

## **595 Bay Street and 306 Yonge Street – Official Plan and Zoning By-law Amendment Application – Appeal Report**

Date: March 14, 2024

To: Toronto and East York Community Council

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

Ward: 11 - University-Rosedale

**Planning Application Number:** 21 235326 STE 11 OZ

**Related Application Number:** 21 235333 STE 11 SB

### **SUMMARY**

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On November 8, 2021, an Official Plan and Zoning By-law Amendment application was submitted to permit a 34-storey (113.9 metres, including mechanical penthouse) mixed-use building containing 317 dwelling units and 2,998 square metres of non-residential gross floor area. The 4 to 8-storey building at the northeast corner of the existing Atrium on Bay retail and office building would be demolished to accommodate the proposed development. The remainder of the Atrium on Bay, including the existing office towers, would be retained.

The applicant submitted an Official Plan Amendment application which proposes to create a Site and Area Specific Policy that would permit the new 34-storey building without replacement of the demolished office gross floor area. The Zoning By-law Amendment application proposes to amend Zoning By-law 438-86, as amended by Site-specific Zoning By-law 1725-2013, to permit the proposed development. The application also proposes to bring the site into Zoning By-law 569-2013.

The site is located within the eastern flight path for The Hospital for Sick Children heliport. The proposed building height exceeds the height that would be permitted by the flight path regulations for this site.

On January 12, 2024, 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 and appropriate City staff attend the OLT hearing to oppose the application in its current form and 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 in opposition to the current application regarding the Official Plan and Zoning By-law Amendment appeal for the lands at 595 Bay Street and 306 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 Official Plan Amendment and Zoning By-law Amendment are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning; and,
  - b. the owner has at its sole cost and expense:
    1. submitted a revised Functional Servicing and Stormwater Management Report, Servicing Report Groundwater Summary Form, and Hydrological Review Summary Form ("Engineering Reports"), to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, in consultation with the General Manager, Toronto Water;
    2. 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; and
    3. 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 infrastructure 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.

## DECISION HISTORY

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On December 16, 2013, City Council approved a Zoning By-law Amendment application to permit the construction of five-storey additions to the two existing office towers at the Atrium on Bay, and a three-storey retail addition along the Bay Street frontage. Community benefits were secured as part of this approval, including relocation of the existing on-street staircase to Dundas Station to the interior of the building, accessibility improvements to the below-grade entrance to Dundas Station, and streetscape improvements to Edward Street. The City Council decision can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2013.TE28.6>

Council's approval was appealed to the Ontario Municipal Board by a third party, but the appeal was dismissed.

On July 12, 2017, the Committee of Adjustment approved Application No. A0245/17TEY to permit modifications to the 2013 approval, including one additional storey on the west office tower and a one-storey addition between the towers. To date, these proposed additions have not been constructed.

A Preliminary Report on the current application was adopted by Toronto and East York Community Council on February 16, 2022.

On January 26, 2024, the Minister of Municipal Affairs and Housing issued a Ministerial Zoning Order, O. Reg. 10/24, which establishes the protected flight path for air ambulance services to St. Michael's Hospital and the Hospital for Sick Children and limits new development from penetrating into the obstacle limitation surfaces for these heliports. The Zoning Order can be found here: <https://www.ontario.ca/laws/regulation/240010>

## THE SITE

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**Description:** The site consists of the block bounded by Bay Street, Edward Street, Yonge Street, and Dundas Street West, with the exception of 302 Yonge Street, and has an area of 12,550 square metres.

**Existing Uses:** A mixed-use building with office and retail uses known as the Atrium on Bay, consisting of retail uses on the ground floor and concourse levels, and two 15 and 14-storey office towers connected by a 9-storey component, with a 4 to 8-storey component at the northeast corner of the site. Along the Yonge Street frontage, a 62-

metre tall media tower supporting billboards facing north and south is located on the roof of the building.

**Heritage:** The site is adjacent to a property designated under Part IV of the Ontario Heritage Act (302 Yonge Street) and a property listed on the City of Toronto's Heritage Register (604-610 Bay Street).

## THE APPLICATION

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**Description:** A 34-storey (113.9 metres, including mechanical penthouse) mixed-use building located at the northeast corner of the existing Atrium on Bay building. The 4 to 8-storey component of the existing building would be demolished to accommodate the proposed development. The existing 15, 14, and 9-storey components would be retained. The application also proposes to retain the unbuilt height permissions secured through the previous Zoning By-law Amendment and the Committee of Adjustment decision.

**Density:** 10 times the area of the site.

**Dwelling Units:** 317 dwelling units, consisting of 77 studio (24%), 159 one-bedroom (50%), 50 two-bedroom (16%), and 31 three-bedroom (10%) units. An additional 15% of the units can be converted into two-bedroom units.

