



REPORT FOR ACTION

399-405 Yonge Street - Zoning By-law Amendment Application - Appeal Report

Date: January 6, 2023

To: Toronto and East York Community Council

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

Ward: 13 – Toronto Centre

Planning Application Number: 22 162248 STE 13 OZ

SUMMARY

On June 14, 2022, a Zoning By-law Amendment application was submitted to permit a 75-storey mixed use building with 191.84 square metres of commercial space and 828 residential units.

On November 21, 2022, the applicant appealed the Zoning By-law 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 Ontario Land Tribunal (OLT) in opposition to the current application regarding the Zoning By-law Amendment appeal for the lands at 399-401 Yonge Street and to continue discussions with the applicant 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 proposed Zoning By-law Amendments(s) are in a content and form satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor;

b) the owner maintain a minimum 3 metre setback between the building, including all below grade and above grade structures, to all existing TTC infrastructure;

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, or 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 determine that improvements or upgrades and/or new infrastructure are required to support the development; and

iii. submitted a revised Heritage Impact Assessment that includes a detailed conservation strategy for the property at 401, 403, and 405 Yonge Street, to the satisfaction of the Senior Manager, Heritage Planning, Urban Design, 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 on the north east corner of Yonge Street and Gerrard Street East. The site is generally rectangular in shape, with 30.47 metres of frontage along Yonge Street and 33.83 metres of frontage along Gerrard Street East. The total site area is approximately 1038 square metres.

The site includes the properties at 401, 403 and 405 Yonge Street, known as the Joseph Bickerstaff Block, which are listed on the City's Heritage Register, adopted by City Council on March 15, 1974. In addition, the site is adjacent to three properties designated under Part IV of the Ontario Heritage Act, 20 Gerrard Street East, 378-380 Yonge Street and 385-391 Yonge Street.

Existing Use: Two properties containing commercial, retail, and office uses with a current height of 2-4 storeys.

THE APPLICATION

Description: A 75-storey (240.8 metres not including mechanical penthouse) mixed-use building. A total of 191.84 square metres of commercial space is proposed at grade.

Density: 60.18 times the area of the lot.

Dwelling Units: The proposed 828 dwelling units include 426 one-bedroom units (51.5%), 243 two-bedroom units (29.3%), and 86 three-bedroom units (10.4%).

Access, Parking and Loading: Site access is proposed from Gerrard Street East with a Type-C and Type-G loading space provided at grade internal to the building. A vehicle drop off space is also proposed on-site adjacent to the driveway. No vehicle parking spaces are proposed.

The proposed 828 bicycle parking spaces include 745 residential spaces and 83 non-residential spaces, located both below and above grade within the building.

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:

www.toronto.ca/399YongeSt

Reasons for Application

The Zoning By-law Amendment application proposes to amend Zoning By-law 569-2013 to vary performance standards including but not limited to: building height; building setbacks; floor space index and amenity space requirements.

Site Plan Control

A Site Plan Control application (File Number 22 162247 STE 13 SA) was submitted on June 14, 2022 and remains under review.

POLICY CONSIDERATIONS

Provincial Land-Use Policies

All decisions of Council in respect of the exercise of any authority that affects a planning and cultural heritage matters shall be consistent with the Provincial Policy Statement (PPS), and shall conform to provincial plans.

Official Plan Designation

The site is located on lands within the Downtown and Central Waterfront area and is designated Mixed Use Areas in the Official Plan.

The application is subject to the Downtown Secondary Plan. The Downtown Secondary Plan designates the site as Mixed Use Areas 2. The site is also located along a Priority Retail Street on Map 41-5. The Yonge Street frontage of the site is located along a Great Street on Map 41-7 and a Cultural Corridor on Map 41-14.

Site and Area Specific Policy 151 (SASP 151)

The site is located within the South of Carlton Street and North of Gerrard Street East Between Yonge and Jarvis Streets SASP 151.

Site and Area Specific Policy 174 (SASP 174)

The site is located within the Yonge Street Between Queen Street and North of Gerrard Street SASP 174.

Site and Area Specific Policy 461 (SASP 461)

SASP 461 protects Allan Gardens from net new shadows being cast on the park.

Site and Area Specific Policy 517 (SASP 517)

SASP 517 relates to tall building setbacks and separation distances in the Downtown Secondary Plan Area. The site is located within SASP 519 and subject to its policies and the implementing zoning by-laws.

