

225 - 229 Queen Street East and 120 - 134 Sherbourne Street – Zoning By-law Amendment and Site Plan Control Applications – Appeal Report

Date: January 9, 2023

To: Toronto and East York Community Council

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

Ward: Ward 13 - Toronto Centre

Planning Application Number: 21 235108 STE 13 OZ and 21 235109 STE 13 SA

SUMMARY

On November 16, 2021, Zoning By-law Amendment and Site Plan Control applications were submitted to permit a 31-storey mixed-use building with ground floor retail uses and 340 residential dwelling units at 225-229 Queen Street East and 120-134 Sherbourne Street.

On July 14, 2022, the applicant appealed the Zoning By-law Amendment and Site Plan Control applications to the Ontario Land Tribunal (the "OLT") due to City 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 in opposition to the current application regarding the Zoning By-law Amendment and Site Plan Control appeal for the lands at 225 - 229 Queen Street East and 120 - 134 Sherbourne 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 appeal, in whole or in part, City Council instruct the City Solicitor to request that the OLT withhold its Order(s) on the Zoning By-law Amendment until such time as the OLT has been advised by the City Solicitor that:

- a) the final form and content of the draft Zoning By-law are to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor;
- b) the owner has resubmitted the Functional Servicing and Stormwater Management Report and Hydrogeological Report, which includes 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) the owner has addressed all outstanding issues outlined in the Urban Forestry memo dated March 17, 2022 as they relate to tree planting, soil volume, utility conflicts, tree protection, and Toronto Green Standards, to the satisfaction of the Supervisor, Tree Protection and Plan Review;
- d) the owner has addressed the loss of residential dwelling rooms in accordance with Official Plan policy 3.2.1.11, and entered into one or more agreements to secure the replacement of the gross floor area found to comprise the residential dwelling rooms, and provided tenant relocation and assistance, as appropriate, all to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- e) the owner has submitted a Revised Heritage Impact Assessment that includes a conservation strategy for the properties at 229 Queen Street East and 120-122 Sherbourne Street, to the satisfaction of the Senior Manager, Heritage Planning;
- f) the owner has entered into a Heritage Easement Agreement with the City for the properties at 229 Queen Street East and 120-122 Sherbourne Street, to the satisfaction of the Senior Manager, Heritage 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 required by Part (e) above, to the satisfaction of the Senior Manager, Heritage Planning.

3. In the event that the OLT allows the appeal, in whole or in part, City Council direct the City Solicitor to request that the OLT withhold its Order(s) on the Site Plan Control application until such time as the OLT has been advised by the City Solicitor that:

- a) the City has issued Notice of Approval Conditions to the satisfaction of the Chief Planner and Executive Director, City Planning; and
- b) the owner has completed all required road widenings and conveyances to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

4. 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 adopted by Toronto and East York Community Council on February 16, 2022. Toronto and East York Community Council adopted a motion which required staff to schedule a Community Consultation Meeting, together with the Ward Councillor, and to create a working group with the applicant, the Ward Councillor, city staff and other stakeholders as part of the Development Application review process.

The preliminary report and the motion can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.TE31.45>

THE SITE

Description: The site is located on the southwest corner of Queen Street East and Sherbourne Street. The site is bound on all sides by municipal rights-of-way, with 30.7 metres fronting Queen Street East, 52.7 metres fronting Sherbourne Street, 30.5 metres fronting Britain Street and 43.9 metres fronting Stonecutters Lane. The total site area is approximately 1,460 square metres.

Existing Use: Three properties which contain residential, retail, and medical office uses with heights of 2-3 storeys, and one property containing a vacant three-storey building.

THE APPLICATION

Description: A 31-storey (103.25 metres including mechanical penthouse) mixed-use building, with a 3 to 8 storey base portion. A total of 512 square metres of ground floor retail space is proposed.

Density: 16.0 times the area of the lot.

Dwelling Units and Amenity Space: The proposed 340 dwelling units include 23 studio units (7%), 150 one-bedroom units (44%), 132 two-bedroom units (39%), and 35 three-bedroom units (10%).

The proposal includes 861.4 square metres of indoor amenity space (2.5 square metres per dwelling unit) and 599 square metres of outdoor amenity space (1.76 square metres per dwelling unit).

Access, Parking and Loading: Access to the 3-level underground garage, containing 60 vehicle parking spaces, is proposed from Britain Street at the south side of the site. One loading space is located at-grade parallel to Stonecutters Lane.

The proposed 340 bicycle parking spaces include 34 short term, and 306 long-term spaces, located in levels 2 and 3 of the base 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: [Toronto.ca/225QueenStE](https://toronto.ca/225QueenStE)

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; amenity space and parking space requirements.

