

49-51 Yonge Street – Zoning By-law Amendment Application – Appeal Report

Date: June 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: 21 235446 STE 13 OZ

SUMMARY

On November 8, 2021, a Zoning By-law Amendment application was submitted to permit a 60-storey mixed-use building with 1,757 square metres of non-residential gross floor area on the first five storeys and 256 dwelling units above at 49-51 Yonge Street.

On April 17, 2023, the applicant appealed the application to the Ontario Land Tribunal (OLT) due to Council not making a decision within the time frame in the Planning Act.

This report reviews and recommends that the City Solicitor with the appropriate staff attend the OLT to oppose the application in its current form and to continue discussions with the Applicant to resolve outstanding issues.

RECOMMENDATIONS

The Director, Community Planning, Toronto and East York District, 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 appeal for the lands at 49-51 Yonge 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 authorize the City Solicitor to request that the issuance of any final Orders be withheld until such time as the City Solicitor advises that:

a) the final form and content of the draft Zoning By-law is 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) the owner has submitted a revised Heritage Impact Assessment that includes a conservation strategy for the on-site heritage resources, to the satisfaction of the Chief Planner and Executive Director, City Planning;

d) the owner has entered into a Heritage Easement Agreement with the City for the property at 49-51 Yonge Street, 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

e) 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; and

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

On February 16, 2022, [Toronto and East York Community Council adopted](#) the recommendations of a Preliminary Report for the proposal.

On March 29, 2023, [City Council adopted](#) recommendations to state its intention to designate the property at 51 Yonge Street under Part IV, Section 29 of the Ontario Heritage Act.

THE SITE

Description: Located at the northeast corner of Yonge Street and Wellington Street East, the site has an area of approximately 582 square metres and has frontages of approximately 24.5 metres on Yonge Street and 23.9 metres on Wellington Street East.

Existing Uses: The site contains two four-storey buildings that are designated under Part IV of the Ontario Heritage Act and include restaurant and office uses.

THE APPLICATION

Description: 60-storey (215 metres, including mechanical penthouse) mixed-use building with 179 square metres of ground level retail space, 1,578 square metres of office space on levels two to five, and 19,970 square metres of residential uses.

Heritage: The buildings at 49-51 Yonge Street are designated under Part IV, Section 29 of the Ontario Heritage Act. The building at 49 Yonge Street dates to 1875 and was the former British Bank of North America headquarters and the building at 51 Yonge Street is believed to date to 1878-1879, although the underlying structure may date to 1847. Both buildings are designed in the Second Empire style. Portions of the south and west facades of the existing buildings are proposed to be integrated into the development.

Density: Floor Space Index of 37.3 times the area of the lot.

Dwelling Units: 256 dwelling units, of which 150 (58.6%) are one-bedroom units, 80 (31.3%) are two-bedroom units, and 26 (10.2%) are three-bedroom units.

Access, Parking and Loading: No vehicle parking spaces, 206 bicycle parking spaces (180 long-term spaces and 26 short-term spaces) and one Type G loading space are proposed. The loading space would be accessed from a private laneway east of the subject property.

Additional Information: See Attachments 2, 3 and 6 of this report for a three-dimensional representation of the project in context, a site plan of the proposal, and the Application Data Sheet, 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](#).

Reasons for Application

The Zoning By-law Amendment Application has been submitted to amend 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: A Site Plan Control application was submitted on September 13, 2022.

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, and shall conform to provincial plans.

Official Plan

The site is located on lands within the Downtown and Central Waterfront area and is designated Mixed Use Areas. See Attachment 3 of this report for the [Official Plan](#) Land Use Map.

Downtown Plan

The site is within the Financial District and is designated Mixed Use Areas 1 - Growth. Yonge Street and Wellington Street East are identified as Priority Retail Streets, and Yonge Street is identified as a Great Street and Cultural Corridor.

Zoning

The site is zoned Commercial Residential (CR12.0 (c8.0; r11.7) SS1 (x2325)) in [City of Toronto Zoning By-law 569-2013](#). This zoning category permits a wide array of uses commercial, residential, and institutional uses. See Attachment 4 of this report for the existing Zoning By-law Map.

