

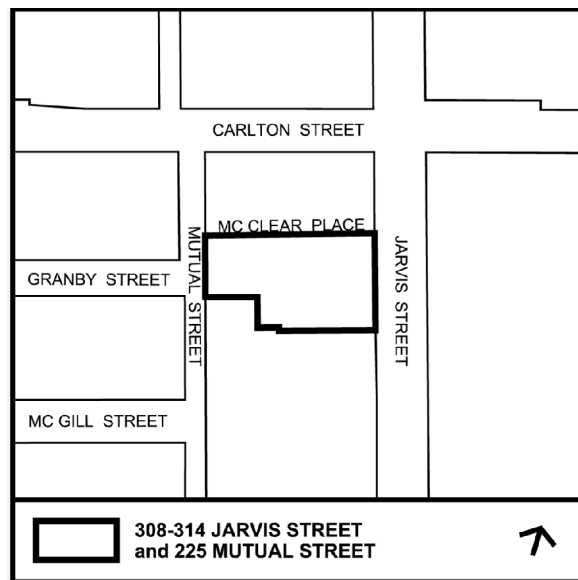
**308-314 Jarvis Street and 225 Mutual Street - Zoning
Amendment Application – Refusal Report**

Date:	March 28, 2012
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	12 110573 STE 27 OZ

SUMMARY

The applicant proposes to construct a 50-storey building consisting of a 9-storey podium and a 41-storey tower at 308-314 Jarvis Street and 225 Mutual Street. The proposal contains 590 units, five of which are townhouse units fronting onto Mutual Street. Five levels of below grade parking are proposed. The heritage property is designated under Part IV of the Ontario Heritage Act and is protected by a Heritage Easement Agreement. It is proposed that the rear section and basement foundation of the existing heritage house be demolished and the home moved to allow construction of a below grade garage and then relocated to the south on the same lot. Heritage staff have evaluated the proposal and do not support the proposed movement of the heritage building as it would constitute an unnecessary negative impact on a valuable heritage resource.

The proposal represents over-development of the site and would have a negative impact on another significant heritage resource, Allan Gardens, which is a significant cultural heritage landscape that is designated under Part IV of the Ontario Heritage Act. The proposed building does not transition to the neighbourhood designation, creating unsupportable shadow and over look issues. Furthermore, the proposed tower massing does not mitigate the shadow



impact it will have on the adjacent park Allan Gardens, leading to a significant reduction in the amount of sunlight.. The servicing of the site is also problematic. Servicing is proposed to be off of McClear Place, a private lane. It does not appear that the applicant has access rights over this lane. Technical Services has also indicated that the laneway would have to be widened to a greater extent than what is currently being proposed which would require the heritage building at 314 Jarvis Street to be moved even further from its original location, exacerbating the heritage impacts.

The approval of the proposed project would set a negative precedent for future development that undermines the policies of the Provincial Policy Statement and the Official Plan and does not implement Council approved guidelines such as the Design Criteria for the Review of Tall Building Proposals.

This report reviews and recommends refusal of the application to amend the Zoning By-law.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the application for Zoning By-law Amendment at 308-314 Jarvis Street and 225 Mutual Street for reasons including the following:
 - a. the proposal does not conform to the Official Plan, including policies related to Built Form, Heritage, Mixed-Use Areas and Site Specific Official Plan Policy 151;
 - b. the proposal is not consistent with Council-approved guidelines/policies such as the Design Criteria for the Review of Tall Buildings;
 - c. a review of the title by the City Solicitor has identified that the applicant does not have registered title to, and the proposed development lands do not have a registered right-of-way over, the private lane (McCclear Place) proposed for servicing and access to the underground parking garage;
 - d. the proposal is not consistent with the Provincial Policy Statement (2005) for reasons including that the heritage values of the designated property at 314 Jarvis Street are not proposed to be conserved with the level of integrity required of this landmark, nor is there sufficient justification provided for the level of intervention proposed. Additionally, the shadow impacts on the Allan Gardens will have a negative impact on the heritage values of this significant cultural heritage landscape.

2. City Council authorize the City Solicitor together with City Planning and other 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 authorize City Planning in consultation with the Ward Councillor, to secure services, facilities or matters pursuant to Section 37 of the *Planning Act*, as may be required by the Chief Planner, should the proposal be approved in some form by the Ontario Municipal Board.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

There are two Ontario Municipal Board decisions respecting portions of the site. The more recent and larger of the two being the minor variance appeal of September 2, 1994 for 308, 310 and 312 Jarvis Street and 225 Mutual Street, which allowed for an 18-storey (49.85 metres) building to be constructed on Jarvis Street with a block of six townhouses fronting on Mutual Street. The Board decision states that the owner originally applied to the City for an as of right development of a seven storey residential building fronting onto Mutual Street and an eleven storey building fronting onto Jarvis Street; that during the development review process the City planners, in their effort to achieve the goals and objectives of the Area of Special Identity (McGill-Granby Neighbourhood), requested changes to the building form to allow a more complimentary treatment of the Mutual Street frontage through the introduction of the townhouses and suggested a shifting of the available density to the Jarvis Street due to its status as a major arterial and to provide transition to the Area of Special Identity.

