

## **396-398 Church Street, 73-77 McGill Street and 50 Gerrard Street East – Official Plan and Zoning By-law Amendment Application – Appeal Report**

Date: October 30, 2023

To: Toronto and East York Community Council

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

Ward: 13 - Toronto Centre

**Planning Application Number:** 22 227453 STE 13 OZ

### **SUMMARY**

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On December 1, 2022, an Official Plan and Zoning By-law Amendment application was submitted to permit a 43-storey residential building with ground floor retail and 463 dwelling units.

On July 7, 2023 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 in the Planning Act.

This report recommends that the City Solicitor with the appropriate City staff attend the OLT hearing to oppose the Official Plan and Zoning By-law Amendment application in its current form and to continue discussions with the applicant to resolve outstanding issues.

### **RECOMMENDATIONS**

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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 to oppose the appeal made for the current application regarding the Official Plan Amendment and Zoning By-law Amendment respecting the land 396-398 Church Street, 73-77 McGill Street, and 50 Gerrard Street East and authorize the City Solicitor and appropriate staff 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, 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 Official Plan and Zoning By-law are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- b. should one or more existing rental units be confirmed on-site, the Owner has provided an acceptable Tenant Relocation and Assistance Plan to address Official Plan Policies 3.2.1.12, as applicable, to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
- c. the Owner has, at its sole cost and expense:
  - i. submitted a revised Functional Servicing Report, Stormwater Management Report, and Hydrogeological Review, including the Foundation Drainage Report or addendums ("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 provision of financial securities for any upgrades or required improvements to the existing 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 and the General Manager, Toronto Water, should it be determined that improvements or upgrades are required to support the development, according to the accepted Engineering Reports, accepted by the Chief Engineer and Executive Director, Engineering and Construction Services and the General Manager, Toronto Water; and
  - iii. ensured the implementation of the accepted Engineering Reports does not require changes to the proposed amending By-laws or any such required changes have been made to the proposed amending By-laws, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, including the use of a Holding ("H") By-law symbol regarding any new or upgrades to existing municipal servicing infrastructure as may be required.

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

## **FINANCIAL IMPACT**

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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

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**Description:** The site is irregular in shape and has an area of 3,301 square metres with 44.4 metres of frontage on Church Street, 41.3 metres on McGill Street and 37.9 metres of Gerrard Street East.

**Existing Uses:** There are 3 residential properties in the form of row houses at 73-77 McGill Street. The property at 396-398 Church Street contains a 1-storey restaurant with vehicle parking in front of the building. At 50 Gerrard Street East, there is a student residence building. There are two connected segments of this building of 8-and-12 storeys, fronting both Gerrard Street East and Church Street respectively.

## THE APPLICATION

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**Description:** A 43-storey (132.0 metres plus 9.0 metre mechanical penthouse) residential building with 28,782 square metres of residential gross floor area and 216 square metres of non-residential gross floor area.

The existing 8-and-12-storey building at 50 Gerrard Street East will be retained on site, with only the northern-most bay of the 8-storey building being demolished to accommodate the proposed new building.

**Density:** 27.42 times the area of the lot.

**Unit Mix:** The proposed mixed-use building contains a total of 463 new dwelling units including 47 (10%) studio, 229 (49%) one-bedroom, 147 (32%) two-bedroom, and 40 (9%) three-bedroom units.

**Access, Parking, and Loading:** A total of 69 parking spaces are proposed (13 new spaces and 56 retained spaces). One new Type “G” loading space is proposed in addition to an existing Type “G” loading space on site for the retained portion of the building at 50 Gerrard Street East. At the rear of the proposed building, there is one-way vehicle access to the underground parking and loading spaces which allows vehicles to enter from Gerrard Street East and exit to McGill Street.

**Amenity Space:** A total of 1,852 square metres of amenity space is proposed including 1,320 square metres of indoor amenity space (2.85 square metres per unit) and 532 square metres of outdoor amenity space (1.15 square metres per unit).

