

**215-229 Church Street and 117 Dundas Street East –
Zoning By-law Amendment - Request for Direction
Report**

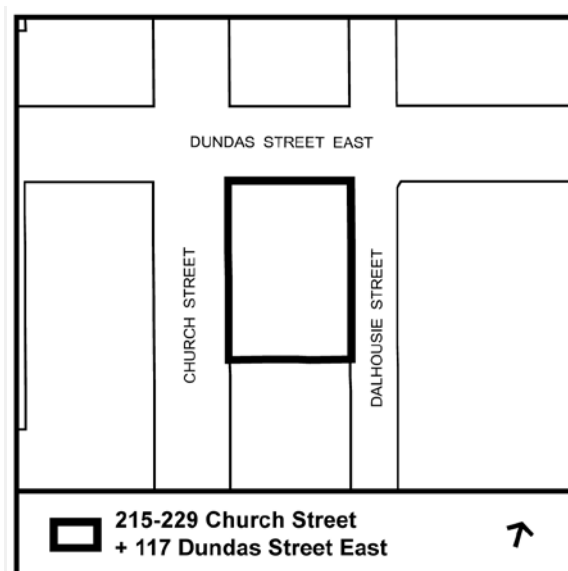
Date:	March 15, 2016
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	14 265043 STE 27 OZ

SUMMARY

This application proposes to amend the former City of Toronto Zoning By-law 438-86 and City of Toronto Zoning By-law 569-2012 to permit the redevelopment of 215-229 Church Street and 117 Dundas Street East with a 46-storey mixed use building with retail at grade and residential above. The project is proposed to contain 616 dwelling units and 670 m² of commercial space. The total gross floor area would be 40,656 m².

The owner of the site at 215-229 Church Street and 117 Dundas Street East has appealed its Zoning By-law Amendment application to the Ontario Municipal Board (OMB) citing Council's failure to make a decision within the time required by the *Planning Act*. A pre-hearing conference has been scheduled for July 6, 2016. A full hearing has not yet been scheduled.

The proposal is not supportable in its current form. The height of the proposed 46-storey tower is not appropriate as amongst other reasons discussed in this report, the proposed tower would intrude into the St Michael's Hospital helicopter flight path. This would create an unacceptable condition that would not be consistent with the Provincial Policy



Statement (PPS), would not conform to the Growth Plan and would not conform to the Official Plan as Policy 4.8.4 specifically states that new buildings in the vicinity of hospital heliports will be sited and massed to protect the continued use of flight paths to hospital heliports. In addition, the proposed development does not conform with Official Plan built form policies and does not satisfactorily respond to urban design guidelines related to the built form. In particular:

- tower height is excessive resulting in extensive shadowing of designated areas;
- tower setback, particularly to the east property line, fails to meet minimum setback requirements;
- podium height fails to transition appropriately to adjacent developments;
- there is a lack of family sized units;
- there is inadequate provision of amenity space;
- there is excessive number of curb cuts;
- inadequate public realm (sidewalk) widths;
- there are an insufficient number of vehicular parking spaces; and
- a satisfactory Functional Servicing Report has not been completed.

The purpose of this report is to seek City Council's direction for the City Solicitor and appropriate City Staff to attend the Ontario Municipal Board hearing in opposition to the applicant's development proposal and appeal.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, together with City Planning staff and any other appropriate staff to attend the Ontario Municipal Board hearing to oppose the appeal of the Zoning By-law Amendment application for 215-229 Church Street and 117 Dundas Street East and to retain such outside experts as the City Solicitor may determine are required to support the position outlined in this report.
2. City Council authorize City staff to continue discussions with the applicant in order to come to an agreement on an appropriate built form that, among other things, ensures the tower including accommodations for construction does not intrude into the St. Michael's Hospital helicopter flight path and to secure appropriate Section 37 community benefits to the satisfaction of the Chief Planner and Executive Director, City Planning.

3. City Council direct the City Solicitor to request the OMB, in the event the OMB allows the appeal and permits additional height or density, or some variation, to:

- a) Secure the following community benefits with the final allocation determined by the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor's office and enter into and register an Agreement to secure those benefits, pursuant to Section 37 of the *Planning Act*:

A payment to the City in the amount up to \$ 3.9 million based on applications height and density (indexed to reflect increases in the Construction Price Statistics between the date of the OMB Order and the delivery of such payment), for capital improvements in the vicinity of the site for one or more of the following:

- i. Conservation of publicly owned heritage resources and/or including the heritage component of the Seaton House redevelopment project;
- ii. John Innes Community Recreation Centre/Moss Park Arena;
- iii. affordable housing; and,
- iv. community/cultural space.

provided that in the event the cash contribution referred to in this section has not been used for the intended purposes within three years of the By-law coming into full force and effect, the cash contribution may be redirected for other purposes, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose(s) is identified in the Toronto Official Plan and will benefit the community in the vicinity of the site.

- b) As a legal convenience, secure the following in the Section 37 Agreement to support the development:

- i. The Owner be required to pay for and construct any improvements to the municipal infrastructure in connection with a Functional Servicing Report as accepted by the City's Executive Director of Engineering and Construction Services should such Director determine that improvements to such infrastructure are required to support the development all to the satisfaction of the Executive Director of Engineering and Construction Services;

- c) Withhold its Order allowing the appeal in whole or in part allowing the Zoning By-law Amendment until:

- i. The Owner has entered into an Agreement under Section 37 of the *Planning Act* to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning to secure appropriate public benefits and the Section 37 Agreement has been registered on title to the site to the satisfaction of the City Solicitor;

- ii. The OMB has been provided with a proposed Zoning By-law Amendment by the City Solicitor together with confirmation the proposed Zoning By-law Amendment is in a form satisfactory to the City; and
 - iii. The OMB has been advised by the City Solicitor that the Functional Servicing Report has been completed to the satisfaction of Executive Director of Engineering and Construction Services.
4. City Council authorize the City Solicitor and any other City staff to take such actions as necessary to give effect to the recommendations of this report.

Financial Impact

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

A pre-application consultation meeting was not held with the applicant.

The Zoning By-law Amendment application was submitted on December 22, 2014. A Notification of Incomplete Application was issued on January 29, 2015. The outstanding item was the Arborist Report and Tree Preservation Plan as well as the Green Standards Checklist which was later submitted. A subsequent Notice of Complete Application was issued which indicated the complete application date was March 2, 2015.

A Preliminary Report on the application was considered by the Toronto East York Community Council on April 14, 2015. Key issues identified in the Preliminary Report included: appropriate built form; tower heights in relation to helicopter flight path; treatment of the ground floor and its relationship to the streetscape; reduced parking provision; and housing issues. Community Council directed City Planning staff to schedule a community consultation meeting with an expanded notice area and that notice for the public meeting be given according to the regulations of the *Planning Act*. The Preliminary Report is available at:

<http://www.toronto.ca/legdocs/mmis/2015/te/bgrd/backgroundfile-77949.pdf>

The applicant appealed the application to the Ontario Municipal Board on December 23, 2015, Case Number PL160006.

ISSUE BACKGROUND

Proposal

The applicant is proposing a 46-storey (159.6 metres, including mechanical penthouse) mixed-use building with retail at grade and 616 residential units above. The building would be a tower-base form featuring a five-storey podium (25 metres) with a 41-storey tower above with projecting angled balconies. The development is proposed to have a total gross floor area of 40,656 m² comprising 670 m² of commercial/retail space at grade and 39,986 m² of residential above. Indoor residential amenity space would be on the sixth and seventh floors and outdoor amenity space on the sixth floor terrace. The proposed Floor Space Index would be 24.7 under Zoning By-law 569-2013.

The primary residential entrance for the building would be Church Street; retail entrances are proposed on both Church and Dundas Street East. The vehicular entrance to the building is proposed off of Dalhousie Street, with vehicles exiting onto Church Street.

