Easement Agreement with the City for the property at 298-300 King Street East, to the satisfaction of the Chief Planner and Executive Director, City Planning, including execution and registration of such agreement to the satisfaction of the City Solicitor; and

g) the owner has provided a detailed Conservation Plan, prepared by a qualified heritage consultant, that is substantially in accordance with the conservation strategy set out in the revised Heritage Impact Assessment, to the satisfaction of the Chief Planner and Executive Director, City Planning;

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.

THE SITE

Description: The site is located at the northwest corner of King Street East and Berkeley Street. It is generally rectangular in shape, with a frontage of 26 metres on King Street East and 51 metres on Berkeley Street. The site also abuts Pompadour

Lane, a public lane providing access from Adelaide Street East. The total site area is approximately 1,386 square metres.

Existing Use: A 1-storey commercial building at 296 King Street East, a 3-storey mixed-use building containing ground floor commercial uses and one rental dwelling unit at 298-300 King Street East and 56 Berkeley Street, and a 1-storey commercial building at 58-60 Berkeley Street.

THE APPLICATION

Description: A 34 storey (115.9 metres, inclusive of the mechanical penthouse) mixed-use building, which consists of a 4-storey base building with a 30-storey tower above. The proposal incorporates the existing building at 298-300 King Street East as part of the development.

Density: 17.1 times the area of the lot.

Dwelling Units and Amenity Space: The proposed 364 dwelling units include 49 studio units (13.5%), 208 one-bedroom units (57.1%), 64 two-bedroom units (17.6%), and 43 three-bedroom units (11.8%).

A total of 721 square metres of amenity space (1.98 square metres per unit) is proposed, consisting of 628 square metres of indoor amenity space (1.72 square metres per unit) and 93 square metres of outdoor amenity space (0.25 square metres per unit).

Retail: The proposal includes 1,188 square metres of retail space located along the King Street East and Berkeley Street frontages.

Access, Parking, and Loading: Access to the 4-level underground garage, containing 46 parking spaces, is proposed from Pompadour Lane via two vehicle elevators. One Type G loading space is also proposed to be accessed via the public lane.

A total of 366 bicycle parking spaces (329 long-term spaces and 37 short-term spaces) are proposed at the ground level and P1 to P4.

Additional Information

See Attachments 2, 3, 4, and 5 of this report for the Application Data Sheet, a three-dimensional representation of the project in context, and a site plan of the proposal, respectively. 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: [Toronto.ca/296KingStE](https://toronto.ca/296KingStE)

Reasons for Application

The Official Plan Amendment proposes an amendment to the Downtown Plan to redesignate the eastern portion of the site from Mixed Use Areas 4 to Mixed Use Areas 2.

The Zoning By-law Amendment amends City-wide Zoning By-law 569-2013 to permit an increase in the overall height and density on the site and to modify various performance standards such as those for setbacks and parking.

Site Plan Control

The proposal is subject to Site Plan Control. As of the date of this report, a Site Plan Control application has not yet been submitted.

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.

Downtown Plan

The Downtown Plan designates the western portion of the site Mixed Use Areas 2 - Intermediate and the eastern portion of the site Mixed Use Areas 4 - Local. The Downtown Plan also identifies King Street East as both a Great Street and a Priority Retail Street.

King-Parliament Secondary Plan

The site is designated Regeneration Area 'A' (Jarvis Parliament) in the King-Parliament Secondary Plan. The site is also located within the 10 Original City Blocks and the Old Town of York Area of Special Identity.

An updated King-Parliament Secondary Plan and associated Zoning By-laws were approved by City Council on May 5, 2021 and subsequently appealed by the applicant.

Official Plan Amendment 352 - Downtown Tall Building Setback Area

On October 5-7, 2016, City Council adopted Official Plan Amendment (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 setbacks and separation distances for buildings taller than 24 metres.

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. A site-specific appeal that had been filed for 296-300 King Street East was subsequently withdrawn.

Zoning

The site is zoned Commercial Residential Employment CRE (x41), CRE (x57) and CRE (x1) under Zoning By-law 569-2013. This zone permits a wide range of residential, commercial, industrial, recreational and institutional uses. The current zoning permits a height of 12.0 metres.

St. Lawrence Neighbourhood Heritage Conservation District Plan

The site is designated under Part V of the Ontario Heritage Act as part of the St. Lawrence Neighbourhood Heritage Conservation District (HCD) Plan, which was approved by the OLT on November 16, 2021.

The property at 298-300 King Street East and 56 Berkeley Street is identified as a contributing property and the properties at 296 King Street East and 58-60 Berkeley Street are identified as non-contributing in the St. Lawrence Neighbourhood HCD Plan. The adjacent properties at 528 Adelaide Street East and 70 Berkeley Street, and 359-361 King Street East and 54 Berkeley Street are also identified as contributing properties in the St. Lawrence Neighbourhood HCD Plan.

Heritage

The site is adjacent to a number of listed heritage properties located outside the St. Lawrence Neighbourhood HCD Plan, including 302-306 King Street East and 53-73 Berkeley Street.

Design Guidelines

The following design guidelines have been used in the evaluation of this application:

- King-Parliament Urban Design Guidelines;
- Tall Building Design Guidelines;
- Growing Up: Planning for Children in New Vertical Communities;

- Pet-Friendly Design Guidelines;
- Retail Design Manual; and
- Toronto Accessibility Design Guidelines.