Site Plan Control

A Site Plan Control application (File Number 21 235109 STE 13 SA) was submitted on November 16, 2021. On July 14, 2022, the applicant appealed the application to the OLT due to the City not making a decision within the time frame in the City of Toronto Act.

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 on lands within the Downtown and Central Waterfront area and is designated Regeneration Areas in the Official Plan.

Downtown Plan

The Downtown Secondary Plan designates the site as Mixed Use Areas 3 – Main Street, as well as being within the Cultural Precinct and the Downtown Film Precinct. The site is bounded by Priority Retail Streets (Queen Street East and Sherbourne Street), a Great Street (Queen Street East) and a Priority Cycling Route (Sherbourne Street). The site is also located across from a Sun Protected Park and Open Space (Moss Park), and a Planned Rapid Transit Station (Moss Park Ontario Line Station).

King-Parliament Secondary Plan

The site is designated Mixed Use Area 'D' (Queen Street) in the in-force King-Parliament Secondary Plan.

On May 5, 2021 City Council approved an updated King-Parliament Secondary Plan and supplementary Zoning By-laws. The site is within the Queen Street Policy Area in the updated King-Parliament Secondary Plan. The applicant has appealed both the updated Secondary Plan and the related Zoning By-laws.

Zoning

The properties at 225 and 229 Queen Street East are zoned CR 3.0 (c3.0; r3.0) SS2 (x2104), while 120-122 Sherbourne Street is zoned 3.0 (c3.0; r3.0) SS2 (x1723), all with a height limit of 16 metres and a permitted Floor Space Index (FSI) of 3.0. This zone permits a wide range of residential, commercial, industrial, recreational and institutional uses.

As part of the recent King-Parliament Secondary Plan Review, By-law 394-2021 rezoned the site from CR 3.0 (c3.0; r3.0) SS2 (x2104) and 3.0 (c3.0; r3.0) SS2 (x1723) to CR 4.5 (c2.0; r4.0) SS2 (x333) and increased the permitted building height to 30.0 metres. By-law 394-2021 is currently under appeal.

St. Michael's Hospital Flight Path

The proposal is within the St. Michael's Hospital Air Ambulance Service Protection Corridor Map as indicated in Minister's Zoning Order O. Reg. 114/16. Policy 4 in section 4.8 – 'Institutional Areas' of the Official Plan indicates new buildings in vicinity of hospital heliports be sited and massed to protect the continued use of protected flight paths. This application was circulated to St. Michael's Hospital for comments, including potential construction impacts.

Design Guidelines

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

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

- Best Practices for Bird-Friendly Glass;
- Best Practices for Effective Lighting;
- Retail Design Manual; and
- Toronto Accessibility Design Guidelines.

The City's Design Guidelines can be found here:

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

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 was held on April 26, 2022, and approximately 68 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 attendees included:

- Concern over lack of affordable housing;
- Concern over displacement of existing social services on-site;
- Meeting the demand for social services in the area;
- Concern over shadow impacts on Moss Park;
- Interest in a physical connection to the planned Moss Park Station;
- Support for additional development and investment in this area;
- Concern over obstructed views for neighbouring buildings;
- Questions about traffic impacts on Britain Street;
- Interest in reducing parking and height to achieve affordable housing;
- Interest in family-sized units;
- Concern over massing impacts on heritage buildings.

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.

Staff find the proposal to be consistent with the PPS and conforms with the Growth Plan.

Built Form

City Planning staff have reviewed the proposed built form, including height and massing, for conformity with Official Plan policies, as well as relevant design guidelines.

The proposed development has not demonstrated that the site can accommodate a tall building and achieve the objectives for the site, including tower setbacks, base building setbacks, public realm objectives and fit within the existing and planned context.

Shadow

The proposed development has not demonstrated that the net-new shadow impacts on Moss Park have been adequately limited in conformity with policies in the Official Plan Downtown Plan, and updated King-Parliament Secondary Plan.

Wind

A Pedestrian Level Wind Study prepared by SLR Consulting (Canada) Ltd., dated October 20, 2021, shows that wind conditions in the adjacent public realm are suitable for year round use, however changes to the building design are needed to mitigate negative wind conditions in outdoor amenity spaces during the winter months. Staff will seek the appropriate wind mitigation measures through the site plan control process.

Streetscape/Tree Preservation

City Planning will continue to work with applicant to ensure the proposed streetscape is consistent with the public realm objectives of the Official Plan. Transportation Services has requested a minimum 2.1 metre pedestrian clearway along Queen Street East and minimum 2.5 metre clearway on Sherbourne Street.

The Application is subject to the provisions of the City of Toronto Municipal Code. An Arborist Report and Tree Inventory and Preservation Plan were submitted by the applicant. The applicant proposes to remove 5 City-owned trees. Staff require replacement of these trees. Currently the applicant is proposing 6 replacement trees. City staff require additional information to confirm the feasibility of the 6 replacement trees.

