



STAFF REPORT ACTION REQUIRED

319 -323 Jarvis Street – Zoning Amendment– Request For Direction Report

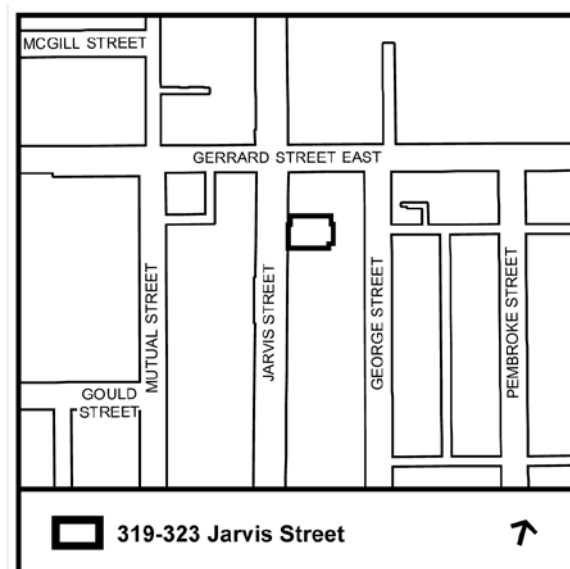
Date:	September 20, 2017
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	17 116378 STE 27 OZ

SUMMARY

This application proposes to amend the Zoning By-law for the lands at 319, 321 and 323 Jarvis Street to permit the construction of a 50-storey building (164.9 metres including mechanical penthouse) mixed use building. The development is comprised of retail uses at grade and 506 residential units above. A total gross floor area of 35,385 m² is proposed comprised of 35,316 m² of residential gross floor area and 69 m² of retail floor area. The proposed density, Floor Space Index, is 30.9.

The owner of the site at 319-323 Jarvis 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 not been scheduled. A full hearing has not yet been scheduled.

The proposal is not supportable in its current form. The proposed development is not appropriate as the proposed tower does not conform with those Official Plan policies that refer to transition, context and shadowing and does not comply with or maintain the intent of the related guidelines. Additionally; the proposed development does not have a satisfactory Functional Servicing Report to address Engineering issues, does not provide



for an appropriate pedestrian realm, and is deficient in parking; the proposal represents over development and is not appropriate.

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 319-323 Jarvis 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 matters, ensures the tower design and related regulatory approach results in the achievement of appropriate setbacks and heights, 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 \$3.3 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. on-site affordable housing,
- ii. improvements to community space at 200 Dundas Street East,
- iii. improvements to Moss Park,
- iv. construction of a green linkage/public realm initiative between Moss Park and Allan Gardens.

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 it be determined 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 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.

DECISION HISTORY

A Preliminary Report on the application was considered by the Toronto East York Community Council on May 2, 2017. Key issues identified in the Preliminary Report included: conformity with OPA 82 and OPA 352 particularly with respect to shadowing on Allan Gardens and tower setbacks; appropriateness of the proposed height and density of development; transition to neighbouring lands; and the relationship between vehicular access, pedestrian circulation, landscape areas and the public realm;

Community Council directed City Planning staff to schedule a community consultation meeting with an expanded notice area and that notice for the public meeting be given according to the

regulations of the *Planning Act*. The Preliminary Report is available at:
<http://www.toronto.ca/legdocs/mmis/2017/te/bgrd/backgroundfile-102943.pdf>

The applicant appealed the application to the Ontario Municipal Board on June 19, 2017, Case Number PL170739.

ISSUE BACKGROUND

Proposal

The application proposes to amend the Zoning By-law for the lands at 319, 321 and 323 Jarvis Street to permit the construction of a 50-storey building (164.9 metres including mechanical penthouse) mixed use building. The development is comprised of retail uses at grade and 506 residential units above. A total gross floor area of 35,385 m² is proposed comprised of 35,316 m² residential uses and 69 m² of retail space. The floor space index for the proposal is 30.9 times the area of the lands. On this comparatively small site, the tower at an average floor plate of 728 m² represents 2/3 of the site area.

The proposed building would have a 3-storey base including a mezzanine on the ground floor. The retail space is proposed fronting Jarvis Street. Located to the south of the retail space is the residential vestibule which leads to the main lobby. Also proposed on the ground floor is a waste storage room at the rear of the building and a Type G loading space behind the retail space (see Attachment 1 and 2).

Vehicular access for the development is proposed at the northwest corner of the site, leading to the Type G loading space, the staging area and the underground parking ramp. No surface parking is proposed. Vehicular parking spaces would be located within a 3-level underground garage and bicycle parking on the ground floor mezzanine.

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

Table 1 – Summary of Application

Category	Proposed
Tower setbacks <ul style="list-style-type: none">- West property line (Jarvis Street)- East property line- North property line- South property line	2.0 m varies from 0.8 m to 5.5 m 2 m 2 m
Base (podium) setback at grade <ul style="list-style-type: none">- West property line (Jarvis Street)- East property line- North property line- South property line	0 m varies from 0.2 m to 2.4 0 m 0 m
Sidewalk/pedestrian realm width	4.5 m (estimate)
Tower floorplate (GFA)	728 m ² (average)
Ground floor height	7.6 m (including mezzanine)

Vehicular parking	47
Bicycle parking	
- Resident	456
- Visitor	51
- Retail	4
Loading spaces	
- Type G	1
Amenity space	
- Indoor	1012 m ²
- Outdoor	1012 m ²

Site and Surrounding Area

The subject site is located on the east side of Jarvis, approximately 60 metres south of Gerrard Street East. The site is approximately 1,143m² and has a frontage of 29.34 m on Jarvis Street. There is 3-storey commercial building located at 319 and 321 Jarvis which is occupied by a hotel. On the 323 Jarvis property there is 3.5-storey mixed use building, now vacant, which was previously retail space with two rental units above. The site is generally flat with limited landscaping.