Heritage Conservation Policies (3.1.6)

The City's Official Plan recognizes the importance of our cultural heritage and contains heritage conservation policies to ensure those resources can continue to contribute to the social, cultural, economic and environmental goals of the City.

Zoning

The site is zoned Commercial Residential CR 4.0 (c4.0; r1.5) SS1 (x2154) under By-law 569-2013, with a height limit of 18 metres, and a permitted Floor Space Index (FSI) of 4.0. This zone permits a wide range of residential, commercial, recreational and institutional uses.

Design Guidelines

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

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

The City's Design Guidelines can be found here:

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

Parks Canada Standards and Guidelines

The Parks Canada Standards and Guidelines for the Conservation of Historic Places in Canada is the official document guiding planning, stewardship and conservation approaches for all listed and designated heritage resources with the City of Toronto. The Standard and Guidelines can be found her

<https://www.historicplaces.ca/en/pages/standards-normes.aspx>

Toronto Green Standard

The 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/city-government/planning-development/official-plan-guidelines/toronto-green-standard/>

COMMUNITY CONSULTATION

A Virtual Community Consultation Meeting is scheduled for January 24, 2023. As of the date of the drafting of this report the meeting has not yet occurred.

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 current proposal for consistency with the Provincial Policy Statement and conformity with the Growth Plan. While the site is an appropriate location for an appropriate form and scale of growth and intensification consistent with the PPS and Growth Plan, the proposed development, in its current form, is not consistent with PPS and Growth Plan policies concerning heritage conservation. 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 have reviewed the proposed built form, including height, massing, setbacks and stepbacks, against the policies of the Official Plan, as well as relevant design guidelines.

The proposed development has not demonstrated that the site can accommodate a tall building with a floorplate of approximately 830 square metres while also providing appropriate tower setbacks and tower stepbacks and fitting within the existing and planned context.

Heritage Conservation

The introduction of a considerable amount of massing on the heritage properties with a tower situated directly atop the heritage buildings and without any meaningful step backs would diminish and overwhelm their historic three-storey

character. Staff will continue to work with the applicant on built form options that would limit the impact of a tower on the heritage resources and conserve their cultural heritage value.

Shadow

A sun and shadow study was prepared by Teeple Architects, dated 07/06/2022. Staff require revisions to the shadow study to determine the extent of additional net new shadows resulting from the proposal.

Wind

A Pedestrian Level Wind Study prepared by Theakston Environmental, dated May 10, 2022, identifies a number of wind mitigation measures which would be required for building entrances and outdoor amenity areas. A revised wind study is required to confirm that any proposed wind mitigation measures have addressed these issues.

Streetscape/Urban Forestry

The applicant is proposing an approximate 3.6 metre wide pedestrian realm along Yonge Street and 3.7 m along Gerrard Street East. Typically a 6 metre pedestrian realm would be required. A reduced pedestrian realm along Yonge Street may be acceptable if the existing 401-405A Yonge Street, listed heritage building are being conserved in-situ. An expanded Gerrard Street East pedestrian realm is required to, at a minimum, align with the frontage of the adjacent Covenant House at 20 Gerrard Street East, a heritage designated property. There are no existing trees on or adjacent to the site and no proposed trees.

Transportation services has also requested pedestrian clearways along Gerrard Street and clarification as to how the proposed Yonge Street pedestrian realm will interface with the future yongeTOMorrow streetscape and the approved Municipal Class Environmental Assessment. A 5.0 metre corner rounding at the southwest corner of the site is required to a minimum height of 3.0 metres above the finished grade as lands to be provided to the City secured by a Pedestrian Clearway Easement.

Servicing

A Functional Servicing and Stormwater Management Report and associated plans have been submitted and reviewed by Engineering and Construction Services. Revisions are required to the reports. 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 amendment.

Indoor/Outdoor Amenity Space

Zoning By-law 569-2013 requires a combined amenity space of 4.0 square metres per unit. The application is proposing a total of 1,819 square metres (2.2 square metres per unit) of indoor amenity space and 570 square metres (0.69 square metres per unit) of outdoor amenity space which does not comply with the existing zoning. City Planning Staff will continue to work with the applicant to increase the amount of amenity space provided in the proposal.

Parking and Loading

A total of 0 vehicle parking spaces are proposed. It is noted that a single vehicle drop-off space is proposed on-site with access from a driveway on the east side of the site with access off Gerrard Street East. The proposal includes one type-G and one type-C loading space. In support of the application, LEA Consulting Ltd., prepared a Transportation Impact Study, dated June 9 2022. The proposed parking rates, access/egress route and traffic impact assessment are generally acceptable to Transportation Services. However, revisions are required to ensure loading and staging areas meet City requirements.