The McGill-Granby Neighbourhood Association (the Association) and Duration Investments Limited appealed the respective decisions of the Committee of Adjustment. The City did not participate in the hearing. The Board subsequently allowed the appeal by Duration Investments Limited, permitting the variances and dismissed the appeal by the Association. The development did not proceed.

The applicant recently applied to the Committee of Adjustment for a minor variance from the Zoning By-law (A0507/11TEY) to permit the use of a surface commercial parking lot currently operating illegally on a portion of the site. The Committee approved the variance at its meeting of April 4, 2012 subject to conditions. City Planning staff had recommended the Committee refuse the variance and at its meeting of April 10, 2012 City Council instructed the City Solicitor to appeal the Committee's decision to the Ontario Municipal Board. That appeal was recently filed.

In 2010, the applicant applied for a permit to demolish the former McClear Studios located at 225 Mutual Street (10 221752 DEM 00). The building was demolished prior to issuance of the permit; however, the demolition permit was subsequently issued.

ISSUE BACKGROUND

Proposal

The proposal is for a 50-storey residential condominium tower (51 storeys including mechanical) that consists of a 9-storey podium and a 41-storey tower, the overall height is 156.5 metres (including mechanical). The proposed 9-storey podium steps back at the third (6 metres), fifth (6 metres), seventh (3 metres) and ninth floors (6 metres) with five, three-storey townhouses proposed for Mutual Street. The sidewalk along Jarvis Street is proposed to be 5 metres wide and 2 metres wide along Mutual Street. The applicant is not proposing continuous weather protection. Landscape improvements are proposed for Jarvis Street adjacent to the property. The proposed height of the ground floor is 4.5 metres.

The proposed tower has an average floor plate of 749 square metres (37 metres by 20 metres), with an east-west orientation. The tower is rectangular in shape, tapering somewhat towards the east. The tower is setback 12 metres from Mutual Street, 7 metres from the 2.5-storey townhouses to the south, 6 to 9 metres from the north side of McClear Place, 11 metres from the Primrose Hotel (111 Carlton Street) to the north of McClear Place, 27 metres from the Ramada Plaza Hotel (300 Jarvis Street) to the south and 33 metres from Jarvis Street.

The applicant is proposing that the project contain 590 residential units, comprised of 420 one-bedroom units (71 %), 163 two-bedroom units (28%), 5 three-bedroom units (1%) which include the proposed townhouses on Mutual Street. Five levels of underground parking are proposed containing 354 vehicle and 607 bicycle parking spaces, with access and servicing to be provided from McClear Place, a privately owned laneway adjacent to the site. The applicant is proposing to supply 1,170 square metres of interior amenity space and 787 square metres of exterior amenity space, located within and on the podium respectively.

The applicant is proposing to demolish the rear wing and the basement of the designated heritage building at 314 Jarvis Street and to move the main portion of the house from its original location to a new permanent location approximately 1.5 metres to the south due to the proposed widening of McClear Place by 1.5 metres (from 3.0 metres to 4.5 metres). The applicant proposes to dismantle the raised foundation of the house and upon moving the building to its permanent location would restore the building, with the raised foundation stones used as a cladding for a new concrete foundation set on the roof of the underground parking garage. During construction of the below grade parking, the applicant proposes that the heritage building be moved to a temporary location on the site.

Site and Surrounding Area

The site is located just south of the intersection of Carlton Street and Jarvis Street with the municipal address of 308-314 Jarvis Street and 225 Mutual Street. It is an irregularly shaped lot that contains a designated heritage property (the former Sheard Mansion at 314 Jarvis Street) with the frontage on Mutual Street being the former site of McClear

Studios. With the exception of the heritage building, the rest of the site is vacant and operates as an illegal commercial parking lot.

North: to the north of the site is McClear Place. The applicant has incorrectly indicated that this is a public laneway. The laneway is privately owned, and the registered land owner is Samuel Peters Jarvis, registered in 1814. To the north of the lane is the Primrose Hotel (21-storeys) and low-rise (predominantly 3-storey) commercial and retail buildings including a listed heritage property at 93 Carlton Street.

East: to the east of the site is Jarvis Street and beyond is St. Andrew's Latvian Lutheran Church a listed heritage property and Allan Gardens, which is designated under Part IV of the Ontario Heritage Act. Founded in 1858 and named after former Mayor George William Allan, Allan Gardens contains six greenhouses with local, tropical and desert plants in addition to the park itself.

South: to the south of the property is the Ramada Plaza Hotel (10 to 18-storeys) at 300 Jarvis Street. The former Frontenac Arms Hotel built in 1930 is designated under Part IV of the Ontario Heritage Act and protected by a Heritage Easement Agreement with the City. Further south and completing the block are three commercial buildings ranging from 1 to 3 storeys (280 and 288-290 Jarvis Street are listed heritage properties).

West: directly to the west of the property is the McGill-Granby Neighbourhood which is designated *Neighbourhoods* in the Official Plan. It is comprised of mainly 2 to 3-storey townhouse and semi-detached dwellings.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. Key objectives include: building strong communities; wise use and management of resources; and protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

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

Official Plan

The City of Toronto's Official Plan contains a number of policies that affect the proposed development.