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

Toronto Green Standard

The [Toronto Green Standard](#) is a set of performance measures for green development. Applications for Zoning By-law Amendment, Draft Plans of Subdivision and Site Plan Control are required to meet and demonstrate compliance with Tier 1 of the Toronto Green Standard.

Parks Canada Standards and Guidelines

The [Parks Canada Standards and Guidelines for the Conservation of Historic Places in Canada](#) assists in guiding planning, stewardship and conservation approaches for listed and designated heritage resources in Toronto.

COMMUNITY CONSULTATION

A Virtual Community Consultation Meeting was hosted by City staff on March 23, 2022. Approximately 30 people participated, as well as the former Ward Councillor and the applicant. 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.

Issues raised at the meeting and through written comments and calls include:

- Desire for greater conservation of the heritage properties, including interior building elements;
- Concern about managing pick-up and drop-off activity and loading, and the use of an undersized, privately-owned lane for vehicle access to the building;
- Overall height of the proposal being too tall for the area and providing inadequate separation distances between buildings;
- Concern about lack of vehicle parking;
- Concern about servicing capacity in the area to support the level of development;
- General support for incorporation of a PATH connection in the development;
- Desire to achieve higher levels of sustainability and to pursue higher TGS Tiers;
- Incorporate affordable housing into the proposal; and
- Concern about the mix and size of dwelling units.

COMMENTS

Provincial Policy Statement and Provincial Plans

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 (2020) and conformity with the Growth Plan (2020) and find the proposal to be consistent with the Provincial Policy Statement and to conform with the Growth Plan.

Land Uses

The proposal provides an appropriate mix of uses on the site. The proposed residential, office and retail uses align with the Mixed Use Areas designation in the Official Plan and the Mixed Use Areas 1 designation in the Downtown Plan. The proposed provision of 1,578 square metres of office space and 179 square metres of retail space represents a slight expansion of the existing non-residential uses on the site, which meets the applicable policy objectives to maintain and expand office and other non-residential uses in the Financial District, as required by the Downtown Plan.

Heritage Impact

Heritage Planning staff have reviewed the Heritage Impact Assessment (HIA) submitted in support of the application and have determined that the proposed conservation strategy does not conform with the Official Plan. The proposal does not conserve the values and attributes of the significant heritage properties that comprise the site.

The proposed setbacks from the retained elevations of the heritage buildings to the tower of 0.75 metres along Wellington Street East and 1.17 metres along Yonge Street, which extend vertically for two storeys before the tower cantilevers above the heritage

buildings up to the property lines beginning at the seventh storey, would not conserve the cultural heritage values and attributes of the property and would negatively impact the prominence of the heritage buildings. Staff also have concerns with the proposed alterations to and partial demolition of the eastern bay of the building along Wellington Street East and would seek to salvage and reinstate additional existing original interior heritage attributes.

Should the proposal be approved in some form by the OLT, Heritage Planning would require a Conservation Plan based on a conservation strategy outlined within an approved HIA as a condition of approval. 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.

Built Form

City Planning staff have concerns with the proposed building massing and height in relation to the size and configuration of the site, and do not support the development in its current form. While the proposed height in itself is consistent with existing and approved heights in the area, it is proposed in combination with inadequate stepbacks and setbacks, and results in an inappropriate built form for the site and location.

No setback is proposed from the east property line to the building, which would result in inadequate separation distances between the subject and abutting properties. The building is proposed to be built to the north property line up to a height of approximately 79 metres, which would result in a large blank wall that would be visible from Yonge Street. This building component should be lowered or otherwise altered to better fit the context. A stepback of approximately 10 metres is proposed from the north property line above the 79-metre-high building component, which is acceptable in this case as it would match the approved stepback to the tall building to the north of the site at 53-55 Yonge Street from the shared property line (File No. 21 129226 STE 13 OZ).

Furthermore, as outlined above, the proposal would not provide an acceptable relationship to the retained portions of the heritage buildings on the site. Of note, the proposed tower floor plate is 348 square metres, which would make revisions to the built form to address these issues challenging and demonstrates the issues with the massing in relation to the size and configuration of the site.