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.

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. 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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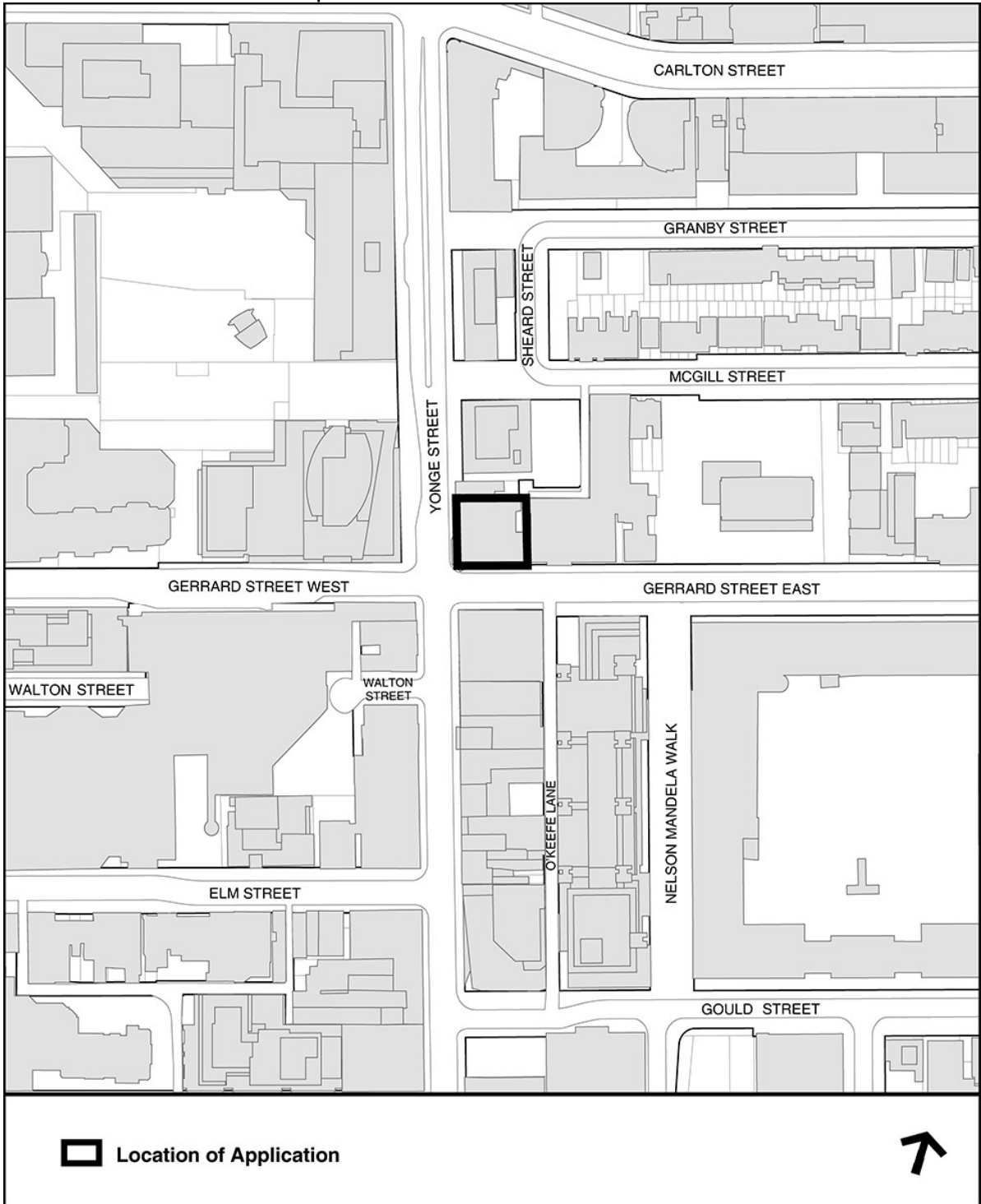
SIGNATURE

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 Southeast
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 Mixed Use Area Map
Attachment 8: Zoning By-law Map

Attachment 1: Location Map



Attachment 2: Application Data Sheet

Municipal Address: 399-405 Yonge Street **Date Received:** June 14, 2022

Application Number: 22 162248 STE 13 OZ

Application Type: Rezoning

Project Description: A 75-storey mixed-use building having 828 dwelling units, a non-residential gross floor area of 191.84 square metres, and a residential gross floor area of 53,409.67 square metres.