The City's Design Guidelines can be found here:

<https://www.toronto.ca/citygovernment/planning-development/officialplanguidelines/design-guidelines/>

Toronto Green Standard

The Toronto Green Standard (TGS) is a set of performance measures for green development. Applications for Zoning By-law Amendments, Draft Plans of Subdivision and Site Plan Control are required to meet and demonstrate compliance with Tier 1 of the Toronto Green Standard. The TGS can be found here:

<https://www.toronto.ca/citygovernment/planning-development/official-plan-guidelines/toronto-green-standard/>

COMMUNITY CONSULTATION

A virtual Community Consultation Meeting was held on April 12, 2022 and approximately 15 people attended. At the meeting, City staff and the applicant's team gave presentations on the site and surrounding area, the existing planning framework, and the proposed development. Following the presentations, City staff led a question and answer format meeting. Comments and questions provided by the meeting attendees included:

- Relationship of the proposal to the heritage buildings on Berkeley Street;
- Concerns related to tall buildings and loss of character on Berkeley Street;
- Compatibility of the proposed height with surrounding low-rise buildings;
- Extent of the on-site heritage preservation;
- Amount of parking proposed for the development;
- Unit sizes and any affordable units; and
- Building design and material selection;

The issues raised through community consultation have been considered through the review of this application.

COMMENTS

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 proposal for consistency with the Provincial Policy Statement and conformity with the Growth Plan. Staff find that the proposal is consistent with the PPS and conforms with the Growth Plan.

Built Form

City Planning staff have reviewed the proposed built form, including height, massing and transition, against the policies of the Official Plan as well as relevant design guidelines.

The proposal does not conform to the Official Plan. The proposed massing, including setbacks, step backs, and separation distances, is not acceptable. In particular, the proposed tower setback on the west side is not adequate to provide light and privacy to tower occupants within the proposed building and the neighbouring building. Furthermore, the proposal does not provide an acceptable relationship to the retained portions of 298-300 King Street East on site as well as the adjacent heritage properties on Berkeley Street.

Shadow Impact

The Shadow Study submitted in support of the application shows that the proposal would not cast new shadows on areas designated Neighbourhoods. Incremental shadows would be cast on the Little Trinity Church Lands in the late afternoon in Spring and Fall. The proposal's shadow impacts are acceptable to City Planning staff.

Wind Impact

A Pedestrian Level Wind Study submitted in support of the application indicates that the surrounding public realm will continue to experience wind conditions that are suitable for standing and sitting in all seasons. The proposal's wind impacts are acceptable to City Planning staff.

Heritage Impact

Heritage Planning staff have reviewed the Heritage Impact Assessment submitted in support of the application. The proposed development would incorporate the existing building at 298-300 King Street East, with the exception of the c.1902-1912 rear annex at 300 King Street East, which is proposed to be demolished. Heritage Planning staff support the in situ conservation of the building at 298-300 King Street East; however, the conservation strategy should be refined to minimize the impact of the development.

Heritage Planning staff have provided comments on the proposed development as it relates to the retained portions of 298-300 King Street East, the St. Lawrence Neighbourhood HCD, and adjacent heritage properties.

In the event that the application, or a version thereof, is approved by the OLT, as a condition of approval, Heritage Planning would seek a detailed Conservation Plan based on a conservation strategy outlined within an approved HIA. The Conservation Plan would identify all work required on the retained building at 298-300 King Street East. Heritage Planning would also require an Interpretation Plan, Signage Plan and Lighting Plan, and a Heritage Easement Agreement to secure the long-term conservation of the property.

Public Realm

Both the retained building at 298-300 King Street East and the new portions of the building are proposed with no setback from the property lines on the King Street East and Berkeley Street frontages. The existing sidewalk condition on King Street East, including street trees located along the site frontage, is proposed to remain in the existing condition. A setback of at least 6 metres from the curb to the building face will be provided on Berkeley Street, with new street trees proposed along this frontage, which is acceptable to City Planning staff. Further detailed design of the public realm will be addressed during the Site Plan Control review process.

Housing

A total of 364 dwelling units are proposed, consisting of 49 studio units (13.5%), 208 one-bedroom units (57.1%), 64 two-bedroom units (17.6%), and 43 three-bedroom units (11.8%). The submitted materials indicate that 35 units (10.6%) can be converted to two-bedroom and three-bedroom units through interior modifications or by combining adjacent units.

The unit mix meets the policy direction of the Downtown Plan with respect to the minimum number of two-bedroom and three-bedroom units. City Planning staff recommend that these minimums be secured in the Zoning By-law, should the proposal be approved in some form.

One existing rental dwelling unit located at 300 King Street East would be lost due to the development proposal. The policies of the Official Plan require that an acceptable tenant relocation and assistance plan be provided to lessen hardship for existing tenants. The applicant has indicated in the Housing Issues Report submitted with the application that this will be provided.

Amenity Space

A total of 721 square metres of amenity space (1.98 square metres per unit) is proposed, consisting of 628 square metres of indoor amenity space (1.72 square metres per unit) and 93 square metres of outdoor amenity space (0.25 square metres per unit). Zoning By-law 569-2013 requires a minimum of 4.0 square metres of amenity space per dwelling unit, of which at least 2.0 square metres must be indoor amenity space. The proposed amenity space is below the minimum requirement and should be increased to provide adequate amenity space for residents.