**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 at: [toronto.ca/398ChurchSt](http://toronto.ca/398ChurchSt)

**Reasons for Application:** The Official Plan Amendment is needed to permit the mixed use development to extend into the portion of the site at 73-77 McGill Street which is designated Neighbourhoods in the Official Plan.

The Zoning By-law Amendment is required to amend Zoning By-law 569-2013 to vary performance standards, including floor space index, building height, and building setbacks. Additional amendments to the Zoning By-law may be identified as part of the application review process.

**Site Plan Control:** A Site Plan Control application was submitted on December 1, 2022. This application has not been appealed.

## **POLICY AND REGULATION CONSIDERATIONS**

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### **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 (2020), and shall conform to provincial plans, including the Growth Plan (2020) for the Greater Golden Horseshoe, the Greenbelt Plan, and others.

### **Official Plan**

The Official Plan Urban Structure Map 2 designates the site as part of the Downtown and Central Waterfront area. The land use designation for 396-398 Church Street and 50 Gerrard Street East is Mixed Use Areas. The land use designation for 73-77 McGill Street is Neighbourhoods.

The site is located within Site and Area Specific Policy (SASP) 151. SASP 151 encourages new development in Mixed Use Areas and identifies that new buildings be designed to minimize the extent to which they overlook, overshadow, or block views from existing or committed house-form buildings, and to ensure that the location of new vehicular access routes does not interfere with the use of private open space of adjacent houses.

The Official Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>

### **Downtown Plan**

The site is located within the boundaries of the Downtown Plan. The site is identified as Mixed-Use Area 3 which permits development in the form of mid-rise buildings, with some low-rise and tall buildings permitted based on compatibility. Gerrard Street East is also identified as a priority cycling route and Church Street is identified as a priority retail street.

The Downtown Plan can be found here:

<https://www.toronto.ca/wpcontent/uploads/2022/06/962d-cityplanning-official-plan-41-secondary-plan-downtownplan.pdf>

### **Tall Building Setback Area Specific Policy (SASP) 517**

SASP 517 contains performance standards for tall building setbacks and separation distances in the Downtown Secondary Plan Area.

### **Airport Zoning Regulation – Helicopter Flight Path – By-Law 1432-2017**

The site is subject to the Airport Zoning Regulation for St. Michael's Hospital. Development on this site is required to be below and outside the Obstacle Limitation Surface identified in By-law 1432-2017 to preserve a flight path for air ambulance and medical transport helicopters accessing these hospitals.

### **Zoning**

The properties at 73-77 McGill Street are zoned R (d1.0) (x82) under Zoning By-law 569-2013 with a permitted maximum height of 14.0 metres and a maximum density of one times the area of the site.

The property at 396-398 Church Street is zoned CR 3.0 (c2.0; r3.0) SS1 (x2134) under Zoning By-law 569-2013 with a permitted maximum height of 16.0 metres and a maximum density of three times the area of the site.

The property at 55 Gerrard Street East is zoned CR 3.0 (c2.0; r3.0) SS1 (x2017) under Zoning By-law 569-2013 with a permitted maximum height of 16.0 metres and a maximum density of three times the area of the site.

### **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; and,
- Pet Friendly Design Guidelines.

The City's Design Guidelines can be found here:

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

## **COMMUNITY CONSULTATION**

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A virtual Community Consultation Meeting was hosted by City staff on March 7, 2023. Approximately 35 members of the public participated, as well as the applicant's consultants and the constituency assistant from the Ward Councillor's office.

At the meeting, City staff and the applicant's consultants provided 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 raised at the meeting and through written comments and phone calls include:

- Concern over compatibility and the transition to the adjacent neighbourhood to the west, including the location and noise from the outdoor amenity space, building setback, and compatibility between the proposed base building and character of the neighbourhood;
- The mature street trees along McGill Street are a vital part of the McGill-Granby neighbourhood. The existing street trees on McGill Street should be retained and/or replaced;
- Concern over the increased number of vehicles that would exit onto McGill Street;
- The location of the driveway would create conflicts with pedestrians and be disruptive to the residential properties in the area;
- Concern the new development would result in the removal of on-street parking locations and that street parking is already at capacity;
- Concern over the loss of afternoon sunlight and views from high-rise buildings on the east side of Church Street;
- Concern over shadowing on the McGill-Granby neighbourhood; and
- Request to permit existing restaurant to return to retail space proposed in the building.