Applicant	Agent	Architect	Owner
Adam Brown	Adam Brown	Teeple Architects	399Y Corporation

EXISTING PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	Downtown Secondary Plan
Zoning:	CR 4.0 (c4.0; r1.5) SS1 (x2154)	Heritage Designation:	Y (listed)
Height Limit (m):	20	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq m): 1,038 Frontage (m): 31 Depth (m): 34

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			753	753
Residential GFA (sq m):			53,410	53,410
Non-Residential GFA (sq m):	1,350		192	192
Total GFA (sq m):	1,350		53,602	53,602
Height - Storeys:	4		75	75
Height - Metres:			241	241

Lot Coverage Ratio (%): 72.58 Floor Space Index: 60.18

Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	53,177	233
Retail GFA:	192	
Office GFA:		
Industrial GFA:		
Institutional/Other GFA:		

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:				
Freehold:				
Condominium:			828	828
Other:				
Total Units:			828	828

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:		73	426	243	86
Total Units:		73	426	243	86

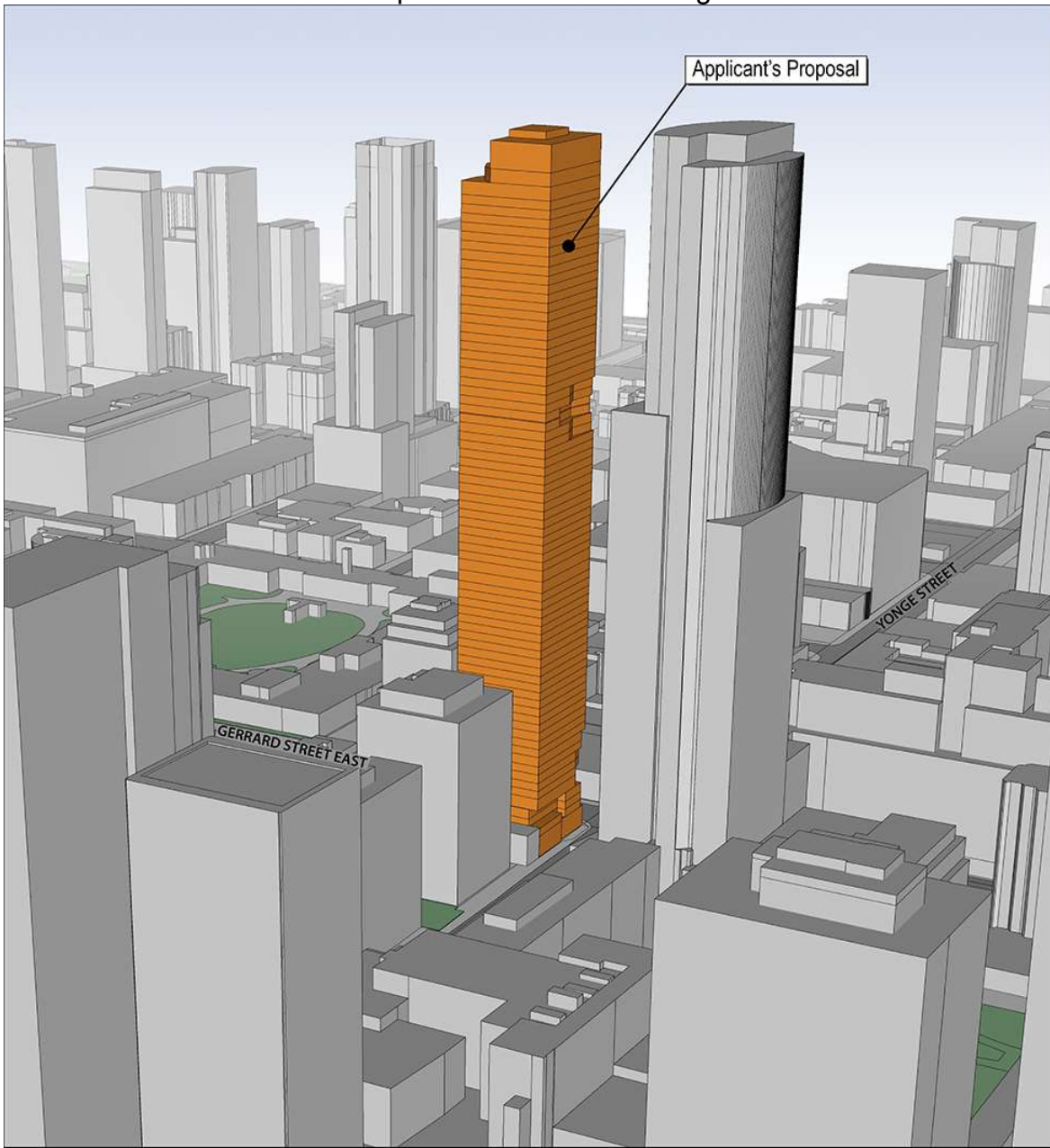
Parking and Loading

Parking Spaces: Bicycle Parking Spaces: 828 Loading Docks: 2

CONTACT:

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

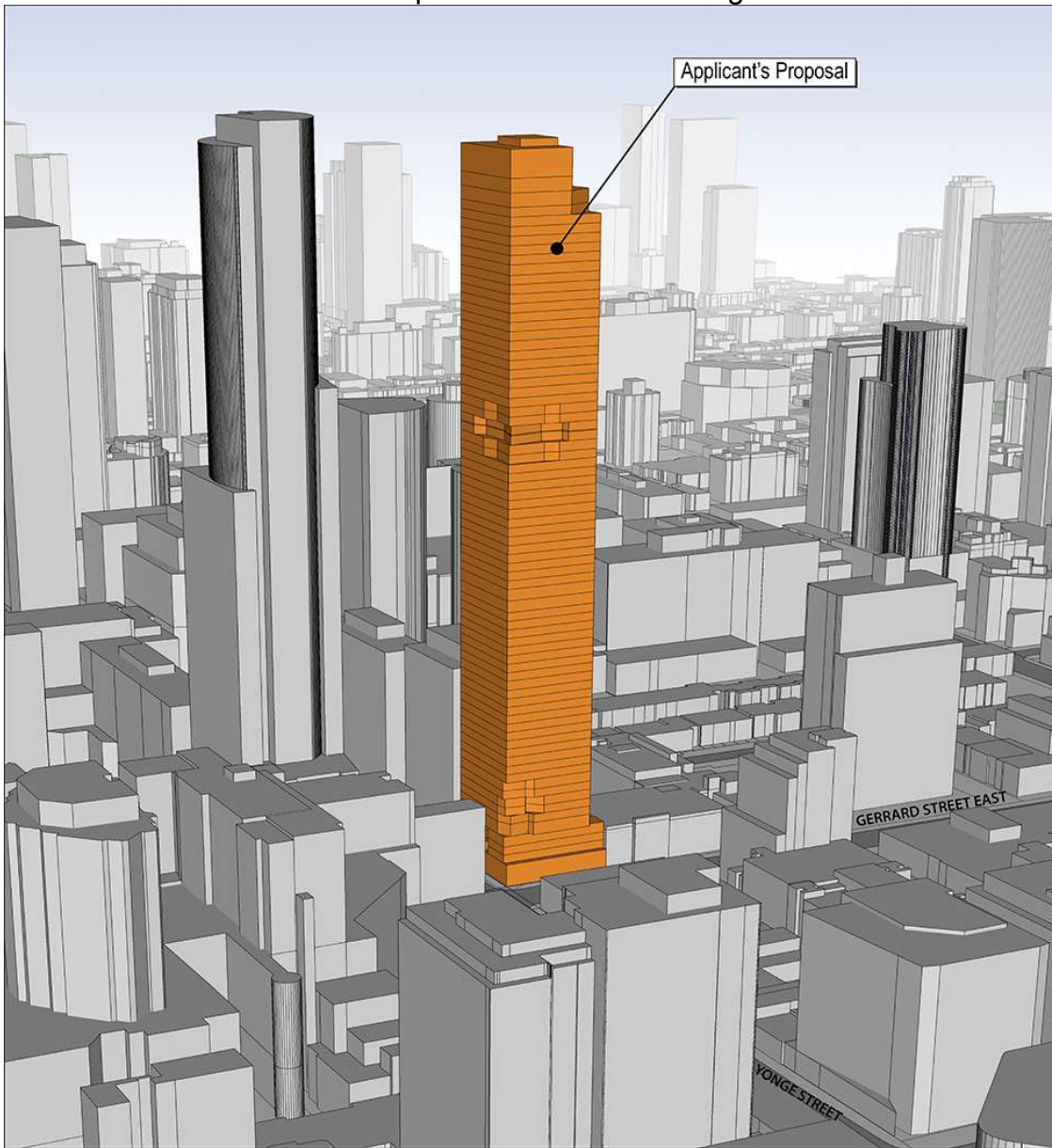


View of Applicant's Proposal Looking Southeast



09/02/2022

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