Surrounding uses:

- North: To the immediate north of the subject site is a 3.5-storey townhouse development at 325 Jarvis Street, and 390 George Street. North of the townhouse development, at the southeast corner of Jarvis Street and Gerrard Street East is a 3-storey hotel. At the northeast corner of Jarvis Street and Gerrard Street East is the Jarvis Street Baptist Church and the Toronto Baptist Seminary and College, a 2-storey stucco building. The church building is designated under Part IV of the Ontario Heritage Act. The seminary building is also designated under Part IV of the Ontario Heritage Act. North of the seminary buildings is the Allan Gardens Park and Conservatory which is also designated under Part IV of the Ontario Heritage Act. The park also contains other amenities including an off-leash dog area and fenced-in playground.
- South: To the immediate south is the Ontario Court of Justice at 311 Jarvis Street, a 2-storey building which occupies a large portion of the block. South of the Court building are several heritage row houses and an 11-storey rental housing building beyond that.
- East: Immediately east of the site is a 3-storey detached dwelling at 339 George Street and a two, 3-storey semi-detached dwellings at 376-374 George Street.
- West: Immediately west of the site is Jarvis Street. On the west side of Jarvis Street is mix of institutional and residential buildings ranging in height from 5 to 15 storeys.

Provincial Policy Statement and Provincial Plans

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. Downtown Policy 2.2.1.6 states that design guidelines will be developed and applied to ensure new development respects the context.

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. Tall Buildings are generally defined as those structures whose height exceeds the width of the adjacent public right-of-way. 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 5.6.1 which states that the Plan should be read as a whole to understand its comprehension and integrative intent as a policy framework.

Official Plan Amendment 82 – Downtown East Planning Study

The site is subject to Official Plan Amendment 82 – Downtown East Planning Study (OPA 82) which was adopted by City Council March 31, 2015 and subsequently appealed to the Ontario Municipal Board. The applicants are not one of the original appellants as it relates to 319-323 Jarvis, however, they were added as a party to the appeal on June 14, 2017.

The purpose of OPA 82 is to set the framework for new growth and development in the area while protecting those areas that should continue to remain stable. The site is within the Hazelburn Character Area. Tall buildings are only permitted on specified blocks within the character area; the site is identified as Block 1 where a tall building is permitted. The general policies of OPA-82 also require: 10% of new units to be three bedroom or larger; no net new shadows will be permitted on Allan Gardens as measured on March 21 and September 21 from 10:00 am to 6:00 pm; and built form policies related to podium height, tower stepbacks, tower floor plate and tower separation distance standards.

Zoning

The subject property is zoned Commercial Residential (CR T3.5, C2.0, R2.0) in Zoning By-law 438-86, as amended with a building height permission of 30 metres. The CR zone permits a wide range of uses including apartment buildings and other dwelling forms, parks, community centres and a range of commercial retail uses.

On May 9, 2013, Toronto City Council enacted City-wide Zoning By-law No. 569-2013, currently under appeal to the Ontario Municipal Board. By-law 569-2013 zones the site Commercial Residential – CR3.5 (c2.0; r2.0) SS2 (x1253) with a maximum building height permission of 30 metres. Similar to Zoning By-law 438-86, as amended, the permitted uses under the CR zone include residential, institutional and commercial retail uses.

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 Jarvis as a High Street with anticipated maximum heights for this site at 47m to 77m (15 to 25 stories) subject to consistency with the other guidelines and achievement of performance standards. The Downtown Tall Buildings Guidelines are available at

<http://www.toronto.ca/planning/tallbuildingstudy.htm#guidelines>

TOcore

TOcore: Planning Downtown' is an initiative to prepare a 25-year plan for Toronto's Downtown along with a series of five infrastructure-related strategies, which will address: parks and public realm, community services and facilities, mobility, energy, and water. This plan, working in tandem with its accompanying strategies, will provide a blueprint to manage the growth and intensification being experienced and anticipated to continue in the Downtown.

The Downtown study area is bounded by Lake Ontario to the south, Bathurst Street to the west, the mid-town rail corridor and Rosedale Valley Road to the north and the Don River to the east. A new Downtown Plan will be developed for the Downtown geography, establishing a renewed vision and local development policies to guide growth and development. The Downtown Plan will provide an integrated planning framework and structure addressing elements of land use, built form, housing, office, institutional, retail, parks and open spaces, community facilities, streets, transit, energy and water. Emphasis is being placed on keeping Downtown an inclusive and affordable place for vulnerable populations.

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'.

On September 7, 2017, Planning and Growth Management Committee adopted a staff report titled "TOcore: Proposed Downtown Plan". Attached to the report were the Proposed Downtown Plan Policies. Planning and Growth Management Committee added a recommendation at its meeting, requesting City Planning staff consider the Proposed Downtown policies during the evaluation of current and future development applications in the Downtown Plan area and continue to refine the policies in consultation with stakeholders and the community.

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
- Transportation Impact Study

- Community Services and Facilities Report
- Qualitative Pedestrian Level Wind Study
- Toronto Green Standards Checklist
- Shadow Study
- Stormwater Management Report
- Preliminary Geohydrology Assessment
- Functional Servicing Report
- Arborist Report
- Preliminary Geotechnical Report
- Housing Issues Report

A notification of Complete Application was issued on March 16, 2017, indicating that the application was deemed complete as of February 17, 2017.