The application proposes six levels of underground parking for 178 parking spaces, comprised of 167 spaces for residents and 11 car share spaces. A total of 666 bicycle parking spaces are proposed with the long-term spaces located on the second floor above grade and below grade and the short term spaces located at the ground floor level. One type G and one type C loading space would be located within the podium at the ground floor level.

Other details of the proposal are identified in Table 1 below and in Attachment 4.

Table 1 – Summary of Application

	Application
Tower setbacks (Floor 8-46)	
- Dundas Street	2.9 m
- Dalhousie Street	2.9 m
- South property line	11.8 m
- Church Street	2.9 m
Podium (base) setback at grade	
- Dundas Street East	1.5 m
- Dalhousie Street	0.0 m
- South property line	0.0 m
- Church Street	0.0 m
Sidewalk/pedestrian realm width (approximate)	
- Dundas Street East	5.1 m
- Dalhousie Street	3.1 m
- Church Street	4.6 m
Tower floorplate (approximate)	
- Floors 8-46	916 m ²
Ground floor height (include mezzanine)	7.0 m
Vehicular parking	
- Residential	167
- Visitor and non-residential	0
- Car Share	11
Bicycle parking	
- Resid. long term	598
- Resid. short term (visitor)	60
- Non-residential	8
Loading spaces	
- Type G	1
- Type B	0
- Type C	1
Amenity space	
- Indoor	1,244 m ²
- Outdoor	657 m ²
Total	1,901 m ²

Site and Surrounding Area

The site is located on the south side of Dundas Street East, bounded by Church Street to the west, Dalhousie Street to the east, and a three-storey building on an adjacent property to the south. The subject site is rectangular in shape, with frontages of: 33.7 metres on Dundas Street East; 48.9 metres on Church Street; 33.6 metres on the south property line; and 49.0 metres on Dalhousie. The total lot area is 1,191 square metres.

The site consists of seven separate parcels containing a surface parking lot and a variety of two and three storey commercial uses, including restaurants, personal service shops, and a hotel. None of the existing buildings are designated or listed as heritage buildings.

The surrounding uses are as follows:

South: Directly south of the property is a three-storey mixed-use building at 211-213 Church Street with retail uses at grade and residential above. Further south is a two-storey converted house at 209 Church Street which is occupied by commercial uses.

East: Immediately on the east of the site, on the east side of Dalhousie Street is a 14-storey mixed use building at 99 Dalhousie Street (Metta Housing Co-operative). Further south is a 17-storey residential building at 81 Dalhousie Street (Margaret Laurence Housing Co-op), and a 12-storey residential building at 75 Dalhousie Street (Boot Condos).

North: Immediately north of the subject site is a gas station at 241 Church Street. Further north is a four-storey commercial building at 245 Church Street. To the northeast are a three-storey commercial building at 122-126 Dundas Street East and a two-storey mixed use building at 132-134 Dundas Street East.

West: Directly to the west of the site is a three-storey commercial building at the southwest corner of Church Street and Dundas Street East (260 Church Street). To the southwest is a surface parking lot. Further west is a surface parking lot and the 18-storey Bond Place Hotel.

Provincial Policy Statement and Provincial Plans

Section 2 of the *Planning Act* sets out matters of provincial interest that municipal councils shall have regard to in carrying out their responsibilities under such Act. The Provincial Policy Statement (PPS), 2014, provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. City Council's planning decisions are required to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

Chapter 2 of the Official Plan sets out the Urban Structure of the City, develops the strategy for directing growth within this structure and establishes policies for the management of change, through the integration of land use and transportation planning. The proposed development is located in the Downtown area as defined by Map 2. Although growth is expected to occur in the Downtown, not all of Downtown is considered a growth area.

The property is designated *Mixed Use Areas* on Map 18, Land Use Plan of the Official Plan. *Mixed Use Areas* provide for a broad range of commercial, residential and institutional uses in single or mixed use buildings, as well as parks and open spaces and utility uses. Not all *Mixed Use Areas* are expected to experience the same scale or intensity of development. Surrounding context, built form considerations and the capacity of municipal infrastructure will inform the extent of development. This designation contains policies and development criteria which are used to guide development and ensure an appropriate transition between areas of different intensity and scale.

Chapter 3 of the Official Plan establishes the policy direction for guiding growth by integrating social, economic and environmental perspectives on the built, human and natural environment. The Built Form policies identify the importance of urban design as a fundamental element of City building. These policies are intended to minimize the impacts of new development and guide the form of new buildings to fit within their context. The applicant is proposing to construct a Tall Building. Policy 3.1.3 addresses Tall Building proposals and how they should respond to key urban design considerations.

Other key policies applicable to this development are: Policy 4.8.4 which states that new buildings in the vicinity of hospital heliports will be sited and massed to protect the continued use of flight paths to hospital heliports.

Zoning

The site is currently subject to former City of Toronto Zoning By-law 438-86 and City-wide Zoning By-law 569-2013 (under appeal). The site is zoned CR T3.0 C2.0 R3.0 under By-law 438-86 and zoned CR 3.0 (c2.0; r3.0) SS1 (x2166) under by-law 569-2013. Both Zoning By-law designations permit a variety of commercial and residential uses with a maximum density of 3.0 times the site area and a maximum building height of 18.0 metres.

By-law 438-86 also includes site specific restrictive exceptions including: 12(2)132 which prohibits a commercial parking garage or a private commercial garage; 12(2)256 which protects flight paths to the Hospital for Sick Children; and 12(2)260 which refers to base heights at which angular planes apply.

Site Plan Control

The proposed development is subject to Site Plan Control. An application has not been submitted.

City-Wide Tall Building Design Guidelines

Policy 5.3.2 of the Official Plan states that guidelines will be adopted to advance the vision, objectives, and policies of the Plan. City Council adopted the Tall Building Design Guidelines on May 7, 2013 for use in evaluating tall building proposals.

<http://www.toronto.ca/legdocs/mmis/2013/pg/bgrd/backgroundfile-57177.pdf>. The Tall Building Design Guidelines are intended to be used in assessing the siting, massing and design of tall buildings and the associated public realm. The guidelines establish a unified set of performance measures for the evaluation of tall building proposals to ensure they fit within their context and minimize their local impacts. More specifically, the guidelines provide recommendations for building placement and orientation, entrances, massing of base buildings, tower floor plates, tower separation distances, pedestrian realm considerations and sustainable design and transition.

Downtown Tall Buildings: Vision and Supplementary Design Guidelines

This project is located within an area that is subject to the Downtown Tall Buildings: Vision and Supplementary Design Guidelines (adopted by City Council in July 2012 and consolidated with the Tall Building Design Guidelines May 2013). This document can be viewed at:

<http://www.toronto.ca/planning/tallbuildingstudy.htm#guidelines>. This guideline identifies where tall buildings belong Downtown, and establishes a framework to regulate their height, form and contextual relationship to their surroundings. The Downtown Tall Building Guidelines should be used together with the city-wide Tall Building Design Guidelines to evaluate tall building proposals. Within the guidelines, Map 2 Downtown Vision Height Map envisions maximum heights for this site in the 20-35 storey (62 to 107 m) range, provided performance standards are met.

TOcore

On December 9, 2015, City Council adopted a staff report entitled 'TOcore: Planning Toronto's Downtown – Phase 1 – Summary Report and Phase 2 Directions'. The report outlined the deliverables of TOcore which will be a renewed planning framework through a Downtown Secondary Plan and a series of infrastructure strategies. The work for TOcore began on May 13, 2014 when Toronto and East York Community Council adopted a staff report regarding 'TOcore: Planning Toronto's Downtown', along with a related background document entitled 'Trends and Issues in the Intensification of Downtown'.

TOcore is looking at how Toronto's Downtown should grow, with both a renewed planning framework and the necessary physical and social infrastructure to remain a great place to live, work, learn, play and invest. TOcore is in its second phase, which involves drafting policies, plans and strategies. A report back to Toronto and East York Community Council is targeted by the end of 2016 on the results of the second phase and the next steps on implementation. The issues considered under TOcore will inform the review of this application. The TOcore website is www.toronto.ca/tocore.

