

8 Elm Street - Zoning By-law Amendment – Refusal Report

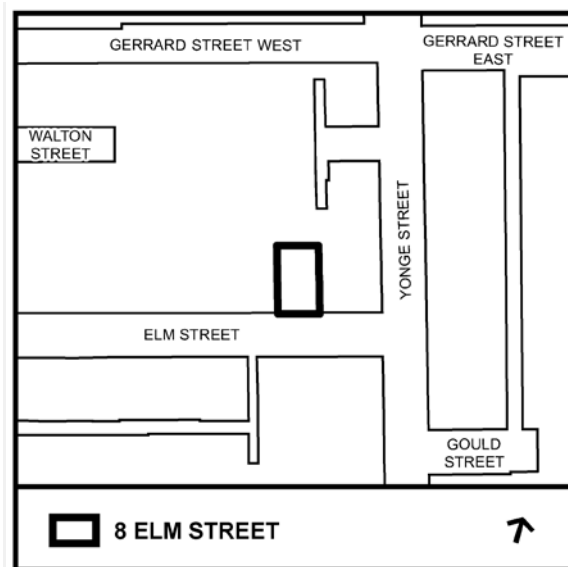
Date:	September 16, 2016
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	16-189782 STE 27 OZ

SUMMARY

This application proposes to redevelop the site at 8 Elm Street with an 80-storey mixed use tower. The project is proposed to contain 469 dwelling units and 715 m² of office space for a total gross floor area of 29,965 m²; this equates to a Floor Space Index of 45.6 times the area of the lot. The proposed building would have a height of 259.5 metres including the mechanical penthouse. The proposal also includes one level of underground parking which would be used for bicycles.

This report reviews and recommends refusal of the application to amend the Zoning By-law as the proposed development site is too small to accommodate the proposed development. The proposed development is not consistent with the PPS; does not conform to the Official Plan and is inconsistent with Council approved guidelines. In particular:

- tower massing and resulting transitioning do not fit within the existing or planned context;
- the tower does not maintain adequate setbacks;
- tower height is excessive with resultant shadowing;
- development does not adequately protect the existing on-site heritage



- building or adjacent heritage buildings;
- development lacks sufficient outdoor amenity space;
- development lacks an appropriate number of family sized units;
- no parking is provided; and
- Functional Servicing Report does not adequately address Engineering issues and concerns.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the application for Zoning By-law Amendment at 8 Elm Street for the reasons outlined in this report.
2. City Council authorize the City Solicitor, together with appropriate staff, to appear before the Ontario Municipal Board in support of City Council's decision to refuse the application, in the event that the application is appealed to the Ontario Municipal Board.
3. City Council direct the City Solicitor to request the OMB, in the event the application is appealed to the OMB and 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 \$ 2.9 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. streetscape improvements;
- ii. multi-purpose community space;
- iii. parkland improvements within the area;
- iv. affordable housing;
- v. library.

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.

ISSUE BACKGROUND

Proposal

The applicant is proposing an 80-storey (247.5 metres excluding mechanical penthouse or 259.5 metres including mechanical penthouse) mixed use building with 469 dwelling units and 715 m² of office space. The development would be in a tower form which would cantilever, from the 8th floor, over the existing 3-storey heritage building. Portions of the heritage façade would be preserved. Projecting balconies are proposed along the

north and south faces of the tower. The proposed gross floor area would be 29,965 m² which equates to a Floor Space Index of 45.6 under Zoning By-law 569-2013.

The primary entrance for the building would be from Elm Street. The ground floor would include a residential lobby and an area for loading and garbage. Office uses would be located on floors 2 and 3. Residential uses would be on all other floors with amenity space located on floors 4 to 7 and a portion of floor 45. Bicycle parking would be located below grade. There are no vehicular parking spaces proposed.

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

Table 1 – Summary of Application

Category	Proposed
Tower setbacks (Floor 8-80)	
- West property line	0 m
- East property line	0 m
- North property line	5.5 m
- South property line	3.7 m
Base (podium) setback at grade	
- West property line	2.7 m
- East property line	0.0 m
- North property line	2.7 m
- South property line	0.0 m
Sidewalk/pedestrian realm width	5.4 m
Tower floorplate (approximate)	
- Floors 8-80	463 m ²
- Floors 4-7	267 m ²
Ground floor height (approximate)	Not delineated
Vehicular parking	
- Resident	0
- Visitor	0
- Auto-share	0
Bicycle parking	
- Long term	422
- Short term	47
Loading spaces	
- Type C	1
Amenity space	
- Indoor	726 m ²
- Outdoor	390 m ²

Site and Surrounding Area

The site is a rectangular lot with 19.978 metres of frontage on Elm Street and a lot depth of 32.9 metres. The lot area is 658.3 m². There is an existing 3-storey heritage commercial building on site.

The surrounding uses are as follows:

North: Chelsea hotel which is an existing 26 and 27-storey tower. This site is subject of a Zoning Amendment application for a proposed 80, 50, 74 and 46-storey towers.

South: on the south side of Elm Street; 2 and 3-storey commercial buildings with possibly some residential uses on the upper floors.

West: 3 to 4-storey commercial buildings entailing The Arts and Letter Club and Elmwood Spa, both of which are designated under Part IV of the Ontario Heritage Act.

East: 2 and 3-storey commercial buildings with frontage on Yonge Street.

Provincial Policy Statement and Growth Plan

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, by the *Planning Act*, 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. 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. City Council's planning decisions are required, by the *Planning Act*, to conform, or not conflict, as the case may be, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The Official Plan locates the site within the *Downtown and Central Waterfront*, as shown on Map 2, the Urban Structure map of the 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. 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.

Official Plan Amendment 352 – Downtown Tall Buildings

Draft Official Plan Amendment 352 (SASP 517), the Downtown Tall Buildings Setback Area was considered by Toronto and East York Community Council on September 7, 2016 and recommended for approval, with a motion to continue discussions with the development industry, to City Council. The purpose of OPA 352 is to establish the policy context for Tall Building setbacks and separation distances in the Downtown which would be implemented through the Zoning By-law. The intent is that these policies would ensure that future growth positively contributes to the liveability, sustainability and health of Toronto's Downtown. More specifically, the draft policies would define tall buildings, establishes the reasoning for tower setbacks, recognizes that not all sites can accommodate tall buildings and addresses base building heights and setbacks.