Non-Residential Uses

The existing buildings on the site collectively comprise approximately 825 square metres of primarily non-residential gross floor area. The proposed development includes 1,188 square metres of non-residential gross floor area. The policies of the Downtown Plan state that development in the King-Parliament Secondary Plan Area will be encouraged to provide the replacement of all existing non-residential gross floor area, which is achieved by this proposal.

Lane Widening

The site abuts Pompadour Lane, a public lane with an approximate width of 4.52 metres. To satisfy the Official Plan requirement for a 6 metre wide lane, a 1.48 metre lane widening is required where the site abuts the east side of Pompadour Lane. The plans do not reflect the required conveyance.

Traffic Impact, Access, Parking and Loading

Vehicular access for parking will be from Pompadour Lane on the northwest side of the site. Two vehicle elevators are proposed to provide access to a 4-level underground parking garage containing 46 parking spaces for residents. No parking spaces are proposed for visitors or the retail use. One Type G loading space is also proposed to be accessed via the public lane.

Transportation Services staff have reviewed the Urban Transportation Considerations Report submitted in support of the application and have concluded that the proposed access arrangement, parking supply, and loading supply are acceptable in principle. Comments related to site access arrangements, site circulation and layout, design of the proposed site entrance driveway, layout of the proposed parking supply, access to the parking spaces, and other site design matters will be provided through the Site Plan Control review process.

A total of 366 bicycle parking spaces (329 long-term spaces and 37 short-term spaces) are proposed at the ground level and P1 to P4. The plans show several required bicycle parking spaces located within the right-of-way. All required bicycle parking spaces are required to be located on site.

Servicing and Stormwater Management

A Servicing and Stormwater Management Report and associated plans have been submitted and reviewed by Engineering and Construction Services staff. 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 are required in the Zoning By-law.

Archaeological Assessment

A Stage 1 Archaeological Resource Assessment was submitted in support of the application. City staff have reviewed the report and concur with the conclusions that there are no further archaeological concerns regarding the subject property.

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). An Arborist Report and Tree Inventory and Preservation Plan were submitted in support of the

application. One privately-owned tree is proposed to be removed. No replacement trees are proposed on the site, therefore the compensation requirement is proposed to be met through a cash-in-lieu payment.

Toronto Green Standard

The applicant is required to meet Tier 1 of the TGS. The applicant is encouraged to achieve Tier 2 or higher to advance the City's objectives for resilience and to achieve net-zero emissions by 2040 or sooner.

Further Issues

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

CONTACT

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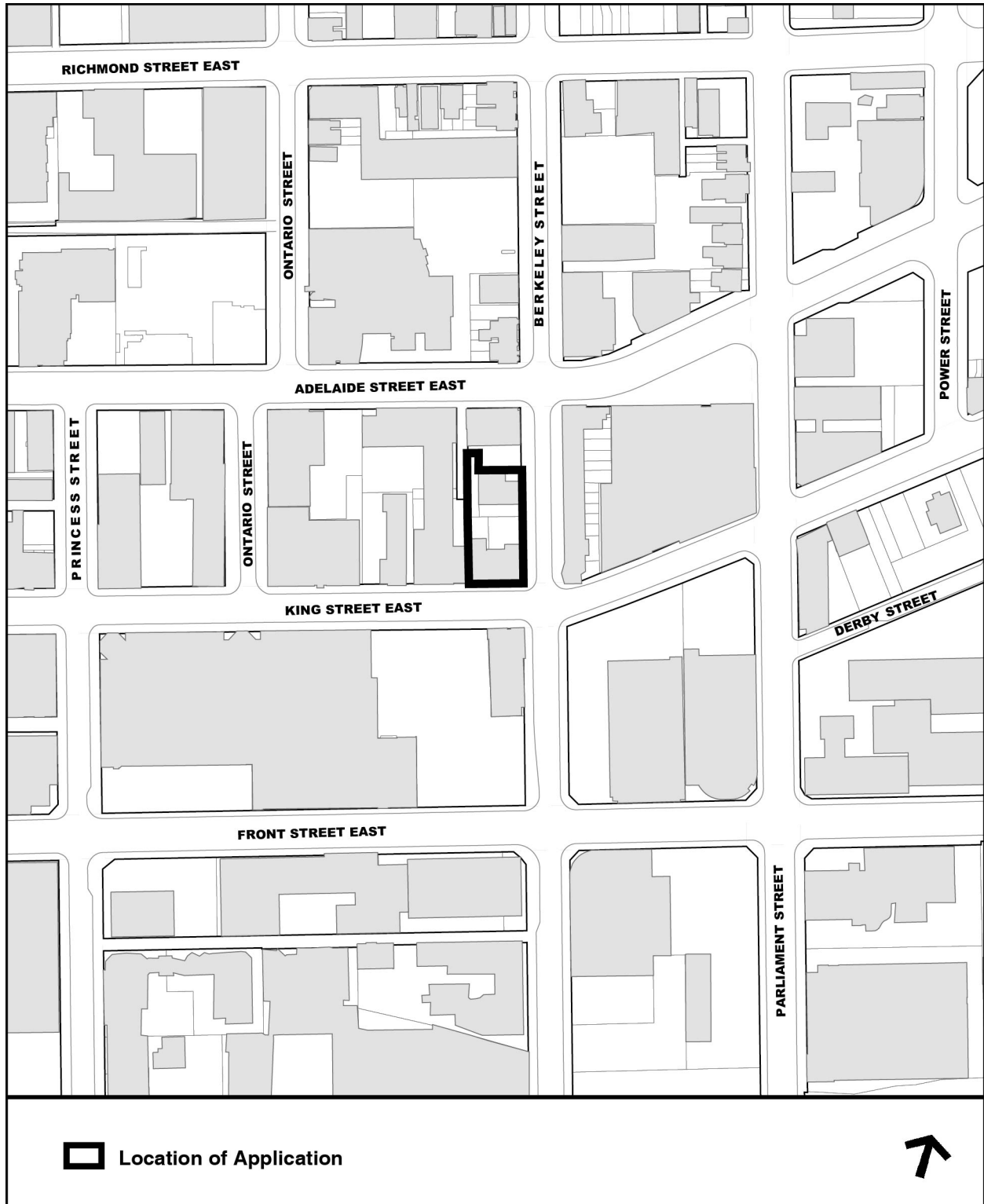
SIGNATURE