Reasons for Application

An application to amend the Zoning By-laws is required to permit the proposed height and density as well as to amend other applicable provisions.

Application Submission

The following reports/studies were submitted with the application:

- Planning Rationale (including Community Services and Facilities Study)
- Functional Servicing and Stormwater Management Report
- Transportation Impact Study
- Pedestrian Level Wind Study
- Shadow Studies
- Draft Zoning By-law Amendments (438-86 and 569-2013)
- Rental Housing Demolition and Conversion Declaration of Use Form
- Arborist Report for Development Applications
- Toronto Green Standards Checklist

A Notice of Incomplete Application was issued on January 29, 2015. A subsequent submission was made on February 26, 2015, which included the following additional documents:

- Arborist Report for Development Applications
- Toronto Green Standards Checklist

A Notice of Complete Application was issued on March 2, 2015.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses have been used to assist in evaluating this application and been incorporated into this report. Due to the timing of the appeals, certain outstanding technical requirements remain to be addressed to the satisfaction of City staff as outlined below. Accordingly, staff recommend as a legal convenience, that the following be secured in the Section 37 Agreement in order to support the development: Owner be required to pay for and construct any improvements to the municipal infrastructure in connection with the accepted Functional Servicing Report should it be determined that the improvements to such infrastructure is required to support the development to the satisfaction of the Executive Director of Engineering and Construction Services.

Community Consultation

A community consultation meeting was held June 8, 2015 and was attended by approximately 40 residents. Specific comments related to the zoning amendment component of the project were:

Shadowing

- General concern about shadowing and more specific concerns about the impact on Arena Gardens
- Comments that a 20 storey development would generate similar shadowing as that proposed

Dalhousie Street

- Too narrow, can't handle additional traffic
- Existing congestion from construction vehicles, trucks, school buses
- Need wider sidewalk, additional trees
- Street needs animation, potential for other uses, impact on public realm

Margaret Laurence Co-op (east side of Dalhousie)

- Tower separation insufficient, potential for noise impacts from balconies
- Shadow impact on outdoor amenity spaces particularly child play space

Urban Design

- Take access/egress from Church (not Dalhousie which is a 'local' street)
- Comments included: "don't like the look", "not good enough", "just another glass box"
- Dalhousie elevation should not be 'back of building'
- No 'alcoves' - not safe in this neighbourhood

Height

- Comments ranged from: "height is satisfactory", "too tall", or "can be higher"
- Use of precedent is not a good rationale for extra height

Neighbourhood

- Redevelopment is desirable, how will it impact local culture and gentrification
- Potential for alternative uses on site eg. Ryerson expansion
- Impacts on City services – hospitals, fire services, police, parks
- 2-3 trees not enough, it is supposed to be a garden district
- Units too small for families

COMMENTS

Staff have reviewed the proposed development and are of the opinion the proposed development is not appropriate as the proposed built form is not supportable in its current form for reasons including that the proposed tower would intrude into the St. Michaels's Hospital helicopter flight path. The reasoning for this opinion is outlined below.

Section 2 *Planning Act*, Provincial Policy Statement and Provincial Plans

Section 2 of the *Planning Act* sets out matters of provincial interest that municipal councils shall have regard to in carrying out their responsibilities under such Act. Amongst other matters, subsection (o) lists the protection of public health and safety. As further explained below, the proposed tower component of the development intrudes into the St. Michael's Hospital helicopter flight path and would negatively impact the provision of health services and hospital operations. Accordingly the development does not have regard for matters of provincial interest as set forth in section 2 of the *Planning Act*.

The PPS provides policy direction on matters of provincial interest related to land use planning. More specifically, Policy 1.1.3.3 of the PPS refers to planning authorities identifying appropriate locations for intensification and redevelopment and promoting opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas. Policy 1.1.3.4 refers to promoting appropriate development standards which facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety. Policy 4.7 identifies the Official Plan as the most important vehicle for implementing the PPS.

There are additional policies in the PPS which refer directly or indirectly to health and hospitals. More specifically, a Public Service Facility is a defined term which includes the provision of services for health programs. Policy 1.1.1 c) refers to avoiding development which may cause public health and safety concerns. Policy 1.1.1 g) refers to ensuring that Public Service Facilities are or will be available to meet current and projected needs and Policy 1.1.3.6 refers to development that allows for the efficient use of Public Service Facilities to meet current and projected needs which is also reflected in Policy 1.7.1 b) which refers to optimizing the long-term availability and use of Public Service Facilities.

In the Official Plan, the site is designated *Mixed Use Areas* which is an appropriate location for intensification, subject to appropriate development standards. However, as further explained below, the proposed tower component of the development intrudes into the St. Michaels' Hospital helicopter flight path and would therefore impact the provision of health services and hospital operations and is not consistent with the PPS.

Growth Plan

The Growth Plan requires that a significant portion of new population and employment growth be directed to built-up areas of the community through intensification and focusing intensification to identified intensification areas. The *Downtown* is one such intensification area. Policy 2.2.3.7 c) of the Growth Plan requires intensification areas to be planned and designed to

provide high quality public open spaces with site design and urban design standards that create attractive and vibrant places.

Community Infrastructure, which is defined to include public services for health, is referenced in Policy 3.2.6. Policy 3.2.6.1 and 3.2.6.2 refer to the co-ordination of Community Infrastructure and land use planning and for the planning of growth to take into account existing Community Infrastructure so that it can be provided efficiently and effectively. As further described below, the proposed tower component of the development would intrude into the St. Michaels' Hospital helicopter flight path and thereby reduce the efficiency and effectiveness of that health service. The proposed development would not conform and would conflict with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The proposed development is located in the *Mixed Use Areas* designation of the Official Plan. The uses proposed for the project are residential and commercial. This constitutes a mixed-use building, which as a land use would be permitted in the *Mixed Use Areas*. While intensification is provided for in *Mixed Use Areas*, it must be achieved through a built form that provides appropriate fit, transition and the protection of designated *Neighbourhoods*, heritage buildings and parks/open space areas.

Built Form

Massing

Official Plan Built Form Policies 3.1.2.1 and 3.1.2.3 require that new development be located and organized to fit within its existing and/or planned context and be massed to fit harmoniously into its context. This is expanded on by Policy 3.1.2.3 d) and 3.1.2.4 which state that new development will limit its impact by providing for adequate light and privacy and ensuring adequate access to sky view. For the *Mixed Use* areas designation, Policy 4.5.2 c), d) and e) state that the location and massing of new developments provide a transition, limit shadows and frame street edges in good proportion. The planned and built form context is further informed by Tall Building Design Guidelines 1.3 which addresses Fit and Transition in scale, Guideline 3.2.1 which addresses floor plate size and Guideline 3.2.3 which addresses separation distances.

The proposed development is massed in a podium tower form consisting of a 46-storey tower and a 5-storey podium. The tower component of the development has a floor plate of 916 m² and is located in the northern portion of the lot. Projecting balconies are proposed on each face of the proposed tower. The tower would maintain a 2.9 m setback to the north property line and 11.8 m to the south property line (there is a discrepancy in the plans with some plans showing a 12.6 m south setback). The setback to the west property line is 2.9 m. and to the midpoint of the adjacent Church Street right-of-way is approximately 13 m. The tower setback to the east property line is 2.9 m and to the midpoint of the adjacent Dalhousie Street right-of-way is approximately 10 m. There is an existing slab tower on the east side of Dalhousie Street setback approximately 8.5 m from the midpoint of the Dalhousie Street right-of-way.