**Non-Residential:** 4,383 square metres of existing office gross floor area and 2,259 square metres of existing retail gross floor area would be demolished to accommodate the proposed development. The existing 15, 14, and 9-storey office components would be retained. 2,998 square metres of new retail gross floor area is proposed.

**Access, Parking, and Loading:** The existing vehicular access to the below-grade commercial parking garage would be maintained from Edward Street. The commercial parking garage would be reduced from 507 to 442 parking spaces to accommodate the proposal. Currently, 283 of the existing parking spaces are dedicated to commercial tenants and the balance are available for use by the general public. No new or dedicated parking is proposed for the new development.

One Type 'G' loading space is proposed for the new development, in addition to 6 existing loading spaces servicing the Atrium on Bay office and retail uses.

A total of 382 bicycle parking spaces (343 long-term spaces and 39 short-term spaces) are proposed for the residential use, in addition to 48 existing bicycle parking spaces located in the below-grade commercial parking garage.

**Additional Information:** See Attachments 2, 3, 4, and 7 of this report for a three-dimensional representation of the project in context, a site plan of the proposal, elevations, 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: <http://www.toronto.ca/595BaySt>.

**Reason for the Application:** The Official Plan Amendment proposes to create a Site and Area Specific Policy (SASP) that would permit a mixed-use building with the following criteria: a tower setback of 3.0 metres from Yonge Street, a height of 109.0 metres (exclusive of mechanical penthouse), and would not require replacement of the existing office gross floor area as part of the redevelopment of the site.

The Zoning By-law Amendment proposes to amend Zoning By-law 438-86, as amended by Site-specific Zoning By-law 1725-2013, to permit the proposed height and density on the site and to modify various performance standards such as those for height, setbacks, and parking. The Zoning By-law Amendment also proposes to bring the site into Zoning By-law 569-2013.

**Site Plan Control:** A Site Plan Control application has not been submitted.

**Draft Plan of Subdivision:** A Draft Plan of Subdivision application was submitted on November 8, 2021 to create two development blocks separating the proposed residential uses and non-residential uses. The application is under review.

## **POLICY CONSIDERATIONS**

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

**Official Plan:** The site is located within the Downtown and Central Waterfront and is designated Mixed Use Areas in the Official Plan. See Attachment 5 of this report for the Official Plan Land Use Map.

**Downtown Plan:** The site is designated Mixed Use Areas 2 - Intermediate along Yonge Street, and Mixed Use Areas 1 - Growth along Dundas Street West, Edward Street, and Bay Street.

**Site and Area Specific Policy (SASP) 174:** Provides a framework for development on Yonge Street between Queen Street and north of Gerrard Street.

**Tall Buildings Setback Area Specific Policy (SASP) 517:** Establishes the policy context for tall building setbacks and separation distances between tower portions of tall buildings Downtown. The policies of SASP 517 are implemented through Zoning By-laws 1106-2016 and 1107-2016, which provide the detailed performance standards for tower setbacks and separation distances.

### **Airport Zoning Regulation - Helicopter Flight Path**

Flight path protections for air ambulance services to St. Michael's Hospital and The Hospital for Sick Children are regulated by Zoning By-law 1432-2017 and Zoning Order 10/24. The site is located within the eastern flight path for The Hospital for Sick Children heliport, and all buildings and structures on the site must be located below the obstacle limitation surface.

## **Zoning**

The site is zoned CR T4.0 C4.0 R 1.5 with a maximum height of 20 metres along Yonge Street, and CR T7.8 C2.0 R7.8 with a maximum height of 61 metres Dundas Street West, Edward Street, and Bay Street under the former City of Toronto Zoning By-law 438-86. Site-specific Zoning By-law 1725-2013 permits additions to the existing mixed-use building. A subsequent Committee of Adjustment decision (A0245/17TEY) authorized variances to some of the requirements of this by-law.

The site is not currently subject to city-wide Zoning By-law 569-2013. See Attachment 6 of this report for the 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 Buildings: Vision and Supplementary Design Guidelines;
- Growing Up Guidelines: Planning for Children in New Vertical Communities; and
- Retail Design Manual.

The City's Design Guidelines can be found here:

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

## **COMMUNITY CONSULTATION**

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A virtual Community Consultation Meeting was hosted by City staff on June 20, 2022. Approximately 12 people participated, as well as the Ward Councillor and the applicant. 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.

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

- Concerns about overcrowding in the Downtown;
- Losing access to sunshine in the pedestrian environment;
- The importance of the pedestrian experience on Edward Street, including the provision of trees;
- Impacts to residents at 20 Edward Street and 633 Bay Street with respect to views, sunlight, and privacy;
- Current issues with on-street loading taking place on Edward Street;
- Construction impacts, including noise and construction traffic on Edward Street; and
- The absence of affordable housing as part of the proposal.

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

## **COMMENTS**

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Staff have reviewed the draft Official Plan Amendment and Zoning By-law Amendment submitted with the application. In the event the OLT allows the appeal in whole or in part, the final Order should be withheld pending further review of the final form and content of the Amendments to ensure that they are satisfactory to permit the proposed development and that they do not impact the development permissions and community benefits from the 2013 approval.