Alex Teixeira, 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 Northwest
Attachment 4: 3D Model of Proposal in Context Looking Southeast
Attachment 5: Site Plan
Attachment 6: Official Plan Land Use Map
Attachment 7: Downtown Secondary Plan Mixed Use Areas Map
Attachment 8: Existing Zoning By-law Map

Attachment 1: Location Map



Attachment 2: Application Data Sheet

Municipal Address: 296-300 King St E & 56-60 Berkeley St **Date Received:** November 9, 2021

Application Number: 21 235932 STE 13 OZ

Application Type: OPA & Rezoning

Project Description: A 34-storey (115.9 metres including mechanical penthouse) mixed-use building with retail at grade.

Applicant	Agent	Architect	Owner
Aird & Berlis LLP	Bousfields Inc.	Architects Alliance	58/60 Berkeley Corp

EXISTING PLANNING CONTROLS

Official Plan Designation:	Regeneration Areas	Site Specific Provision:	Downtown Plan; King-Parliament Secondary Plan
Zoning:	CRE (x41, x57, x1, x339) SS1	Heritage Designation:	Y
Height Limit (m):	12, 16, 90	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq m): 1,386 Frontage (m): 51 Depth (m): 26

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			1,166	1,166
Residential GFA (sq m):			22,522	22,522
Non-Residential GFA (sq m):	825		1,188	1,188
Total GFA (sq m):	825		23,710	23,710
Height - Storeys:	3		34	34
Height - Metres:			110	110

Lot Coverage Ratio (%): 84.13 Floor Space Index: 17.11

Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	22,522	

Retail GFA: 1,188
Office GFA:
Industrial GFA:
Institutional/Other GFA:

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:	1			
Freehold:				
Condominium:			364	364
Other:				
Total Units:	1		364	364

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:	49	208	64	43	
Total Units:	49	208	64	43	