The scale of the proposal is not appropriate. The general form of a tower in the northern portion of the lot and a podium which transitions to the adjacent low rise buildings and the street is

appropriate, however, the inadequate east tower setback, excessively large floor plate size with projecting balconies and excessively tall tower height are not appropriate. The inadequate east tower setback would result in an approximate tower separation distance between the proposed tower and the adjacent development on Dalhousie Street of 18.5 m (10 plus 8.5) based on the proposed 916 m² floor plate. The guidelines recommend a 25 m setback between towers to ensure sufficient sky view, privacy and light to residents and a maximum floor plate of 750 m² in order to, among other things, minimize shadow impacts and loss of sky view from the public realm. The minimal tower setback to the east property line and excessive floor plate size, which is further impacted by the projecting balconies, are not appropriate in their current form and do not conform to the above noted Official Plan policies and related guidelines. If the tower floor plate were reduced in size then an appropriate east setback could be achieved. The impact of floor plate size and height is further assessed below.

Tower Height

Built Form Policy 3.1.2.1 of the Official Plan specifies that new development will fit with its existing and/or planned context and in Policy 3.1.2.3 c) will limit its impact by creating appropriate transitions in scale to neighbouring buildings. Policy 3.1.3.2 c) of the Official Plan requires that tall buildings relate to their existing and/or planned context. This is expanded on by Policy 4.5.2c) which references a transition between areas of different development intensity and stepping down of heights. Policy 4.8.4 also states that new buildings will be sited and massed to protect the continued use of flight paths to hospital heliports. In this case, the relevant flight path is St. Michael's Hospital. It is also noted that the Sick Kid's helicopter flight path is adjacent to the proposed development.

Further guidance is provided by Tall Building Design Guideline 1.3 which specifies that tall buildings provide an appropriate transition in scale to lower scale buildings, parks and open space. For the tower portion of a development, more specific guidance is provided in the Downtown Tall Building Guidelines which identifies the site as being on a High Street with appropriate heights being in the 20-35 storey (62 to 107 m) range excluding rooftop mechanicals.

The proposed tower is 46-stories (148.6 m excluding mechanical or 159.6 m including mechanical). Adjacent to the proposed development or immediately across the street building heights range from 3- stories (west and south); 1, 3 and 6–stories (north) to 10 and 17-stories (east). Within a one block radius building heights range up to 24-stories (64-70 Shuter, under construction) and 27-stories (270-288 Church Street, approved but under appeal). Also, there is an application for a 42-storey tower at 60 Shuter which has not been approved.

St. Michael's Hospital has confirmed that the proposed tower would intrude into the helicopter flight path and as such St. Michael's Hospital objects to the proposed development. Despite plans being circulated to Sick Kid's hospital, to date comments have not been received from that hospital. The flight path map from St. Michael's Hospital (dated August 6, 2015) indicates maximum building heights on the subject property should be in the range of approximately 89 m to 96 m which equates to an approximate tower height in the range of 24 to 27 stories. This is similar in scale to the 20-35 storey height referenced in the Downtown Tall Building Guidelines. Although there are a number of towers in the immediate area, the proposed tower: is significantly higher than those towers; intrudes into the St Michael's Hospital helicopter flight path; and

exceeds the recommended maximum height from the Downtown Tall Building Guidelines. The proposed tower height does not comply with Official Plan policies and related guidelines. The impact of tower height is further assessed in the following Shadowing section.

Shadowing

Shadowing impacts are important as they affect thermal comfort (enjoyment) of being outside and the provision of adequate light. In the case of parks, open space and the public realm portion of the street right-of-way, shadows affect both passive and active users. Shadows from towers are impacted by the size, location and shape of floor plates, building heights and setbacks as well as the time of year and angle of the sun.

There are a number of Official Plan policies which specifically address shadowing. Built Form Policy 3.1.2.3 e) refers to providing for adequate light and limiting shadows on streets, properties and open spaces and minimizing additional shadowing on neighbouring parks to preserve their utility. Policy 3.2.3.3 also references minimizing additional shadows on parks and open spaces to preserve their utility. For the *Mixed Uses Areas* designation, Policy 4.5.2 d) and e) refers to limiting shadows on adjacent *Neighbourhoods* and maintaining sunlight on adjacent streets, parks and open spaces.

The Tall Building Design Guidelines provide further guidance. Guideline 1.3 a) refers to maintaining access to sunlight and sky view for surrounding streets, parks, open space and neighbouring properties. Guideline 1.4 seeks to protect access to sunlight and sky views including maintaining at least 5 hours of sunlight on the opposite side of the street and to provide protection to open spaces/parks and heritage properties. Guideline 3.2.1 also refers to a maximum tower floor plate of 750 m² to ensure that any shadows that are generated would be fast moving and would minimize impacts. Also, Guideline 2.5 a) references locating private outdoor amenity space to maximize access to sunlight;

The supplementary Downtown Tall Buildings Guidelines further states in Guideline 1.3 that sunlight on parks and open spaces is one of the mitigating factors that takes precedence over assigned heights. This is expanded on by Guideline 3.2 which, among other matters, states tall buildings should not cast new shadows on parks between 12 noon and 2:00 pm on September 21st. The same guideline clarifies that this should not be interpreted as taking away the City's ability to protect beyond the minimum hours.

The applicant has submitted studies illustrating the extent of shadowing that would result from the proposed development for March 21, June 21 and December 21 (but not September 21 as required). The applicant's shadow studies do not illustrate the full extent of shadowing as the studies have not shown how shadows fall past the east side of Jarvis Street, which may impact *Neighbourhoods* designated areas.

To some extent, shadows generated by the proposed tower would fall within shadows generated by other developments. However, the proposed tower would newly shadow parks (designated *Parks* or *Other Open Space Areas*), private outdoor rooftop amenity areas on adjacent buildings, Ryerson University pedestrian zones and potentially, *Neighbourhoods* designated lands on the

east side of Jarvis Street (which were not shown in the provided shadow studies and hence the extent of shadowing is unknown).

The submitted shadow studies show the proposed tower shadowing:

- Devonian Square (designated *Parks*) between 9:18 am and 10:18 am (March 21);
- Arena Gardens also known as Cathedral Square Park (designated *Other Open Space Areas*) starting at 6:18 pm (March 21) and starting at 5:18 pm (June 21);
- Outdoor rooftop amenity areas on Frank Place (80-108 Dundas) from 9:18-11:18 (March 21 and June 21);
- Outdoor rooftop amenity areas on Merchandise Building (245 Church) from 11:18-2:18 (March 21);
- Outdoor rooftop amenity areas on Metta Housing Co-op (99 Dalhousie) from 3:18 (March 21) and from 2:18 (June 21);
- Ryerson University pedestrian zone (portions of Victoria Street) at 9:18; and
- *Neighbourhoods* designated lands east of Jarvis Street (with extent of shadowing not shown on submitted plans but can be inferred as occurring later in the day).

The proposed shadowing is significant as it impacts a number of properties, some of which are specifically protected by Official Plan policies. This is especially relevant with parks and open spaces where Official Plan policies and related guidelines specifically state the need to minimize and limit shadows. A smaller tower floor plate and more importantly a lower tower height would reduce shadowing impacts and in some cases, depending on the extent of a lower tower height, would eliminate some shadowing. Although not clearly illustrated, a lower tower height would also eliminate any shadowing of the *Neighbourhoods* designated lands east of Jarvis Street. The shadows generated by the proposed development are not in conformity with Official Plan policies and related guidelines.

Podium Height and Transition

There are a number of Official Plan policies that reference the need to protect adjacent developments by providing an appropriate transition through setbacks and stepbacks. Policy 3.1.2.3 c) refers to appropriate transitions in scale to neighbouring existing and/or planned buildings. For the *Mixed Use Areas* designation, Policy 4.5.2 c) refers to locating and massing new buildings to provide a transition between areas of different development intensity and scale through setbacks and/or stepping down of heights.

The Tall Building Design Guideline 1.3 expands on this by referring to an appropriate transition in scale down to lower-scale buildings, parks and open space. Guideline 3.1.1 provides greater clarity by referring to the base building (podium) height being consistent with the existing street

wall context and refers to podium (base) building heights being a maximum of 80% of the width of the adjacent right-of-way.