### **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 PPS and conformity with the Growth Plan and find the proposal is generally consistent with the PPS conforms to the Growth Plan.

### **Land Use**

The proposed residential and non-residential uses conform with the land use designation for this site. The proposed development will result in a loss of 4,383 square metres of office gross floor area, which is approximately 4 percent of the existing non-residential gross floor area across the entirety of the site.

### **Building Massing**

The proposed building height exceeds the height that would be permitted for this site due to its location within the flight path for The Hospital for Sick Children heliport. If modifications to the proposal are considered, an Aeronautical Assessment would be required to confirm compliance with the requirements of Zoning By-law 1432-2017 and Zoning Order 10/24.

The proposed building massing, including setbacks, stepbacks, and separation distances, is not acceptable and does not achieve the policies of the Official Plan, Downtown Plan, or the Tall Building Design Guidelines.

City Planning staff have concerns with the separation distance to the existing 15-storey office building and the neighbouring property to the south, which are inconsistent with the City's standards for tall building setbacks.

The proposed development would retain the existing media tower and billboards located on the roof of 306 Yonge Street and locate the new residential building directly beside the media tower from levels 4 to 18, with no south-facing windows at these levels. At levels 24-34, the tower would cantilever outward over the media tower. City Planning staff recognize the importance of signage as part of the character of the Yonge and Dundas area, but have concerns with the impact of the retained media tower on the building's design.

The proposed tower setback from Yonge Street does not fit with the prevailing pattern of tower setbacks from Yonge Street.

At the ground level, the proposed building setbacks do not provide sufficient space for the public realm on Yonge Street and Edward Street.

### **Heritage**

The application has not demonstrated that the design of the new building fits in with the scale and character of the surrounding context, including the adjacent heritage properties.

The application has also not demonstrated whether the proposed development complies with the view protection policies for Old City Hall.

### **Tree Preservation**

Four City trees located along the Edward Street frontage of the site are proposed to be removed to accommodate the proposed development. No replacement trees have been shown on the plans. Urban Forestry staff have commented that the existing trees are protected under the City Tree By-law and should be protected, otherwise replacement trees in the road allowance will be required.

### **Traffic Impact, Access, Parking**

Transportation Services staff have reviewed the proposal with respect to traffic impact, access, and parking. The proposed traffic impacts related to the development are acceptable, subject to the implementation of a Transportation Demand Management (TDM) plan.

Transportation Services staff have commented that the proposed new access driveway for the Type 'G' loading space on Edward Street should be consolidated with the existing access to the west. Additional information is required to assess the proposed shared parking arrangement.

### **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 the OLT allows the appeal in whole or in part, the final Order should be withheld pending the provision of a satisfactory set of engineering reports that provide confirmation of water, sanitary, and stormwater capacity from the Chief Engineer and Executive Director, Engineering and Construction Services, including implementation of any required upgrades which may be secured through the use of holding provisions.



## **Transit**

TTC has identified a portion of the site located within the footprint of the proposed development that is required for a second exit from the southbound platform at Dundas Station. The second exit has not been shown on any plans to date.

The previous Zoning By-law Amendment for the site, approved in 2013, secured the relocation of the existing on-street staircase to Dundas Station, currently located within the sidewalk on the north side of Dundas Street West, to the interior of the Atrium on Bay as a community benefit. The TTC has also expressed an interest in seeing this implemented with the current development proposal.

## **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.

## **CONTACT**

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E-mail: [Katherine.Bailey@toronto.ca](mailto:Katherine.Bailey@toronto.ca)