Heritage

The development site is presently occupied by a 3-storey commercial building, which was designated by Council under Part IV of the Ontario Heritage Act on November 20, 2007 by By-law 1234-2007. Adjacent on the west side is The Arts and Letters Club which was designated under Part IV of the Ontario Heritage Act by Council on November 26, 1975 by By-law 513-75.

The site is also subject to a Heritage Easement Agreement under Section 37 of the Ontario Heritage Act as in Instrument Number CT720206 as amended by CA67112. This easement was entered into between the former City of Toronto and the property owner to ensure the long-term conservation of the heritage property.

Zoning

The site is subject to City-wide Zoning By-laws 438-86 and 569-2013. The site is zoned CR T6.0 c2.0 R6.0 under By-law 438-86 and under By-law 569-2013 the site is zoned CR 6.0 (c2.0; r6.0) SS1 (x2195). Both By-laws permit a variety of commercial and residential uses with a maximum density of 6.0 and a maximum building height of 46 metres.

By-law 438-86 also includes a number of Permissive and Restrictive Exceptions and references prevailing By-laws 440-85 and 333-02. Key provisions include required street related retail and service uses, restrictions on entertainment and place of amusement uses, prohibition on commercial parking and protection of helicopter flight paths. By-law 440-85 is a site specific By-law which restricts non-residential GFA to 1300 m², limits permitted commercial uses and restricts maximum building height to 14m. These provisions were generally carried though into By-law 569-2013.

Minister's Zoning Order

On May 3, 2016, the Minister of Municipal Affairs and Housing issued a Zoning Order – Protection of Public Health and Safety – Toronto Hospital Heliports. The purpose of this Order is to protect health and safety by ensuring the safe operation of air ambulance services provided in relation to St. Michael's Hospital and The Hospital for Sick Children. The Zoning Order identifies an obstacle limitation surface which structures or naturally growing objects shall not penetrate.

The Zoning Order reflects the most recent Sick Kids Hospital helicopter flight path. As previously cited, the Official Plan requires that all new buildings be sited and massed to protect helicopter flight paths. The Provincial Policy Statement also has a number of policies to protect against development which may negatively impact public health and safety as well as the efficient use of public service facilities. The provincial interests relate to the health care system in Ontario and the role of hospitals and emergency air ambulance services, including the hospital flight path for Sick Kids Hospital. In order to comply with the helicopter flight path and the related Official Plan policy, the proposed tower including all temporary and permanent structures such as parapets, antenna, light fixtures and crane activities would have to be below or outside the protected flight path.

Site Plan Control

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

City-Wide Tall Building Design Guidelines

In May 2013, Toronto City Council adopted the updated city-wide Tall Building Design Guidelines and directed City Planning staff to use these Guidelines in the evaluation of all new and current tall building development applications. 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. The city-wide Guidelines are available at <http://www.toronto.ca/planning/tallbuildingdesign.htm>

Downtown Tall Buildings: Vision and Supplementary Design Guidelines

This project is located within an area that is also subject to the Downtown Tall Buildings: Vision and Supplementary Design Guidelines (adopted by City Council in July 2012 and consolidated with the city-wide Tall Building Design Guidelines May 2013). This document identifies where tall buildings belong Downtown, and establishes a framework to regulate their height, form and contextual relationship to their surroundings. The Downtown Vision and Supplementary Design Guidelines should be used together with the city-wide Tall Building Design Guidelines to evaluate new and current Downtown tall building proposals. The Downtown Tall Buildings Guidelines are available at <http://www.toronto.ca/planning/tallbuildingstudy.htm#guidelines>

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. Reports to Toronto and East York Community Council are targeted by the end 2016 on the results of the second phase and the next steps of implementation.

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 Report
- Urban Design Report
- Community Services and Facilities Study
- Functional Servicing and Stormwater Management Implementation Report

- Transportation and Parking Assessment
- Preliminary Pedestrian Wind Study
- Shadow Study
- Noise and Vibration Impact Study
- Heritage Impact Assessment
- Geotechnical Report
- Draft Zoning By-law Amendments (438-86 and 569-2013)
- Toronto Green Standard Checklist
- Arborist Report and Tree Inventory and Preservation Plan
- Building Mass Model

A Notification of Complete Application was issued. The complete application submission date was July 13, 2016.

Community Consultation

A community consultation meeting was held September 20, 2016 and was attended by approximately 95 residents. Specific comments related to the zoning amendment component of the project were:

- Potential impacts to the adjacent Arts and Letters Club, and more specifically, the impacts of construction on the building foundation and activities within the building.
- Failure to provide adequate tower separation distances as outlined in the City Guidelines.
- Proposed loading and provision for garbage removal (including frequency) does not make sense and is not realistic. Concern over potential noise and smell impacts.
- Concern over 0 parking spaces being proposed.
- Impact on existing infrastructure including water supply and parkland.
- Opposition to proposed development with respect to context of Elm Street, impacts to the existing heritage building which would be demolished (façade would later be rebuilt), lot too small to achieve setbacks.
- Concern over potential shadowing impacts particularly on parkland.
- Questions or clarification concerning: whether Section 37 applies; why 80-stories were proposed; what is happening to Dundas subway station; and what is happening with the adjacent Chelsea hotel redevelopment project.

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.

COMMENTS

Staff have reviewed the proposed development and are of the opinion the proposal is overdevelopment and the site does not support a Tall Building. The proposal does not fit within the existing and planned context. The proposed development is not consistent with the Provincial Policy Statement and does not comply with the Official Plan and implementing guidelines for the reasons outlined below.

Provincial Policy Statement

The Provincial Policy Statement, Policy 1.1.3.3 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. Policy 4.7 identifies the Official Plan as the most important vehicle for implementing the PPS. In addition to the above noted policies, there are specific policies related to Cultural Heritage and Archaeology. More specifically, Policy 2.6.1 refers to significant built heritage resources shall be conserved and Policy 2.6.3 states that Planning authorities shall not permit development on adjacent lands to protected heritage property except where it has been demonstrated the heritage attributes will be conserved.

