

STAFF REPORT ACTION REQUIRED

79-85 Shuter Street - Zoning Amendment Application -Request for Direction Report

Date:	August 9, 2017
То:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	16-199836 STE 27 OZ

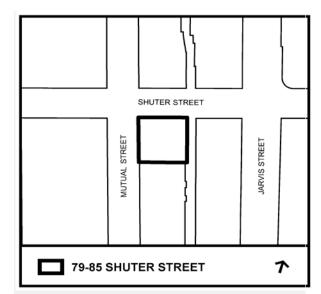
SUMMARY

This application proposes to redevelop the site at 79-85 Shuter Street with a 32-storey residential tower which would contain 234 dwelling units with a total gross floor area of 16,967 m². The proposed building would have a height of 100.03 metres including the mechanical penthouse. The proposal also includes 3 levels of underground parking which would be used for vehicles and bicycles.

The owner of the site at 79-85 Shuter Street 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 October 4, 2017. A full hearing has not yet been scheduled.

The proposal is not supportable in its current form. The proposed tower fails to achieve appropriate setbacks and as such the site is not an appropriate location for a Tall Building. In addition, the proposed tower does not conform to those Official Plan policies and guidelines referring to context, transition, shadowing and the adequate provision of outdoor amenity space. The proposal also negatively impacts the heritage properties on the



development site at 79, 81 and 85 Shuter Street.

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 79-85 Shuter Street 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 achieves or secures appropriate setbacks, conforms to Official Plan policies and guidelines 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 \$1.4 million based on the application's 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. Capital improvements to the public library
- ii. Capital improvements to existing community centres
- iii. Capital improvements to existing child care facilities
- iv. Affordable housing

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 and Stormwater Management 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;
 - ii. The owner shall provide, at its own expense, an acceptable tenant assistance plan to all affected tenants, all to the satisfaction of the Chief Planner;
- 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;
 - The OMB has been provided with a proposed Zoning By-law Amendment by the City Solicitor together with confirmation that 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 Preliminary Report on the application was considered by the Toronto East York Community Council on October 13, 2016. Key issues identified in the Preliminary Report included: tower separation distances and setbacks; appropriate building heights, transition in scale and shadowing impacts; protection and identification of heritage resources; potential for adjacent sites to develop as Tall Buildings; provision for existing rental housing units/rooms; number of parking spaces and an appropriate provision of amenity space and three bedroom units.

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: <u>http://www.toronto.ca/legdocs/mmis/2016/te/bgrd/backgroundfile-96665.pdf</u>

Subsequent to the application being submitted, City Council designated 79-85 Shuter Street and included the properties on the City of Toronto' Heritage Register. The background report is available at: http://www.toronto.ca/legdocs/mmis/2017/te/bgrd/backgroundfile_99159.pdf

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The applicant appealed the application to the Ontario Municipal Board on April 28, 2017, Case Number PL170492.

ISSUE BACKGROUND

Proposal

The applicant is proposing a 32-storey (94.25 m excluding mechanical penthouse or 100.03 m including mechanical penthouse) residential tower. The project is proposed to contain 234 dwelling units. The development would be in a tower podium form. The podium would incorporate and preserve portions of the existing 2 and 3-storey heritage buildings presently located on the north side of the site. The podium element would stepback 6.6 m from the front elevation of the heritage buildings. On the south side of the site, the podium would be 6-stories in height. The tower element, floors 8-32, would cantilever over portions of the podium along the north side of the site. Projecting balconies are proposed along the north and south face of the tower. The proposed gross floor area would be 16,967 m² which equates to a Floor Space Index of 16.55 under Zoning By-law 569-2013.

The primary entrance for the building would be from Mutual Street. The ground floor would include a residential lobby for the tower, indoor amenity space, townhouse styled units fronting Shuter and Mutual Street and an area for loading and garbage. Amenity space would be located on the ground floor and floors 2, 3 and 7. Vehicular parking would be below grade; and bicycle parking would be on Floor P1, 2 and in the ground floor.

Other details of the proposal are shown in Table 1 below and in Attachment 5:

 Table 1 – Summary of Application

Category	Proposed
Tower setbacks (Floor 8-32)	
- West property line (Mutual)	3. m
- East property line (laneway)	0.7 m (existing property line)
- North property line (Shuter)	6.09 m
- South property line	5.5 m
Base (podium) setback at grade	
- west property line (Mutual)	1.01 m
- north property line (Shuter)	1.43 m
Sidewalk/pedestrian realm width	
- existing heritage building	4 m (Mutual); 3.4 m (Shuter)
- new podium fronting Mutual	4.7 m
Tower floorplate (approximate)	
- Floors 8-32	573 m^2
Vehicular parking	
- Resident	36
- Visitor	9
Bicycle parking	
- Long term	211
- Short term	24
Loading spaces	
- Type G	1
Amenity space	
- Indoor	511 m ²
- Outdoor	162 m^2

Site and Surrounding Area

The site is a square corner lot with 32.26 m of frontage on Shuter Street and 31.87 m frontage on Mutual Street. The lot area is $1,028 \text{ m}^2$. On August 31, 2016, City staff under took a site visit of the subject property and confirmed that the 3 existing residential buildings contained the following:

- 79 Shuter Street: 3-storey residential building with 1 rental dwelling unit and 2 commercial units;
- 81-83 Shuter Street: 2-storey licensed rooming house with 30 dwelling rooms; and
- 85 Shuter Street: 3-storey residential building with 4 rental dwelling units.