## **SIGNATURE**

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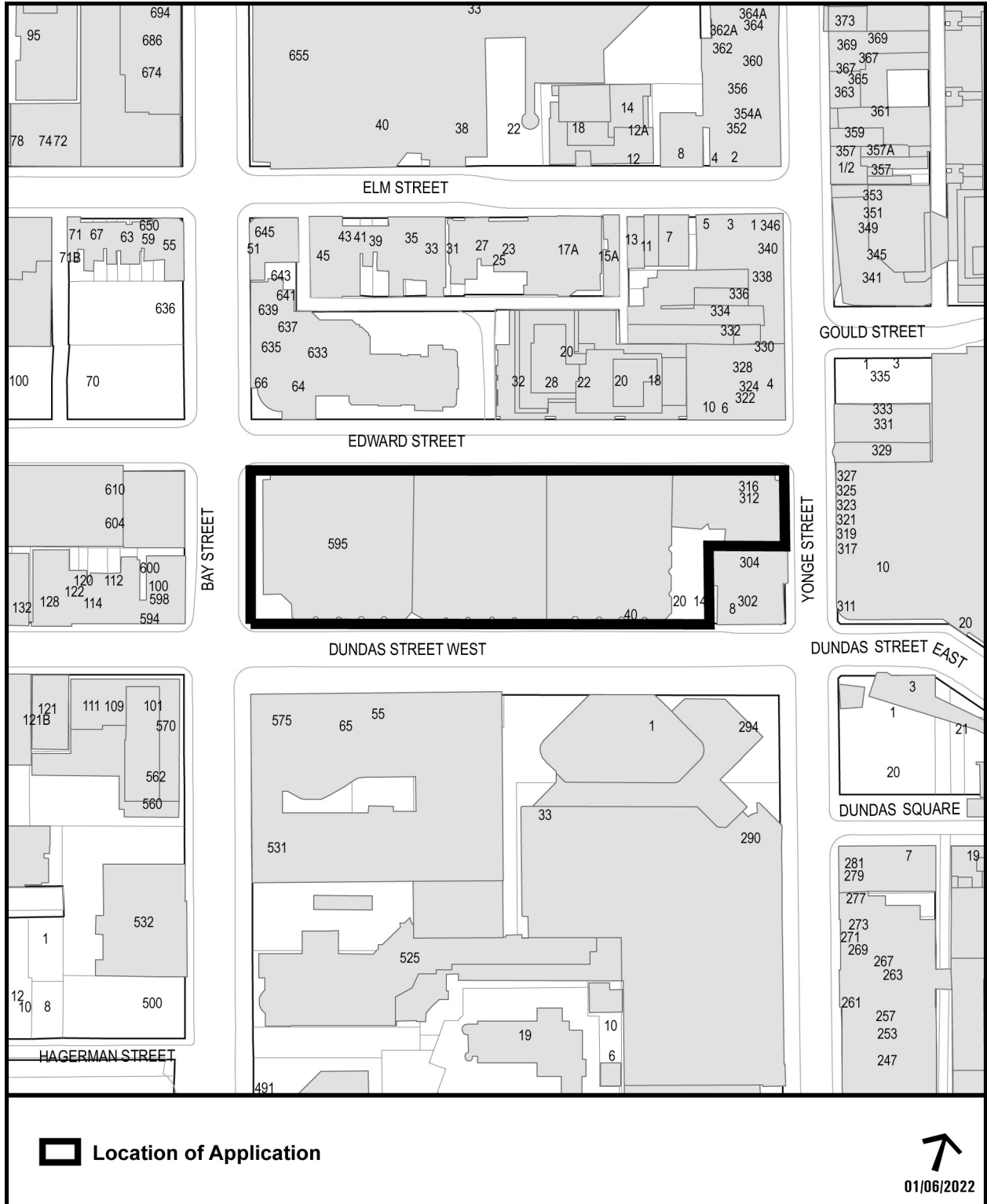
Oren Tamir  
Director, Community Planning  
Toronto and East York District