## **COMMENTS**

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### **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 has reviewed the current proposal for consistency with the Provincial Policy Statement and conformity with the Growth Plan. Staff find that the proposal is generally consistent with the Provincial Policy Statement (PPS) and Growth Plan policies relating the achievement of complete communities, optimizing the use of land and infrastructure, and supporting a mix of housing units.

## **Land Use**

The proposed residential and non-residential uses for the part of the site that are designated Mixed Use in the Official Plan are acceptable and conform to the applicable policies of the Official Plan and Downtown Secondary Plan.

The base building of the mixed-use building extends to the part of the site that is designated Neighbourhoods in the Official Plan. The massing and height of this part of the base building provides appropriate transition to the neighbourhood and provides for a consistent street wall height along McGill Street.

An Official Plan Amendment is required to permit these components of a Mixed Use building in *Neighbourhoods*, which has been submitted concurrent with the Zoning By-law Amendment application. The Official Plan Amendment will continue to be evaluated to ensure that any development permitted under an amendment to the Official Plan is compatible with its physical context and will not affect nearby *Neighbourhoods* in a manner contrary to the neighbourhood protection policies of this Plan as required by Policy 5.3.1.3 of the Official Plan.

## **Built Form**

Staff have concerns with the proposed massing, step backs, base building height and design, and cantilever over the pedestrian right-of-way on Church Street. Staff also have concerns with the location of the vehicle exit onto McGill Street at 73-77 McGill Street. Revisions are required to achieve compatibility with the existing and planned context and to provide appropriate compatibility to the lower-scale Neighbourhoods-designated lands adjacent to the site.

## **Unit Mix**

The proposed mixed-use building contains a total of 463 new dwelling units including 47 (10%) studio, 229 (49%) one-bedroom, 147 (32%) two-bedroom, and 40 (9%) three-bedroom units. The unit mix does not meet the policy requirements of the Downtown Plan to provide a minimum of 15% two-bedroom units and 10% three-bedroom units and an additional 15% of units that can be converted into two or three-bedroom units within new developments.

## **Shadow**

The Downtown Plan requires development to adequately limit shadow on sidewalks, parks, open spaces, natural areas, and institutional open spaces. An updated sun/shadow analysis is required to analyze the full extent of the shadow from the proposed building.

## **Servicing**

A functional Servicing and Stormwater Management Report and associated plans have been submitted for the site and reviewed by Engineering and Construction Services.

In the event the OLT allows the Official Plan and 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.

## **Rental Housing**

Housing Policy staff are reviewing the application to confirm the total number of rental units on-site. When one or more rental units would be lost to new development, Official Plan Policy 3.2.1.12 requires the applicant to provide an acceptable tenant relocation and assistance plan to lessen hardship for existing tenants. Housing Policy staff will determine if a tenant relocation and assistance plan is required to be submitted for review.

## **Parkland**

In accordance with Section 42 of the Planning Act, the owner is required to satisfy the parkland dedication requirement through a cash-in-lieu payment. As per Toronto Municipal Code Chapter 415-29, the value of the cash-in-lieu will be appraised by Corporate Real Estate Management. Payment will be required prior to the issuance of the first above-ground building permit.

## **Tree Planting and Streetscape**

The application is subject to the provisions of the City of Toronto Municipal Code, Chapter 813, Trees, Articles II (Trees on City Streets) and III (Private Tree Protection), commonly referred to as the 'Street Tree By-law' and the 'Private Tree By-law'

The applicant submitted an Arborist Report and Tree Preservation Plan in support of the application indicating that 7 regulated City-owned trees and 2 privately-owned trees regulated by the City's tree removal. The applicant has proposed the planting of trees throughout the site. City staff will continue to work with the applicant to ensure that mature trees are preserved or replaced where possible.