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 development does not conserve the existing heritage resources of 8 Elm Street and does not protect heritage attributes of adjacent buildings.

The proposed development is therefore not consistent with the PPS.

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 proposal, which as a land use would be permitted in the *Mixed Use Areas* subject to other policies in the Official Plan. 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 heritage buildings. As a result, the application does not comply with the Official Plan.

Built Form

Context, Massing and Transition

There are a number of Official Plan policies that reference context, massing and transition. 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. Policy 3.1.2.3 a) further states that new buildings are to frame adjacent streets in a way that respects the existing and/or planned street proportion while Policy 3.1.2.3 c) refers to appropriate transitions in scale to neighbouring existing and/or planned buildings. Built Form – Tall Buildings Policy 3.1.3.2 c) requires that tall buildings relate to their existing and/or planned context. For the *Mixed Use* areas designation, Policy 4.5.2 c) and e) state that the location and massing of new developments provide a transition between areas of different development intensity and scale through appropriate setbacks and/or stepping down of heights and frame streets with good proportion.

The planned and built form context is further informed by the Tall Building Design Guideline Section 1.1 which refers to the existing and planned context and how the proposed building responds to the patterns, opportunities and challenges within the area. More specifically, Guideline 1.3 refers to ensuring tall buildings fit within the existing or planned context and provide an appropriate transition to lower scaled buildings. Guideline 3.2.2 refers to placing towers away from neighbouring properties to reduce visual and physical impacts.

The proposed development is massed in a podium tower form consisting of an 80-storey tower with the existing 3-storey heritage building forming the podium element. The context along Elm Street in the immediate vicinity and adjacent to the site are 2 to 4-storey buildings. Further away and within the block there are a number of buildings with heights ranging from approximately 16 to 34-stories. At the south-east corner of Gerrard and Bay, a 44-storey building is under construction.

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 through setbacks and stepbacks as a means to achieve that transition. The context features a mix of built forms depending on the geography. In the wider geographic area of the block, there are a number of towers with a maximum planned or built height of 44-stories. In the immediate vicinity, along this portion of Elm Street and the adjacent Yonge Street, development is low scale in the 2-4-storey range. The planned context along Yonge Street (adjacent to the subject site on the east side) is subject to Site and Area Specific Policy 174 which refers to low scale of built form.

An 80-storey building with zero sideyard setbacks, being approximately double or triple the height of any other tower within the block, with no transition in the immediate context, is not appropriate and does not conform to the Official Plan and related guidelines as further outlined below.

Tower Separation Distances

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.

Tall Building Design Guideline 3.2.2 a) 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. Guideline 3.2.3 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. Sub-guideline e) further references coordinating setbacks and separation distances with other towers on the same block.

The proposed tower would maintain a 5.5 m setback to the north property line, 3.7 m to the south property line and 0 m to both the west and east property lines. There is an existing development proposal for the adjacent property to the north at 33 Gerrard and 22 Elm Street (Chelsea hotel) for 4-towers. One of those proposed towers (south-east tower) is proposed to be setback 7.8 m from the 8 Elm property line, representing a potential tower separation distance of 13.3 m (5.5 m + 7.8 m) if both applications were approved.

The policies and implementing guidelines seek to ensure adequate light and skyviews to residents and in that respect, the City recommends a tower separation distance of 25 m which would typically be achieved through a 12.5 m tower setback to the lot line (which would also apply to any adjacent development). Failure to achieve these standards results in negative impacts on the quality of life to both residents and the public as outlined in the guidelines.

If the application were to be approved, then it would set a negative precedent that towers need not provide separation distances. This is something specifically identified as a problem by Tall Building Design Guideline 3.2.3 in cases where tall buildings are too close to side or rear lot lines. Hence, the guidelines recommend that the setbacks be required.

Tall Building Design Guideline 3.2.3 c) states that sites that cannot provide minimum setbacks may not be appropriate for tall buildings. This is similar to Downtown Tall Buildings Guideline 1.3 d) which acknowledges that some sites are simply too small to accommodate tall buildings as it is not possible to provide appropriate fit and transition. In this case, the site is too small to achieve any of the recommended tower setbacks and hence the proposal does not conform to the Official Plan policies and related guidelines.

Tower Height and Shadowing Impacts

One of the key impacts of tower heights is the resulting shadows. There are a number of Official Plan policies which specifically address shadowing. Built Form Policies 3.1.2.3 d), e) and f) refer to providing for adequate light and limiting shadows on streets, properties and open spaces and minimizing additional shadowing on neighbouring parks and open spaces to preserve their utility. For the *Mixed Uses Areas* designation, Policy 4.5.2 e) refers to maintaining sunlight on parks and open spaces. The Healthy Neighbourhoods Policy 2.3.1.2 c) refers to developments close to *Neighbourhoods* will maintain adequate light for residents in those Neighbourhoods.

The Tall Building Design Guidelines provide 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 and references parks and other shadow sensitive areas as needing protection.

The 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 not cast new shadows on Signature Parks between 10:00 AM and 4:00 PM September 21 and all other 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 proposed tower is 80-stories (259.5 metres including mechanical penthouse). The submitted shadow studies show, to some extent, shadows generated by the proposed tower would fall within shadows generated by other developments. However, the proposed tower would newly shadow:

- Elizabeth Street park (designated *Parks*) at 9:18 am (March/September 21);
- College Park (designated *Parks*) between 11:18-12:18 (March/September 21);
- McGill Parkette (designated *Parks*) between 1:18-2:18 (March 21/September 21);
- McGill-Granby neighbourhood (designated *Neighbourhoods*) at 2:18 (March 21/September 21);

Tower height has a direct impact on shadows which affects 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. The proposed development would shadow a number of properties which are specifically protected by Official Plan policies. This is especially relevant to *Parks* designated lands and to a lesser extent the *Neighbourhoods* designated lands where Official Plan policies and related guidelines state the need to minimize and limit shadows. If development were to occur as per existing zoning permissions, under site specific By-law 440-85 the

maximum height would be 14 m which would eliminate all of the above noted shadows on designated areas.