Amenity Space

The amenity space provided in the proposal should be increased. Amenity space is proposed to be provided at a rate of 2.0 square metres of indoor amenity space per dwelling unit and 0.9 square metres of outdoor amenity space per dwelling unit, resulting in a combined rate of 2.9 square metres of amenity space for each dwelling unit. Zoning By-law 569-2013 requires a combined amenity space of 4.0 square metres per unit.

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 and through the Site Plan Control application.

Streetscape

Given the proposed conservation of the existing building and recently completed Wellington Street Capital Project by the City, maintaining the existing sidewalk zones and streetscaping along both street frontages is acceptable.

Traffic Impact, Access, Parking

The Transportation Impact Study submitted in support of the application concludes that the site impacts on the area's transportation network are anticipated to be minimal under future conditions. Transportation Services staff accept the conclusions of the submitted report. Transportation Services staff also accept the proposed supply of zero vehicle parking spaces, subject to implementation of Transportation Demand Management measures.

The number of long-term bicycle parking spaces is inadequate for the proposal. The proposal includes 180 long-term spaces whereas the Zoning By-law would require 232 long-term spaces. Given the need to encourage active transportation in the area and particularly on this site where no vehicle parking is proposed, the bicycle parking supply should at least meet the minimum number of spaces required by the Zoning By-law.

Access to the Type G loading space is proposed from the approximately 3.5 metre-wide private laneway that is located east of the site. While the provision of a Type G loading space may be acceptable, the ability of vehicles to access the space via the private lane would be very challenging. Transportation Services and Solid Waste Management staff reviewed the vehicle maneuvering diagrams provided in support of the application. They illustrate that a City of Toronto waste collection vehicle would have to make numerous corrections and manoeuvres to enter and exit the site, which is not acceptable. As such, the owner should explore the feasibility of shared loading provisions with a neighbouring building to accommodate City waste collection services, in addition to providing an on-site loading space to accommodate resident moving activities and other loading demand. The owner is also required to provide the access agreement for the private lane that is adjacent to the site to confirm their ongoing use of the space.

Servicing

Engineering and Construction Services staff have reviewed the Functional Servicing and Stormwater Management Report and associated plans and require further revisions to the reports and drawings. 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.

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, City 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

Paul Johnson, Senior Planner, Tel. No. 416-397-0259, E-mail:
Paul.M.Johnson@toronto.ca

SIGNATURE

Oren Tamir, Acting Director
Community Planning, Toronto and East York District

ATTACHMENTS

Attachment 1: Application Data Sheet
Attachment 2: Location Map
Attachment 3: Official Plan Land Use Map
Attachment 4: Existing Zoning By-law Map
Attachment 5: 3D Model of Proposal in Context Looking Northeast
Attachment 6: 3D Model of Proposal in Context Looking Northwest
Attachment 7: Site Plan

Attachment 1: Application Data Sheet

Municipal Address: 49-51 Yonge Street Date Received: November 8, 2021

Application Number: 21 235446 STE 13 OZ

Application Type: Rezoning

Project Description: 60-storey mixed-use building with 179 square metres of ground level retail space, 1,578 square metres of office space on levels two to five, and 19,970 square metres of residential uses above.

Applicant	Agent	Architect	Owner
Smart Centres REIT	Smart Centres REIT	architectsAlliance	Calloway Real Estate Investment Trust Inc.

EXISTING PLANNING CONTROLS

Official Plan Designation: Mixed Use Areas Site Specific Provision: Downtown Plan

Zoning: CR12.0 (C8.0; R11.7) SS1 (x2325) Heritage Designation: Y

Height Limit (m): 76 Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq m): 588 Frontage (m): 28 Depth (m): 25

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):	569	548	0	548
Residential GFA (sq m):	0	0	19,970	19,970
Non-Residential GFA (sq m):	1,701	1,701	56	1,757
Total GFA (sq m):	1,701	1,701	20,026	21,727
Height - Storeys:	4	4	60	60
Height - Metres:	21	21	215	215

Lot Coverage Ratio (%): 93.2 Floor Space Index: 37.3

Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	19,970	
Retail GFA:	179	
Office GFA:	1,578	

Residential Units by Tenure	Proposed	Total
Rental:	0	0
Freehold:	0	0
Condominium:	256	256
Total Units:	256	256

Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:			150	80	26
Total Units:			150	80	26

Parking and Loading

Parking Spaces:	0	Bicycle Parking Spaces:	206	Loading Docks:	1
-----------------	---	-------------------------	-----	----------------	---

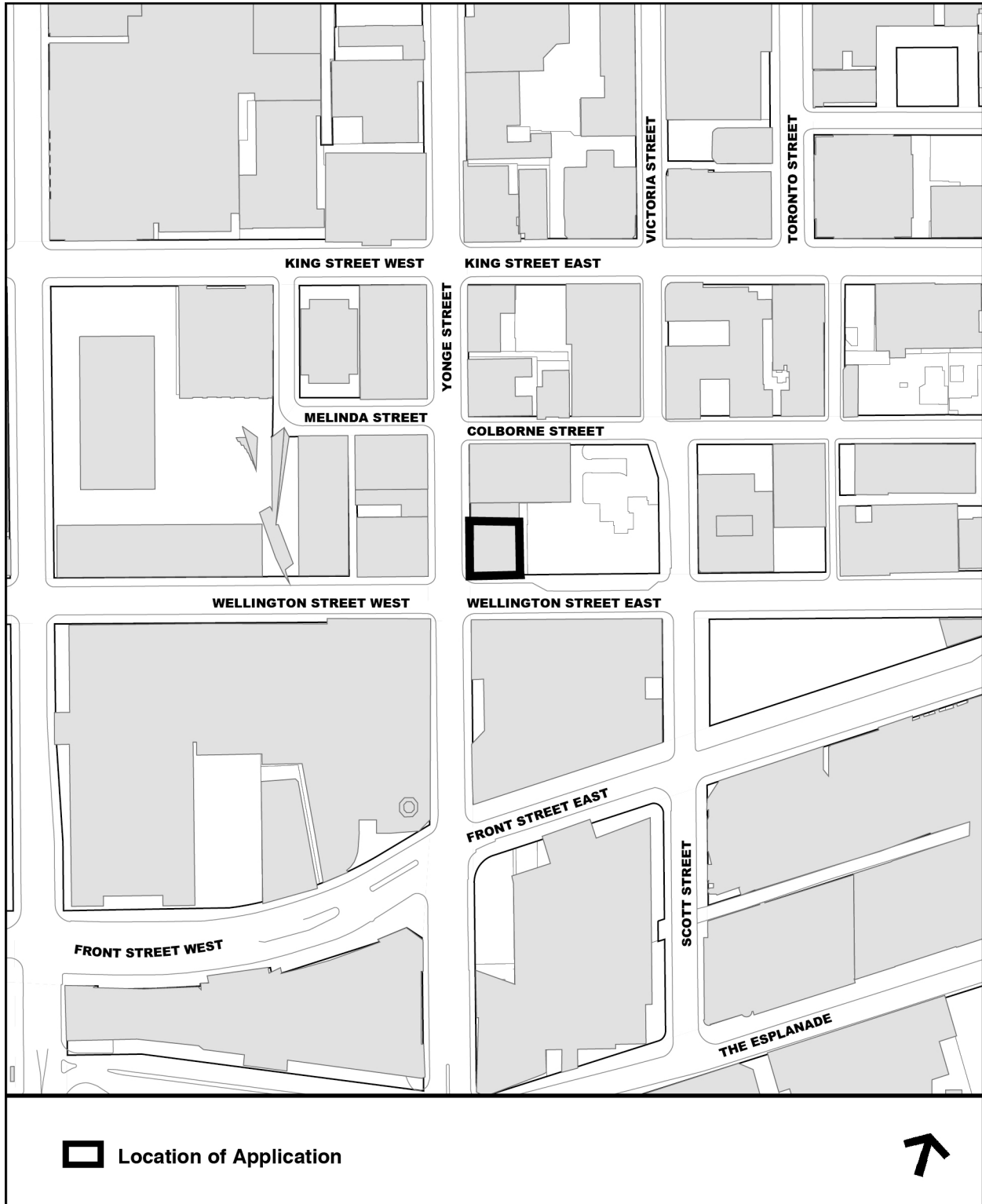
CONTACT:

Paul Johnson, Senior Planner

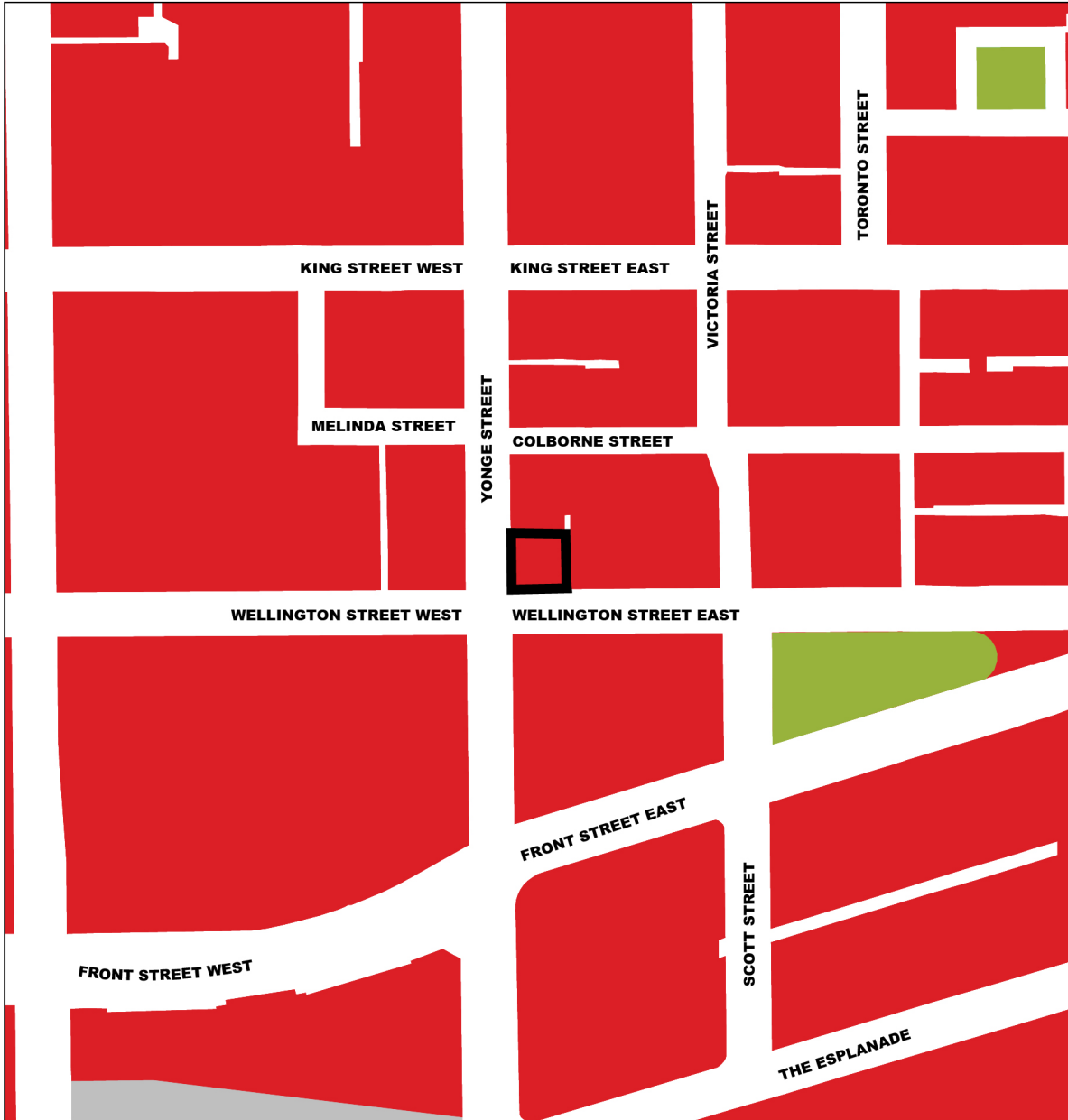
416-397-0259

Paul.M.Johnson@toronto.ca

Attachment 2: Location Map




Attachment 3: Official Plan Land Use Map



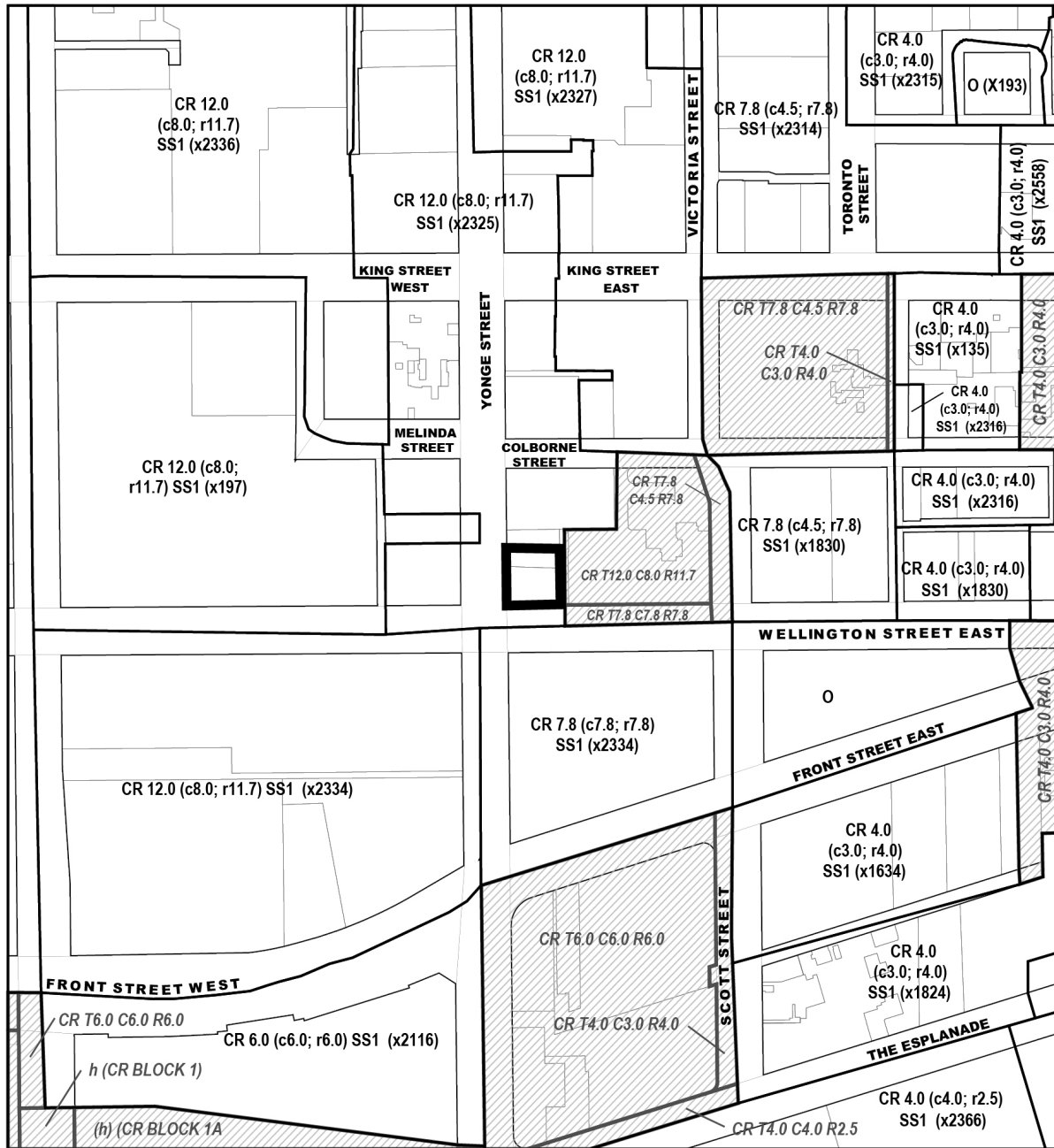