## **Amenity Space**

Zoning By-law 569-2013 requires 4 square metres of amenity space per unit. The application proposes 2.85 square metres of indoor amenity space and 1.15 square metre of outdoor amenity space per unit. The proposed amenity space is acceptable.

## **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**

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Email: thomas.spolsky@toronto.ca

## **SIGNATURE**

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Oren Tamir  
Director, Community Planning  
Toronto and East York District

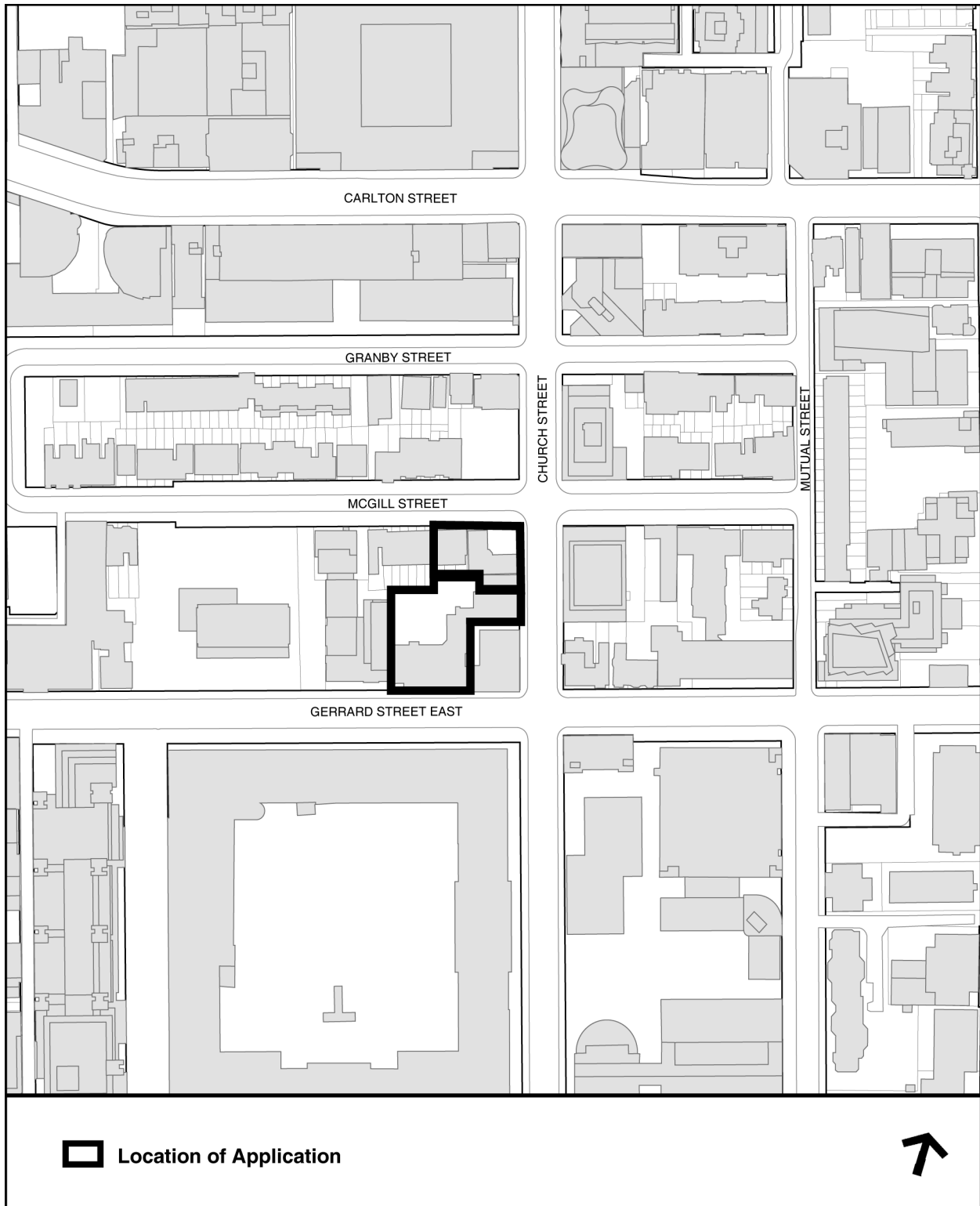
## **ATTACHMENTS**

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### **City of Toronto Data/Drawings**