At the time of application, 3 of the 4 rental dwelling units and many of the 30 dwelling rooms were occupied by tenants.

The surrounding uses are as follows:

North: on the opposite side of Shuter Street, a 4 and 10-storey residential building.

- South: adjacent building to the south is a 5-storey office and rental residential structure. Further south are 3-storey townhouses and an 11-storey residential building.
- West: commercial parking lot which is subject to a development application for 4 separate towers and a public park.
- East: a public laneway and to the east of that a Salvation Army/Community Church facility with building heights ranging from 2 to 7-stories.

Planning Act, Provincial Policy Statement and Provincial Plans

Section 2 of the *Planning Act* sets out matters of provincial interest which City Council shall have regard to in carrying out its responsibilities under the Act, including, the conservation of features of significant architectural, cultural or historical interest, and the promotion of built form that is well-designed and encourages a sense of place.

The Provincial Policy Statement (2014) provides policy direction Province wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- The efficient and wise use and management of land and infrastructure over the long term in order to minimize impacts on air, water and other resources;
- Protection of the natural and built environment;
- Building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment;
- Residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit; and
- Encouraging a sense of place in communities, by promoting well-designed built form and by conserving features that help define local character.

The City of Toronto uses the PPS to guide its official plan and to inform decisions on other planning and development matters. The PPS is issued under Section 3 of the Planning Act and all decisions of Council affecting land use planning matters "shall be consistent with" the Provincial Policy Statement. Policy 4.7 states that the Official Plan is the most important vehicle for implementing the PPS.

The Growth Plan for the Greater Golden Horseshoe (2017) provides a strategic framework for managing growth in the Greater Golden Horseshoe region including:

- Setting minimum density targets within settlement areas and related policies directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, cultivate a culture of conservation and promote compact built form and better-designed communities with high quality built form and an attractive and vibrant public realm established through site design and urban design standards;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;
- Building complete communities with a diverse range of housing options, public service facilities, recreation and green space that better connect transit to where people live and work;
- Retaining viable employment lands and encouraging municipalities to develop employment strategies to attract and retain jobs;
- Minimizing the negative impacts of climate change by undertaking stormwater management planning that assesses the impacts of extreme weather events and incorporates green infrastructure; and
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas.

Like other provincial plans, the Growth Plan for the Greater Golden Horseshoe (2017) builds upon the policy foundation provided by the Provincial Policy Statement (2014) and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. All decisions by Council affecting land use planning matters are required by the *Planning Act*, to conform, or not conflict, as the case may be, with the Growth Plan.

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. Policy 3.1.5.26 states that construction on or adjacent to a property on the Heritage Register will be designed to conserve the cultural heritage values, attributes and character of the property. Policy 5.6.1 states that the Plan should be read as a whole to understand its comprehension and integrative intent as a policy framework.

Heritage

Subsequent to the application being submitted, staff have determined that the properties at 79, 81 and 85 Shuter Street meet Ontario Regulation 9/06, the provincial criteria prescribed for municipal designation under Part IV, Section 29 of the Ontario Heritage Act, which the City applies when considering properties for inclusion on its Heritage Register. City Council listed the properties at 79 Shuter Street (John G. Scott house), 81 Shuter Street (Thomas C. Scott houses) and 85 Shuter Street (Catherine Scott house) on the City of Toronto's Heritage Register at its January 31, 2017 meeting.

Zoning

The site is subject to City-wide Zoning By-laws 438-86 and 569-2013. The site is zoned CR T4.0 C0.5 R4.0 under By-law 438-86 and under By-law 569-2013 the site is zoned CR 4.0 (C0.5; R4.0) SS1 (x2449). Both By-laws permit a variety of commercial and residential uses with a maximum density of 4.0 and a maximum building height of 30 metres.

By-law 438-86 also includes a number of Permissive and Restrictive Exceptions and references prevailing By-laws 333-02 and 128-03. Key provisions include: restrictions on parking facilities and commercial garages as well as limits to provided office space. These provisions were generally carried though into By-law 569-2013.

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 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. The Downtown Vision Height Map shows Shuter and Mutual Streets as Secondary High Streets with anticipated maximum heights one-third lower than the height of the nearest High Street. This would equate to a maximum height for this site at 31m to 51m (10 to 17 stories) subject to consistency with the other guidelines. The Downtown Tall Buildings Guidelines are available at http://www.toronto.ca/planning/tallbuildingstudy.htm#guidelines

TOcore

TOcore: Planning Downtown is a three-year, inter-divisional study, led by City Planning. Building on Downtown's existing planning framework, TOcore's purpose is to ensure that growth positively contributes to Toronto's Downtown as a great place to live, work, learn, play and invest by determining: a) how future growth will be accommodated and shaped, and b) what physical and social infrastructure will be needed, where it will go and how it will be secured.