The proposed tower height does not conform with Official Plan policies and related guidelines which are intended to minimize additional shadowing of sensitive areas. If development were to occur as per the existing zoning then shadows would be minimized. The shadows generated by the proposed development are not in conformity with Official Plan policies and related guidelines.

Heritage Impacts to existing building on 8 Elm Street

The PPS Policy 2.6.1 states that significant built heritage resources shall be conserved. Official Plan Heritage Conservation Policy 3.1.5.4 states that properties on the Heritage Register will be conserved and maintained consistent with the *Standards and Guidelines for the Conservation of Historic Places in Canada*. Policy 3.1.5.5 states that development on a property on the Heritage Register will ensure that the integrity of the heritage property's cultural heritage value and attributes will be retained. Similarly, Policy 3.1.5.26 states that construction will conserve the cultural heritage values, attributes and character and to mitigate visual and physical impact. Policy 3.1.5.27 states that conservation of whole or substantial portions of buildings being desirable and encouraged and the retention of facades being discouraged.

Tall Building Guidelines 1.6 states that development respect and complement the scale, character, form and setting of on-site heritage buildings that is consistent with accepted principles of good heritage conservation. Guideline 1.6 c) and d) states that new base buildings respect the urban grain, scale, setbacks, proportions, visual relationships and materials of the historic context and that tall buildings will not visually impede the settings of properties on the register. Downtown Tall Buildings Guideline 3.4 also references respecting the scale, character, form and setting of on-site heritage buildings.

8 Elm Street is a 3-storey commercial building which was designated by Toronto City Council under Part IV of the Ontario Heritage Act on November 20, 2007 by By-law 1234-2007. The building is designated as being of cultural heritage value or interest and was known as the "James Fleming Buildings" with a former address of 8-12 Elm Street. The applicant has submitted a Heritage Impact Assessment.

The heritage attributes as contained within the designation By-law include, but are not limited to:

- the three-storey south facades with brick cladding above the first storey, and
- the first-floor storefronts, with inset doors, transoms and commercial window openings that retain much of the original 19th century wood detailing.

The proposed development requires removal of two of the three 19th century commercial shop fronts, listed as heritage attributes. The shop front bays would be converted to a roll-up door for loading and a double door entry to the buildings. The proposed development will not conserve the 19th century commercial shop fronts at the ground

level, an important heritage attribute. The development also does not provide adequate setbacks to ensure retention of the heritage block face scale, form and character and as such does not conserve the scale and form of the on-site heritage property. The proposed development is therefore not consistent with the PPS, does not conform to the Official Plan and does not adhere to the relevant guidelines.

Heritage Adjacency

Policy 2.6.3 of the PPS states that Planning authorities shall not permit development and site alterations on adjacent lands to protected heritage property except where it has been demonstrated that the heritage attributes of the protected heritage property will be conserved. Official Plan Policy 3.1.5.5 requires development adjacent to a property on the Heritage Register to ensure that the integrity of the heritage property's cultural heritage value and attributes will be retained. Policy 3.1.5.26 requires construction adjacent to a property on the register to conserve the cultural heritage values, attributes and character and to mitigate visual and physical impact.

The Tall Building Design Guideline 1.6 states that tall buildings are to respect and complement the scale, character, form and setting of adjacent heritage properties and more specifically; to provide additional tall building setbacks stepbacks and other appropriate placement or design measures to respect the heritage setting. Guideline 3.2.2 c) states that towers should be placed away from neighbouring properties to reduce visual and physical impacts and encourages stepbacks greater than 3 metres adjacent to heritage properties. This is further informed by Downtown Tall Buildings Guideline 3.4 which reference respecting the scale, character, form and setting of adjacent heritage buildings.

To the west of 8 Elm, the adjacent property is 14 Elm Street (The Arts and Letters Club Hall) which was designated under Part IV of the Ontario Heritage Act on November 26, 1975 by By-law 513-75. Further to the west, 18 Elm Street (YWCA, now the Elmwood Spa) was also designated under Part IV on April 17, 1979 by By-law 334-79. It is noted that 14 Elm Street is a *National Historic Site of Canada*.

Heritage Preservation staff have advised that directly across the street there are several small early commercial rows that may have sufficient cultural heritage value to be designated under the Ontario Heritage Act.

The proposed development will not ensure the integrity of the adjacent heritage property's cultural heritage value and attributes are conserved. Increased setbacks and step backs would mitigate visual impacts to the scale and form of the adjacent designated buildings and block face character. Further, the massing and bulk of the tower and structural columns above the base building will visually overwhelm the scale and definitive roof forms of the adjacent heritage buildings along Elm Street. As a result, the development will have a negative visual impact on these heritage buildings and will subsume their individual and collective importance on the block face. The new development will appear to loom over the heritage buildings when experienced at street level.

The proposed development is therefore not consistent with the PPS, does not conform to the Official Plan and does not adhere to the relevant guidelines.

Heritage Easement

The site is also subject to a Heritage Easement Agreement under Section 37 of the Ontario Heritage Act as in Instrument Number CT720206 as amended by CA67112. This easement was entered into between the former City of Toronto and the property owner to ensure the long-term conservation of the heritage property. The Easement Agreement, Schedule D, refers to heritage elements contained at the front façade of the property, including the nineteenth century storefronts as "Reasons for Identification". This agreement can only be amended if both City Council and the property owner agree to amend. To date, there has been no agreement to amend the Heritage Easement Agreement.

Helicopter Flight Path

On May 3, 2016, the Minister of Municipal Affairs and Housing issued a Zoning Order – Protection of Public Health and Safety – Toronto Hospital Heliports which identifies an obstacle limitation surface which structures or naturally growing objects shall not penetrate. The Zoning Order reflects the most recent Sick Kids Hospital helicopter flight path.

There are 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.

Growth Plan Policy 3.2.6 refers to Community Infrastructure which is defined to include public services for health. 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.

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 Sick Kids' helicopter flight path which is adjacent to the proposed development. More specifically, the Ministers Zoning Order shows the northerly limit of the flight path running approximately parallel to and along the Elm Street right-of-way. Legal representatives from Sick Kids Hospital have commented that an aeronautic assessment will be required to determine compliance with the Ministers

Zoning Order and that the applicant is to co-ordinate this review with Sick Kids Hospital's solicitors. To date, a final determination has not been made.