## **ATTACHMENTS**

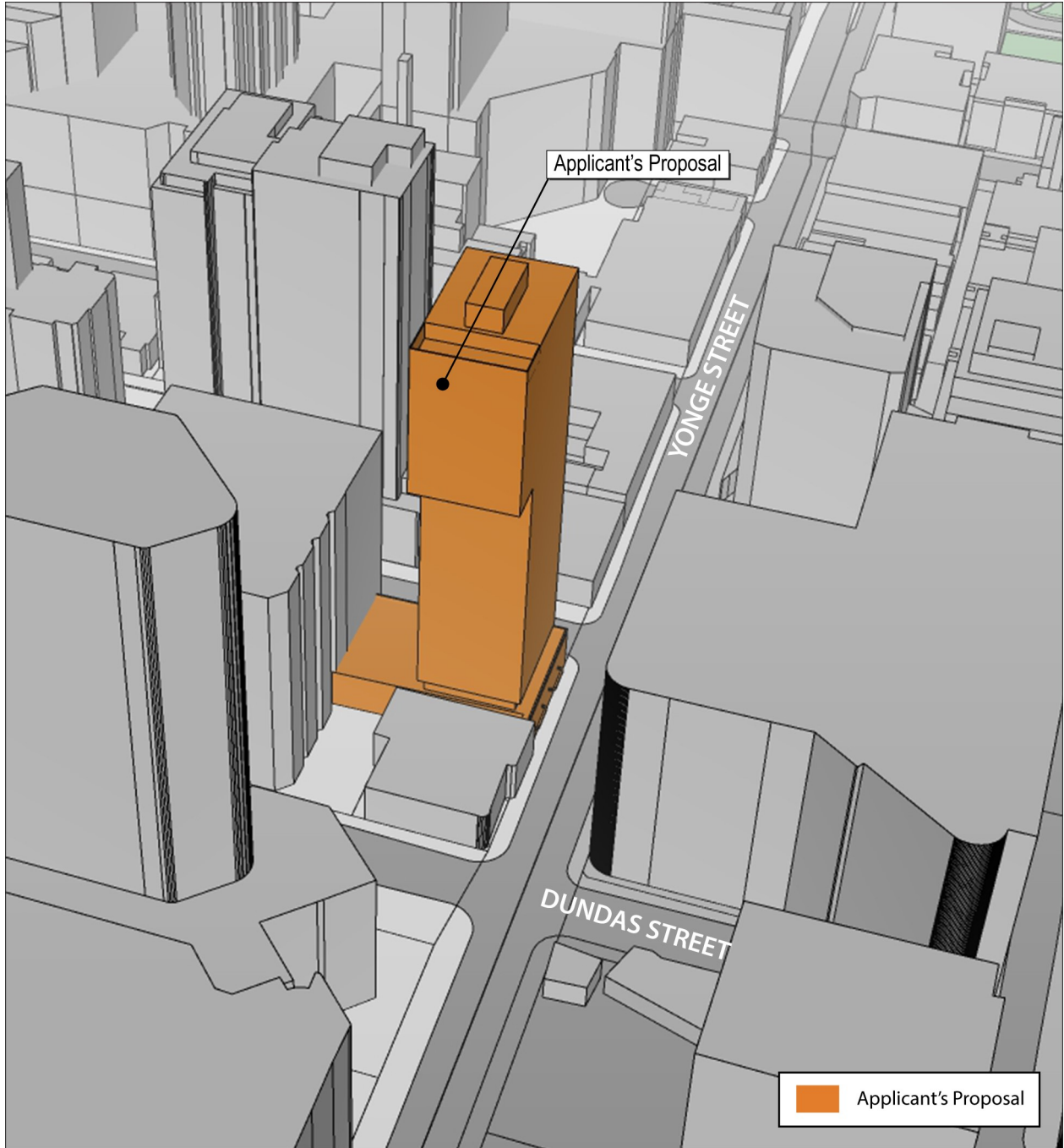
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Attachment 1: Location Map  
Attachment 2: 3D Model of Proposal in Context  
Attachment 3: Site Plan  
Attachment 4: Elevations  