The Downtown Plan will update the Downtown planning framework to shape future growth and link growth to the provision of needed infrastructure investments to achieve the city-building vision and policies of Toronto's Official Plan. A series of infrastructure strategies for transportation, parks and public realm, community services and facilities, water and energy are in development as part of this review.

City Council adopted the TOcore Proposals Report on December 15, 2016. The Proposals Report provides a vision for Downtown to 2041, five guiding principles and

the policy directions that informed the development of the proposed Downtown Plan. The proposed Downtown Plan will be presented at the Planning and Growth Management Committee meeting on September 7, 2017.

On October 5-7, 2016, City Council adopted Official Plan Amendment (OPA) 352 – Downtown Tall Building Setback Area (currently under appeal). The purpose of OPA 352 is to establish the policy context for tall building setbacks and separation distances between tower portions of tall buildings Downtown. At the same meeting, City Council adopted area specific Zoning By-laws 1106-2016 and 1107-2016 (also under appeal) which provide the detailed performance standards for portions of buildings above 24 metres in height.

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 Report
- Rental Housing Demolition and Conversion Declaration
- Community Services and Facilities Study
- Functional Servicing Report
- Stormwater Management Report
- Transportation Impact Study and Parking Review
- Pedestrian Wind Assessment
- Shadow Studies
- Environmental Noise and Vibration Assessment
- Heritage Impact Assessment
- Preliminary Geo-Environmental Assessment
- Draft Zoning By-law Amendments (438-86 and 569-2013)
- Toronto Green Standard Checklist
- Arborist Report and Tree Survey Plan
- Building Mass Model
- Hospital Heliport Routes analysis
- Air Emissions Evaluation

A Notification of Complete Application was issued which identified the complete application submission date as August 3, 2016.

Community Consultation

A community consultation meeting was held December 12, 2016 and was attended by approximately 14 residents. Specific comments related to the zoning amendment component of the project were:

- Clarification requested if the proposal is condo or rental and if the project will be marketed to investors/owner occupants and families/non-families.
- Concern as to whether the site is a Tall Building site, does it meet the applicable guidelines, and the impact on any potential tower development to the south.
- Concerns with which on-site buildings are heritage, timelines for their potential designation and which portions of those buildings will be preserved.
- Potential wind impacts.
- Appropriate number of parking spaces and how is it calculated. Will new public parking areas be created.
- Concern with potential shadowing impact on Shuter Street heritage buildings and north side of Moss Park.
- Clarification requested concerning how will rental replacement work for the rooming house residents and existing rental housing units.
- How will garbage pickup and vehicular access to the building be arranged.

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 outlined below.

Provincial Policy Statement and Growth Plan

Provincial Policy Statement (PPS)

Policy 1.1.3.3 of the PPS refers to appropriate locations for intensification and redevelopment while Policy 1.1.3.4 refers to appropriate development standards to facilitate intensification, redevelopment and compact form, while avoiding or mitigating risks to public health and safety. In the Official Plan, the site is designated *Mixed Use Areas* which is an appropriate location for intensification, subject to appropriate development standards. As further described below, appropriate development standards are described in both the Official Plan and applicable development guidelines. Policy 4.7 of the PPS refers to the Official Plan as the most important vehicle for implementing the PPS and as such the development standards in the Official Plan have particular relevance. The application does not conform with those standards and as such the proposal is not consistent with the PPS.

Policy 2.6.1 further states that significant built heritage resources and significant cultural heritage landscapes shall be conserved and in Policy 2.6.3 that development on adjacent

lands to protected heritage property shall not be permitted except where it has been demonstrated that the heritage attributes of the protected heritage property will be conserved. Policy 1.7.1 d) also refers to conserving features that help define character, including built heritage resources and cultural heritage landscapes. The Official Plan further refines the direction of the PPS in the conservation of heritage properties. It is the position of City Planning staff that the built form of the proposal will have a negative heritage impact on the listed heritage properties at 79, 81 and 85 Shuter Street, as further discussed below. As such, this proposal is not consistent with the PPS, and has not addressed the policy direction of the Official Plan.

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 would 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. As further described below, the proposal would not intrude into the helicopter flight path and is therefore consistent with those policies in the PPS referring to health and hospitals.

Growth Plan

The Guiding Principle 1.2.1 of the Growth Plan supports the achievement of *complete communities* and among other principles, supports a range and mix of housing options. Policy 2.2.1 states that the vast majority of growth will be directed to *settlement areas* and within *settlement areas* growth will be focused in *delineated built-up areas*. Policy 2.2.3 further states that *Urban Growth Centres*, the *Downtown* is one such centre, will be planned to accommodate significant population and employment growth. Policy 2.2.2.4 b) refers to identifying the appropriate type and scale of development and transition of built form to adjacent areas. As further described below, the Official Plan has policies that refer to development does not conform to those policies and as such the proposal does not conform with the Growth Plan.