Community Consultation

A community consultation meeting was held April 20, 2017 and was attended by approximately 26 residents. Specific comments related to the zoning amendment component of the project were:

Allan Gardens

- Cumulative impacts of shadowing, shadowing by proposed tower, shadowing across all areas of park
- Enquiry at to what height would not shadow Allan Gardens
- Impact on conservatory buildings particularly in winter when plants most need sunlight

325 Jarvis

- Shadowing of complex, buildings and on site play areas, loss of sunlight
- Inappropriate context of 50-storey next to 3-storey

Other

- Impact on sky view
- Garden District Residents Association does not support application
- Impact to infrastructure and community services
- What is the justification for proposed height
- Enquiry about snow loads and wind impacts, light reflection from glass facade
- Lack of parking
- Compatibility with Heritage Conservation District
- Too many towers in the neighbourhood
- Proposal too high and out of context

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 the reasons outlined below.

Provincial Policy Statement and Growth Plan

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.

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 standards that address issues of scale and transition. The proposed development does not conform to those policies and as such the proposal does not conform with the Growth Plan.

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 with retail 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. The adjacent lands to the east are designated *Neighbourhoods*. OPA 82, if approved by the OMB, would re-designate those adjacent lands to *Apartment Neighbourhoods*.

Built Form

The proposed massing is in the form of a tall building on a small site. Normally this type of development would not be supportable for, among other reasons, an inability to achieve appropriate tower setbacks. In this instance, OPA 82 identifies the site as a Tall Building site subject to conformance to the applicable Development Performance Standards. Tall Buildings are generally defined as anything taller than the width of the right-of-way which is 24 metres; a building exceeding this height would be a tall building. The proposals relies on OPA 82 to permit a tall building but ignores other policies in OPA 82 including those referring to shadowing (Policy 3.5 and 3.6) and having regard to the Tall Building Guidelines (Policy 3.16). Tower setbacks less than those anticipated by the City's Official Plan, Zoning standards (existing and enacted) and guidelines are only supportable in the context of OPA 82 which identifies this as a Tall Building site and specifies that tall buildings are not permitted on adjacent properties. OPA 82 remains under appeal and is pending an outcome and decision. Any tall building proposal for the subject site is premature given this policy uncertainty.

Massing

Official Plan Built Form Policies 3.1.2.1 and 3.1.2.3 require that new development be located and organized to fit within its existing and/or planned context and be massed to fit harmoniously into its context. OPA 82 (under appeal) identifies this site as a Tall Building site and in Policy 3.11 states that Tall Buildings will develop in a Tower-Base typology with floor plates no larger than 750 m² (Policy 3.13).

The proposed development is massed in a tower podium form consisting of a 50-storey tower and a 3-storey podium. The tower component of the development has a floor plate averaging 728 m² which is centrally located on the podium.

The massing of a tower podium form of development is appropriate as this site has been identified as a Tall Building site by OPA 82. However, the scale of the proposal and more specifically the height, is not appropriate. A slimmer tower with greater setbacks and/or setbacks in addition to shorter profile, more in keeping with the existing context, would be a more appropriate massing.

Tower Height – Transition and Context

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 *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. Tall Building policy 3.1.3.2 c) also refers to tall buildings relating to the existing and/or planned context. 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 1.1 which refers to evaluating the context and demonstrating how a proposed tall building responds to the patterns, opportunities and challenges within the surrounding area. Guideline 1.3 also specifies that tall buildings fit within the existing or planned context and provide an appropriate transition in scale down to lower scale buildings. For the tower portion of a development, more specific guidance is provided in the Downtown Tall Building Guidelines which identifies appropriate heights for this portion of Jarvis Street being in the 47m to 77m (15 to 25 stories) range excluding rooftop mechanicals.

The adjacent context (properties adjacent to the site) is characterised by low rise buildings at 3 to 4-stories. The proposed 50-stories does not fit within this context and fails to provide any transition to the adjacent buildings. The failure to provide for adequate tower setbacks combined with excessive heights intensifies the negative impacts on the adjacent properties. By providing reduced heights and sculpted building massing, the negative impacts would be reduced.

Within a block radius the context is more varied as there are a number of towers in the 15-22-storey range as well as lower scaled developments. To the west, the existing context features a mix of mid-rise and tall buildings ranging in height from approximately 5 to 15-stories in height. To the east, the context is of a lower scale, much of which is designated *Neighbourhoods*. To the

north, the adjacent developments are in the 3-4 storey range and north of Gerrard Street heights range up to approximately 22-stories. South of the site, heights range from 3-11 stories. Further south, at the corner of Dundas Street, there are a number of developments in the 42 to 50-storey range. These developments are part of the vision of OPA 82 which specifies in Table 4.1 Hazelburn Character Area iii) that Dundas and Jarvis street is an important gateway to the Downtown, appropriate for tall buildings. As a gateway, in accordance with the planned context outlined in OPA 82, Dundas and Jarvis Street should have the tallest buildings with a transition downwards in height as one moves away from the gateway.

The proposed tower height is more than double the height of other towers within the larger block context and does not provide or form part of a transition from the gateway location at Jarvis and Dundas. The proposed tower height is significantly higher than the existing and planned built form context, does not provide an appropriate transition to the *Neighbourhoods* buildings to the east or the adjacent building to the north and south and as such does not comply with Official Plan policies and related guidelines.

Tower Height - Shadow Impacts on Neighbourhoods

There are a number of Official Plan policies which reference shadowing on *Neighbourhoods*. Built Form Policies 3.1.2.3 d) and e) refer to providing for adequate light and limiting shadows on neighbouring streets and properties. The Healthy Neighbourhoods Policy 2.3.1.2 c) states that developments close to *Neighbourhoods* will maintain adequate light for residents in those Neighbourhoods. *Mixed Use* Policy 4.5.2 d) also refers to limiting shadows on adjacent *Neighbourhoods*. The adjacent lands to the east are presently designated Neighbourhoods but would be re-designated *Apartment Neighbourhoods* if OPA 82 were approved. Tall Building Guideline 1.4c further refers to limiting shadows of neighbouring streets and properties.