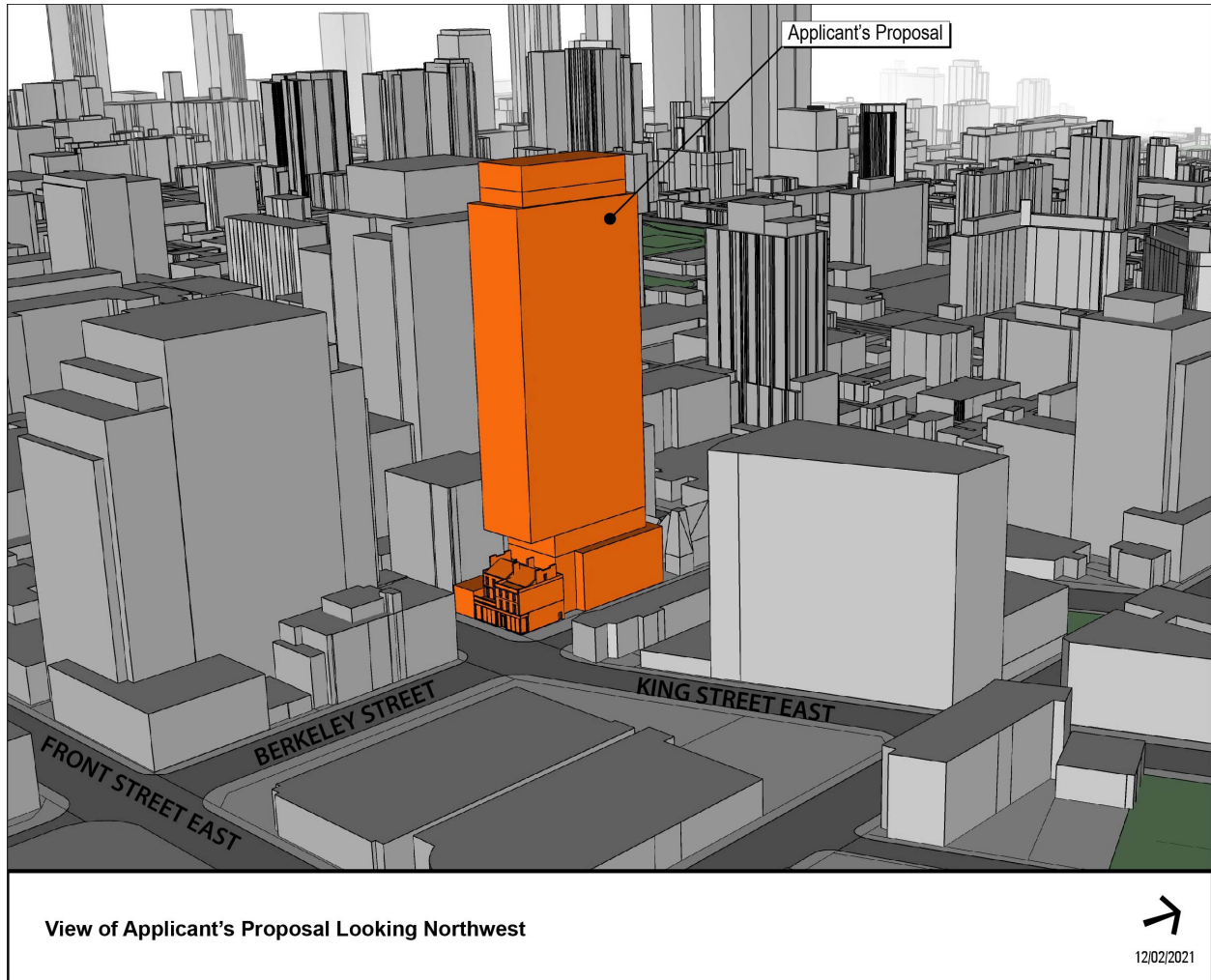
Parking and Loading

Parking Spaces: 46 Bicycle Parking Spaces: 366 Loading Docks: 1

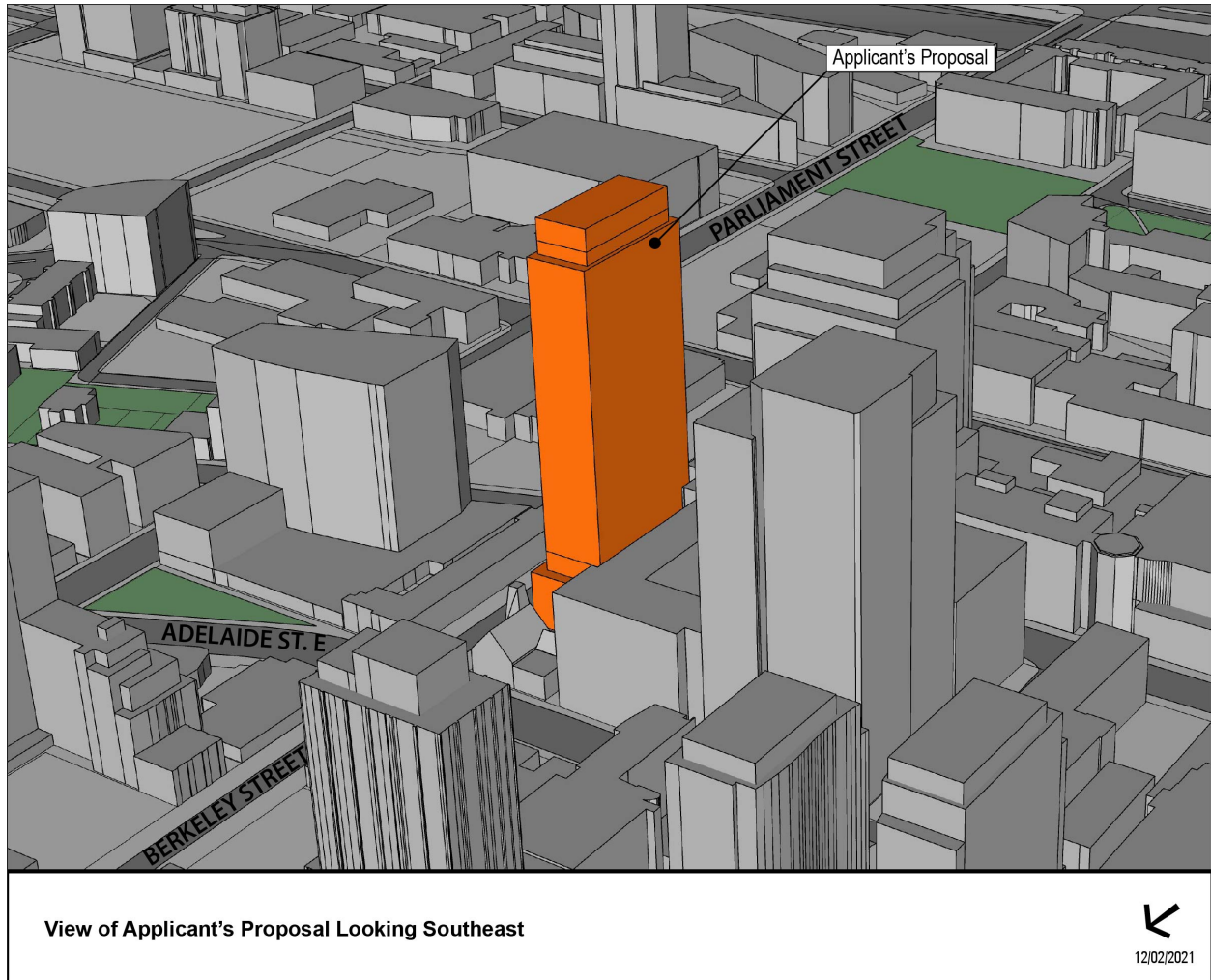