Chapter 2 – Shaping the City

Section 2.2.1 Downtown: The Heart of Toronto

The proposed development is located in the *Downtown* area as defined by Map 2 of the City of Toronto Official Plan. Section 2.2.1 outlines the policies for development within the *Downtown*. The downtown is where most of the growth in the City of Toronto is expected to occur. The *Downtown* will continue to evolve as the premier employment area of the City of Toronto and provide a range of housing for those working in the area. The City will also explore opportunities to maintain and improve the public realm, promote an environment of creativity and innovation, support and enhance the specialty retail and entertainment districts, support business infrastructure and create business partnerships.

Furthermore, the quality of the *Downtown* will be improved by developing tools to maintain and upgrade public amenities and infrastructure, enhancing parks and other open spaces and strengthening the social services provided. A full range of housing options will be encouraged through intensification within *Mixed Use* and *Regeneration Areas* as well as sensitive infill in *Neighbourhoods* and *Apartment Neighbourhood Areas*. The City will also actively pursue the preservation of heritage resources, create area specific design guidelines and enhance the *Downtown* through local improvements.

Transportation within the *Downtown* is expected to be accommodated by transit. Priority will be given to transit improvements in the *Downtown* and transit vehicles will be given priority on streets within the *Downtown* particularly those with streetcars. A program of improvements will be implemented to enhance the pedestrian environment and efforts made to improve the safety of walking and cycling *Downtown*. The expansion of the PATH system will also be a priority.

Chapter 3 – Built Form

Section 3.1.3 Built Form – Tall Buildings

The applicant is proposing to construct a Tall Building. Policy 3.1.3 states that Tall Buildings come with larger civic responsibilities than buildings of a smaller scale. In addition to speaking about specific built form characteristics, the policy states that proposals for Tall Buildings clearly demonstrate how they relate to the existing and planned context, take into account their relationship with the topography and other tall buildings and how they meet the other objectives of the Official Plan.

Section 3.1.5 Heritage Resources

The site of the proposed development contains a designated heritage property – 314 Jarvis Street. Policy 3.1.5 of the Official Plan requires that significant heritage resources be conserved by listing, designating and entering into conservation agreements with owners. The Plan also offers incentives for the preservation of heritage resources, allowing additional density to be granted in exchange for the preservation of a heritage resource providing it does not exceed the gross floor area of said heritage resource.

Across Jarvis Street from the proposed development is Allan Gardens which is also a designated heritage property.

Section 3.2.3 Parks and Open Spaces

As stated above, the site of the proposed development is across the street from Allan Gardens. Policy 3.2.3 of the Official Plan speaks to maintaining and enhancing Toronto's system of parks and open spaces and states that the effects of development from adjacent properties (shadows, wind, etc.) will be minimized to preserve their utility. It outlines a parkland acquisition strategy, grants authority to levy a parkland dedication or alternative cash-in-lieu and calls for the expansion of the existing network of parks and open spaces.

Chapter 4 – Land Use Designations

Section 4.5 Mixed Use Areas

The site of the proposed development is in an area designated *Mixed Use Areas* in the Official Plan. *Mixed Use Areas* are intended to provide a broad range of commercial, residential and institutional uses in single-use or mixed-use buildings. They can also accommodate parks and utility uses.

Development within *Mixed Use Areas* should provide for new jobs and homes on underutilized lands, while locating and massing new buildings to provide a transition between areas of different development intensity and scale. Particular care should be taken to provide appropriate setbacks and/or stepping down of heights towards lower scale *Neighbourhoods*.

Furthermore, new buildings should be massed so as to adequately limit shadow impacts on adjacent *Neighbourhoods*, particularly during the vernal and autumnal equinoxes. Similarly, development in *Mixed Use Areas* should be located and massed to frame the edges of streets and parks with good proportion and maintain sunlight and comfortable wind conditions for pedestrians on adjacent streets, parks and open spaces.

Development in *Mixed Use Areas* should also provide attractive, comfortable and safe pedestrian environments; have access to schools, parks and community centres as well as libraries and childcare. It should also take advantage of nearby transit services; provide good site access and circulation as well as an adequate supply of both visitor and resident parking. In addition, service areas should be located to minimize impacts on adjacent streets, and any new multi-unit residential development should provide indoor and outdoor amenity space for residents.

Site and Area Specific Policy 151

This site is within the area defined by Site Specific Policy 151 in the City of Toronto Official Plan. Site Specific Policy 151 requires that the McGill Granby Area be conserved and its stability promoted by encouraging the preservation of house-form buildings and their continued use for housing. Development of new housing in *Mixed Use Areas* is encouraged, however, new buildings within the *Mixed Use Areas* will be designed to minimise the extent to which they overlook, overshadow, or block views

from existing or committed house-form buildings. Furthermore, new vehicular access routes will be designed so as not to interfere with the use of private open space in adjacent houses.