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. Official Plan Policy 4.5.2 e) refers to massing new buildings to maintain comfortable wind conditions for pedestrians on adjacent streets. Related to the pedestrian environment and safety, Official Plan Policy 3.1.2.2 b) refers to minimizing curb cuts across the public sidewalk.

The applicant submitted a Pedestrian Wind Study for the proposed development. The study concludes that ground level winds at most locations will improve with occasional localized areas of higher pedestrian level winds. Wind mitigation measures for the outdoor amenity area could be addressed through the Site Plan process.

Amenity Space

Official Plan Built Form 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. Tall Buildings Design Guideline 2.5 also refers to the provision of outdoor amenity space and provides guidance on the siting of that space. 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 726 m² (1.5 m² per dwelling unit) of indoor and 390 m² (0.8 m² per dwelling unit) of outdoor space is proposed for a total of 1116 m² (2.4 m² per dwelling unit). The proposed outdoor amenity space does not meet City standards and is deficient.

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 35 three-bedroom units (7% of the total units). Although the applicant is proposing some three bedroom units, a higher allocation would be desirable.

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 that should the application be appealed to the Ontario Municipal Board and approved by the Ontario Municipal Board, then a portion of any Section 37 benefits be allocated towards purpose built rental units (affordable and/or mid-range) to support the objective of providing a full range of housing and affordability.

Parking and Loading

Official Plan policy 4.5.2 i) refers to developments in *Mixed Use* areas will provide an adequate supply of parking for residents and visitors.

The applicant is proposing 0 parking spaces and 1 sub-standard Type C loading space. There are also 422 long term and 47 short term bicycle parking spaces proposed. A Transportation and Parking Assessment was submitted with the application.

Transportation Services Staff have reviewed the study and concluded the study and plans need to be revised. Specific issues that need to be addressed include: clarification as to how approximately 47 (AM) and 66 (PM) two-way vehicular trips will be generated and accommodated given there is no onsite parking; disagreement with the proposal to not provide any on-site parking which Transportation Services believes could potentially be accommodated through parking elevators, parking stackers and/or leasing off-site spaces; concerns with the proposed no residential visitor parking and no office parking; and disagreement with the proposed loading supply and the justification provided by the applicant for that loading supply. They conclude by stating that the owner is required to provide documentation on how the anticipated vehicular trips will be accommodated on site and to amend the plans to provide parking and loading in conformity with the requirements of Zoning By-law 569-2013 for Policy Area 1. Solid Waste Management Services has also commented that the plans need to be revised to also include a Type G loading space with a staging pad and sufficient turning radius.

The Official Plan policy clearly states that an adequate supply of parking be provided. The proponent takes the position that living in the downtown near a subway station is sufficient justification that parking need not be provided and that if there is any demand for parking it can be addressed through off-site/car-share arrangements. In a development with 469 dwelling units there will be a demand for some level of on-site parking, whether it is for residents or visitors. The proposal not to provide any parking spaces would not meet the definition of adequate.

The proposed zero parking spaces does not conform to Official Plan policy.

Site Servicing and Solid Waste

The applicant submitted a Functional Servicing & Stormwater Management Implementation Report. The development site is proposed to be serviced from the existing combined sanitary sewer and watermain along Elm Street. Engineering and

Construction Services reviewed the report and advise that the report needs revisions in order to comply with the City of Toronto's Design Criteria for Sewers and Watermains Manual and City of Toronto's Wet Weather Flow Management Guidelines. Engineering and Construction Services also commented that confirmation is required as to whether or not groundwater will need to be pumped as part of the design of the building and to provide a strategy with respect to groundwater pumping and discharge.

It is therefore recommended that, if the application were to be appealed to the OMB, 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 0.43 to 0.79 hectares of local parkland per 1,000 people. The site is in the second lowest quintile of current provision of parkland. The site is in a parkland acquisition priority area, as per Chapter 415, Article 111 of the Toronto Municipal Code.

The application proposes to construct a new 80-storey building with 469 residential units with office space on the second and third floors. 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 6,253.33m² or 973.14% 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, while the non-residential use is subject to a 2% parkland dedication. In total, the parkland dedication requirement is 65m² or 9.81%.

Should the application be approved by the Ontario Municipal Board, if City Council were to refuse and the application be appealed, then the applicant would be required to satisfy the parkland dedication requirement through cash-in-lieu. This is appropriate as a dedication of 65m² is not of a suitable size to develop a programmable park within the existing context of this development site.

Toronto Green Standard

In 2013 City Council updated the two-tiered Toronto Green Standard (TGS) that was adopted by City Council on October 27, 2009. 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 by the OMB, 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. Discussions with the applicant concerning Section 37 benefits did not occur as there was no agreement on appropriate development for the site. However, if the application were to be 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 application is appealed and 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 \$2.9 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. streetscape improvements in the area including but not limited to Yonge Street
- ii. multi-purpose community space
- iii. parkland improvements within the area
- iv. affordable housing
- v. library

The amount and recommended community benefits are comparable to those secured for similar developments in the area. The \$2.9 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 if it were to be approved:

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 is not consistent with the PPS, does not conform with relevant Official Plan policies and Council approved guidelines. More specifically: the tower massing and resulting transitioning do not fit within the existing or planned context; the tower does not maintain adequate setbacks; tower height is excessive with resultant shadowing; and the development does not adequately protect the existing on-site heritage building or adjacent heritage buildings. Additionally, the proposed development: lacks sufficient indoor amenity space; lacks an appropriate number of family sized units; does not provide any parking; and does not have a satisfactory Functional Servicing Report to address Engineering issues.

Therefore, for the reasons outlined in this report, it is recommended that the application be refused. Also, should the application be appealed to the Ontario Municipal Board, it is staff's recommendation that staff be directed to attend the Ontario Municipal Board hearing in opposition to the applicant's development proposal and application for a Zoning By-law Amendment for the property at 8 Elm Street.