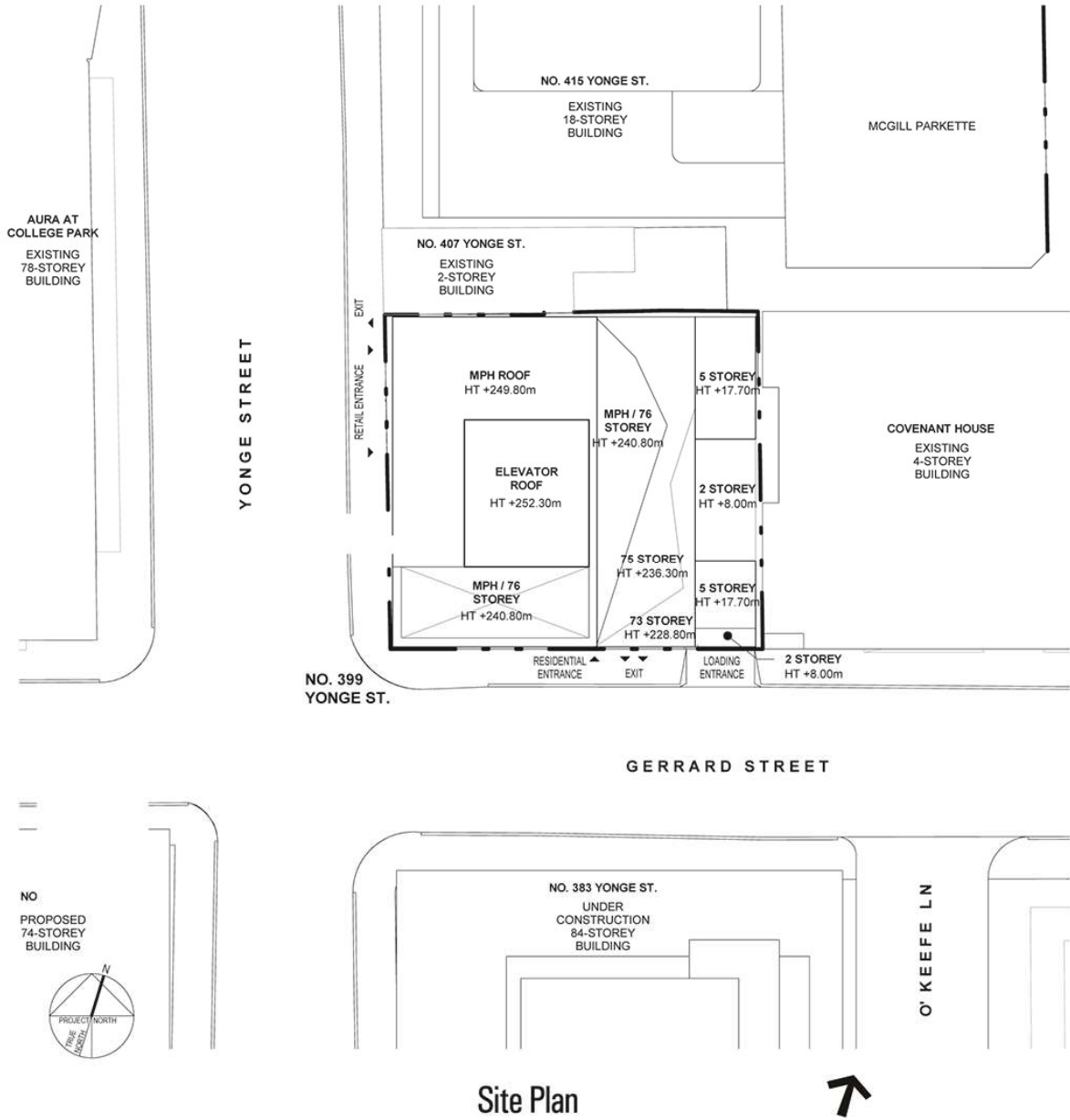


View of Applicant's Proposal Looking Northeast



09/02/2022

Attachment 5: Site Plan



Site Plan

Attachment 6: Official Plan Land Use Map