Design Criteria for the Review of Tall Building Proposals

In 2006 Toronto City Council adopted the guidelines in the consultant report entitled "Design Criteria for the Review of Tall Buildings" and directed City Planning Staff to begin using them to evaluate Tall Building Proposals. The guidelines are generally divided into four areas of concern: Site Context, Site Organization, Tall Building Massing and the Pedestrian Realm.

Site Context

When considering a Tall building proposal, consideration should be given to master planning larger sites, transitioning to lower scale built forms in a sensitive and meaningful manner and protecting prominent sites, views and vistas.

Site Organization

When orienting a tall building on a site, consideration should be given to framing streets and parks with a consistent front yard setback, buildings should be placed such that they address streets and have main entrances easily accessible from sidewalks, parking and servicing shall be organized to minimize impact on the public realm and demonstrate how their building provides open space features that enhance the public realm. Furthermore, applicants will provide descriptions as to how their project maintains, supports and reinforces any heritage resources on the site.

Tall Building Massing

Tall building applications should be massed such that they have a podium which matches the historical context or, where none exists, transitions back from the street in a 45° angular plane. Floor plates should be approximately 743 square metres, unless articulated in a fashion to minimize their impact. Furthermore, towers shall be spaced a minimum of the width of the widest building, but no less than 25 metres, also, the minimum distance from a property line will be 12.5 metres.

Pedestrian Realm

Tall building applications shall have regard for the public realm demonstrating how the application enhances the streetscape, through active frontages, legible entrances, public art and landscaping. Tall buildings shall supply pedestrian weather protection where appropriate. Furthermore, an applicant must demonstrate how their proposal minimizes its shadow impacts on the pedestrian realm, parks and adjacent open spaces as well as nearby buildings. The proposal will also demonstrate how their building maximizes sky views. Lastly, applicants will supply a pedestrian level wind study showing how their project maintains pedestrian and cycling comfort levels in open spaces around the development.

Zoning

The property is zoned Commercial-Residential (CR T4.0), in former City of Toronto By-law 438-86, as amended. The maximum permitted height on the site is 30 metres with a maximum coverage of four times, with the CR zone permitting a wide range of residential and commercial uses.

There is a site specific permission for an 18-storey (49.85 metre) building to be constructed 308, 310 and 312 Jarvis Street with a block of six townhouses fronting on Mutual Street, that arose from a decision by the Committee of Adjustment in 1993, and subsequently was approved by the Ontario Municipal Board in 1994, after an appeal.

Site Plan Control

The application is subject to Site Plan Control. For lands designated *Mixed Use Areas* the Official Plan provides that additional gross floor area may be permitted in excess of the Zoning By-law permissions where amongst other matters, the by-laws are enacted at the same time as the approval of the site plan for the entire development. An application for Site Plan has not been submitted.

Reasons for Application

The applicant requires a Zoning By-law Amendment to permit the proposed development. The applicant is proposing a maximum height of 156.5 metres where 49.85 metres is permitted. Furthermore, the applicant is proposing a density of 14.7 times coverage where four is currently permitted. The applicant will also require relief from the parking standards and amenity space requirements contained within the by-law.

Community Consultation

A Community Consultation meeting was held on February 27, 2012 and attended by approximately 70 members of the community. With the exception of one person, the overwhelming response from the community was negative. At the meeting a number of concerns were expressed about the proposed application. Concerns were expressed about the overall height of the project, residents did not object to a taller building on the site, but felt that the proposed 50-storey building was unacceptable. Residents from the McGill-Granby Neighbourhood, especially those along Mutual Street expressed concerns about the lack of transition between the tower and the lower scale built form of Mutual Street. Residents were also concerned about the height, overlook and privacy issues that the proposed development would create for the neighbourhood.

Residents also expressed concern about the added traffic that would be created in McGill-Granby as a result of the proposed additional residential units as well as the routes that garbage and other servicing trucks would take to get to and from the new residential tower.

Residents also expressed concern about the shadow impact of the proposed tower on both the McGill-Granby Neighbourhood and Allan Gardens. Notwithstanding that the applicant could demonstrate a lesser incremental shadow increase for Allan Gardens at

4.18 pm as opposed to the as-of-right 18-storey building, residents noted that they use the park into the later afternoon and early evening and that the shadow impacts for the 50-storey building will be more significant at those times.

City Staff have also received a number of communications by email and regular mail on this application. Again, with the exception of one communication, the response has been negative. As above, members of the community have expressed concern about the overall height of the project, the transition to the McGill-Granby Neighbourhood, shadow impacts on Allan Gardens, and traffic and servicing impacts on the Neighbourhood that would arise out of the proposed development.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

COMMENTS

Planning Act, Provincial Policy Statement and Provincial Plans

Section 2 of the *Planning Act* requires that municipal councils in carrying out their responsibilities under the Act shall have regard to matters of provincial interest such as are listed in the section. These include interests such as (d) the conservation of features of significant architectural, cultural or historical interest; (f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems; (g) the minimization of waste; (h) the orderly development of safe and healthy communities.