Attachment 5: Official Plan Map  
Attachment 6: Zoning By-law Map  
Attachment 7: Application Data Sheet

Attachment 1: Location Map



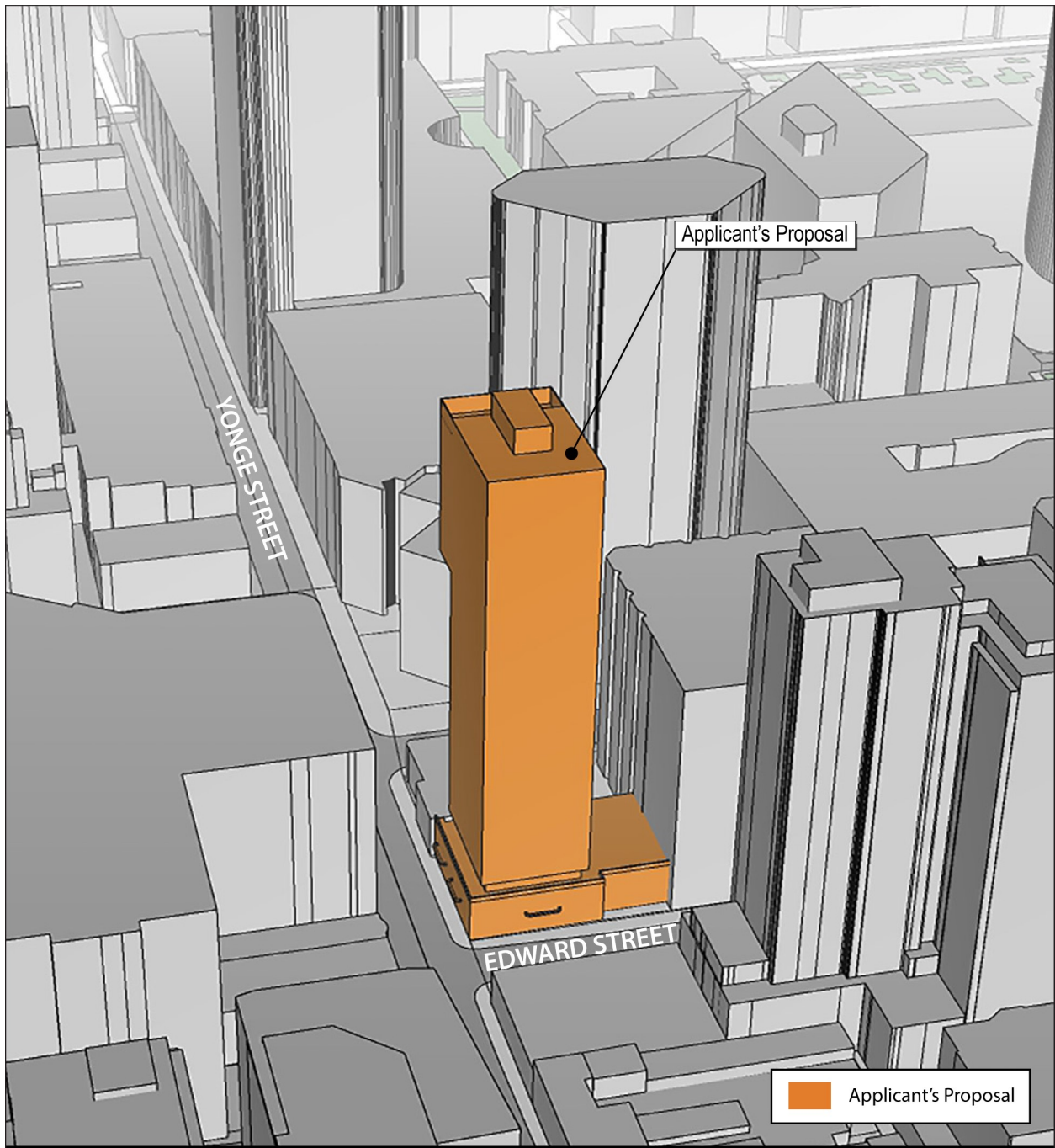
Attachment 2: 3D Model of Proposal in Context