Dwelling Room Replacement

A Housing Issues Letter dated November 4, 2021 and a Rental Housing Demolition Screening Form, prepared by Bousfields Inc., was submitted in support of the application. City staff have reviewed the materials. Relying on information from municipal records and Municipal Property Assessment Corporation records, staff have determined that the proposal would result in the loss of up to 15 dwelling rooms at 229 Queen Street East. Staff will seek replacement of the 15 dwelling rooms in accordance with Official Plan policies in the event that the OLT allows the Zoning By-law Amendment appeal in whole or in part.

Servicing

A Functional Servicing and Stormwater Management Report and associated plans have been submitted and 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 are required in the Zoning By-law amendment to ensure their appropriate assessment and provision of new infrastructure if necessary.

Indoor/Outdoor Amenity Space

Zoning By-law 569-2013 requires a combined amenity space of 4.0 square metres per unit. The proposal includes 861 square metres of indoor amenity space (2.5 square metres per unit) and 599 square metres of outdoor amenity space (1.8 square metres per unit). The proposed amount of amenity space is acceptable, however staff will continue to work the applicant to incorporate design measures that improve wind conditions in outdoor amenity spaces during winter seasons. Staff will seek the appropriate wind mitigation measures through the site plan control process.

Parking and Loading

A total of 60 vehicle parking spaces are proposed in a 3-level below-grade parking garage, accessed from Britain Street. The proposal includes one Type-G loading space located parallel to Stonecutters Lane. In support of the application, BA Group prepared a Transportation Impact Study, dated November 2021. The proposed parking rates, access/egress route and traffic impact assessment are generally acceptable to Transportation Services.

As per the City's Official Plan, a 0.56 metre right-of-way widening is required along Stonecutters Lane to satisfy the requirement of a 6-metre wide lane right-of-way.

Heritage Impact

The properties at 229 Queen Street East and 120-122 Sherbourne Street are designated under Part IV, Section 29 of the Ontario Heritage Act and are proposed to be altered as part of this proposal. The Heritage Impact Assessment prepared by ERA Architects Inc. has been reviewed by Heritage Planning Staff, and comments on the proposed heritage impacts and conservation strategy have been provided to the applicant.

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 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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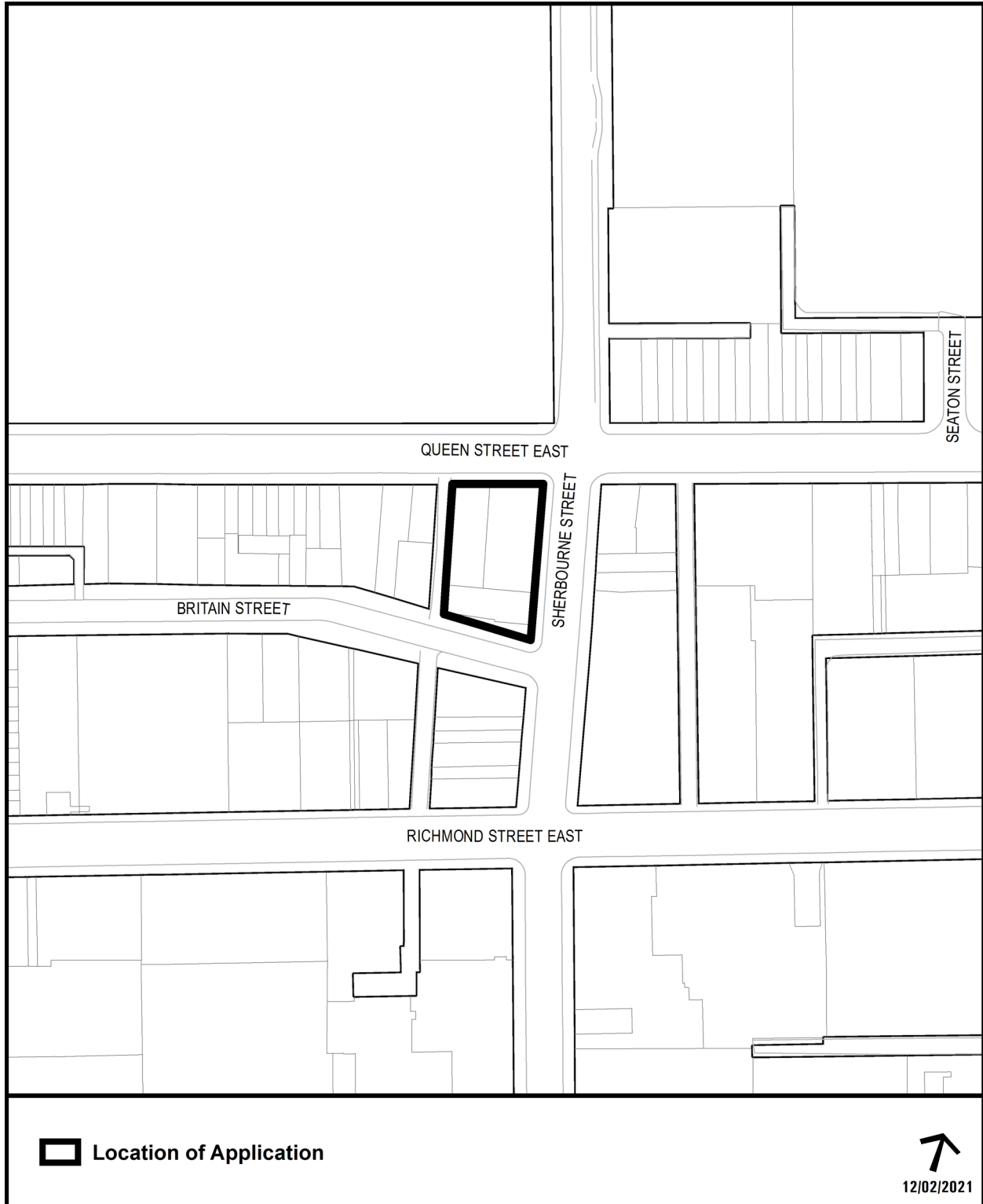
SIGNATURE