The Provincial Policy Statement (PPS) promotes the appropriate intensification and efficient use of land, recognizing that land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns. Part IV of the PPS recognizes that the Province's cultural heritage resources provide important environmental, economic and social benefits and states that the wise use and management of these resources over the long term is a key provincial interest. Part V, Policy 1.0 Building Strong Communities provides that Ontario's long-term prosperity, environmental health and social well-being depend on wisely managing change and promoting efficient land use and development patterns. Policy 2.6.1 directs that significant built heritage resources and significant cultural heritage landscapes shall be conserved. The designated property at 314 Jarvis Street comprises a significant built heritage resource, as does Allan Gardens, which is also a significant cultural heritage landscape.

In the PPS "conserved" is defined to mean "the identification, protection, use and/or management of cultural heritage ... resources in such a way that their heritage values, attributes and integrity are retained..." The current proposal has negative impacts on two designated heritage resources as outlined in more detail below.

The Provincial Policy Statement also states, in Section 4.5, that the Official Plan is the most important vehicle for implementing the Provincial Policy Statement. Furthermore, Section 4.5 directs municipalities to provide clear direction for the development of the municipality as well as areas suitable for growth. The City of Toronto has done so and the current proposal does not conform to those policies in the Official Plan.

The Growth Plan for the Greater Golden Horseshoe (the Growth Plan) strives, among other things, to direct growth to areas of urban intensification. It also requires Municipalities to set clear targets for population and employment growth. The entire City of Toronto has been designated a growth area in the Growth Plan and has set population and employment growth targets as required by the Plan. The City has set a Growth Plan population target of 3.08 million by 2031, which, at the time of adoption, would have required an increase of 17,000 people per year to accomplish. Currently the City is averaging 27,500 people per year and is well on its way to meeting its growth targets.

Land Use

The proposed mix of residential and commercial uses is consistent with the land use provisions of the Official Plan, Site Specific Policy and Zoning By-law.

Built Form

Massing

There are number of elements of the proposed building that function well from a massing and built form perspective. The podium and its proposed terracing is an elegant expression on Jarvis Street, and the town houses being proposed for Mutual Street are an appropriate continuation of the prevailing townhouse built form in the area. The densities being proposed at 14.7 times coverage are not outside the range of recent approvals. The principal concern with the massing is that the majority of the GFA is shaped into the proposed point tower. As will be outlined below, the tower, as situated within the site and at the proposed height, does not meet Official Plan policies for *Mixed Use Areas*.

Height

The proposed height of the building is 50 storeys or 151.5 metres (excluding mechanical). Currently there is no context for the proposed height. The Primrose Hotel is 21 storeys and the Ramada Plaza is 10 storeys. Looking to a broader context, there is the Radio City development which has heights of 25 and 30 storeys. A proposed new development at Church Street and McGill Street is currently under appeal at the Ontario Municipal Board and is proposed at 30 storeys. In order to find any buildings taller than 40 storeys one has to look to Dundas Street and Jarvis Street where the PACE condominium project was approved at 42 storeys, or the residences of College Park at 50 storeys.

Context, however, cannot be the only determining factor when attempting to justify either additional height or a lowering of height. There are cases where the City of Toronto has approved non-contextual heights based on larger city building objectives, proximity to

higher order transit or where it can be demonstrated that the additional proposed height would have a negligible impact, among other reasons. That case cannot be made for the proposed tower. The impacts that arise from the proposed height will be outlined below.

Transition

The City of Toronto Official Plan contains policies in its section on *Mixed Use Areas* that require development to: "locate and mass new buildings to provide a transition between areas of different development intensity and scale, as necessary to achieve the objectives of this Plan, through means such as providing appropriate setbacks and/or stepping down of heights, particularly towards lower scale Neighbourhoods." The proposed building does not have a sufficient transition to the McGill-Granby Neighbourhood and the blanket 6 metre and 9 metre step backs are not sufficient to implement the intent of the Official Plan, especially when combined with the overall height of the proposed tower.

Transition to lower scale Neighbourhoods is important to mitigate issues that may arise from approving taller buildings in the vicinity. Site and Area Specific Policy 151 of the City of Toronto Official Plan requires that any new development in *Mixed Use Areas* mitigate impacts on views and shadowing on the existing house form buildings in the area. The 9 metre setback combined with the proposed height impact the views from the existing house-form buildings and their respective private amenity space as well as public realm, and will have a shadow impact on the neighbourhood from sunrise to 10:18 a.m.

Setbacks and Separation Distances

The podium of the development is well designed with step backs at the third (6 metres), fifth (6 metres), seventh (3 metres) and ninth storeys (6 metres). The building is also set back from the heritage building. While the podium expression is excellent, the positioning and setbacks of the tower are not appropriate in its current form. The tower is setback only 6 metres from the 2.5 storey townhouses to the south of the property and only nine metres from Mutual Street and the *Neighbourhoods* designated area. As for the adjacent buildings, the proposed tower is setback from the Ramada Plaza Hotel 27 metres, which is an appropriate separation distance for towers. On the north side, however, there is only an 11 metre separation distance between the 21-storey Primrose Hotel and the proposed tower, although the tower is angled to mitigate this setback and off-set from the hotel. Of greater concern is the setback from the property line. The proposed tower is only set back between 6 metres and 9 metres, moving west to east, from the northern edge of McClear Place.