The submitted shadow studies show that shadows on *Neighbourhoods* are generally limited to: morning shadows on the McGill-Granby *Neighbourhoods* to the northwest and afternoon shadows on the *Neighbourhoods* to the east for both March and September 21.

The policies refer to limiting shadows. The proposed 50-storey building does not limit the shadows and results in shadowing of *Neighbourhoods* designated lands. A tower at a reduced height would result in less shadowing and potentially eliminating all shadowing if the height was reduced enough, this is particularly true for the McGill-Granby neighbourhood to the north-east. The proposed tower does not conform to those policies and guidelines referring to shadowing on *Neighbourhoods*.

Tower Height - Shadow Impacts on Allan Gardens

Allan Gardens is an important city-wide resource, it is one of the largest parks east of Yonge in the downtown and has one of only three publicly owned and accessible municipal greenhouses in the City with botanical gardens. Allan Gardens attracts members of the public from across the city as well as from the local neighbourhood. Shadow impacts are particularly important because any additional shadowing on the park from new buildings is a permanent impact which effects the park for the foreseeable future.

Official Plan Built Form Policy 3.1.2.3 e) and f) refers to providing for adequate light and limiting shadows on open spaces and minimizing additional shadowing on neighbouring parks to preserve their utility. Official Plan Parks and Open Spaces Policy 3.2.3.3 refers to minimizing additional shadows on parks and open spaces to preserve their utility while Mixed Use Areas Policy 4.5.2 e) refers to maintaining sunlight on adjacent streets, parks and open spaces. OPA 82 Policy 3.5 further states that no net new shadows are permitted on Allan Gardens as measured on March 21 and September 21 from 10:00 am to 6:00 pm. OPA 82 Policy 3.6 further states that no net new shadows are permitted on conservatory buildings (greenhouses) in Allan Gardens or any significant permanent structure as measured on March 21, September 21, June 21 and December 21 at all times of the day.

These policies are expanded on by Tall Building Guideline 1.3 a) which refers to maintaining access to sunlight and sky view for surrounding streets, parks, open space and neighbouring properties and by Guideline 1.4 a) and b) which seeks to minimize any additional shadowing of Parks. The Downtown Tall Buildings guidelines refer to locate and design tall buildings to not cast new net shadows on Signature Parks/Open Spaces (Allan Gardens is a Signature Park) between 10:00 am and 4:00 pm on September 21.

The shadow study reveals that shadowing of Allan Gardens would start at 12:18 and continue to 4:18 on March and September 21 and would likely impact the conservatory buildings (greenhouses) somewhere between 1:18 and 2:18 (refer to Attachment 3). The shadow studies also show shadowing from 11:18-3:18 December 21 with the shadows extending across the entire park and impacting the conservatory buildings (greenhouses) from 12:18 to 2:18 (refer to Attachment 4).

New shadows on the park impact both the existing enjoyment, use and utility of the park in addition to the future potential use of the park. It is recognized that the current programming of the park will likely change over the long term as additional development in the area results in increased park usage and increased demand for park space. Features on City parks are not static and change over time, for example, trees have a finite life span and as a result change shade patterns. The conservatory buildings are an exception as they form part of the heritage designation of the Park. Portions of the Park are already shadowed by existing developments and potentially would be further shadowed by approved but un-built developments. Because of this, shadow impact is of critical concern as it will affect the enjoyment of this rare public resource. Continued incremental erosion of non-shadowed areas will reduce the usability and experience of the park.

Staff are of the opinion that the proposed shadow impacts are unacceptable and do not conform with or maintain the intent of the Official Plan which speak to minimizing shadows to preserve park utility, OPA 82 (under appeal) which prohibits shadows from 10:00-6:00 of the park and of the conservatory buildings at all times of the day and the design guidelines that among other matters refer to not shadowing from 10:00-4:00. The proposed shadow impact does not conform to the Policy and guidelines. As Downtown continues to intensify, the need to protect these few larger parks becomes increasingly important. While this proposal relies on OPA 82 to allow a tall building on a lot that would normally be too small for a tall building, it does not comply with the shadow impact policies of the same OPA.

Tower Height - Shadow Impacts on Heritage Attributes of Allan Gardens

The proposal has an impact on the heritage attributes of Allan Gardens. Allan Gardens was designated in part due to the fact that it is an urban park devoted to horticulture. Architecturally, Allan Gardens contains a collection of greenhouse buildings that illustrate the evolution of glass technology from the Edwardian era to the later 20th century. The greenhouses and auxiliary buildings contribute to the use and evolution of the site and the property represents a significant open space in the City's core where buildings, both designed for and relocated to the site, are positioned to maximize view corridors in all directions. Additional shadows on the greenhouse buildings will affect the level of natural light entering the structures, affecting the appreciation of these resources by residents and visitors and potentially having a deleterious effect on the horticultural resources. This shadowing is inconsistent with Official Plan policies 3.1.5.4 and 3.1.5.5, policy 2.6.1 of the PPS, and does not have appropriate regard for the Allan Gardens under Section 2.d of the Planning Act.

Podium Impacts

There are a number of Official Plan policies that reference the need to protect adjacent developments by providing an appropriate transition through setbacks and stepbacks. Built Form Policy 3.1.2.3 c) refers to appropriate transitions in scale to neighbouring existing and/or planned buildings. For the *Mixed Use Areas* designation, Policy 4.5.2 c) refers to locating and massing new buildings to provide a transition between areas of different development intensity and scale through setbacks and/or stepping down of heights. OPA 82 Policy 3.12 further states that base buildings are encouraged to be no taller than 80% of the right-of-way and that the tower component shall step back at least 3 metres including balconies.

The Tall Building Design Guideline 3.1.1 provides greater clarity with respect to podium heights by referring to the base building (podium) height being consistent with the existing street wall context and to podium (base) building heights being a maximum of 80% of the width of the adjacent right-of-way.