Official Plan Land Use Map #18

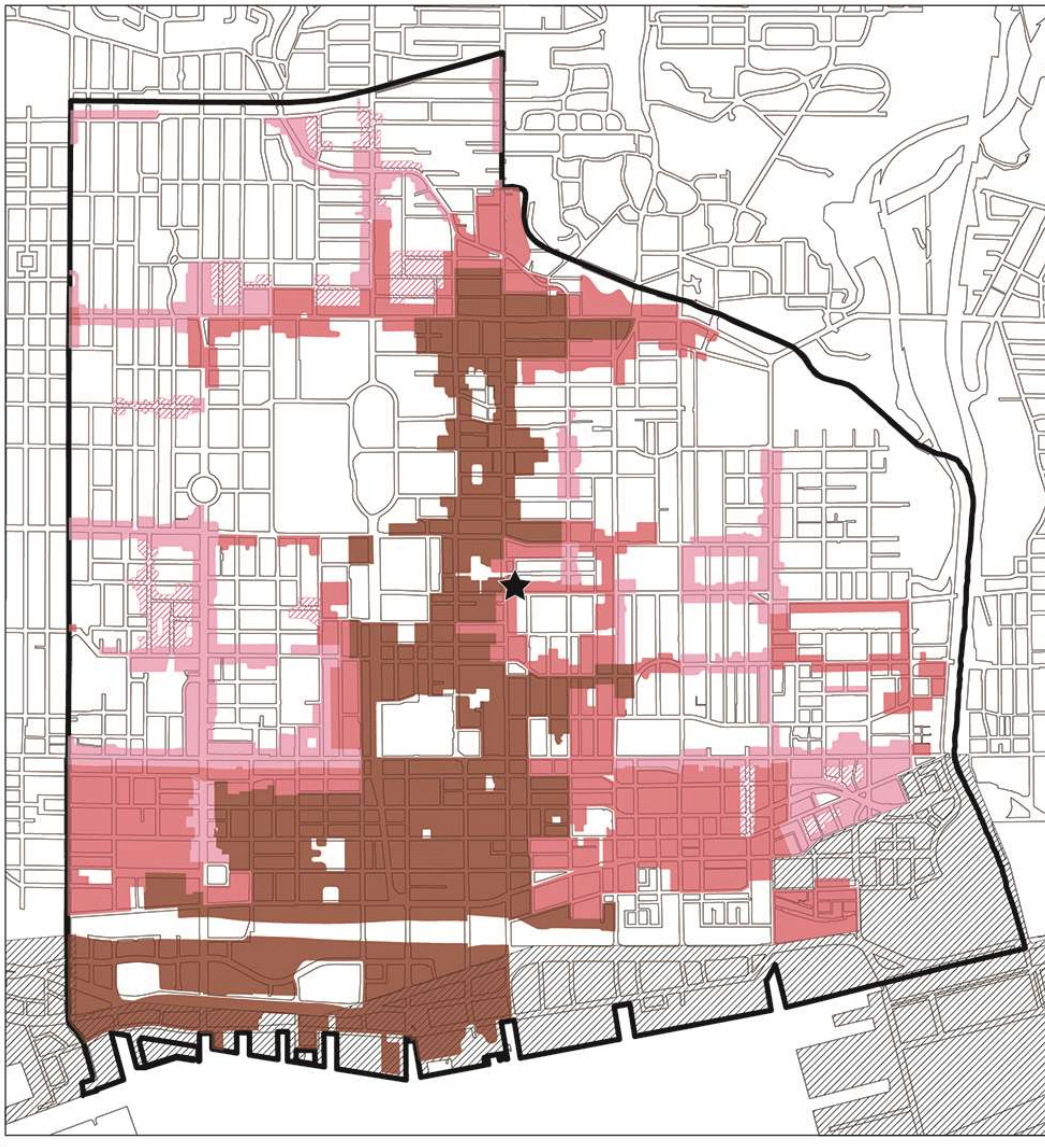
399-401 YONGE STREET

File # 22 162248 STE 13 OZ



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Not to Scale
Extracted: 09/01/2022