The Council adopted Design Criteria for the Review of Tall Buildings recommends a minimum setback of 12.5 metres from a property line or centreline of a laneway. The setback as proposed from the laneway creates a problem for any future redevelopment of the properties to the north; it is unlikely that an appropriate separation distance could be achieved between the proposed development and any new project that could occur to the north.

The 6-metre setback from the 2.5-storey townhouses to the south of the tower raises overlook and privacy concerns for those homeowners and the substantial private amenity

space they currently enjoy in their rear yards. The 9-metre setback from Mutual Street is not sufficient to mitigate the same concerns for homes across the street on Granby Street, especially in light of the proposed height of the tower.

Heritage

The site contains the historic Sheard Mansion at 314 Jarvis Street, a designated building under Part IV of the Ontario Heritage Act that is subject to a Heritage Easement Agreement registered with the City in 1990. City Heritage staff have concluded a review of the proposal by the applicant and do not support moving the designated building, either temporarily to facilitate construction of the underground garage or permanently 1.7 metres to the south to allow a proposed lane widening to 4.5 metres.

When a development application is received for lands designated under the *Ontario Heritage Act*, the applicant is requested to demonstrate (via a Heritage Impact Assessment) how the proposed alterations conserve the values and attributes of the heritage property. In order to satisfy provincial and municipal policies and respond to internationally accepted conservation standards and principles, conserving the values and attributes of heritage properties must be done in such a way that their integrity is maintained. In this regard, proposed alterations are considered in relation to the Parks Canada *Standards and Guidelines for the Conservation of Historic Places in Canada*.

Heritage staff advise that the heritage values of the property at 314 Jarvis Street, as well as those of Allan Gardens in this instance are not being conserved with the level of integrity required of significant heritage resources. The proposal does not satisfy the *Standards and Guidelines for the Conservation of Historic Places in Canada* in the following manner:

- It does not conserve heritage value by adopting an approach of minimal intervention.
- The gentlest means possible is not being proposed.
- The character-defining elements of two historic places are being substantially altered.
- The building at 314 Jarvis Street is proposed to be moved even though the current location is a character defining element, the intact evidence of which is the original raised foundation, which is included in the reasons for identification within the Heritage Easement Agreement.

The heritage property at 314 Jarvis Street has already been subject to a process that provided for intensification of the site that secured the protection of the heritage resource through a Heritage Easement Agreement with the City, pursuant to s. 37 of the Ontario Heritage Act. The Heritage Easement Agreement for 314 Jarvis Street, requires Council's approval to the proposed changes to that property. Section 2.1 of the Agreement states :

"The Owner shall not, except as hereinafter set forth, without the prior written approval of the Municipality undertake or permit any demolition, construction, alteration, remodelling or any other thing or act which would materially affect the features of the appearance or construction of the Building as set out in the "Reasons for Identification"

and as may be depicted in the copies of the photographs, drawings and other documents attached hereto ..."

The Agreement also provides that the required approval from the Municipality shall be deemed to have been given if the Municipality fails to respond in writing to a written request for such approval within 90 days of receiving such request. To date no such written request has been received.

Further, the proposal is not consistent with the PPS and related Official Plan heritage policies in that this heritage property, which has been identified and designated under Part IV of the Ontario Heritage Act, is proposed to be altered in such a way that its heritage values, attributes and integrity (which have been defined by the community and City Council through provincial designation and within a Heritage Easement Agreement for the Sheard house) will not be retained.

In addition, the proposed impacts on Allan Gardens, also a heritage property, which has been identified and designated under Part IV of the Ontario Heritage Act, are significant. 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 proposal does not conform to the Growth Plan for the Greater Golden Horseshoe in that while the proposed conservation strategy provides a measure of cultural heritage conservation within the site's intensification, it does not achieve a high degree of conservation for such significant heritage resources, particularly where it has been demonstrated that intensification is feasible on the site with limited impact on heritage resources.

Sun, Shadow, Wind

Shadow Impacts on Allan Gardens

Policies in the City of Toronto Official for *Mixed Use Areas* require that new buildings be massed: "to frame the edges of streets and parks with good proportion and maintain sunlight and comfortable wind conditions for pedestrians on adjacent streets, parks and open spaces." The built form section of the Official Plan requires that new development limit shadow effects on parks and open spaces so as to preserve their utility. No particular dates and times are specified; as a convention, the city generally evaluates these conditions between the vernal and autumnal equinoxes (March 21 and September 21, respectively).

The applicant has conducted a shadow study for the proposed application and compared it with the as-of-right 18-storey building. The applicant has demonstrated that at 4:18 p.m. their project has less shadow impact on the park than the as-of-right building. However, at 5:18 p.m. and 6:18 p.m. the impacts on the park are significantly greater for the applicant's proposal than the as-of-right proposal. Areas that are currently shadow-free at those times would have new significant shadowing for virtually the entire length of the park, including the greenhouses.

The proposed development would also have significant shadow impacts on St. Andrew's Church, a listed heritage property, by increasing afternoon shadowing of the large stained glass windows on the west and south facades.