Policy 4.2.7.1 of the Growth Plan refers to *Cultural heritage resources* will be conserved. As further assessed below the proposal does not conform with the Growth Plan the proposal does not conform with the Growth Plan as the on-site heritage resources are not being preserved.

There are policies in the Growth Plan that relate to *Public Service Facilities* which includes hospitals. Policy 3.2.8.1 refers to the co-ordination of Public Service Facilities with land use planning to implement this Plan. As further described below, the proposed tower would not intrude into the St. Michaels' Hospital helicopter flight path and therefore the proposal conforms with those policies related to the hospitals.

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 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 and Tower Separation

Development in the Downtown and in *Mixed Use Areas* is not intended to be spread uniformly and instead is to fit within its context with appropriate transition in scale. For the *Mixed Use* areas designation, Policy 4.5.2 c) states that the location and massing of new developments provide a transition between areas of different development intensity and scale through such means as appropriate setbacks. Official Plan Built Form Policy 3.1.2.3 d) and 3.1.2.4 state that new development will limit its impact by providing for adequate light and privacy and ensuring adequate access to sky view.

The recently approved Official Plan Amendment 352 provides a further policy basis for requiring appropriate tower separation distances to ensure adequate access to light, privacy and skyview. The implementing By-laws 1106-2016 and 1107-2016 specify a minimum 12.5 m setback.

The planned and built form context is further informed by Tall Building Design Guidelines 1.3 which addresses Fit and Transition in scale and Guideline 3.2.3 which refers to tower separation distances of 12.5 metres or greater from the side and rear property lines in order to limit negative impact on sky view, privacy and daylighting issues. Sub-guideline e) further references coordinating setbacks and separation distances with other towers on the same block. Guideline 3.2.2 a) also refers to coordinating tower placement with other towers on the same block to maximize access to sunlight and sky views for surrounding streets, parks and properties.

The policies and implementing guidelines seek to ensure adequate light and skyviews and in that respect, the City recommends a tower separation distance of 25 m between towers which would typically be achieved through a 12.5 m tower setback to the lot line or to the mid-point of any adjacent lane or right-of-way. Failure to achieve these standards results in negative impacts on the quality of life to both residents and the public.

The proposed development is massed in a podium tower form consisting of a 32-storey tower with a 2 to 6-storey podium. The tower component of the development has a floor area of 573 m² with projecting balconies on the north and south facades. The applicant has proposed tower setbacks of 3 m (west), 0.7 m (east), 6.09 m (north), and 5.5 m (south). The setbacks to the mid-point of the right of way or laneway are: 13 m (west), 3.7 m (east) and 16.09 m (north).

The setback to the east of 0.7m is less than the 12.5 m that would typically be required. The reduced east setback is premised on the applicant's assumption that those adjacent lands to the east cannot be developed as a Tall Building site because they are subject to OPA 82 (under appeal and not in force and effect) which specifically states that a Tall Building is not permitted on those lands. Notwithstanding, the reduced setback does not satisfactorily address the issue of a 32-storey tower transitioning down to a 2-storey structure to the east and 7-storey structure to the south-east; this is further assessed in the following section on Tower Height.

To the south the application proposes a 5.5 m tower setback which is less than the 12.5 m standard. This is not appropriate as it negatively impacts the adjacent properties to the south through overlook and skyview issues and does not take into consideration that those properties may themselves be subject to a potential tower development application, using the same justification as this application. It is not appropriate to approve reduced tower setbacks at the expense of adjacent properties which results in a "first-to-the-post" development scenario. It is also noted that the proposed tower has projecting balconies on the south façade which would create further overlook issues because of the reduced setback. Unless clearly substantiated, there is no reason that the lands to the south may not be subject of an application for a tower.

The reduced tower setbacks to the east and south are excessive and do not conform with the intent of in force Official Plan policies, related Tall Buildings guidelines and OPA 352. The inability of this application to achieve appropriate setbacks is because the lot is too small and as such is not appropriate for a Tall Building. Tall Building Guidelines 3.2.3 c) specifically states that sites that cannot meet the minimum tower setbacks may not be appropriate for Tall Buildings, this is also referenced by OPA 352 Policy B iii) which states not every site can accommodate a Tall Building.

Tower Height – Transition, Context and Helicopter Flight Path

Healthy Neighbourhoods Policy 2.3.1.2 b) states that developments in *Mixed Use Areas* will provide a gradual transition of scale and density through stepping down of buildings towards those *Neighbourhoods*. Built Form Policy 3.1.2.1 and 3.1.2.3 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. This is expanded on by Mixed Use Policy 4.5.2c) which references a transition between areas of different development intensity and stepping down of heights particularly towards lower scale *Neighbourhoods*. 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 appropriate heights being in the 31m to 51m (10 to 17 stories) range excluding rooftop mechanicals.

There are additional policies in OPA 82 and the guidelines that refer indirectly to height through references to shadowing, this is discussed in the following section on shadowing.