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

Attachment 1: Location Map



Attachment 2: Application Data Sheet

Municipal Address: 225-229 Queen Street East & 120-134 Sherbourne Street
Date Received: November 7, 2021

Application Number: 21 235108 STE 13 OZ

Application Type: Rezoning and Site Plan

Project Description: 31-storey mixed-use building

Applicant	Agent	Architect	Owner
Bousfields Inc.	Bousfields Inc.	IBI Group	Dash (Q&S) Inc.

Existing Planning Controls

Official Plan Designation: Mixed Use Areas Site Specific Provision: Downtown Plan; King-Parliament Secondary Plan

Zoning: CR4.5 (c2.0;r4.0) SS2 (x333) Heritage Designation: Y

Height Limit (m): 30 Site Plan Control Area: Y

Project Information

Site Area (sq m): 1,460 Frontage (m): 31 Depth (m): 53

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):	1,005		1,359	1,359
Residential GFA (sq m):	100		22,795	22,795
Non-Residential GFA (sq m):	1,886		512	512
Total GFA (sq m):	1,986		23,307	23,307
Height - Storeys:	3	3	31	31
Height - Metres:	12	12	97	97

Lot Coverage Ratio (%): 93.08 Floor Space Index: 15.97

Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	22,627	168
Retail GFA:	512	
Office GFA:		
Industrial GFA:		
Institutional/Other GFA:		

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:	2			
Freehold:				
Condominium:			340	340
Other:				
Total Units:	2		340	340

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:		23	150	132	35
Total Units:		23	150	132	35