The proposed podium is 3-stories (14.6 m) in height and occupies virtually the entire site with approximate 0 m setbacks to the north and east. The width of the adjacent Jarvis Street right-of-way is 24 m which results in a maximum podium height of 19 m based on the 80% of right-of-way provision. An appropriate podium height is also informed by the height of adjacent developments which are approximately 10-15 m (3-stories) in height.

The proposed 3-storey podium height fronting Jarvis Street is appropriate as it is less than the 19 m height that the guidelines refer to and it is of a similar height to the adjacent buildings. Although the height may be appropriate fronting Jarvis street, the lack of setbacks and stepbacks, particularly to the north and east where the podium faces existing low scale residential buildings, is not appropriate.

Public Realm, Sidewalk Zone and Wind Impacts

For development in the *Downtown*, Official Plan Policy 2.2.1.11 refers to street improvements to enhance the pedestrian environment. This is expanded on by Public Realm Policy 3.1.1.5 and 3.1.1.6 which refer, among other things, to safe and efficient movement of pedestrians, provision of space for trees and landscaping and sidewalks being designed to provide safe, attractive,

interesting and comfortable spaces for pedestrians. In this regard, the Tall Building Design Guideline 4.2 recommends a minimum 6 m wide sidewalk zone. The development application proposes an approximate 4.5 m sidewalk zone along Jarvis which is less than the recommended 6m and as such the proposal is deficient.

It is also noted that the proposed driveway is located at the north-west corner of the site adjacent to a pedestrian entrance to the townhouse complex. A vehicular entrance for a 506 unit residential development adjacent to a pedestrian entrance combined with a reduced pedestrian realm is not an appropriate approach given safety concerns.

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 Level Wind Study for the proposed development. The study concludes that wind impacts are expected to be suitable for the anticipated uses without mitigation. The study also recommends that the proposed outdoor terrace will likely need a combination of vertical wind barriers and canopies; this can be addressed through the Site Plan process if the application were to be approved.

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 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 1012 m² (2 m² per dwelling unit) of indoor and 1012 m² (2 m² per dwelling unit) of outdoor space is proposed for a total of 2024 m² (4 m² per dwelling unit). The proposed amenity spaces meet City standards.

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 51 three-bedroom units (10 % 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 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 was submitted with the application and has been reviewed by staff. Parking and loading would be accessed from a proposed driveway at the northwest corner of the site. The proposed development would provide vehicular parking below grade; loading at grade within the building podium; and bicycle parking on the mezzanine level. The proposal includes 47 residential parking spaces; 511 bicycle parking spaces and 1 Type G loading space.

Transportation Services advise that the proposal must provide 0.17 parking spaces per unit plus visitor parking spaces in accordance with the existing zoning and 1 Type G loading space. This equates to a requirement of 86 parking spaces plus visitor parking spaces. 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 proximity of bike lockers to parking spaces, encroachments, parking space dimensions and pedestrian realm issues. 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 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 and the Stormwater Management Report need revisions and need to address issues of groundwater 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 Stormwater 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 111 of the Toronto Municipal Code.

The application is for the construction of a residential tower consisting of 69 m² of non-residential gross floor area and 506 residential units comprising 35,247 m² of residential gross floor area. In accordance with Chapter 415, Article III of the Toronto Municipal Code, the applicant is required to satisfy the parkland dedication requirement through cash-in-lieu. The non-residential portion of this proposal is subject to a 2% parkland dedication while the residential portion is subject to a 10% parkland dedication. The value of the cash-in-lieu of parkland dedication will be appraised through Real Estate Services. Payment will be required prior to the issuance of the first above-grade building permit.

Parks, Forestry & Recreation have also commented that given the current rise in dog population in the downtown area, especially within condominium towers, the applicant is expected to provide on-site dog off-leash amenities with proper disposal facilities for the building residents or dog relief stations within the building. This will help to alleviate some of the pressure on the existing neighbourhood parks.

Urban Forestry

An Arborist Report and Tree Inventory and Preservation Plan was submitted by the applicant. The report indicates there are twelve trees that meet the criteria for protection under the City of Toronto's Private Tree By-law. The application proposes to remove all twelve of these trees. Urban Forestry reviewed the proposed plans and commented that the development as proposed has not allowed for any landscaped open space on the site that would permit the planting of large growing shade trees. As such the applicant is required to provide a cash-in-lieu payment for thirty-six (36) trees at a value of \$583.00 per trees for a total of \$20,988.00. 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.

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. OPA 82 provides further clarity by identifying the following priorities: on-site affordable housing, improvements to community space at 200 Dundas Street East, improvements to Moss Park and/or construction of a green linkage between Moss Park and Allan Gardens.

A Community Services and Facilities Report 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 there may be a need to renovate or modify existing child care centres as there is a strain on the existing Toronto Public Libraries and community centres within the area.

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

This report therefore recommends that if the Ontario Municipal Board approves this or a modified form of this application, that in accordance with Policy 2.3.1.6 and 5.1.1 of the Official Plan up to \$3.3 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. on-site affordable housing,
- ii. improvements to community space at 200 Dundas Street East,
- iii. improvements to Moss Park,
- iv. construction of a green linkage/public realm initiative between Moss Park and Allan Gardens

The amount and recommended community benefits are comparable to those secured for similar developments in the area. The \$3.3 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;

Conclusion

The proposed development is not appropriate as the proposed tower does not conform with those Official Plan policies that refer to transition, context and shadowing and does not comply with or maintain the intent of the related guidelines. Additionally; the proposed development does not have a satisfactory Functional Servicing Report to address Engineering issues, does not provide for an appropriate pedestrian realm, and is deficient in parking.