The proposed tower is 32-stories (100.03 m including mechanical). Within a few block radius there are a mix of existing and proposed towers in addition to low rise structures and park/open space lands. Generally, the context at a larger scale can be described as building heights transitioning down from the west to the east. To the east, the lands are designated *Parks* and *Neighbourhoods* and are developed at a low scale. Adjacent to the site and within the block, the context features low to mid rise buildings with the tallest structure at 14-stories at 102 Shuter. Adjacent to the site to the west, 30-50 Mutual Street has existing zoning approvals for a 28-storey building.

Official Plan 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. Michaels' Hospital. St. Michael's Hospital has confirmed that the proposed development comes within 1metre of the flight path and that they are not in a position to complete their assessment of the revised plans. Buildings has also commented that the proposed development seems to comply with the helicopter flight path but that they need an undertaking and crane swing diagrams prior to the issuance of any building permits.

Although there are a number of towers in the larger geographic area, the proposed tower is significantly higher than the adjacent context and does not fit into the height transition whereby buildings transition down in height as one moves eastwards. As such, the proposal does not conform with those Official Plan policies and related guidelines that refer to context and transition.

Shadowing

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. Parks and Open Spaces 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 maintaining sunlight on adjacent streets, parks and open spaces.

OPA 82 Policy 3.7 further states that there shall be no net new shadows permitted on Moss Park measured on March 21 and September 21 from 10:00 to 6:00.

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.

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 states that tall buildings should not cast new shadows on Signature Parks (Moss Park is a signature

Park) between 10 and 4:00 pm on September 21 and non-signature parks (Arena Gardens is a non-signature park) between 12 noon and 2:00 pm. 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. Shadow studies were not submitted by the applicant for March or December 21. The shadow studies show the proposed tower shadowing over and above existing zoning permissions (refer to Attachment 3 and 4):

- Moss Park (designated *Parks*) from 6:18 (June 21) and from 5:18 (September 21)
- Arena Gardens (designated *Other Open Space Areas*) from 10:18-11:18 September 21

The proposed shadowing impacts the two parks. More significantly, the shadows of Moss Park on September 21 do not conform with Official Plan Amendment 82 which states there shall be no net new shadows from 10-6:00 pm whereas the application would shadow from 5:18 pm (September 21). In addition, there would be morning shadows on Arena Gardens which would impact that park's utility. The additional shadowing of the parks would have an impact on the existing enjoyment and use of the parks and the anticipated increased demand for park usage given all of the development occurring in the area and as such do not conform with the Official Plan and related guidelines. If the proposed tower were to be significantly lowered in height as per the above noted discussion on context and transitioning, then the shadow impacts would be lessened.

Heritage

Official Plan Policy 3.1.5.26 states that construction on or adjacent to a property on the Heritage Register will be designed to conserve the cultural heritage values, attributes and character of the property. At the time of submission, there were no heritage designated or listed buildings on site. Subsequent to the application, the 79-85 Shuter street buildings were listed by City Council on the City of Toronto's Heritage Register. A Heritage Impact Assessment (HIA) was submitted in support of the application.

The Tall Building Design Guideline 1.6 states that tall buildings are to respect and complement the scale, character, form and setting of on-site and adjacent heritage properties and more specifically; to design new base (podium) buildings to respect the urban grain, scale, setbacks and proportions through such means as additional setbacks and stepbacks. This is further informed by Guideline 3.1.1e and in the Downtown Tall Buildings Guidelines, by Guideline 3.4, respecting the established streetwall height and respecting the scale, character, form and setting of adjacent heritage buildings.

The proposed tower design on both the Shuter Street and Mutual Street elevations has a negative impact to the scale, form and massing on the heritage resources on the subject property. The proposed podium on the west elevation of the proposed 32-storey tower does not appropriately address the height of the existing heritage building at 79 Shuter

Street. The podium needs to be reduced in height to address the existing heritage building including the existing one and one-and-a-half storey rear wings on 79 Shuter Street.

The identified heritage attributes of the property at 79 Shuter Street include the two-anda-half storey main building with its one-and-a-half storey and one storey rear wings. The rear wings are proposed to be removed as part of this proposal. These rear wings need to be retained/maintained as they are identified as heritage attributes contributing to the cultural heritage value of the property at 79 Shuter Street. On the east elevation of 85 Shuter Street the proposal would maintain only 6.6m of the east elevation of the heritage building. The existing rear addition, which is not identified as a heritage attribute, is proposed to be removed. The entire depth of the 3-storey building at 85 Shuter Street needs to be maintained. Additionally, the proposal includes the removal of the third storey of the 3-storey building at 85 Shuter Street, which is an identified heritage attribute and should be maintained.

Official Plan Policy 3.1.5.26 state that "New construction on, or adjacent to, a property on the Heritage Register will be designed to conserve the cultural heritage values, attributes and character of that property and to mitigate visual and physical impact on it". Staff are of the opinion that the current proposal fails to do this as the proposed tower design has a negative heritage impact on the scale, form and massing of the heritage buildings on the subject property. Staff have reviewed the documentation and are of the opinion that the proposal will have a negative impact on the three heritage buildings at 79, 81 and 85 Shuter Street.