The proposed podium height is 5-stories (25 m) with no setbacks. The width of the adjacent rights-of-way are 20 m (Church Street), 14 m (Dalhousie Street) and 20 m (Dundas Street) which results in a maximum podium height of 11 to 16 m based on the 80% of right-of-way provision. An appropriate podium height is also informed by the height of adjacent developments. Adjacent buildings along Church Street are generally 3-stories (approximate 10-12 m), 1 to 6 stories along Dundas Street and 10-17 stories along the east portion of Dalhousie Street and 2-3 stories along the west side of Dalhousie Street immediately south of the site.

The Official Plan policies and relevant guidelines specifically reference appropriate transition. In this case, the proposed 5-storey podium along Dundas Street is appropriate as the street already features a range of heights. However, the southern portion of the podium immediately adjacent to 2 and 3-storey buildings is not an appropriate podium height as it exceeds the above noted 80% provision and does not provide an appropriate transition through setbacks and/or setbacks. The height of the southern portion of the proposed podium does not comply with Official Plan policies and related guidelines and is not appropriate.

Public Realm, Sidewalk Zone and Wind Impacts

For development in the *Downtown*, Official Plan Policy 2.2.1.11 refers to street improvements to enhance the pedestrian environment. This is expanded on by Public Realm Policy 3.1.1.5 and 3.1.1.6 which refer, among other things, to safe and efficient movement of pedestrians, provision of space for trees and landscaping and sidewalks being designed to provide safe, attractive, interesting and comfortable spaces for pedestrians. In this regard, the Tall Building Design Guideline 4.2 recommends a minimum 6 metres wide sidewalk zone. The development application proposes approximately a 5.1m sidewalk zone along Dundas Street, 4.6 m on Church Street and 3.1 m on Dalhousie Street. The reduced sidewalk zones, particularly along Church Street which is designated a Priority Retail Street in the Downtown Tall Building guidelines, and along Dalhousie Street is not in conformity with and does not meet the intent of the guidelines.

Related to the pedestrian environment and safety, Official Plan Policy 3.1.2.2 refers to minimizing curb cuts across the public sidewalk. Fewer curb cuts means fewer opportunities for conflicts between pedestrians and vehicles as well as facilitating traffic flow. The applicant has proposed two curb cuts, one on Church Street and one on Dundas Street. Engineering and Construction Services has commented that the curb cut on Church Street must be eliminated, in part due to the existing street-car tracks and metered parking on both sides of the Street. By eliminating the curb cut, the development would satisfy this Official Plan policy and thereby improve the pedestrian environment as well as addressing Engineering and Construction Services concerns in this regard.

Official Plan Policy 4.5.2 e) refers to massing new buildings to maintain comfortable wind conditions for pedestrians on adjacent streets. Tall Building Design Guideline 4.3 further refers to minimizing adverse wind conditions on adjacent streets. The applicant submitted a Pedestrian Wind Study for the proposed development. The study indicate that at a number of points surrounding the development there will be increased wind as a result of the proposed

development. The study concludes that the proposed development will produce wind conditions acceptable to a typical urban context, however, it also states that a wind mitigation plan is recommend for the outdoor amenity area and that Dalhousie Street will be windier and uncomfortable on occasion during the winter months. Wind mitigation measures for the outdoor amenity area could be addressed through the Site Plan process. It is unknown if the wind impacts on Dalhousie Street can be addressed through the Site Plan process or if a modified building/podium design would be required. The proposed massing cannot be supported until a wind mitigation plan is prepared which satisfactorily addresses negative wind impacts.

The deficient sidewalk zone along three sides of the project combined with the two curb cuts and negative wind impacts along Dalhousie Street are clear indications that the proposed podium needs to be modified in order to ensure sufficient space and comfortable spaces for pedestrians. As proposed, the podium would not satisfy Official Plan policies and related guidelines.

Amenity Space

Official Plan Policy 3.1.2.6 states that every significant new multi unit residential development will provide indoor and outdoor amenity space for residents of the new development. Official Plan Policy 4.5.2 k) states that in *Mixed-Use Areas* development will provide indoor and outdoor recreation space for building residents in every significant multi-unit residential development. These requirements are implemented through Zoning By-law 438-86 and Zoning By-law 569-2013 which respectively require a minimum of 2.0 m² of indoor and 2.0 m² of outdoor amenity space for each unit; and a minimum of 4.0 m² of amenity space for each unit (of which at least 2m² shall be indoor). Typically the City requires 2.0 m² of indoor and 2.0 m² of outdoor amenity space per unit.

The development proposal includes both indoor and outdoor amenity space. A total of 1244 m² (2 m² per dwelling unit) of indoor and 657 m² (1.06 m² per dwelling unit) of outdoor space is proposed for a total of 1901 m² (3.1 m² per dwelling unit). The proposed outdoor amenity space does not meet City standards and is deficient.

Provision of Family Sized Units and Affordable Housing

In the *Downtown* section of the Official Plan, Policy 2.2.1.1 c) refers to the provision of a full range of housing opportunities. In implementing this policy, staff seek to secure 10% of all units as three bedroom or greater to broaden the range of housing provided *Downtown*. The applicant is proposing 2 three-bedroom units (0.3% of the total units) and as such is not appropriate.

The City also encourages the provision of affordable housing. Official Plan Policy 5.1.1.6 provides for the provision of affordable housing as a potential Section 37 benefit. The applicant has not indicated if any of the proposed units would be affordable or not. In the absence of any certainty about proposed unit prices, staff recommend a portion of any Section 37 benefits be allocated towards affordable housing.

Traffic, Parking and Loading

A Transportation Impact Study prepared by MMM Group dated December 2014, was submitted with the application and has been reviewed by staff. Parking and loading would be accessed from a proposed private driveway within the building podium aligned along the south property

line which would connect Church and Dalhousie Street. The proposed development would provide vehicular parking below grade; loading at grade within the building podium; and bicycle parking on three levels (below grade, at grade and level 2). The proposal includes 167 resident parking spaces and 11 car share spaces for a total of 178 parking spaces. A total of 666 bicycle parking spaces and 2 loading spaces are proposed comprising 1 type G and 1 type C spaces.

A subsequent Site Plan Control application would provide an opportunity for a detailed review of site operations including vehicular circulation, parking space dimensions, ramp design, driveway width and radii, loading operations and pick-up and drop-off facilities. The reviews could potentially result in revisions to floor plans, loading spaces/operations, ramps, parking space supply and vehicular movements.

Engineering and Construction Services Staff have reviewed the anticipated traffic impacts and concluded that further analysis and documentation is required prior to accepting the traffic impacts. They also advise that the proposed parking supply does not comply with the Zoning By-law requirements and that the applicant has not provided sufficient justification for the reduced provision. They conclude by stating that the owner is required to provide parking in conformity with the requirements of Zoning By-law 569-2013 for Policy Area 1, namely a total of 353 spaces, or provide additional justification for the reduced provision.

Site Servicing and Solid Waste

The applicant submitted a Functional Servicing & Stormwater Management Report by Cole Engineering dated December 2014. The development site would be serviced from existing sewer and water mains. Engineering and Construction Services reviewed the report and advise that solid waste and fires service requirements can be satisfied as part of a future site plan application. They also advise that there is sufficient water supply and pressure in the 300mm main on Church Street for this development.

Engineering and Construction Services have also commented that the sanitary analysis has made some assumptions that need to either be revised or substantiated. Also, they seek confirmation in the report as to whether groundwater will need to be pumped and to provide a clear strategy for any groundwater pumping and discharging. It is therefore recommended that, if the OMB were to approve this or a modified form of this project, that City staff be authorized to request the OMB to withhold its Order pending the submission of an acceptable Functional Servicing Report to the satisfaction of Executive Director of Engineering and Construction Services.