- Attachment 1: Location Map
- Attachment 2: 3D Model of Proposal in Context
- Attachment 3: Site Plan
- Attachment 4: Official Plan Map
- Attachment 5: Zoning By-law Map
- Attachment 6: Application Data Sheet

Attachment 1: Location Map



Attachment 2: 3D Model of Proposal in Context

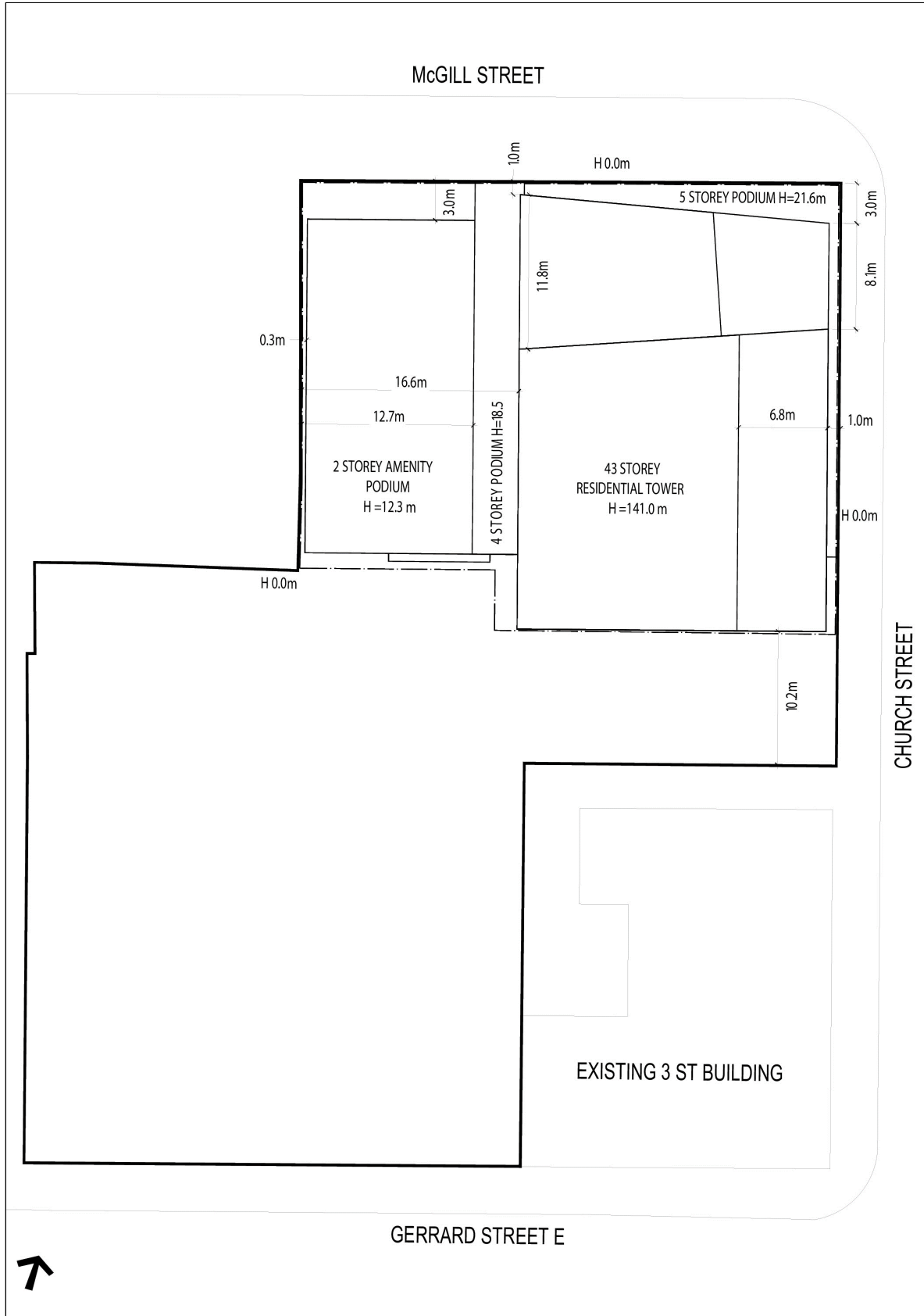


View of Applicant's Proposal Looking Northwest



10/26/2023

Attachment 3: Site Plan

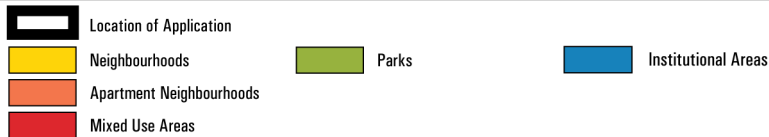



Attachment 4: Official Plan Map



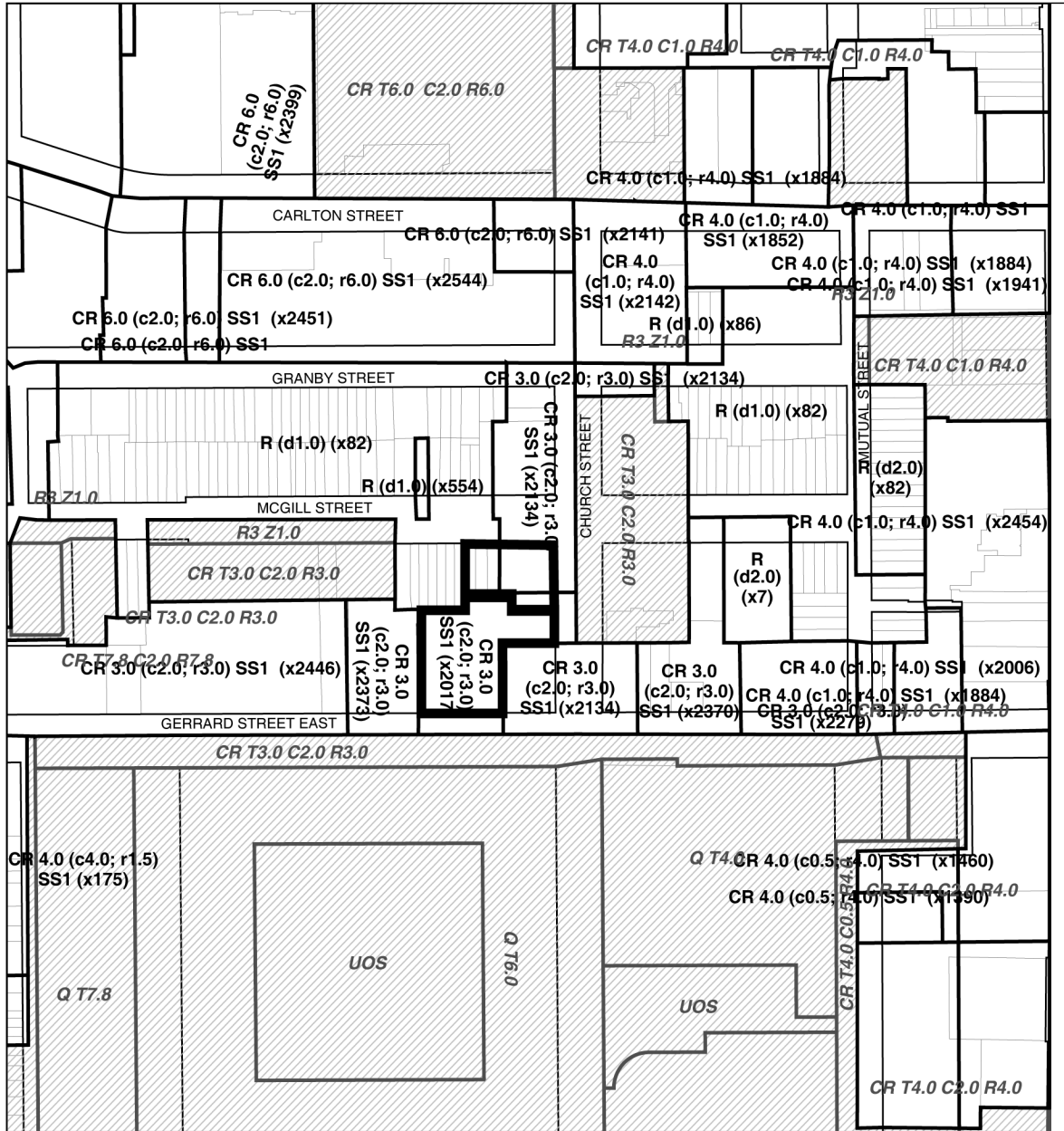
Official Plan Land Use Map #18

396-398 Church Street,  
50 Gerrard Street East, 73-77 McGill Street  
File # 22 227435 STE 13 0Z



  
Not to Scale  
Extracted: 11/14/2022

Attachment 5: Zoning By-Law Map



Zoning By-law 569-2013

396-398 Church Street,  
50 Gerrard Street East, 73-77 McGill Street  
File # 22 227435 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
- G** Parks District



Not to Scale  
Extracted: 11/14/2022

Attachment 6: Application Data Sheet