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 a 4m sidewalk zone along Mutual Street and 3.4 m along Shuter Street which reflects the location of the existing heritage buildings that would be retained. For that portion of the podium which does not incorporate existing heritage buildings, a 4.7 m pedestrian realm is proposed along Mutual Street. Although the sidewalk zone does not meet the 6.0 m standard, the proposed sidewalk zone does reflect the present location of the existing heritage buildings and as such is satisfactory.

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 Assessment for the proposed development. The study concludes that wind impacts are generally expected to be comfortable for the intended

usage in the vicinity; the exception being the existing conditions at the northeast corner of Shuter and Dalhousie (a full block to the west).

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 *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 $2m^2$ 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 511 m^2 (2.18 m² per dwelling unit) of indoor and 162 m^2 (0.7 m² per dwelling unit) of outdoor space is proposed for a total of 673 m^2 (2.88 m² per dwelling unit). The proposed indoor amenity space meets City standards. The outdoor amenity space is less than standard, and more importantly is less than half the requirement and as such is not appropriate.

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 26 three-bedroom units (11.1% of the total units) which is 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. OPA 82 in Policy 3.3 also refers to the provision of a minimum ten percent of units to be affordable which would be secured as a 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, Loading and Solid Waste

A Transportation Impact Study and Parking Review was submitted with the application and has been reviewed by staff. Parking and loading would be accessed from the adjacent laneway on the east side of the property. The proposed development would provide vehicular parking below grade; loading at grade within the building podium; and bicycle parking predominantly on the P1 and floor 2. The proposal includes 36 residential parking spaces plus 9 visitor parking spaces; 235 bicycle parking spaces and 1 Type G loading space. Access to the parking and loading areas would be from the adjacent laneway to the east. Transportation Services advise that the proposal must provide 0.17 parking spaces per unit plus 9 visitor parking spaces, which equates to 49 parking spaces in total, and that the applicant must provide 1 Type G loading space. The application does not comply with the recommended parking space requirement but does comply with the loading space requirements.

Transportation Services also advise that revisions are required to address issues of the truck swept path, corner rounding, curb and pedestrian realm issues. Solid Waste Management Services has also confirmed that the proposed collection vehicle reversing into the public lane is unacceptable and that revisions are required to ensure collection vehicles can enter and exit in a forward motion. A subsequent Site Plan Control application would provide an opportunity for a detailed review of these issues.

Transportation Services also advise that the anticipated traffic impacts will be acceptable.

Site Servicing

The applicant submitted a Functional Servicing Report and a Stormwater Management Report which indicated the development site would be serviced from existing sewer and watermains. Engineering and Construction Services reviewed the report and advise that the Functional Servicing Report requires revisions and that the Stormwater Management Report needs revisions to address issues of stormwater discharge. 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 and Stromwater Management Report to the satisfaction of Executive Director of Engineering and Construction Services.

Given the Functional Servicing Report 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 acquisition priority area, as per Chapter 415, Article 111of the Toronto Municipal Code.

The application is for the construction of a 32-storey residential building consisting of 234 residential units. At the alternative rate of 0.4 hectares per 300 units specified in Chapter 415, Article III of the Toronto Municipal Code, the parkland dedication requirement is $3,346m^2$ or 326.5% of the site area. However, for sites that are less than 1 hectare in size, a cap of 10% of the development site is applied to the residential use. In total, the parkland dedication requirement is $102.5 m^2$ or 10% of the net site area.

The applicant is required to satisfy the parkland dedication requirement through cash-inlieu. This is appropriate as a dedication of 102.5m² is not of a suitable size to develop a programmable park within the existing context of this development site. At the same time the site does not abut an existing city park which could be expanded through this dedication. 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 and Tree Survey Plan was submitted by the applicant. The report indicates there are four trees that meet the criteria for protection under the City of Toronto's Private Tree By-law. The application proposes to remove these four trees. Urban Forestry reviewed the proposed landscape plan and arborist report and indicated that as no large growing shade trees are proposed in the appropriate medium, the applicant will be required to provide a cash-in-lieu payment for twelve trees at a value of \$583.00 per tree for a total of \$6,996.00. This condition could be incorporated as a condition in any subsequent site plan application if the OMB were to approve these plans or a modified form of these plans.

Tenant Assistance

The Planning Rationale Report submitted by the applicant does not address the amount of notice or compensation that would be provided to affected tenants required to vacate their rental units. To ensure that tenants impacted by the proposed development are provided with appropriate notice and compensation in order to minimize hardship, it is recommended that a Tenant Assistance Plan be secured through one or more agreements with the City, all to the satisfaction of the Chief Planner. Staff will continue to work with the applicant to develop an appropriate Tenant Assistance Plan for tenants of both the licensed rooming house and rental dwelling units.

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. Community Services and Facilities Study was submitted by the applicant. 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: improvements to the St. Lawrence and Parliament branches of the Toronto Public Library; existing community centres; renovate or modify existing child care facilities; and the provision of rental units (affordable and/or mid range) within the development.