Given the Functional Servicing and Stormwater Management Report has not been finalised in a satisfactory form, it is also recommended that the owner be required to pay for and construct any improvements to the municipal infrastructure if it should be determined that the improvements to such infrastructure is required to support the development. This condition could be incorporated into a Section 37 Agreement.

Open Space/Parkland

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Toronto Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in an area with

0 to 0.42 hectares of local parkland per 1,000 people. The site is in the lowest quintile of current provision of parkland. The site is in a parkland priority area, as per Chapter 415, Article 111 of the Toronto Municipal Code.

The application proposes one new building with 616 residential units. At the alternative rate of 0.4 hectares per 300 units specified in By-law 1020-2010 the parkland dedication requirement is 8,213 m² or 498% of the site area. However, for sites that are less than 1 hectare in size, a cap of 10% is applied to the residential use while the non-residential use is subject to a 2% parkland dedication. In total, the parkland dedication requirement is 162.6 m².

Should the Ontario Municipal Board approve this or any variation of this application, the applicant proposes to satisfy the parkland dedication requirement by cash-in-lieu payment. This would be appropriate as the parkland dedication associated with the development would be too small to create a serviceable park. The actual amount of cash-in-lieu to be paid would be determined at the time of issuance of the building permit by the Facilities and Real Estate Division. Parks, Forestry and Recreation staff are satisfied with the proposal for a cash-in-lieu payment.

Urban Forestry

An Arborist Report For Development Applications was submitted by the applicant. The report indicates there are no trees on or adjacent to the site which meet City criteria. Urban Forestry reviewed the proposed landscape master plan and arborist report and indicated they require the submission of detailed landscape plans, landscape details, landscape elevations and a composite utility plan as part of a subsequent Site Plan application.

Toronto Green Standard

On October 27, 2009 City Council adopted the two-tiered Toronto Green Standard (TGS). The TGS is a set of performance measures for green development. Tier 1 is required for new development. Tier 2 is a voluntary, higher level of performance with financial incentives. Achieving the Toronto Green Standard will improve air and water quality, reduce green house gas emissions and enhance the natural environment. The applicant is required to meet Tier 1 of the TGS. Should the application be approved, the applicant will be required to submit a Site Plan application that brings their proposal into compliance with these standards.

Section 37

Given the increase in height and density represented by the current proposal, the Official Plan provides for the provision of Section 37 contributions. Community benefits are specific capital facilities (or cash contributions for specific capital facilities) and can include a range of benefits as identified by Official Plan Policy 5.1.1.6. The community benefits must bear a reasonable planning relationship to the proposed development. A Community Services and Facilities Study was submitted by the applicant as part of a Planning Rationale study. The study identifies a number of community services and facilities that serve the area but lacks a detailed analysis of those services in order to identify existing servicing gaps (if any). City staff reviewed the study and commented that Section 37 funds would be needed for: the Toronto Public Library in order to meet the needs of additional users; the John Innes Community Recreation Centre for additional space; affordable housing and for additional community space for human service

agencies. Further discussions were held with the Councillor's office to clarify the scope of capital needs and more specifically the needs for capital funds for heritage projects within the neighbourhood.

Discussions with the applicant concerning Section 37 benefits did not occur as there was no agreement on appropriate development for the site. However, as this application has been appealed to the OMB, it is prudent to address Section 37 contributions in the event the OMB approves the proposed development.

This report therefore recommends that if the Ontario Municipal Board approves this or a modified form of this application, that in accordance with Policy 2.3.1.6 and 5.1.1 of the Official Plan up to \$3.9 million should be required to be provided by the Owner under Section 37 of the *Planning Act* for the following community benefits within the vicinity of the site with the final allocation determined by the Chief Planner and Executive Director, City Planning in consultation with the Ward Councillor's office:

- i. Conservation of heritage resources and/or including the heritage component of the Seaton House redevelopment project;
- ii. John Innes Community Recreation Centre/Moss Park Arena;
- iii. affordable housing; and,
- iv. community/cultural space.

The amount and recommended community benefits are comparable to those secured for similar developments in the area. The \$3.9 million should be indexed upwardly in accordance with the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement to the date of payment of such funds by the Owner to the City.

The following matters are also recommended to be secured as a legal convenience in the Section 37 Agreement to support development:

1. Owner be required to pay for and construct any improvements to the municipal infrastructure in connection with an accepted Functional Servicing Report should it be determined that the improvements to such infrastructure is required to support the development to the satisfaction of the Executive Director of Engineering and Construction Services.

Conclusion

The proposed development is not appropriate as the proposed development does not conform with relevant Official Plan policies and implementing guidelines. The development scale is not justified. More specifically: the tower massing and setback are not appropriate; the tower height and resultant shadows and intrusion into the St. Michael's Hospital helicopter flight path are not

appropriate; and the podium height and transition and setbacks are not acceptable. Additionally, the proposed development: lacks family sized units and sufficient outdoor amenity space; has an excessive number of curb cuts; inadequate public realm (sidewalk) widths; does not provide a sufficient number of parking spaces; and does not have a satisfactory Functional Servicing Report to address Engineering issues.

The intrusion into the St. Michael's helicopter flight path would create an unacceptable condition that would not be consistent with the PPS, would not conform to the Growth Plan and would not conform to Official Plan Policy 4.8.4 which specifically states that new buildings will be sited and massed to protect helicopter flight paths.

Therefore, for the reasons outlined in this report, it is recommended that staff be directed to attend the Ontario Municipal Board hearing of the appeal to oppose the applicant's development proposal and their application for a Zoning By-law Amendment for the property at 215-229 Church Street and 117 Dundas Street East. It is also recommended that staff be authorized to continue discussions with the applicant in order to come to an agreement for an appropriate built form that among other things, ensures the tower height does not intrude into the St. Michael's helicopter flight path and an appropriate Section 37 quantum can be agreed to.

CONTACT

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SIGNATURE

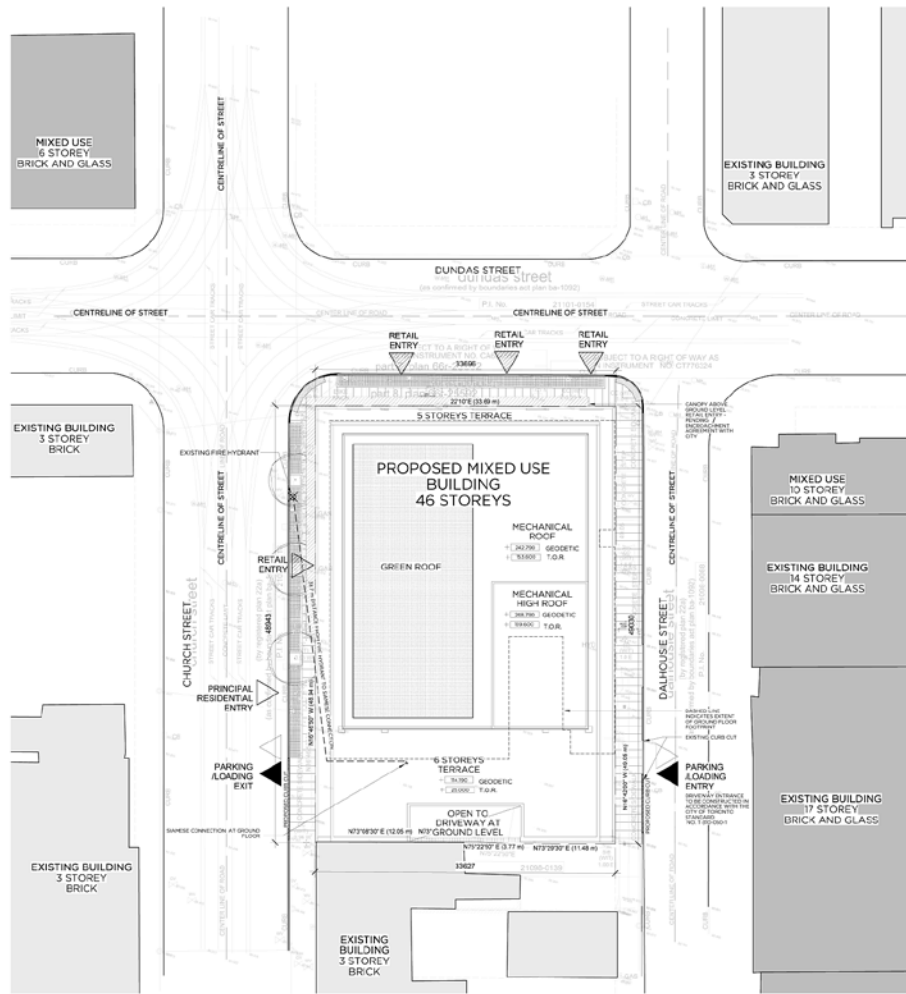
Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