The proposal relies on it's identification as a tall building location in OPA 82 yet does not conform to the shadowing and built form policies of OPA 82 and as such represents over-development. Therefore, for the reasons outlined in this report, it is recommended that staff be directed to attend the Ontario Municipal Board hearing of the appeal to oppose the applicant's development proposal and their application for a Zoning By-law Amendment for the property at

319-323 Jarvis Street. It is also recommended that staff be authorized to continue discussions with the applicant in order to come to an agreement for an appropriate built form that among other things, ensures that the tower achieves or secures appropriate setbacks and heights, conforms to Official Plan policies and guidelines and that an appropriate Section 37 quantum can be agreed to.

CONTACT

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E-mail: derek.waltho@toronto.ca

SIGNATURE

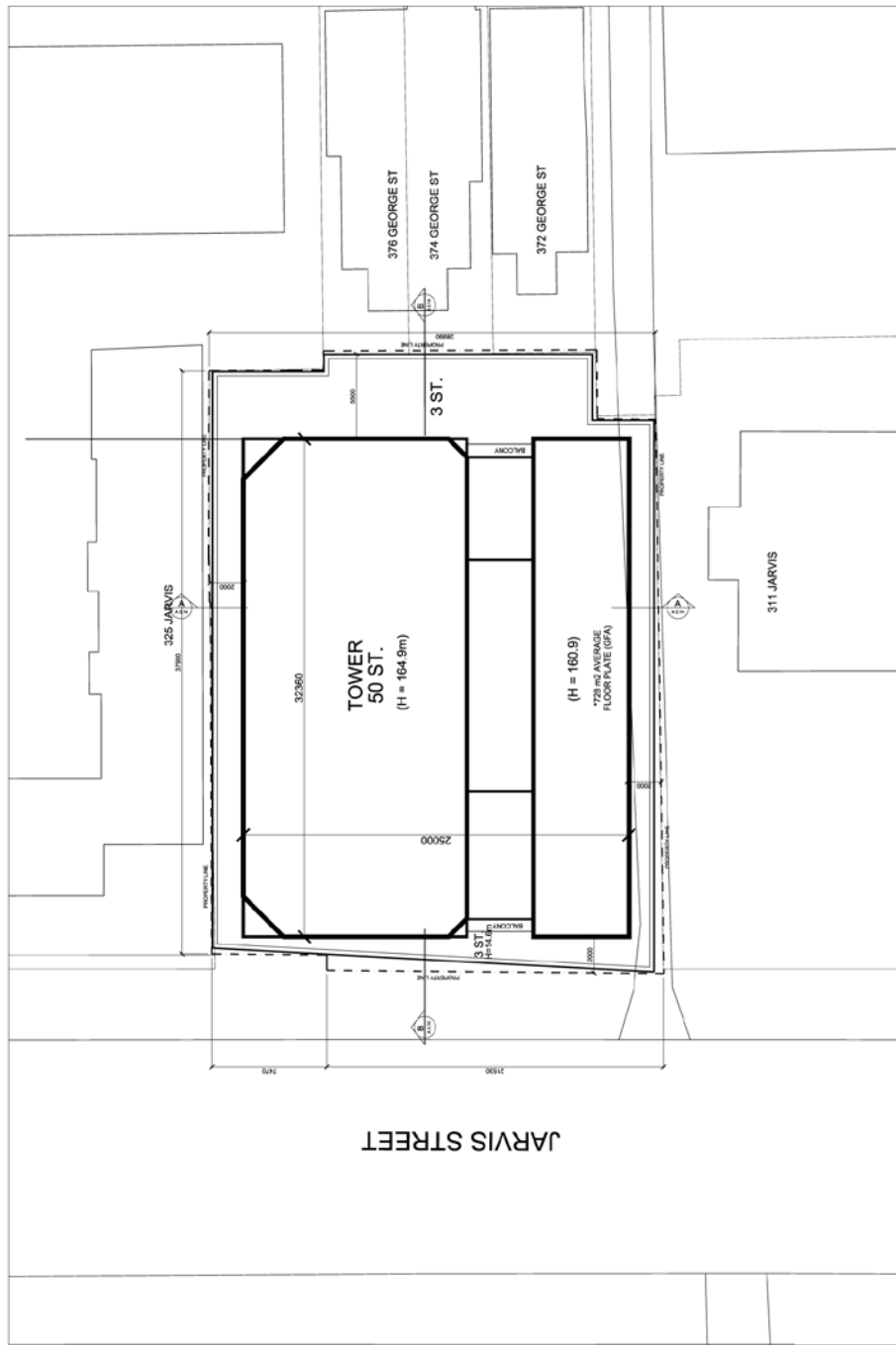
Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

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ATTACHMENTS

- Attachment 1: Site Plan
- Attachment 2: Elevations
- Attachment 3: Shadows of Allan Gardens
- Attachment 4: Shadow of conservatory building in Allan Gardens
- Attachment 5: Application Data Sheet