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 \$1.4 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:

- 1. Capital improvement to the public library
- 2. Capital improvements to existing community centres
- 3. Capital improvements to existing child care facilities
- 4. Affordable housing

The amount and recommended community benefits are comparable to those secured for similar developments in the area. The \$1.4 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 and Stormwater Management 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;
- 2. The owner shall provide, at its own expense, an acceptable tenant assistance plan to all affected tenants, all to the satisfaction of the Chief Planner.

Conclusion

The proposed development is not appropriate as the proposed development does not conform with those Official Plan policies and implementing guidelines that refer to tower setbacks and appropriate locations for Tall Buildings, context, transition, shadowing and the adequate provision of outdoor amenity space. The proposal also negatively impacts the heritage properties on the development site at 79, 81 and 85 Shuter Street. Additionally; the proposed development does not have a satisfactory Functional Servicing Report to address Engineering issues, does not provide an appropriate number of parking spaces, fails to provide for collection vehicles to enter and exit the site in a forward motion. 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 at79-85 Shuter Street. It is also recommended that staff be authorized to continue discussions with the applicant in order to seek an agreement for an appropriate built form that among other things, ensures that the tower achieves or secures appropriate setbacks, conforms to Official Plan policies and guidelines and that an appropriate Section 37 quantum can be agreed to.

CONTACT

Derek Waltho, Senior Planner Tel. No. 416-392-0412 E-mail: dwaltho@toronto.ca

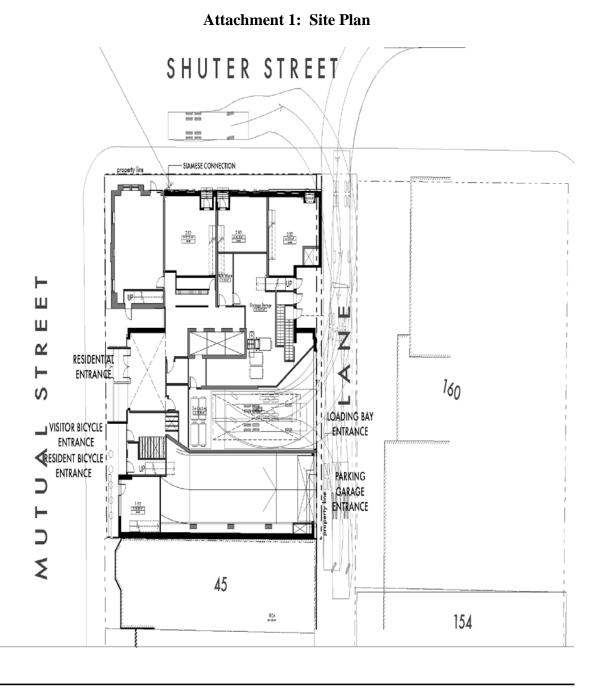
SIGNATURE

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

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ATTACHMENTS

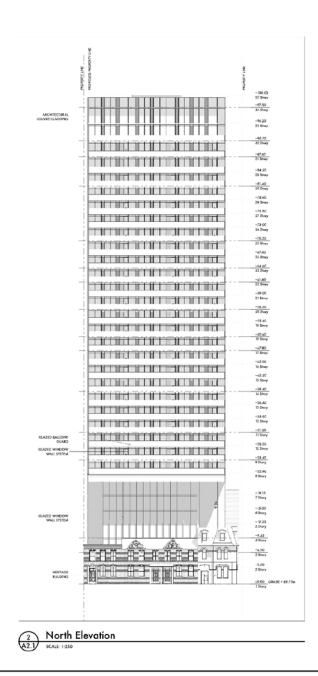
Attachment 1:Site PlanAttachment 2:ElevationsAttachment 3:Shadows of Moss ParkAttachment 4:Shadows of Arena GardensAttachment 5:Application Data SheetAttachment 6:Zoning