View of Applicant's Proposal Looking Northwest



01/25/2022

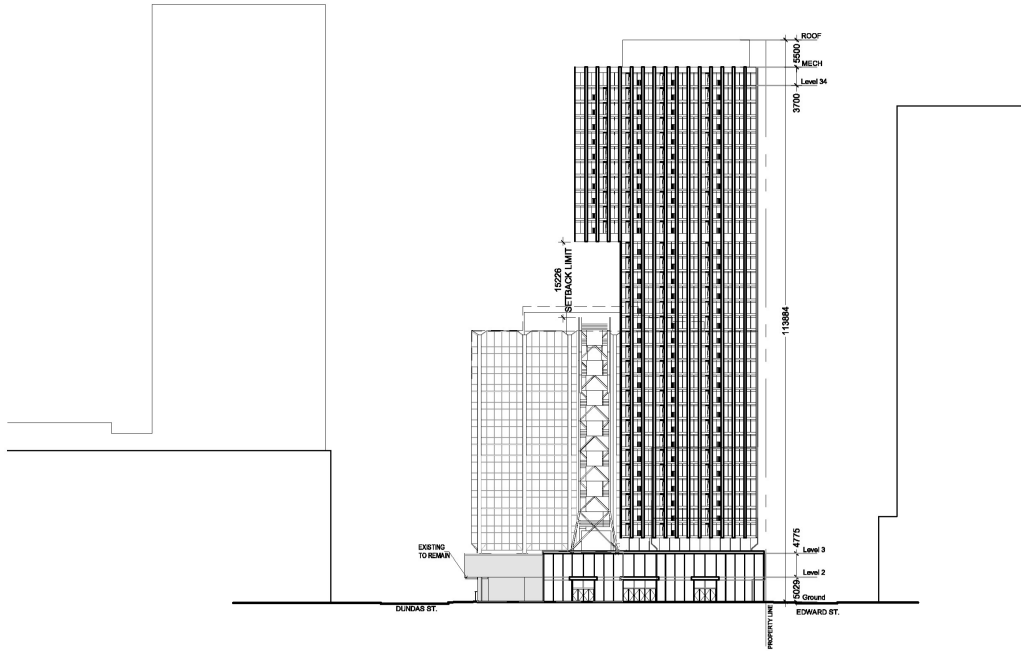


**View of Applicant's Proposal Looking Southeast**

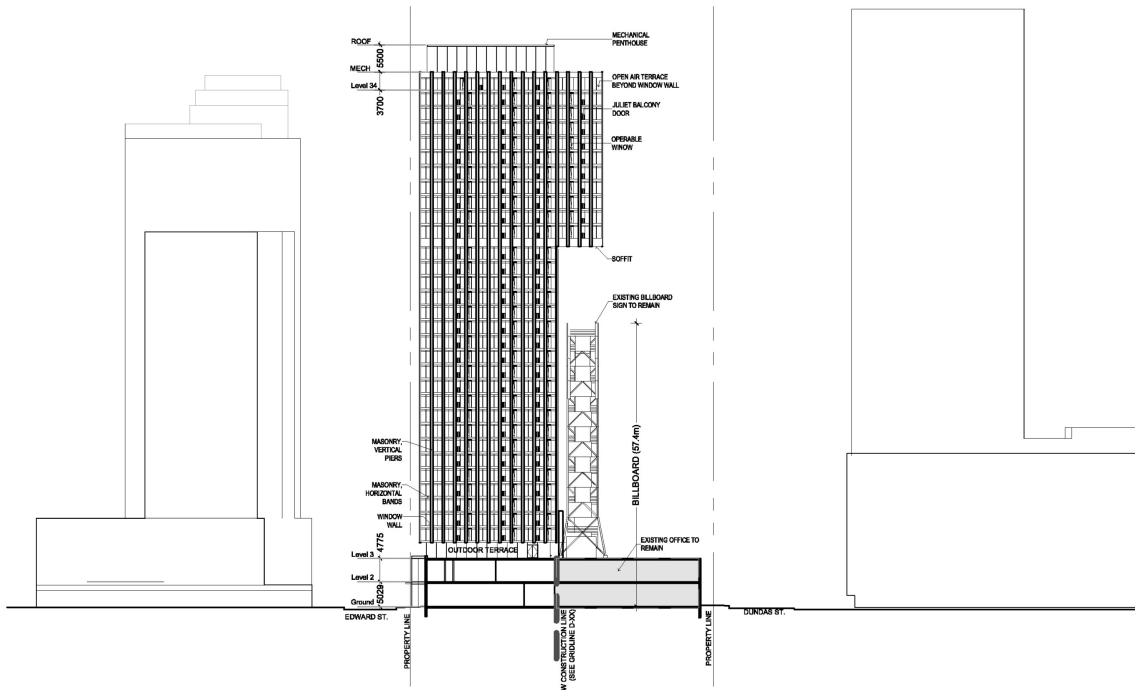
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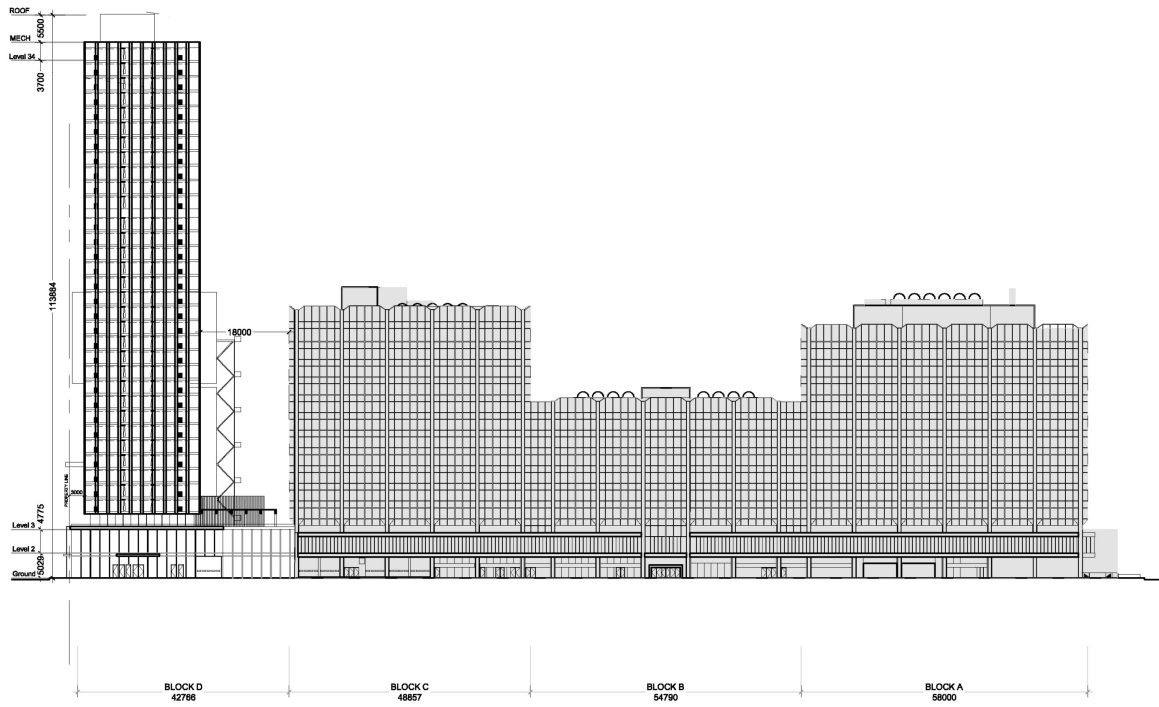
# Attachment 4: Elevations