CONTACT

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E-mail: dwaltho@toronto.ca

SIGNATURE

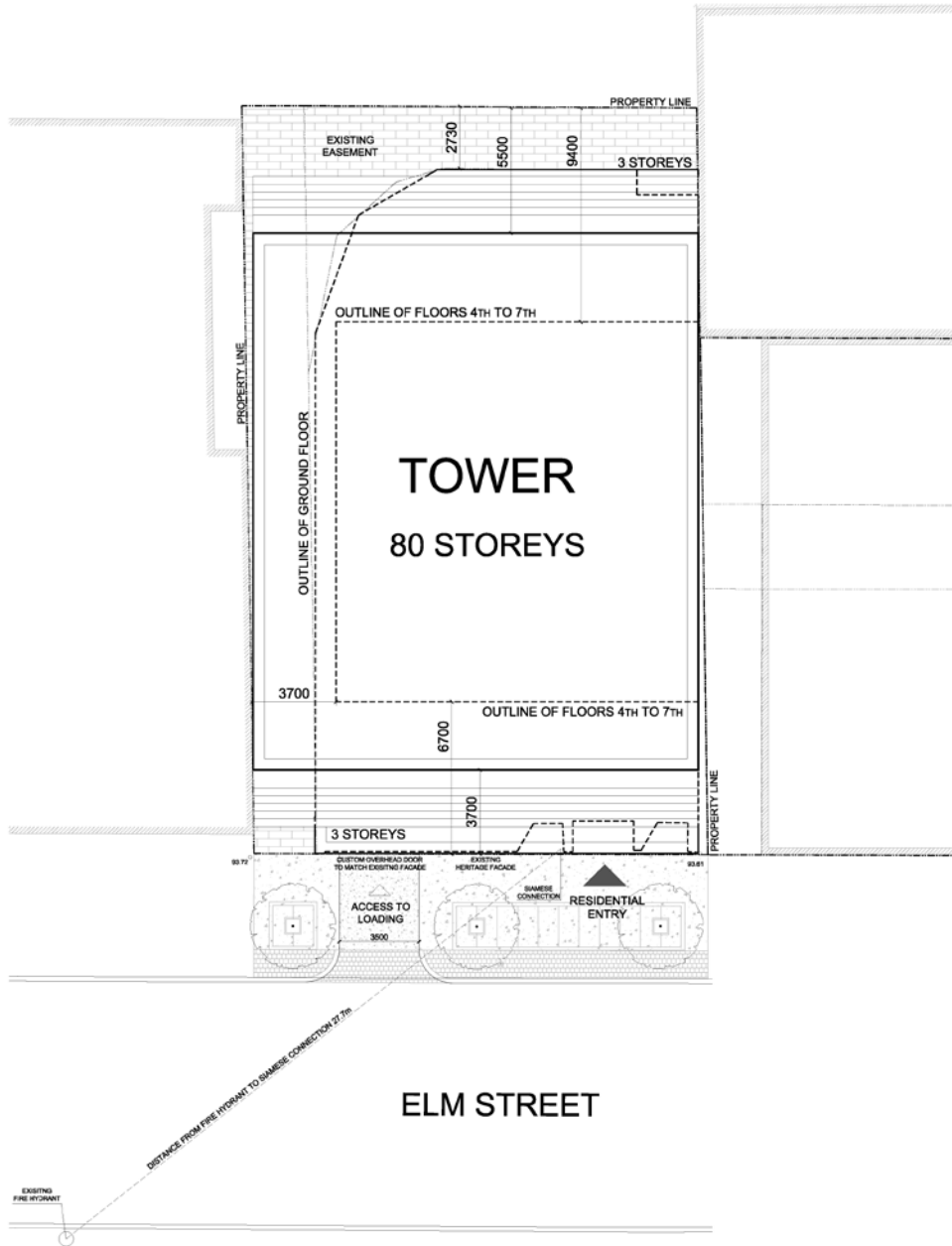
Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