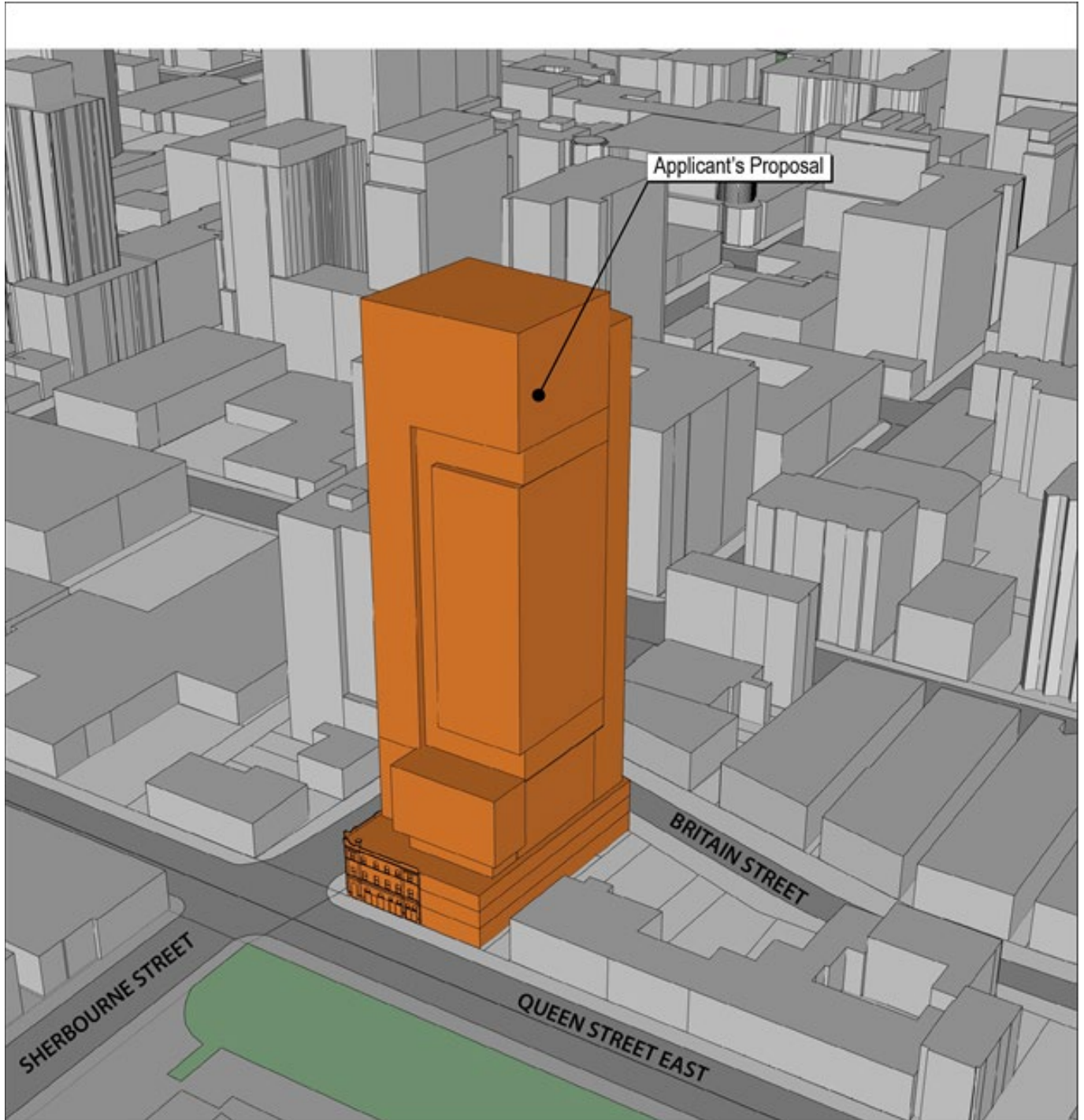
Parking and Loading

Parking Spaces: 60 Bicycle Parking Spaces: 340 Loading Docks: 1

Contact:

Ryan Santiago, Planner
(416) 392-6072
Ryan.Santiago@toronto.ca

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

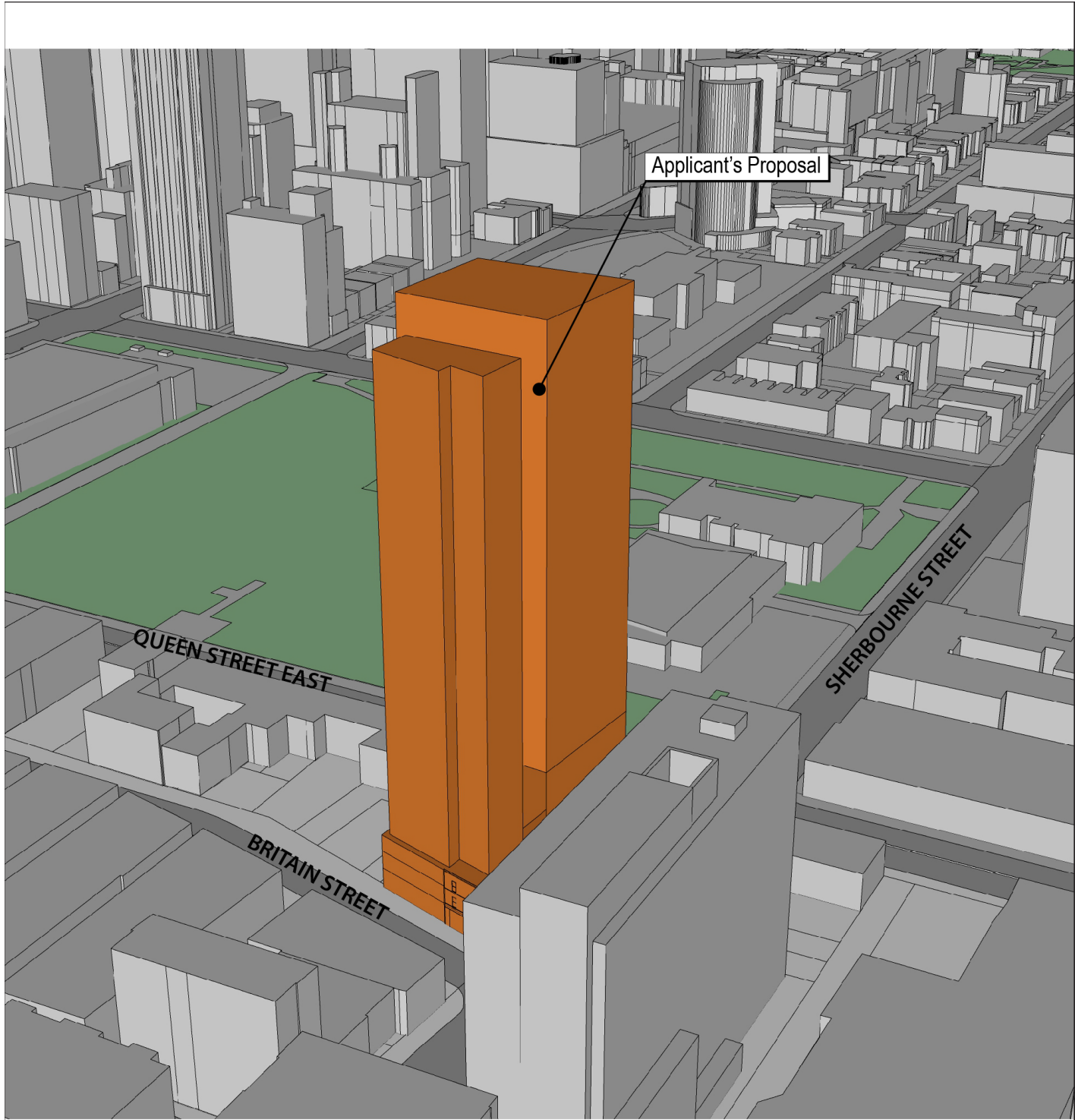


View of Applicant's Proposal Looking Southeast



12/06/2021

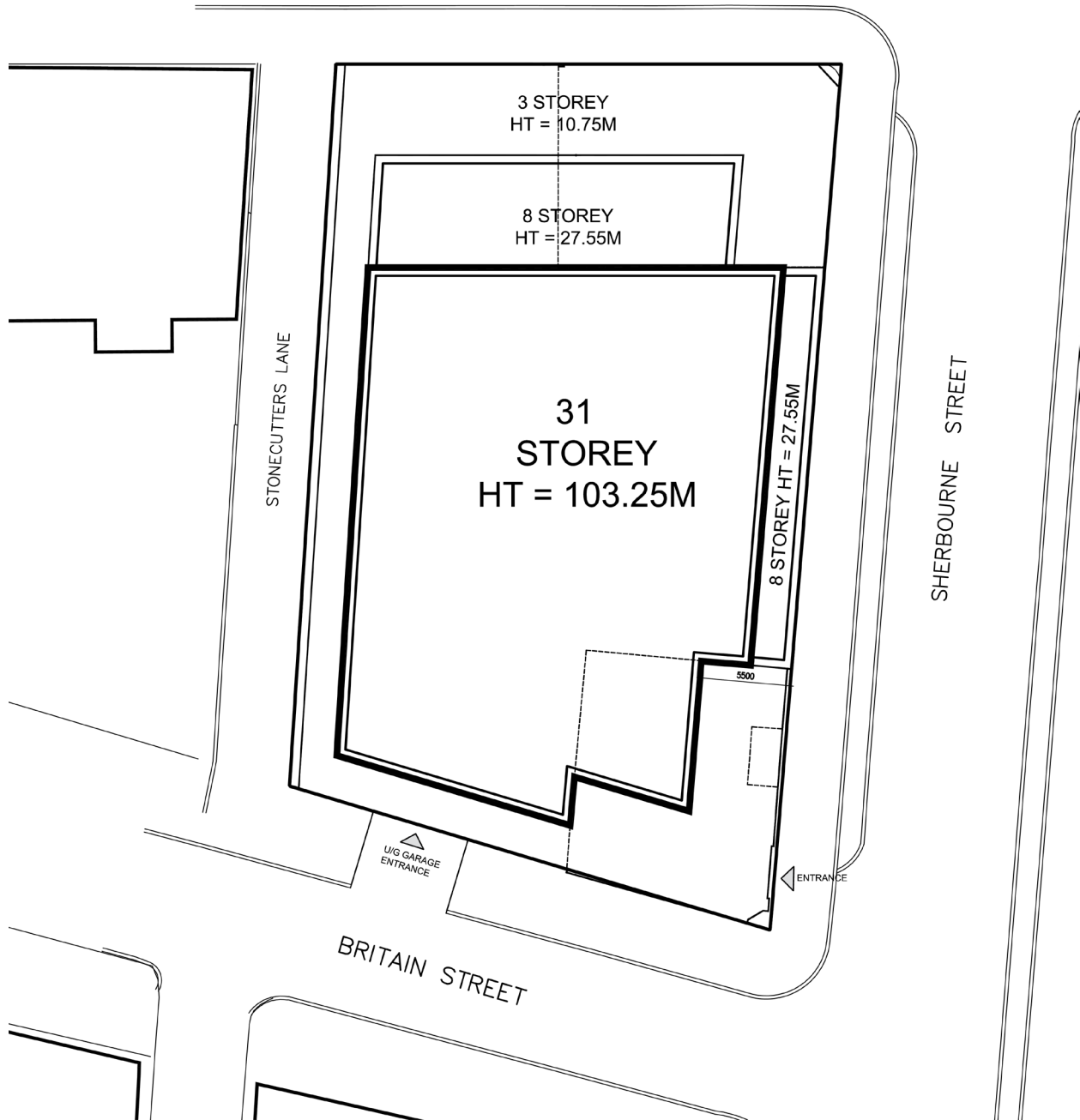
Attachment 4: 3D Model of Proposal in Context Looking Northwest