Attachment 1: Site Plan



319-323 Jarvis Street

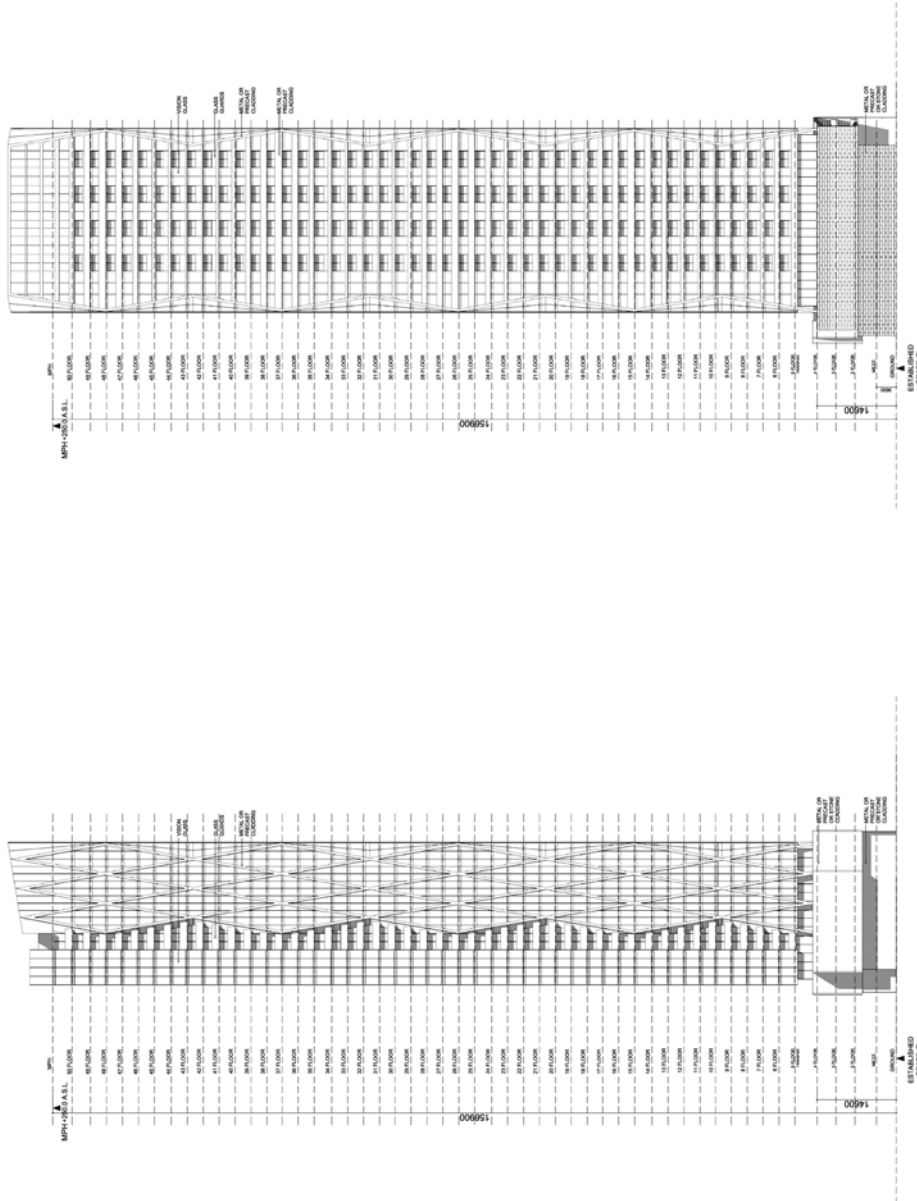
File # 17 116378 STE 02

Site Plan

Applicant's Submitted Drawing

Not to Scale
03/14/2017

Attachment 2: Elevations



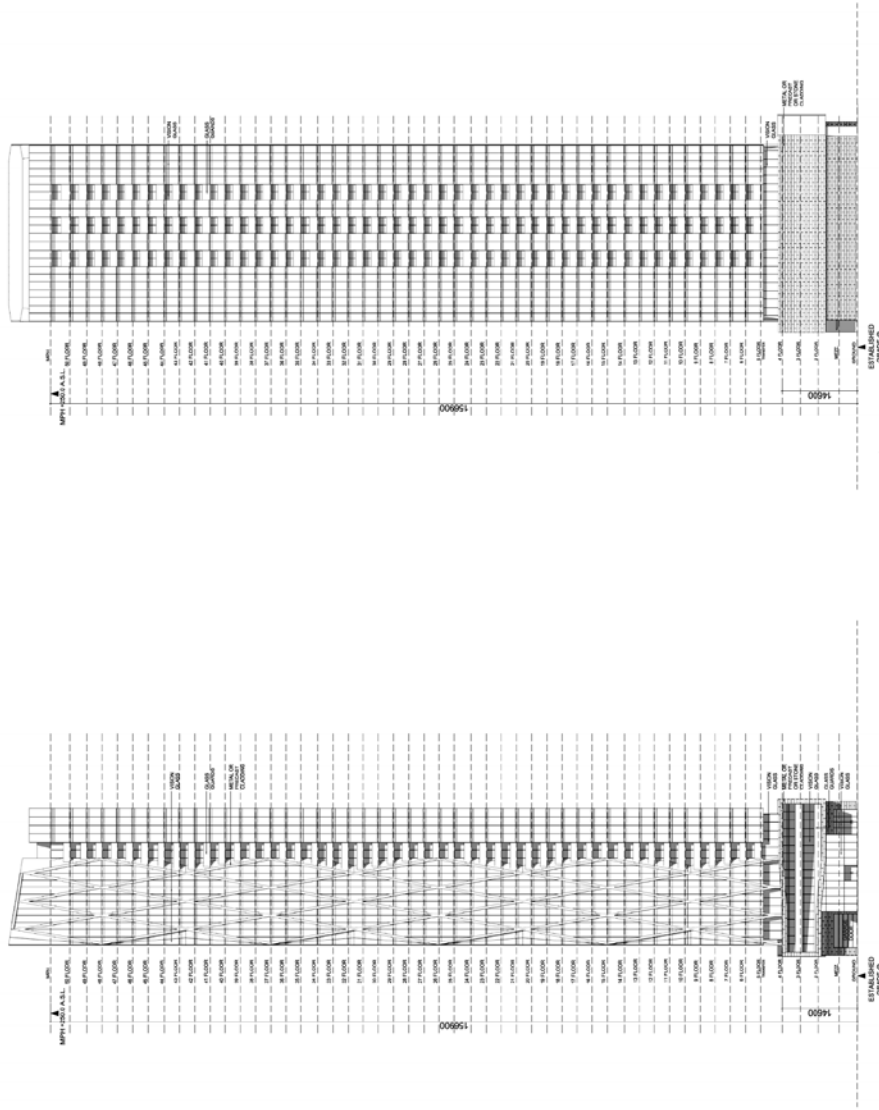
319-323 Jarvis Street

File # 17 116378 STE 02

North & East Elevations

Applicant's Submitted Drawing

Not to Scale
03/14/2017



South & West Elevations

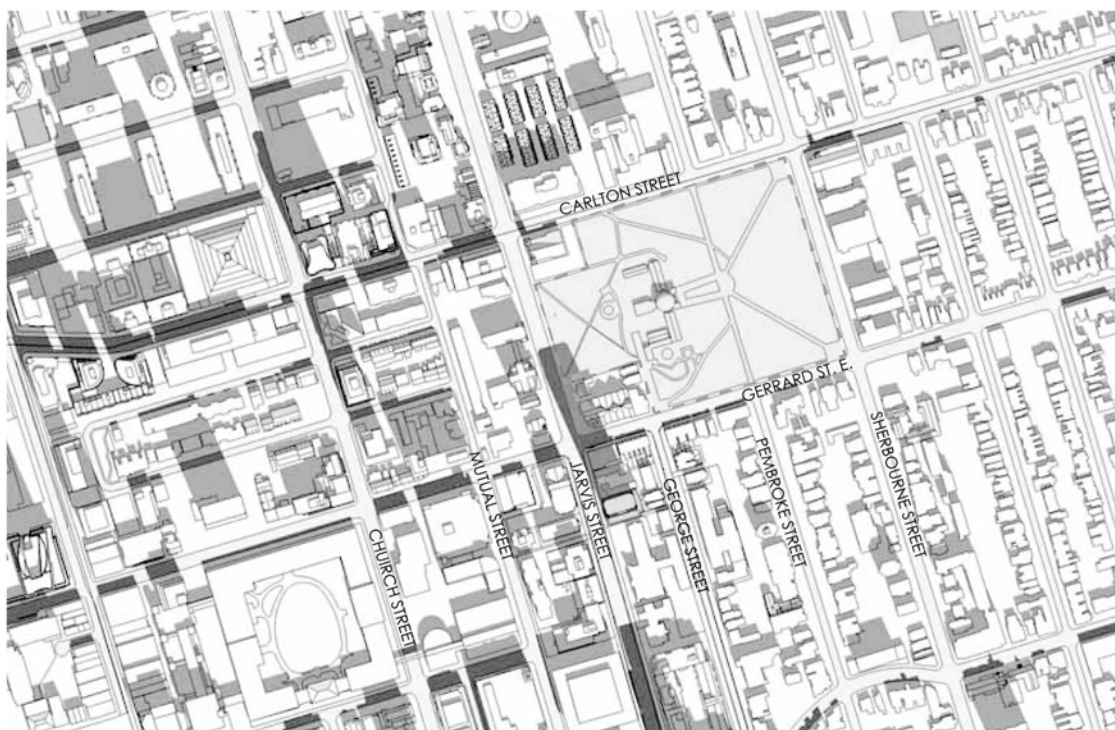
Applicant's Submitted Drawing

Not to Scale
03/14/2017

319-323 Jarvis Street

File # 17 116378 STE 02

Attachment 3: Shadows of Allan Gardens



Shadow Study - March 21 12:18 PM

319-323 Jarvis Street

Applicant's Submitted Drawing

Not to Scale
08/30/2017

File # 17 116378 STE 27 02



Shadow Study - March 21 2:18 PM

319-323 Jarvis Street

Applicant's Submitted Drawing

Not to Scale
08/30/2017

File # 17 116378 STE 27 02



Shadow Study - March 21 4:18 PM

319-323 Jarvis Street

Applicant's Submitted Drawing

Not to Scale
08/30/2017

File # 17 116378 STE 27 02

Attachment 4: Shadow of conservatory building in Allan Gardens



Shadow Study - December 21 1:18 PM

319-323 Jarvis Street

Applicant's Submitted Drawing

Not to Scale
08/30/2017

File # 17 116378 STE 27 02

Attachment 5: Application Data Sheet

Application Type	Rezoning	Application Number:	17 116378 STE 27 OZ
Details	Rezoning, Standard	Application Date:	February 13, 2017