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ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: Elevations
Attachment 3: Zoning
Attachment 4: Application Data Sheet


Attachment 1: Site Plan



Site Plan

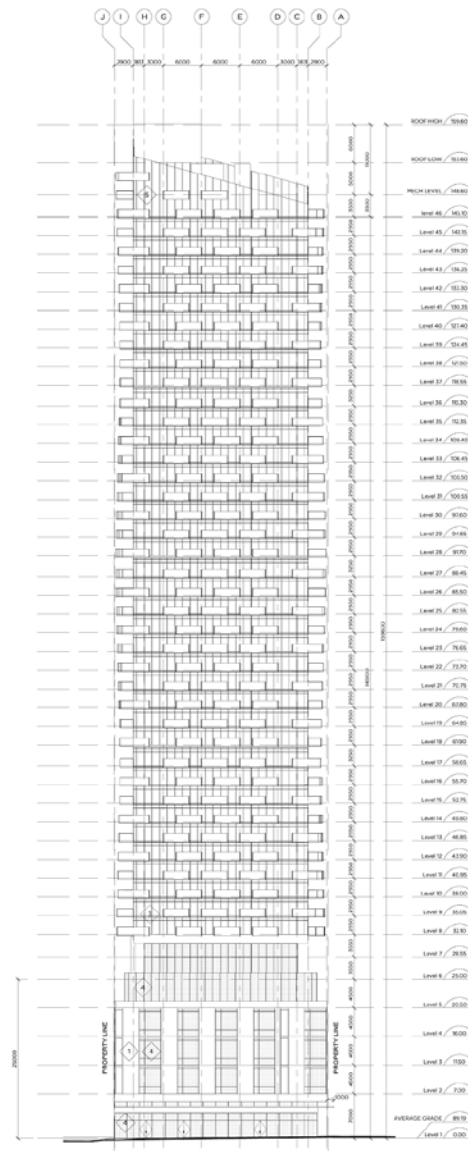
215-229 Church Street + 117 Dundas Street East

Applicant's Submitted Drawing

Not to Scale 
02/25/2015

File # 14 265043 STE 27 0Z

Attachment 2A: North Elevation



North Elevation

Elevations

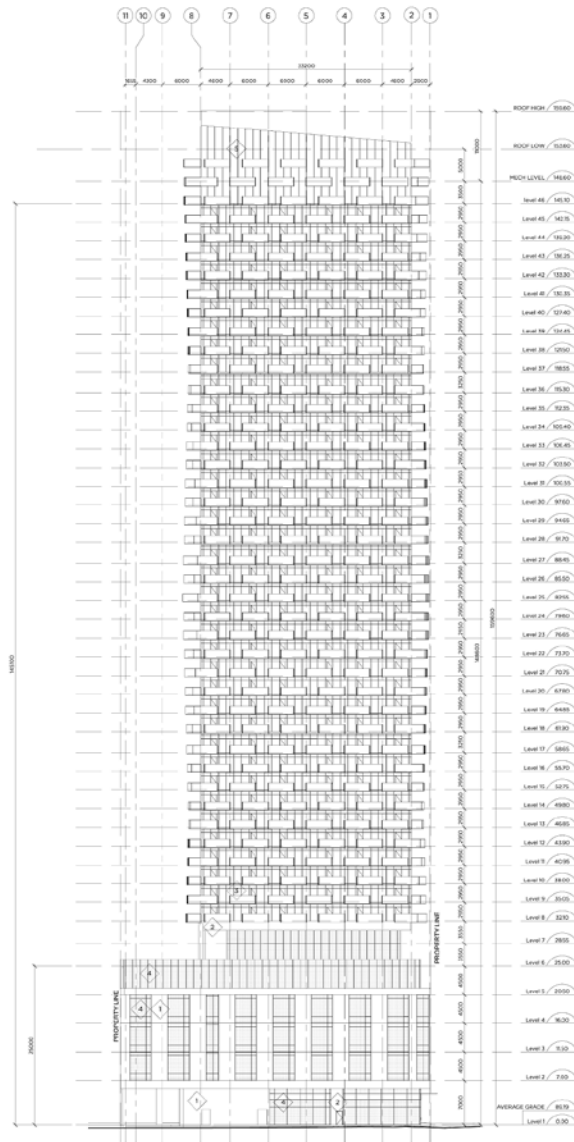
215-229 Church Street + 117 Dundas Street East

Applicant's Submitted Drawing

Not to Scale
02/25/2015

File # 14 265043 STE 27 0Z

Attachment 2B: East Elevation



East Elevation

Elevations

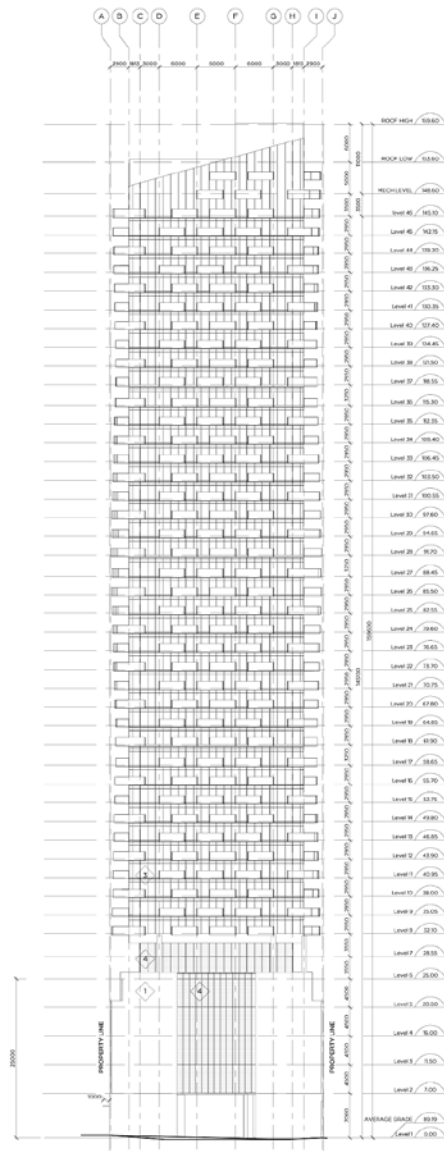
215-229 Church Street + 117 Dundas Street East