View of Applicant's Proposal Looking Northwest



Attachment 5: Site Plan



Site Plan



Attachment 6: Official Plan Land Use Map



225-229 Queen St E and 120-134 Sherbourne St

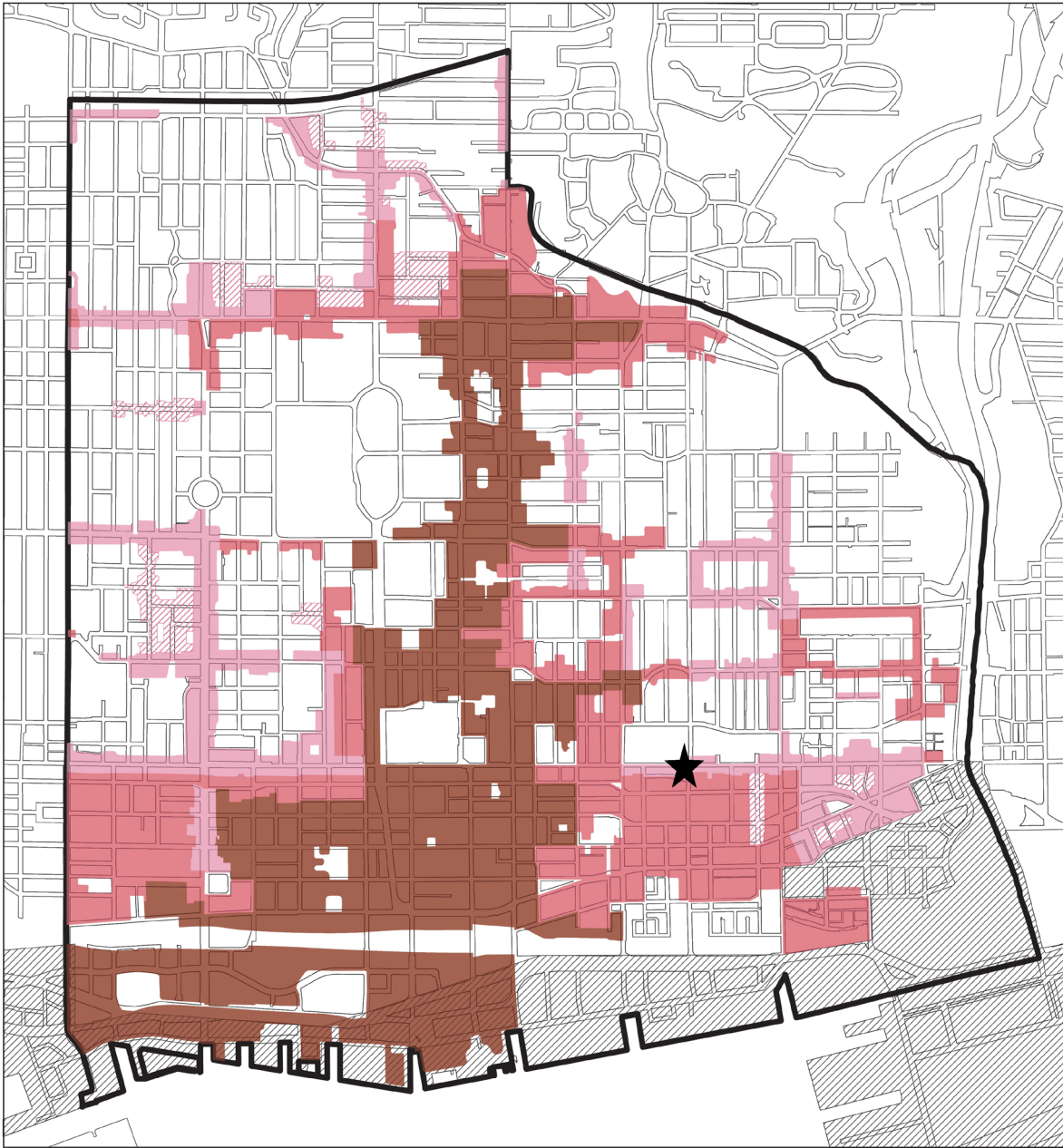
Official Plan Land Use Map #18

File # 21 235108 STE 13 OZ

- Location of Application
- Apartment Neighbourhoods
- Mixed Use Areas
- Parks & Open Space Areas
- Parks
- Regeneration Areas