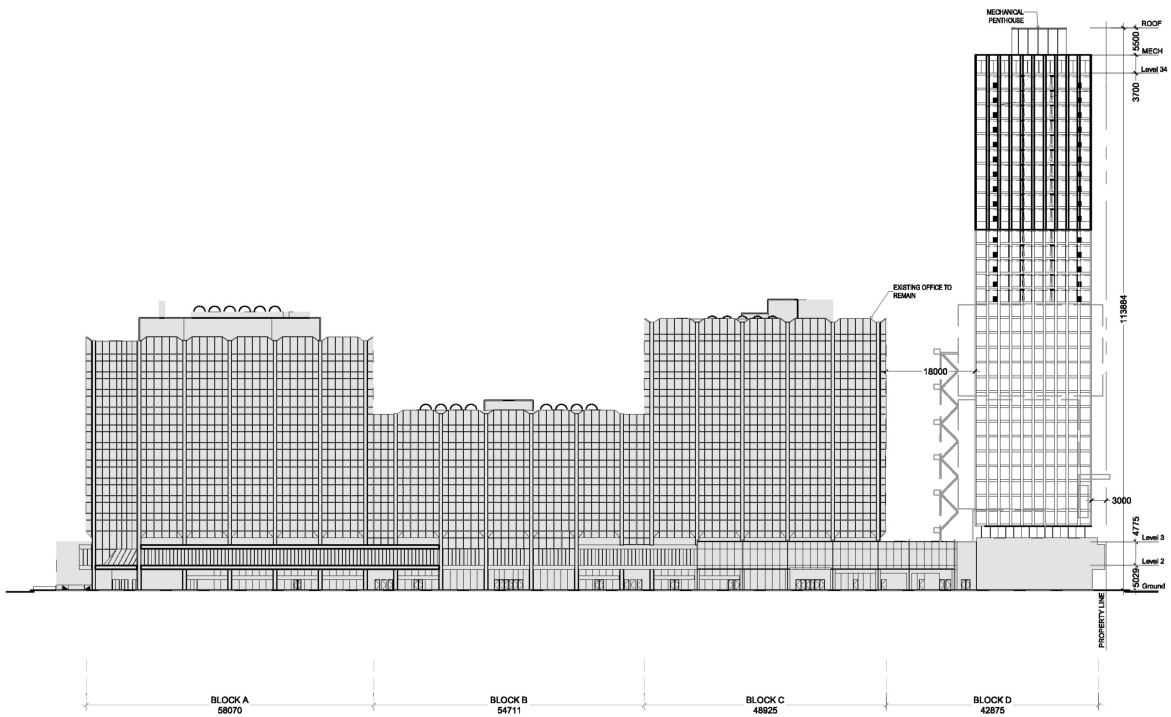
East Elevation



West Elevation



North Elevation



South Elevation





Attachment 5: Official Plan Map



Official Plan Land Use Map #18

595 Bay Street

File # 21 235326 STE 11 OZ

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

 Institutional Areas



Not to Scale  
01/06/2022





## Attachment 7: Application Data Sheet

**Municipal Address:** 595 Bay Street and 306 Yonge Street      **Date Received:** November 8, 2021

**Application Number:** 21 235326 STE 11 OZ

**Application Type:** OPA & Rezoning

**Project Description:** A 34-storey mixed-use building at the northeast corner of the Atrium on Bay.

<b>Applicant</b>	<b>Agent</b>	<b>Architect</b>	<b>Owner</b>
KS AOB Toronto Inc. & Dundas Atrium Toronto Inc.	KS AOB Toronto Inc. & Dundas Atrium Toronto Inc.	Hariri Pontarini Architects	KS AOB Toronto Inc. & Dundas Atrium Toronto Inc.

### EXISTING PLANNING CONTROLS

Official Plan Designation: Mixed Use Areas      Site Specific Provision: SASP 174

Zoning: CR T7.8 C2.0 R7.8, CR T4.0 C4.0 R 1.5, and By-law 1725-2013      Heritage Designation: N

Height Limit (m): 61.0      Site Plan Control Area: Y

### PROJECT INFORMATION

Site Area (sq m): 12,550      Frontage (m): 45      Depth (m): 204

<b>Building Data</b>	<b>Existing</b>	<b>Retained</b>	<b>Proposed</b>	<b>Total</b>
Ground Floor Area (sq m):			8,989	<b>8,989</b>
Residential GFA (sq m):			21,974	<b>21,974</b>
Non-Residential GFA (sq m):	107,637	100,995	2,998	<b>103,993</b>
<b>Total GFA (sq m):</b>	<b>107,637</b>	<b>100,995</b>	<b>24,972</b>	<b>125,966</b>
Height - Storeys:	15	15	34	<b>34</b>
Height - Metres:	53.4	53.4	108	<b>108</b>

Lot Coverage Ratio (%): 84.6      Floor Space Index: 10.04

<b>Floor Area Breakdown</b>	<b>Above Grade (sq m)</b>	<b>Below Grade (sq m)</b>
Residential GFA:	21,974	
Retail GFA:	10,942	11,574

Office GFA: 81,477  
 Industrial GFA:  
 Institutional/Other GFA:

<b>Residential Units by Tenure</b>	<b>Existing</b>	<b>Retained</b>	<b>Proposed</b>	<b>Total</b>
Rental:			317	317
Freehold:				
Condominium:				
Other:				
<b>Total Units:</b>			<b>317</b>	<b>317</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:		77	159	50	31
<b>Total Units:</b>		<b>77</b>	<b>159</b>	<b>50</b>	<b>31</b>

**Parking and Loading**

Parking Spaces: 442      Bicycle Parking Spaces: 430      Loading Docks: 7

**CONTACT:**

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