Applicant's Submitted Drawing

Not to Scale
02/25/2015

File # 14 265043 STE 27 OZ

Attachment 2C: South Elevation



South Elevation

Elevations

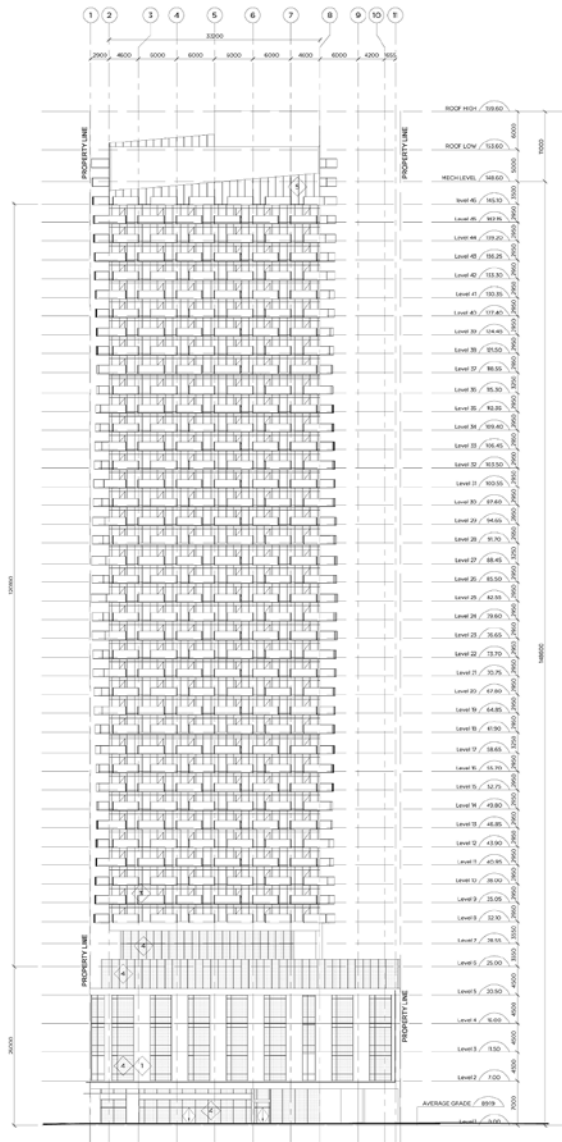
215-229 Church Street + 117 Dundas Street East

Applicant's Submitted Drawing

Not to Scale
02/25/2015

File # 14 265043 STE 27 0Z

Attachment 2D: West Elevation



West Elevation

Elevations

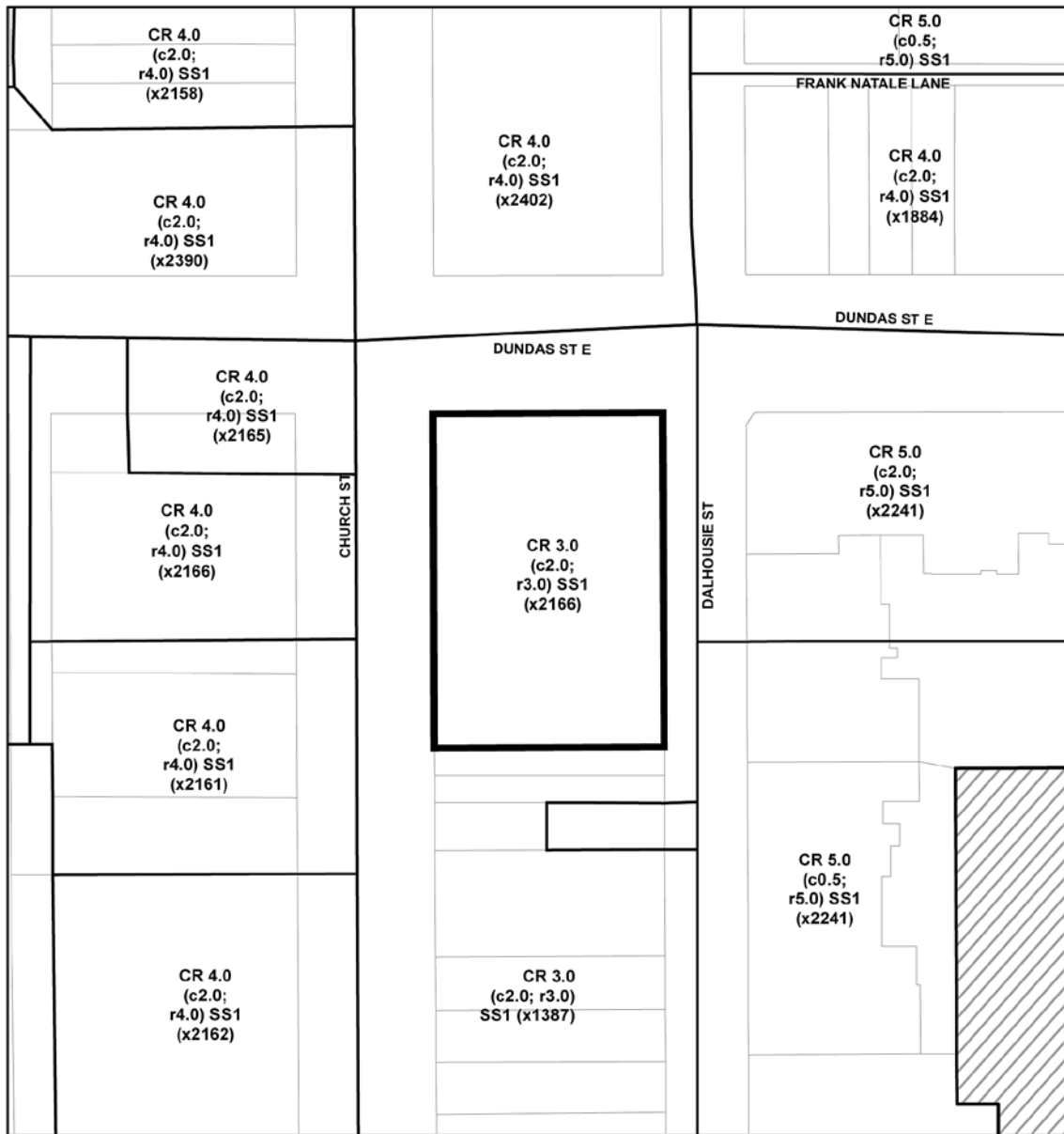
215-229 Church Street + 117 Dundas Street East

Applicant's Submitted Drawing

Not to Scale
02/25/2015

File # 14 265043 STE 27 OZ

Attachment 3: Zoning



215-229 Church Street + 117 Dundas Street East

Zoning By-law 569-2013

File # 14 265043 STE 27 0Z

Location of Application
CR Commercial Residential

See Former City of Toronto Bylaw No. 438-86
CR Mixed-Use District

Not to Scale
Extracted: 02/25/2015

Attachment 4: Application Data Sheet

Application Type	Rezoning	Application Number:	14 265043 STE 27 OZ
Details	Rezoning, Standard	Application Date:	December 17, 2014
Municipal Address:	215-229 Church Street and 117 Dundas Street East		
Location Description:	PLAN 22A PT LOT 20 RP 63R2342 PART 3 **GRID S2714		
Project Description:	Proposed 46 Storey residential tower including a 5 storey podium with 616 units and a total gross floor area of 40,656 square metres. The building is comprised of 39,398 square metres of residential gross floor area and 670 square metres of ground floor retail commercial space.		

Applicant:	Agent:	Architect:	Owner:
SENTINEL CHURCH HOLDINGS		Roland Colthoff, RAW	TORONTO BUDGET HOSTEL LTD

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:
Zoning:	CR 3.0	Historical Status:
Height Limit (m):	18	Site Plan Control Area:

PROJECT INFORMATION

Site Area (sq. m):	1648	Height:	Storeys:	46
Frontage (m):	48.94		Metres:	159.6
Depth (m):	33.69			
Total Ground Floor Area (sq. m):	1268			Total
Total Residential GFA (sq. m):	39986		Parking Spaces:	178
Total Non-Residential GFA (sq. m):	670		Loading Docks	2
Total GFA (sq. m):	40656			
Lot Coverage Ratio (%):	76.9			
Floor Space Index:	24.3			

DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	164
1 Bedroom:	280
2 Bedroom:	170
3 + Bedroom:	2
Total Units:	616

FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	39986	0
Retail GFA (sq. m):	670	0
Office GFA (sq. m):	0	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	0	0

CONTACT: PLANNER NAME: Derek Waltho, Planner
TELEPHONE: 416-392-0412