Municipal Address:	319 JARVIS ST		
Location Description:	PLAN D278 PCL A PT RP63R1664 PARTS 1 2 6 **GRID S2712		
Project Description:	Application to amend the Zoning By-law to permit redevelopment of the lands known municipally as 319, 321, and 323 Jarvis Street for a 50-storey mixed-use building with retail uses at grade: 506 dwelling units, 69 sq. m. retail, 35,316 sq. m of RGFA.		

Applicant:	Agent:	Architect:	Owner:
GOODMANS LLP			OCEAN PARK HOTELS INC

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	SS2 (x1253)
Zoning:	CR 3.5 (c 2.0; r2.0)	Historical Status:	
Height Limit (m):	30	Site Plan Control Area:	

PROJECT INFORMATION

Site Area (sq. m):	1143	Height:	Storeys:	50
Frontage (m):	29.34		Metres:	156.9
Depth (m):	40.53			
Total Ground Floor Area (sq. m):	1031			Total
Total Residential GFA (sq. m):	35316		Parking Spaces:	47
Total Non-Residential GFA (sq. m):	69		Loading Docks	1
Total GFA (sq. m):	35385			
Lot Coverage Ratio (%):	90.2			
Floor Space Index:	30.9			

DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	0
1 Bedroom:	322
2 Bedroom:	133
3 + Bedroom:	51
Total Units:	506

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Residential GFA (sq. m):	35316	0	
Retail GFA (sq. m):	69	0	
Office GFA (sq. m):	0	0	
Industrial GFA (sq. m):	0	0	
Institutional/Other GFA (sq. m):	0	0	

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