Shadow Impacts on McGill-Granby Neighbourhood

The Official Plan requires that shadow impacts be limited on neighbourhoods particularly during the vernal and autumnal equinoxes. No particular times are specified. The applicant's shadow study demonstrates that at 9:18 a.m. much of the shadow (although not all) will be off the McGill-Granby Neighbourhood. It is not clear from the applicant's shadow study what the effect would be earlier in the morning, however, it is anticipated that there would be significant shadowing at those times.

Pedestrian Level Wind Study

The applicant has submitted a Pedestrian Level Wind Study for the proposed application. There is not expected to be a meaningful adverse impact on walking conditions for either Jarvis Street or Mutual Street, although wind conditions will worsen significantly along McClear Place.

Traffic Impact, Access, Parking and Servicing

Transportation Services has indicated that McClear Place, a private lane, is too narrow to satisfactorily accommodate two-way traffic. Furthermore, on the basis of the ground floor plan, it appears that the intention is to use the proposed walkway on the south side of the west end of the lane as part of the operational width of the lane. The travel path diagrams submitted by the applicant's traffic consultant indicate that the proposed configuration, which utilizes privately owned and in some cases, encumbered land, on the north side of the lane and a pedestrian walkway on the south side of the private lane are not adequate to accommodate two-way access for cars or Front-End loader garbage trucks.

Transportation Services staff have indicated that the laneway would have to be widened to 6 metres (1.5 metres wider than is currently being proposed). This would exacerbate the impacts of the already minimal proposed setbacks and step backs from McClear Place and require that the Sheard Mansion be shifted an additional 1.5 metres to the south.

This is further complicated by the fact that the laneway is privately owned. A title search by City of Toronto Legal Services has identified that the title to McClear Place is registered in the name of Samuel Peters Jarvis, who acquired the property in 1817, and

there is nothing registered on title to the proposed development site or McClear Place to indicate that the proposed development site has the benefit of a right-of-way over McClear Place. The owners of the development site would have to either acquire registered title to McClear Place or a registered right-of-way over McClear Place that benefits the entire development in order for the application (which proposes to use McClear Place to gain access to the underground parking garage and to service the development) to be feasible, or alternatively revise the project with a different access and servicing design.

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 middle quintile of current provision of parkland. The site is in a parkland priority area, as per the City Wide Parkland Dedication By-law 1020-2010.

The application proposes 590 residential units on a site with a net land area of 3,211 square metres. At the alternative rate of 0.4 hectares per 300 units specified in By-law 1020-2010, the parkland dedication requirement is 0.786 hectares or 244.9% of the site area. However, for sites that are less than 1 hectare in size, a cap of 10% is applied to the residential use while the non-residential use is subject to a 2% parkland dedication. In total, the parkland dedication requirement is 318 square metres.

If the proposed development were to proceed, the applicant would be required to satisfy the parkland dedication requirement through cash-in-lieu. This is appropriate as there is no location for an on-site parkland dedication and the site as currently proposed would be encumbered with below grade parking. The actual amount of cash-in-lieu to be paid would be determined at the time of issuance of the building permit.

Urban Forestry

The applicant proposes the removal of several trees on their property some of which do not qualify for protection under the City of Toronto's tree protection by-law. Six trees on the property do qualify for protection and the applicant is proposing to remove four of those trees. Urban Forestry agrees with the conclusions of the applicant's arborist generally, but have concerns with respect to the impact of the construction activities associated with the development as proposed on the crowns of tree nos. 54 and 56. Urban Forestry requires further information to determine if the protection measures proposed would be adequate. In the event the application is approved this should be secured prior to approval of zoning.

Toronto Green Standard

On October 27, 2009 City Council adopted the two-tiered Toronto Green Standard (TGS). The TGS is a set of performance measures for green development. Tier 1 is required for new development. Tier 2 is a voluntary, higher level of performance with financial incentives. Achieving the Toronto Green Standard will improve air and water

quality, reduce green house gas emissions and enhance the natural environment.

The applicant is required to meet Tier 1 of the TGS. Should the application be approved, the applicant will be required to submit a site plan that brings their proposal into compliance with these standards.

Section 37

Section 37 benefits have not been discussed in the absence of an agreement on appropriate height and massing and other issues raised in this report.

Conclusion

City of Toronto Planning Staff do not lightly undertake to recommend refusal of an application. Were there a reasonable prospect of the numerous issues with the proposal being resolved through the planning process, Staff would work through the process in its entirety. In this case, however, the proposed application does not conform with fundamental policies of the Official Plan, is not consistent with the Provincial Policy Statement and does not have regard to certain matters of provincial interest in s.2 of the *Planning Act*. Nor is there a reasonable prospect that the application could be sufficiently revised to address those concerns. The proposal is not consistent with the PPS and related Official Plan heritage policies in that two significant heritage resources, which have been identified and designated under Part IV of the Ontario Heritage Act, are proposed to be altered in such a way that their heritage values, attributes and integrity will not be conserved to an appropriate standard of conservation.