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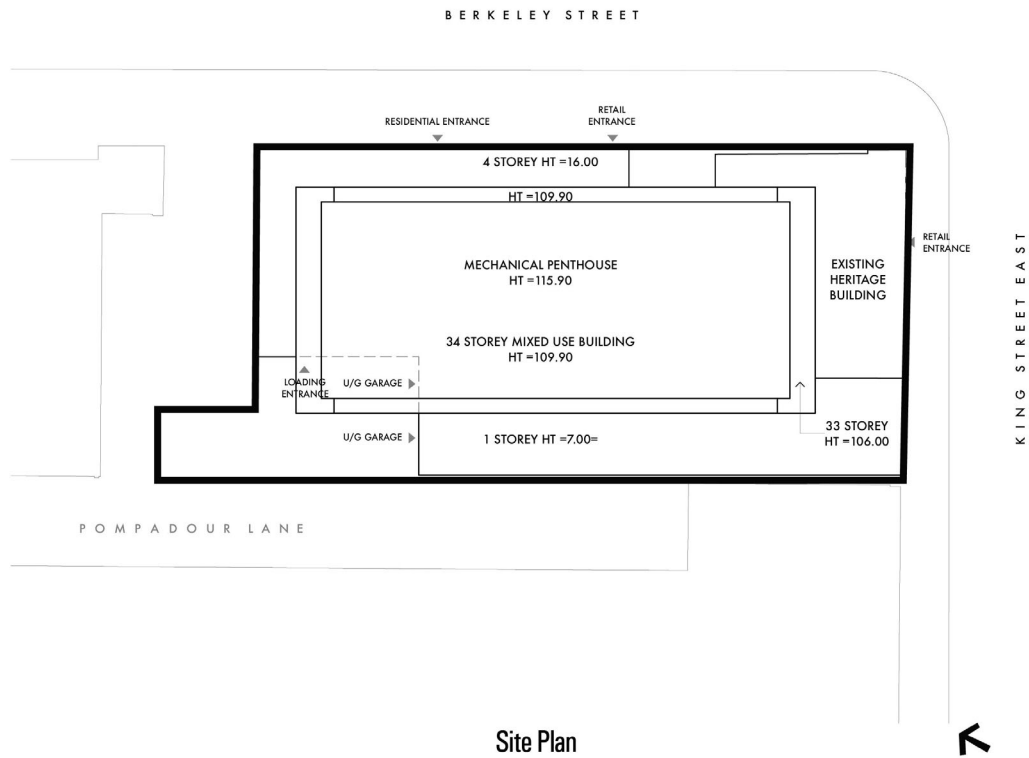
Attachment 3: 3D Model of Proposal in Context Looking Northwest