**Municipal Address:** 398 Church Street      **Date Received:** November 8, 2022

**Application Number:** 22 227435 STE 13 OZ

**Application Type:** OPA and Rezoning

**Project Description:** A 43-storey mixed-use building including 463 dwelling units and 216 square metres of non-residential space. The majority of the existing 8-and-12-storey student residence will be retained on with the northern-most bay of the 8-storey portion proposed to be demolished to accommodate the new building.

<b>Applicant</b>	<b>Architect</b>	<b>Owner</b>
Goldberg Group	Arcadis IBI Group Architects	396 Church Facility Inc.

**EXISTING PLANNING CONTROLS**

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	Downtown Plan
Zoning:	CR 3.0 (c2.0; r3.0) SS1 (x2134)	Heritage Designation:	N
Height Limit (m):	16	Site Plan Control Area:	Y

**PROJECT INFORMATION**

Site Area (sq m): 3,301      Frontage (m): 44      Depth (m): 41

<b>Building Data</b>	<b>Existing</b>	<b>Retained</b>	<b>Proposed</b>	<b>Total</b>
Ground Floor Area (sq m):	1,292		905	<b>905</b>
Residential GFA (sq m):	11,780		28,782	<b>28,782</b>
Non-Residential GFA (sq m):	311		216	<b>216</b>
<b>Total GFA (sq m):</b>	<b>12,091</b>		<b>28,998</b>	<b>28,998</b>
Height - Storeys:	12	12	43	<b>43</b>
Height - Metres:	33	33	132	<b>132</b>

Lot Coverage Ratio (%): 27.42      Floor Space Index: 8.79

<b>Floor Area Breakdown</b>	<b>Above Grade (sq m)</b>	<b>Below Grade (sq m)</b>
Residential GFA:	28,770	12
Retail GFA:	216	
Office GFA:		
Industrial GFA:		
Institutional/Other GFA:		

<b>Residential Units by Tenure</b>	<b>Existing</b>	<b>Retained</b>	<b>Proposed</b>	<b>Total</b>
Rental:	187	TBC	TBC	
Freehold:				
Condominium:			463	<b>463</b>
Other:				
<b>Total Units:</b>	<b>187</b>		<b>463</b>	<b>463</b>

#### **Total Residential Units by Size**

	<b>Rooms</b>	<b>Bachelor</b>	<b>1 Bedroom</b>	<b>2 Bedroom</b>	<b>3+ Bedroom</b>
Retained:					
Proposed:		47	229	147	40
<b>Total Units:</b>		<b>47</b>	<b>229</b>	<b>147</b>	<b>40</b>

#### **Parking and Loading**

Parking Spaces: 69      Bicycle Parking Spaces: 479      Loading Docks: 2