Official Plan Land Use Map #18

49-51 Yonge Street
File # 21 235446 STE 13 0Z

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


 Not to Scale
 Extracted: 11/15/2021

Attachment 4: Existing Zoning By-law Map



Zoning By-law 569-2013

49-51 Yonge Street

File # 21 235446 STE 13 0Z

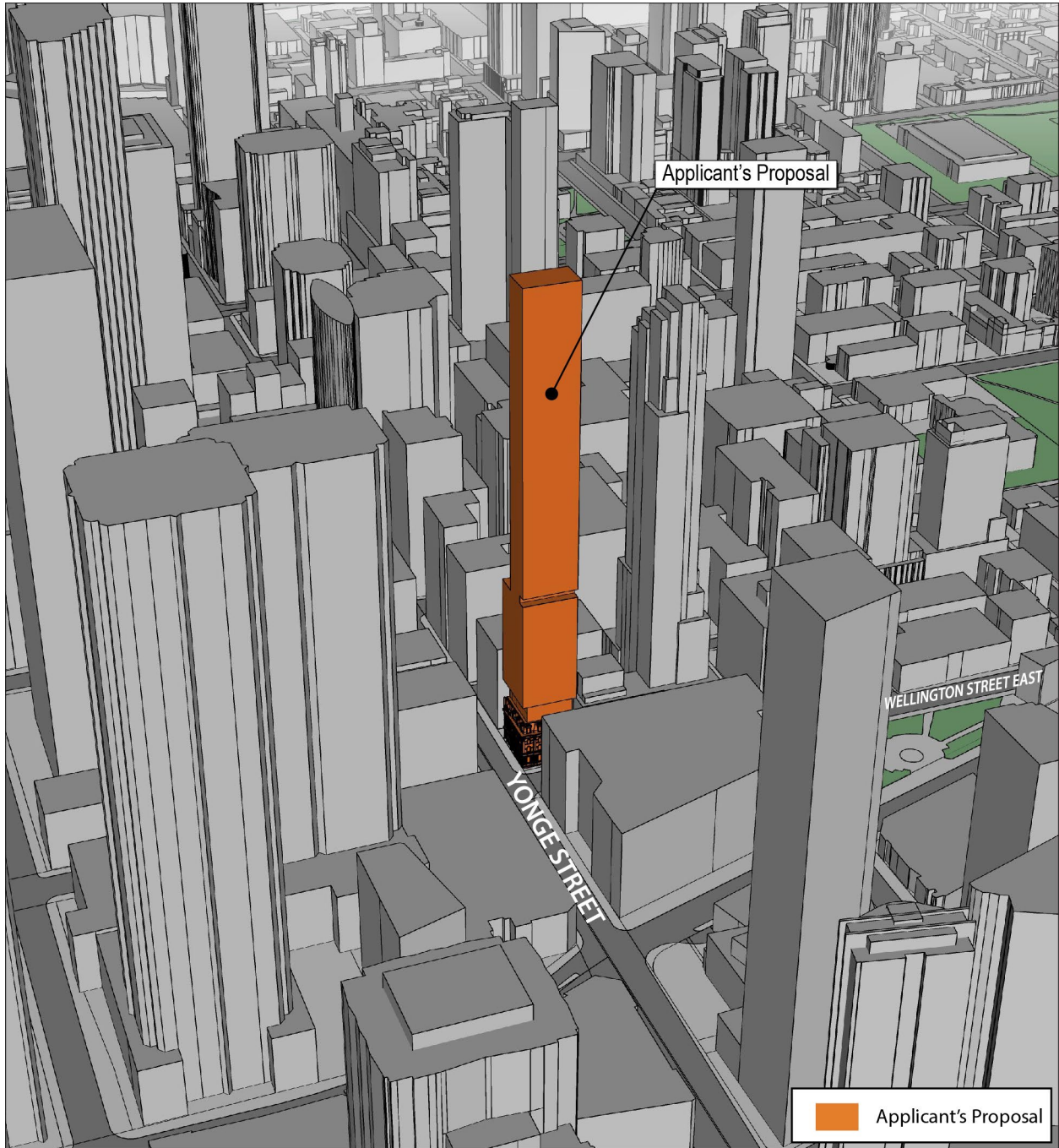
Location of Application
CR Commercial Residential
O Open Space

See Former City of Toronto By-law No. 438-86
CR Mixed-Use District
T Industrial District