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

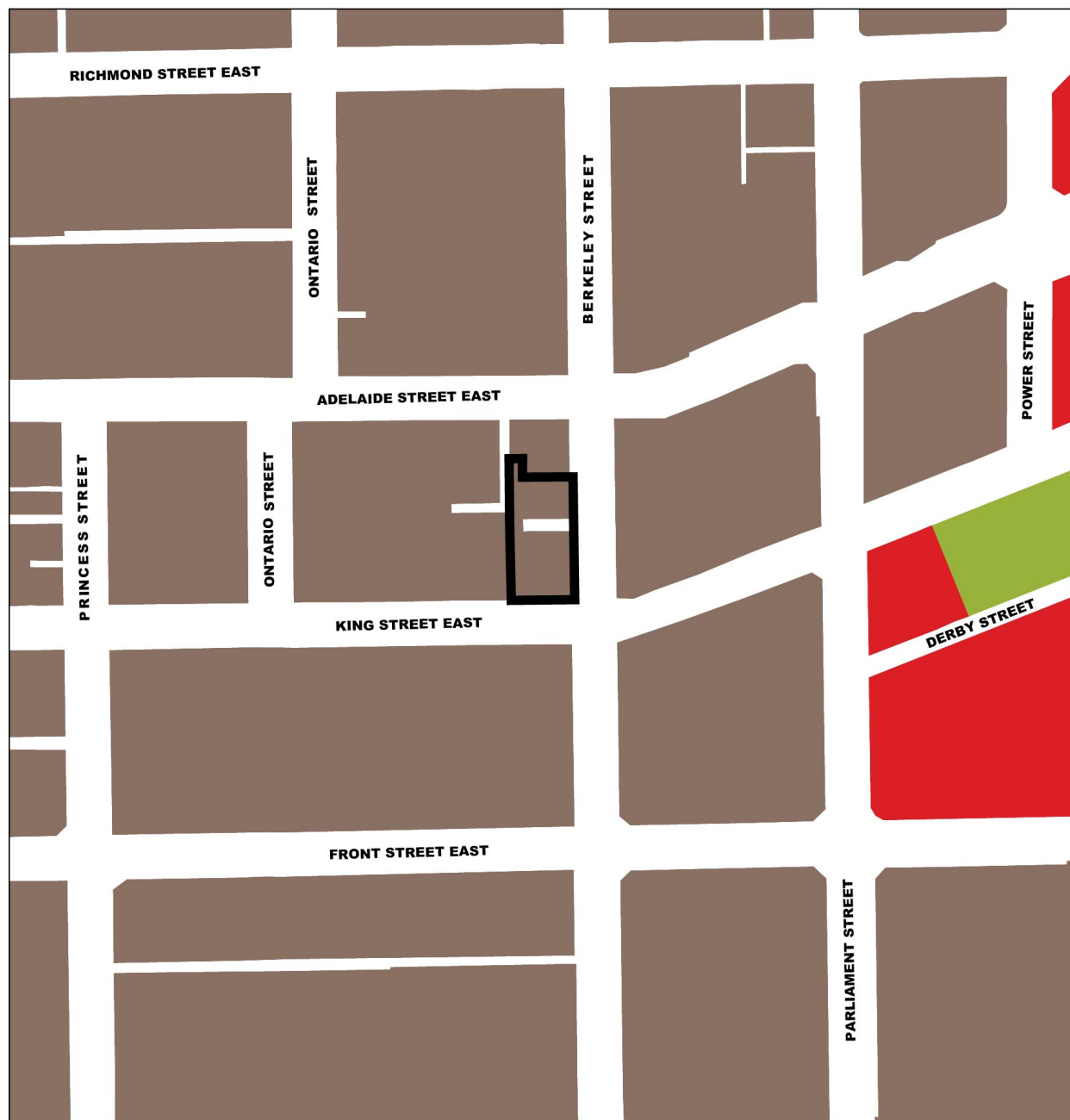


Attachment 5: Site Plan



Site Plan

Attachment 6: Official Plan Land Use Map



296-300 King Street East & 56-60 Berkeley Street

Official Plan Land Use Map #18

File # 21 235932 STE 13 0Z



Location of Application

Mixed Use Areas

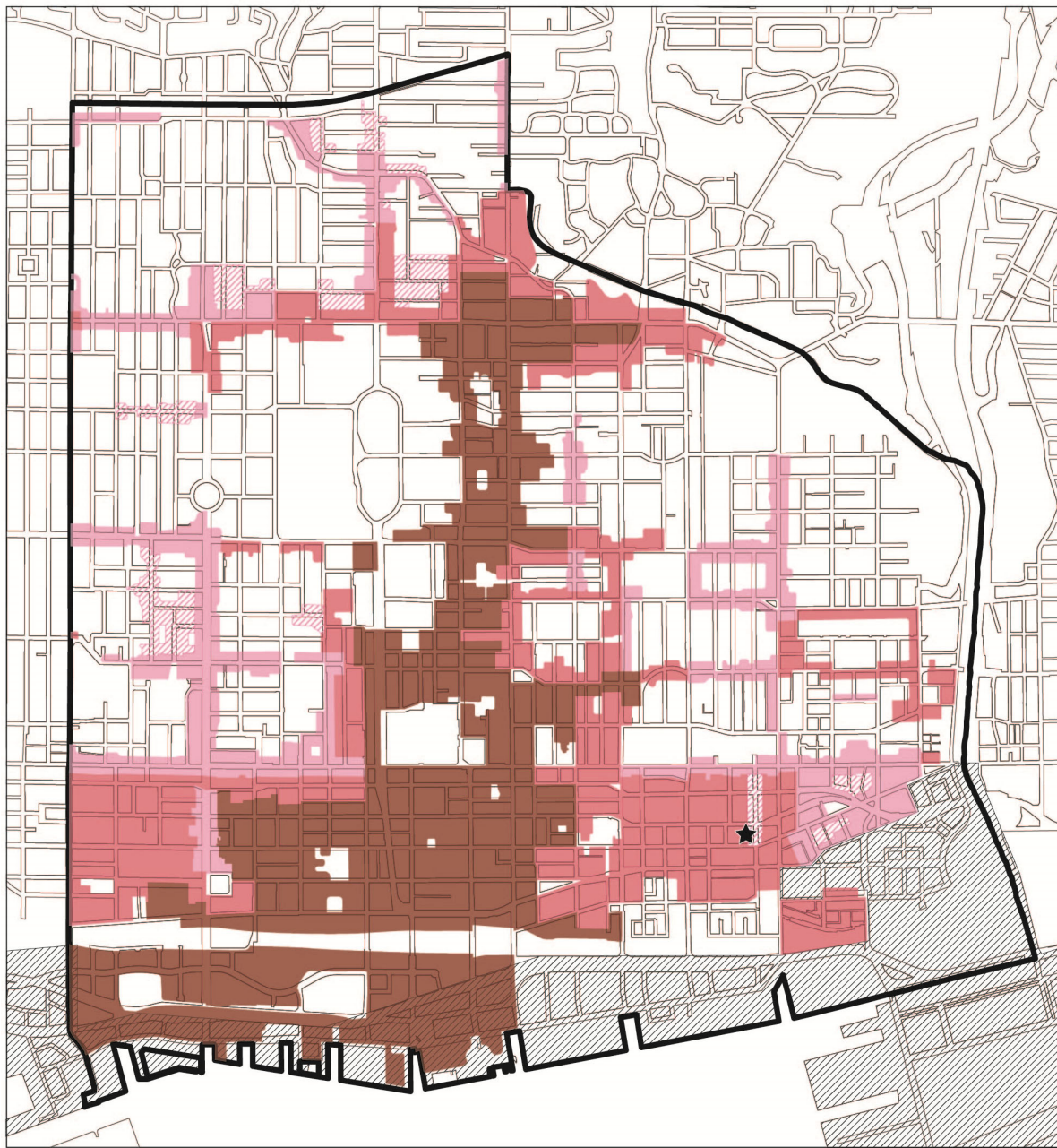
Parks

Regeneration Areas



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Attachment 7: Downtown Secondary Plan Mixed Use Areas Map