Attachment 7: Downtown Plan Mixed Use Area Map



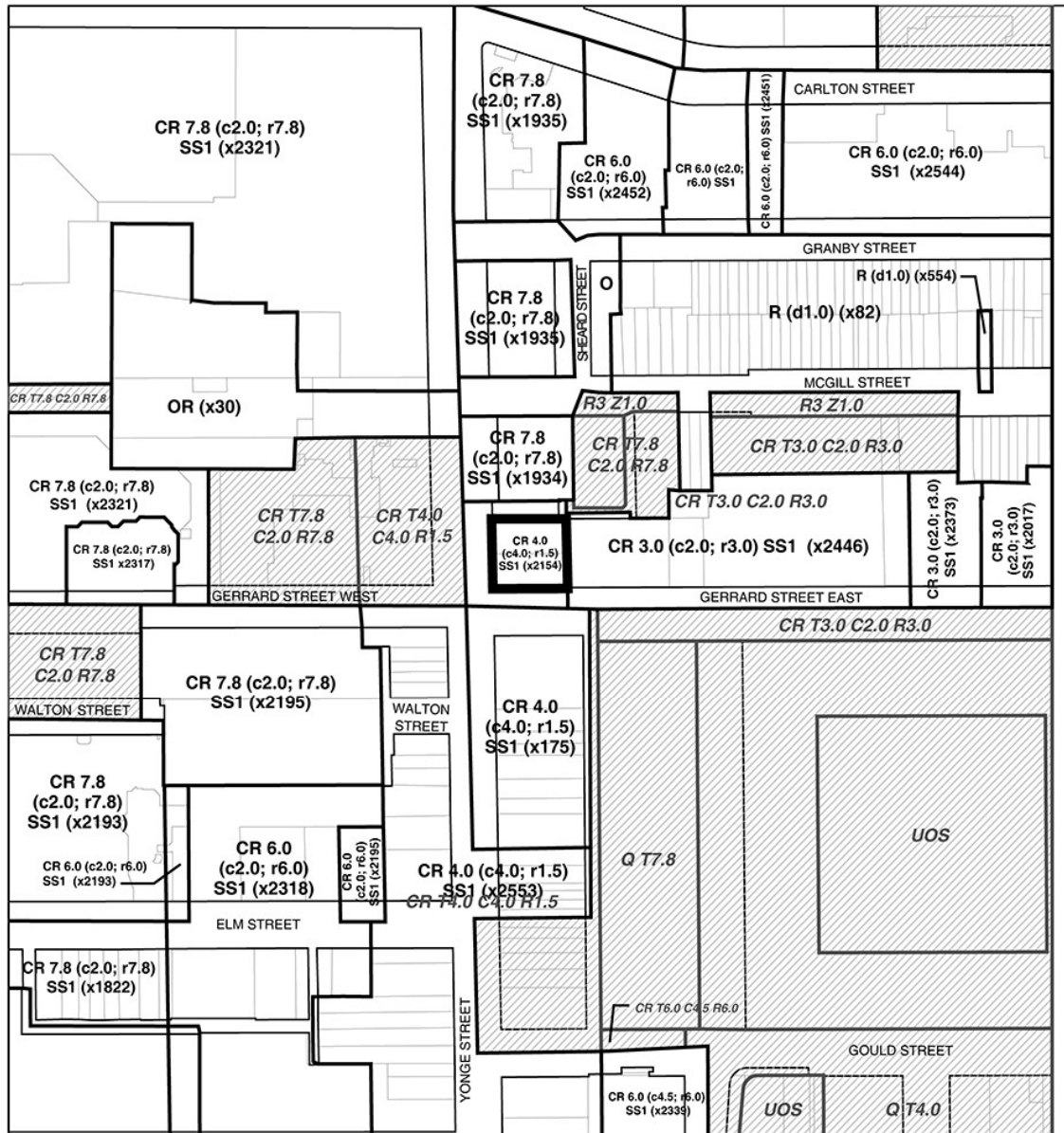
 **TORONTO**
Downtown Plan
MAP 41-3 Mixed Use Areas

399-401 YONGE STREET
File # 22 162248 STE 13 0Z

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


Not to Scale
Extracted: 03/14/2022

Attachment 8: Zoning By-law Map



Zoning By-law 569-2013

399-401 YONGE STREET

File # 22 162248 STE 13 0Z

- Location of Application
- R** Residential
- CR** Commercial Residential
- O** Open Space
- OR** Open Space Recreation

- See Former City of Toronto By-law No. 438-86
- R3** Residential District
- Q** Mixed-Use District
- UOS** Parks District



Not to Scale
Extracted: 06/20/2022