Not to Scale
 Extracted: 11/15/2021

Attachment 5: 3D Model of Proposal in Context Looking Northeast



View of Applicant's Proposal Looking Northeast



Attachment 6: 3D Model of Proposal in Context Looking Northwest

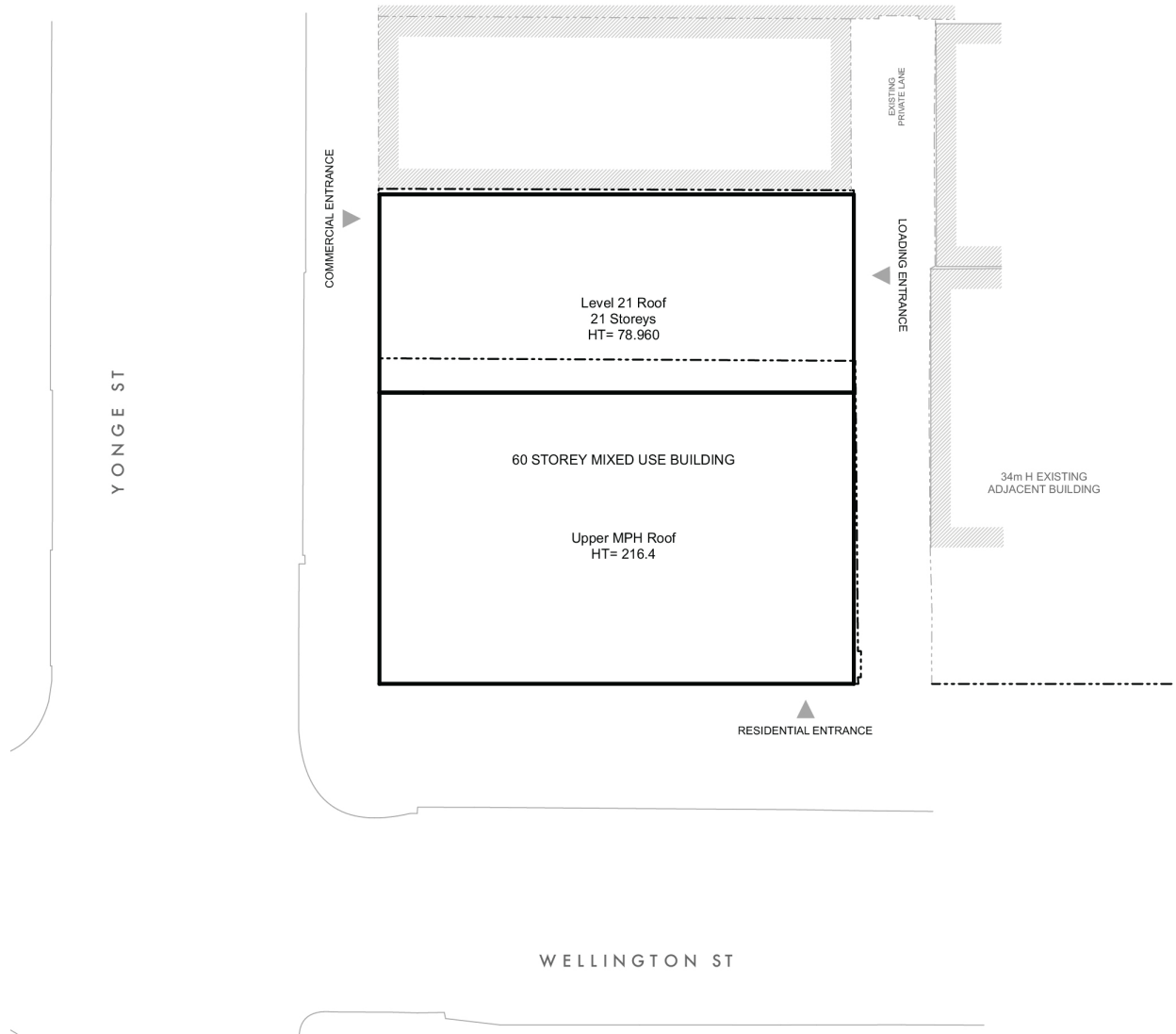


View of Applicant's Proposal Looking Northwest



M0/DA/2022

Attachment 7: Site Plan



Site Plan