Downtown Plan

MAP 41-3 Mixed Use Areas

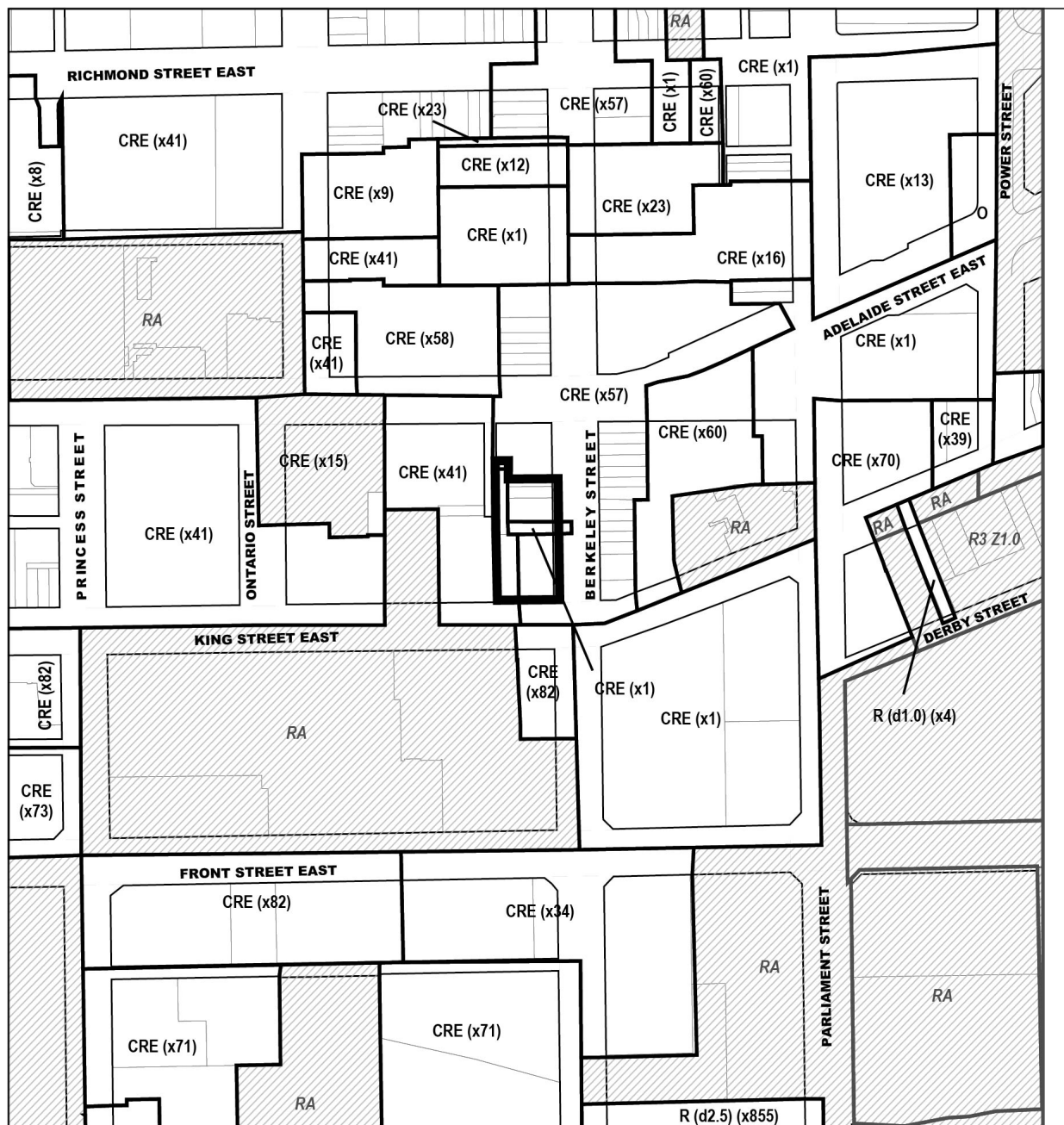
296-300 King Street East & 56-60 Berkeley Street

File # 21 235932 STE 13 0Z

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

Not to Scale
Extracted: 12/14/2022

Attachment 8: Zoning By-law Map



Zoning By-law 569-2013

296-300 King Street East & 56-60 Berkeley Street

File # 21 235932 STE 13 OZ

Location of Application
R Residential
CR Commercial Residential
CRE Commercial Residential Employment
O Open Space

See Former City of Toronto By-law No. 438-86
R3 Residential District
RA Mixed-Use District
IC Industrial District



Not to Scale
 Extracted: 11/15/2021