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ATTACHMENTS


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

Attachment 1: Site Plan



Site Plan

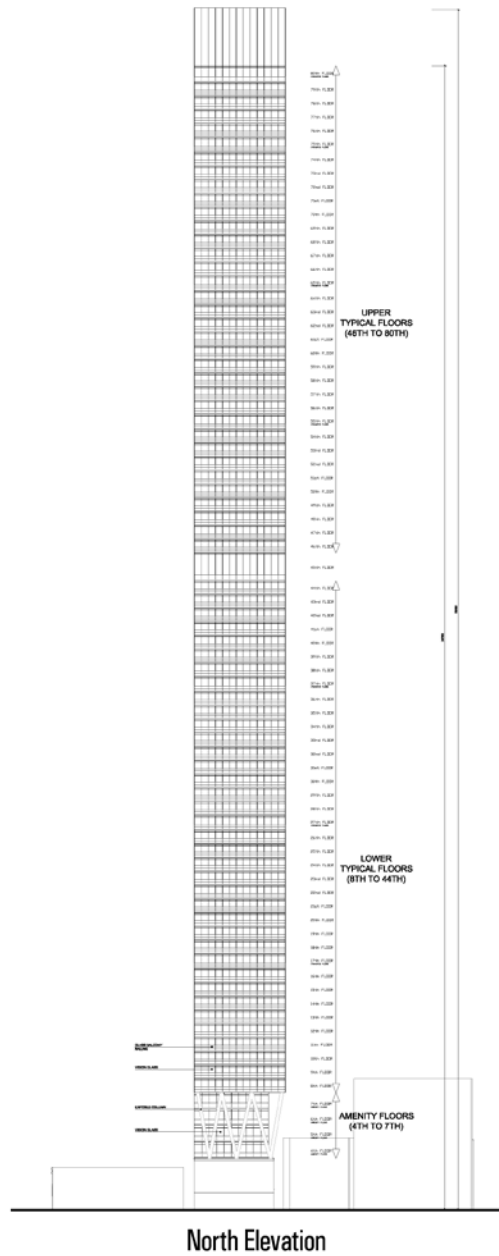
Applicant's Submitted Drawing

Not to Scale 
07/18/2016

8 Elm Street

File # 16 189782 STE 27 0Z

Attachment 2: Elevations



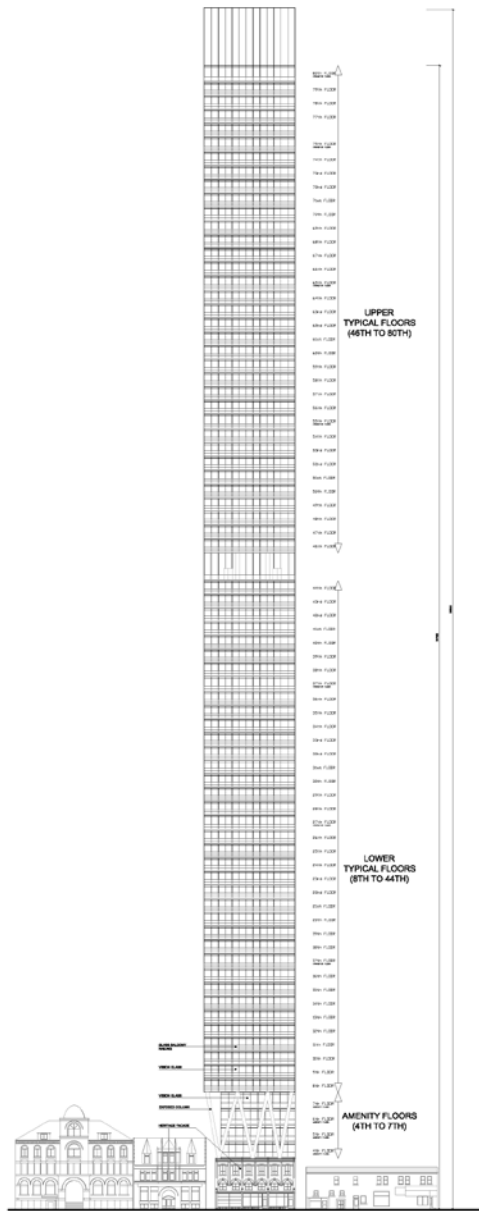
Elevations

Applicant's Submitted Drawing

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07/18/2016

8 Elm Street

File # 16 189782 STE 27 0Z



South Elevation

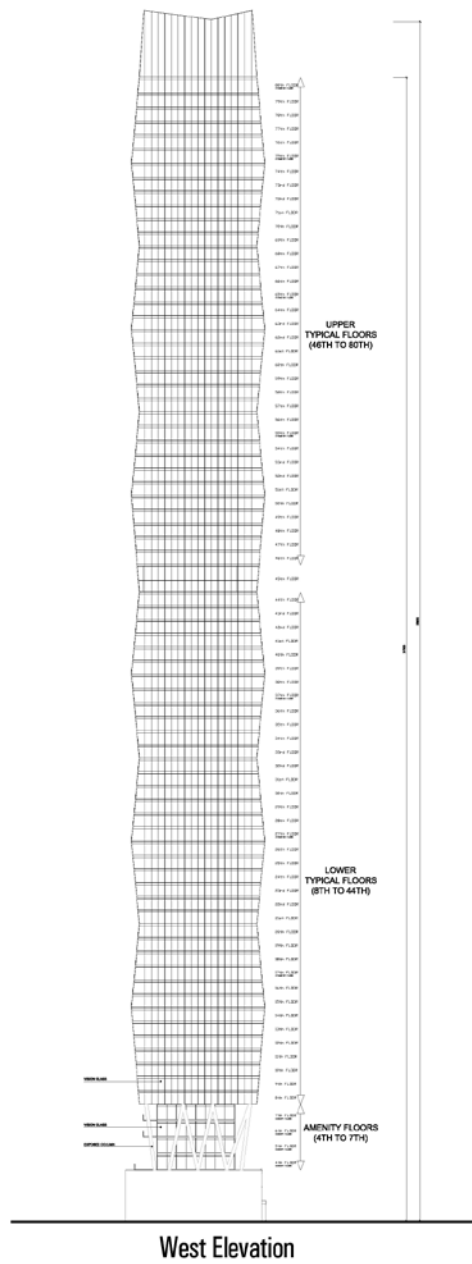
Elevations

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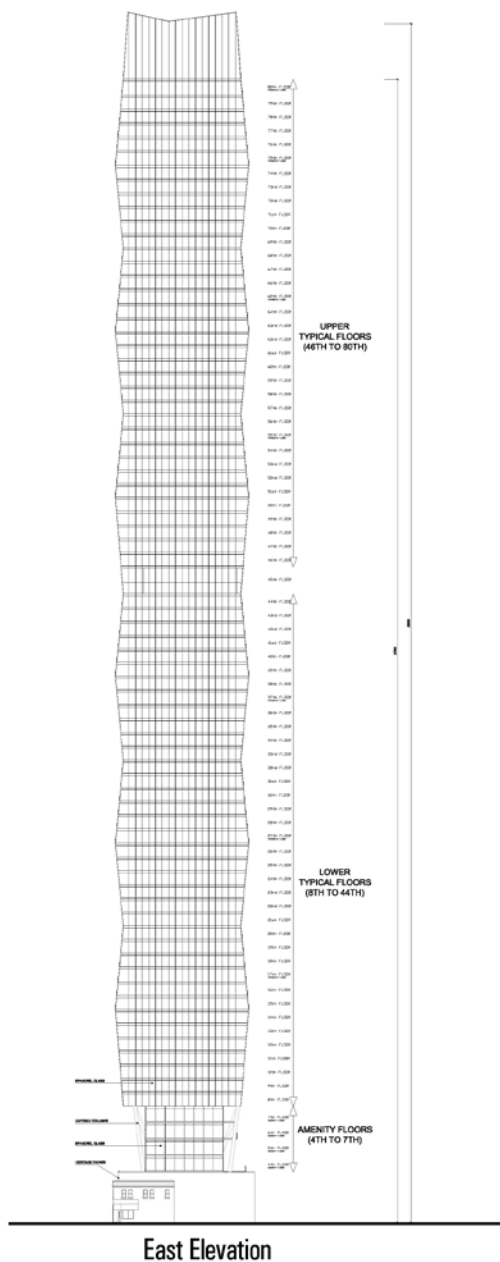
Elevations