Not to Scale
 12/02/2021

Attachment 7: Downtown Secondary Plan Mixed Use Areas Map



Downtown Plan

MAP 41-3 Mixed Use Areas

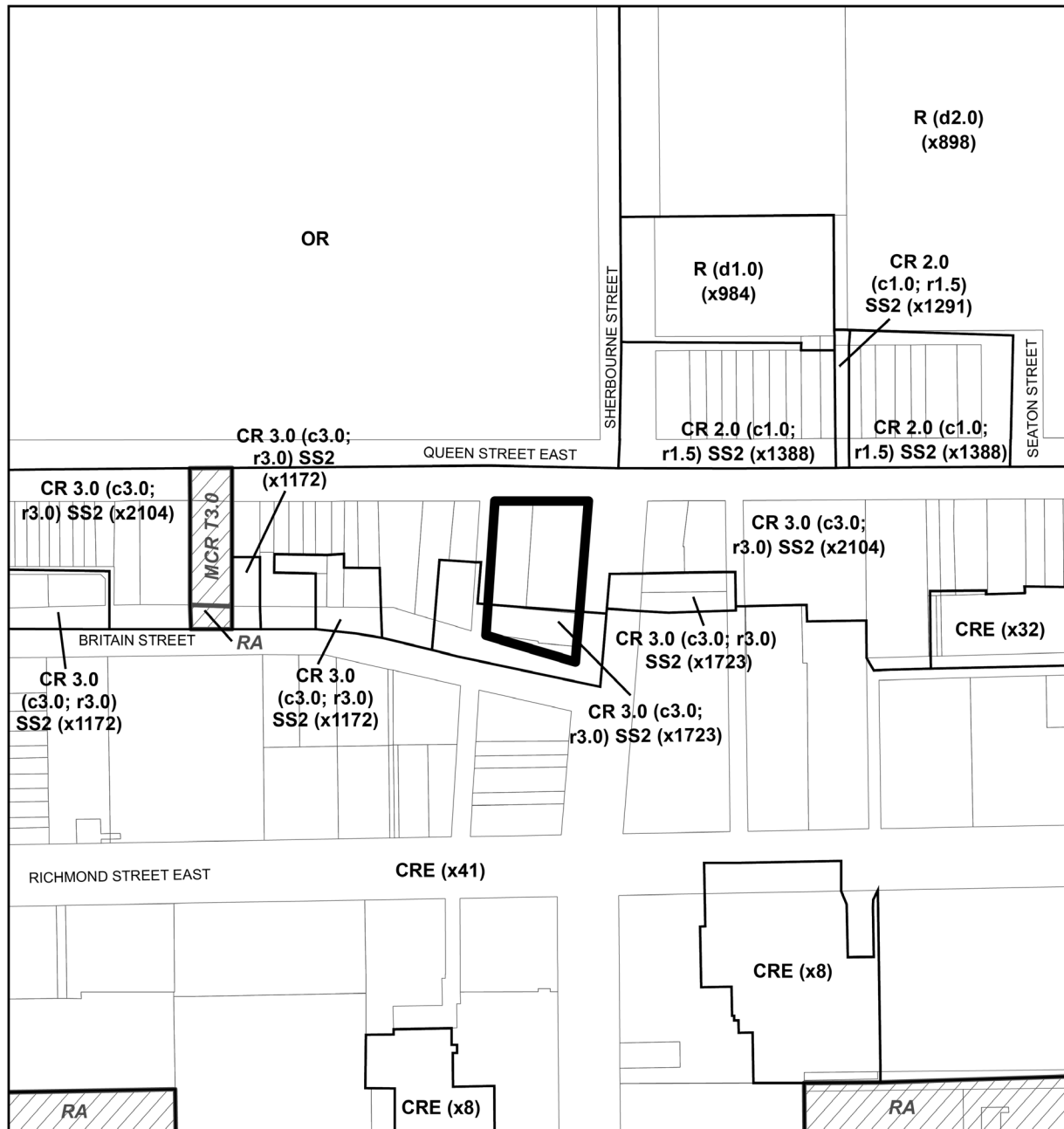
225-229 Queen St E and 120-134 Sherbourne St

File # 21 235108 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



225-229 Queen St E and 120-134 Sherbourne St

Zoning By-law 569-2013

File # 21 235108 STE 13 0Z

Location of Application

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

R Residential
CR Commercial Residential

CRE Commercial Residential Employment
OR Open Space Recreation

MCR Mixed-Use District
RA Mixed-Use District



Not to Scale
Extracted: 12/02/2021