Site Plan Applicant's Submitted Drawing Not to Scale 06(16)2017

79-85 Shuter Street

Attachment 2: Elevations

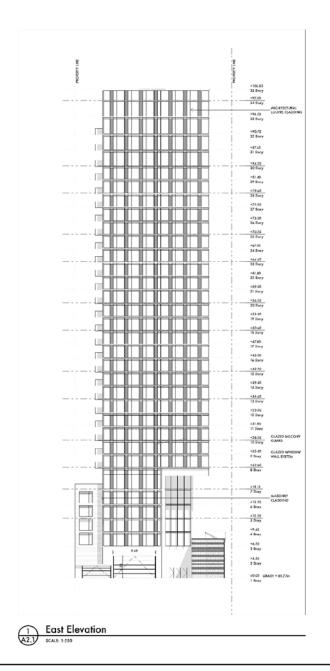


North Elevation

Applicant's Submitted Drawing

Not to Scale 7

79-85 Shuter Street

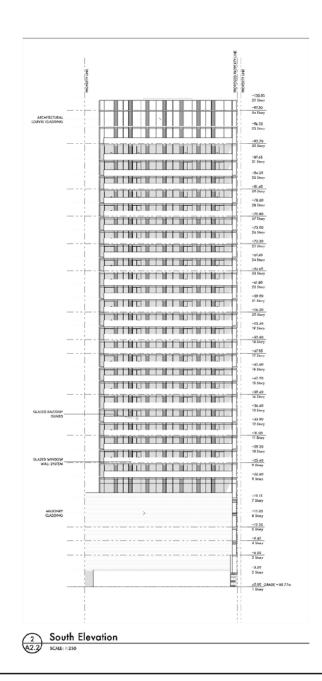


East Elevation

Applicant's Submitted Drawing

Not to Scale 7

79-85 Shuter Street

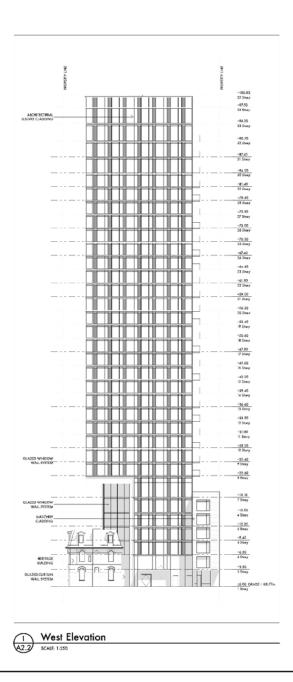


South Elevation

Applicant's Submitted Drawing

Not to Scale 7

79-85 Shuter Street



West Elevation

Applicant's Submitted Drawing

Not to Scale 7

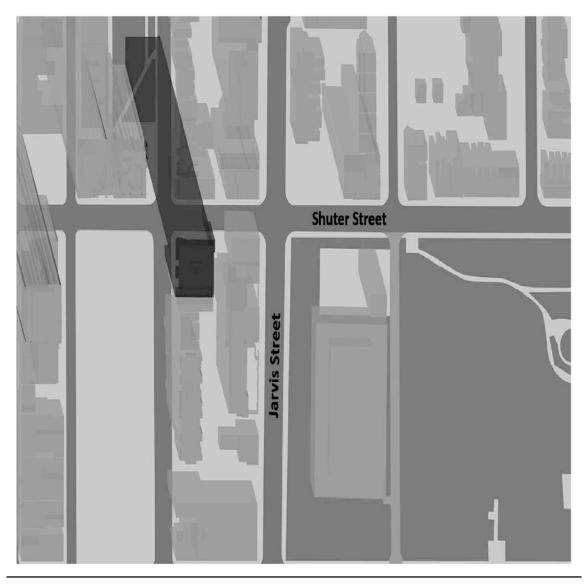
79-85 Shuter Street



Attachment 3: Shadows of Moss Park September 21 at 5:18 pm

Shadows-September 21 17:18 EDT City of Toronto Drawing Not to Scale

79-85 Shuter Street



Attachment 4: Shadows of Arena Gardens September 21 at 11:18

Shadows-September 21 11:18 EDT City of Toronto Drawing Not to Scale

79-85 Shuter Street

Attachment 5: Application Data Sheet

DetailsRezoMunicipal Address:79-8Location Description:PLA		ning Application Number: ning, Standard Application Date: 5 SHUTER ST N 10A SECTION A PT LOTS 14 TO 17 osal for a 32 storey residential building c								
Applicant: Age		nt:	Architect:		C	Owner:				
ZC Investments Ltd HPH (81 Shuter) Limited HPH (85 Shuter) Limited			Architects Alliance		Z	ZC Investments Ltd				
PLANNING CONTROLS										
Official Plan Designation: Mixed		se Areas Site Specific Provi			ision:					
Zoning: CR T4		C0.5 R4.0	Historical Status:							
Height Limit (m):	30		Site Plan	Site Plan Control Area:						
PROJECT INFORMATION										
Site Area (sq. m):		1028	Height:	Storeys	: 3	2				
Frontage (m):		32.26	e	Metres:		4.25				
Depth (m):		31.87								
Total Ground Floor Area (sq. m):		690				Tot	al			
Total Residential GFA (sq. m):		16967 Parking			g Spaces: 45					
Total Non-Resident	0 Loading Docks 1									
Total GFA (sq. m):		16967		_	-					
Lot Coverage Ratio (%):		90								
Floor Space Index:		16.55								
DWELLING UNITS FLOOR AREA BREAKDOWN (upon project completion)										
Tenure Type:	Condo				Above		Below			
					Grade		Grade			
Rooms:	0	Residential GFA (sq. m):			16967		0			
Bachelor:	0	Retail GFA (sq. m):			0		0			
1 Bedroom:	85	Office GFA (sq. m):			0		0			
2 Bedroom:	123	Industrial GFA (sq. m):			0		0			
3 + Bedroom:	26	Institutional/O	ther GFA (s	sq. m):	0		0			
Total Units:	234									
CONTACT: PLANNER NAME: TELEPHONE:		Derek Walt 416-392-041	,	Planner						

Attachment 6: Zoning