8 Elm Street

Applicant's Submitted Drawing

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07/18/2016

File # 16 189782 STE 27 0Z



Elevations

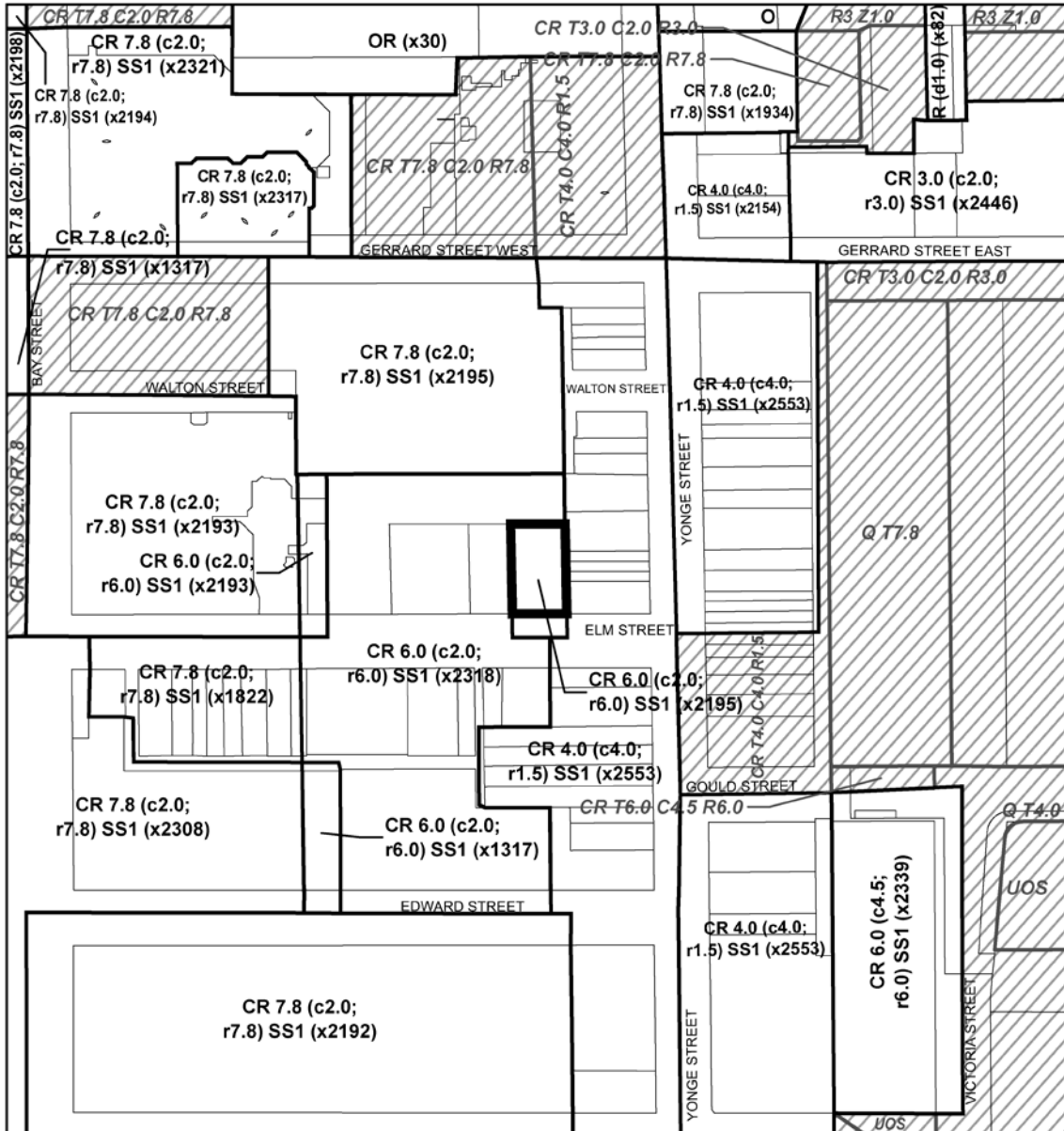
8 Elm Street

Applicant's Submitted Drawing

Not to Scale
07/18/2016

File # 16 189782 STE 27 0Z

Attachment 3: Zoning



Zoning By-Law No. 569-2013

8 Elm Street

File # 16 189782 STE 27 0Z

- Location of Application
- R** Residential
- CR** Commercial Residential
- O** Open Space
- OR** Open Space Recreation

- See Former City of Toronto By-Law No. 438-86
- R3** Residential District
- CR** Mixed-Use District
- Q** Mixed-Use District
- UOS** Parks District

↑
Not to Scale
Extracted: 07/18/2016

Attachment 4: Application Data Sheet

Application Type	Rezoning	Application Number:	16 189782 STE 27 OZ
Details	Rezoning, Standard	Application Date:	July 13, 2016
Municipal Address:	8 ELM ST		
Location Description:	CON 1 FB PT PARK LOT 9 NOW 63R3114 PART 1,2 **GRID S2711		
Project Description:	Rezoning Application for proposed 80-storey mixed-use building containing 469 residential units and office space on the second and third floors.		

Applicant:	Agent:	Architect:	Owner:
Sherman Brown		Page and Steele	8 Elm Park Properties Inc

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	Y
Zoning:	CR 6.0 (c2.0; r6.0) SS1 (x2318)	Historical Status:	Y
Height Limit (m):	259.5	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	658.3	Height: Storeys:	80
Frontage (m):	19.97	Metres:	259.5 (incl mech)
Depth (m):	32.91		
Total Ground Floor Area (sq. m):	483.2	Total	
Total Residential GFA (sq. m):	29250	Parking Spaces:	0
Total Non-Residential GFA (sq. m):	715	Loading Docks	1
Total GFA (sq. m):	29965		
Lot Coverage Ratio (%):	73.4		
Floor Space Index:	45.6		

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:	Condo		Above Grade	Below Grade
Rooms:	469	Residential GFA (sq. m):	29250	0
Bachelor:	181	Retail GFA (sq. m):	0	0
1 Bedroom:	74	Office GFA (sq. m):	715	0
2 Bedroom:	179	Industrial GFA (sq. m):	0	0
3 + Bedroom:	35	Institutional/Other GFA (sq. m):	0	0
Total Units:	469			

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