The application fails to meet the development criteria for proposals in *Mixed Use Areas* adjacent to *Neighbourhoods*, and is further constrained by its adjacency to Allan Gardens. Moreover, there is the added policy tests of Site and Area Specific Policy 151 which must be met. The lack of transition, appropriate setbacks and the lack of a contextual height all contribute to the proposal failing to meet these policies. Furthermore, the applicant has failed to demonstrate how their proposal could be serviced and accessed adequately from McClear Place without widening the private laneway further than proposed. This would compound the proposed impacts on the heritage property. Finally there is the issue of the apparent lack of legal access by the development over McClear Place.

It is the opinion of City Planning that this application does not meet the requirements of the *Planning Act* for a rezoning, is not in the public interest and does not constitute good planning. As a consequence City Staff recommend that the application be refused.

CONTACT

Giulio Cescato, Planner
Tel. No. 416-392-0459
Fax No. 416-392-1330
E-mail: gcescat@toronto.ca

SIGNATURE

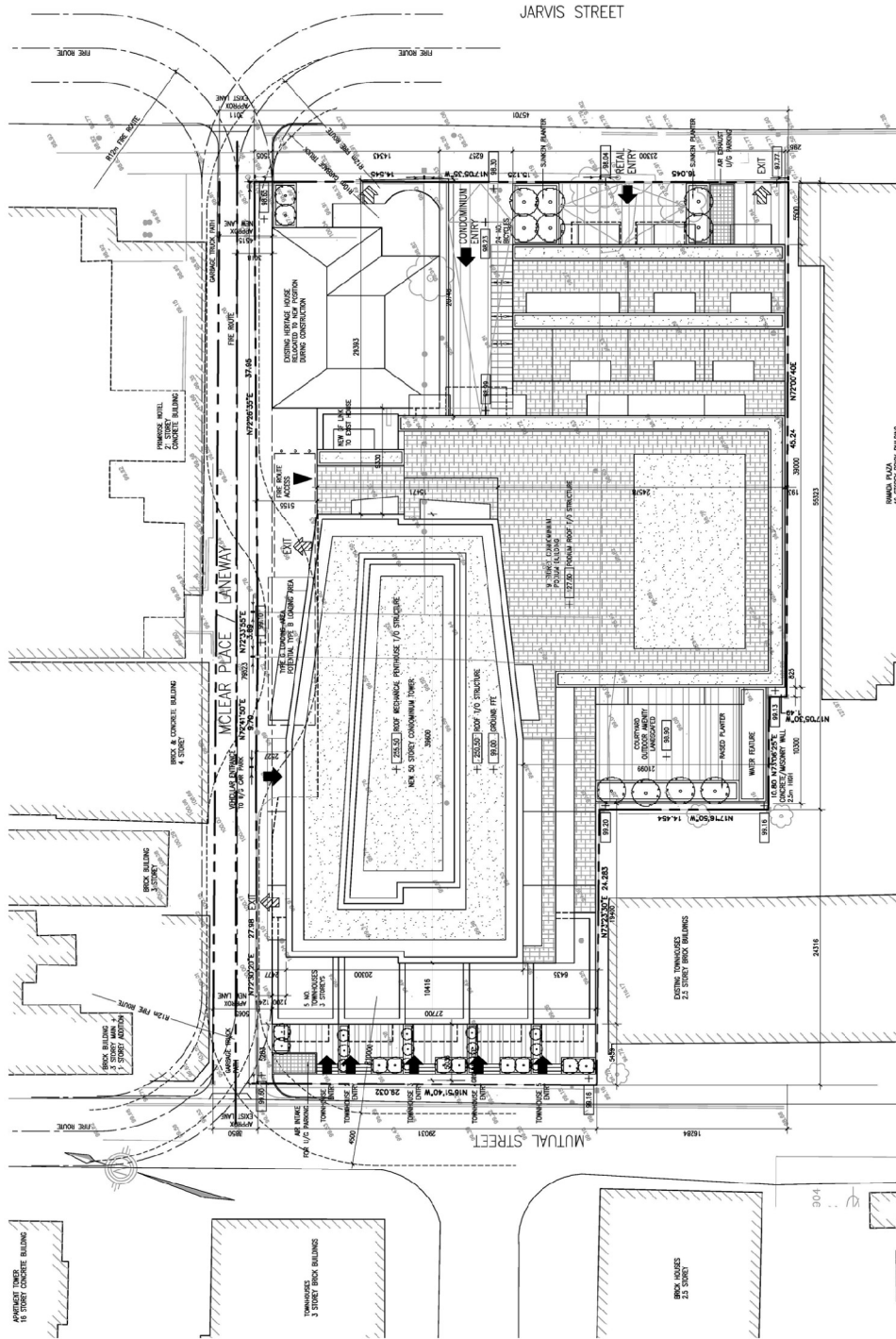
Raymond David , Director , MCIP, RPP
Community Planning, Toronto and East York District

(p:\2011\Cluster B\pln\teycc6540308083) - vc

ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: North Elevation
Attachment 3: East Elevation
Attachment 4: South Elevation
Attachment 5: West Elevation
Attachment 6: Zoning
Attachment 7: Application Data Sheet

Attachment 1: Site Plan



308-314 Jarvis Street and 225 Mutual Street

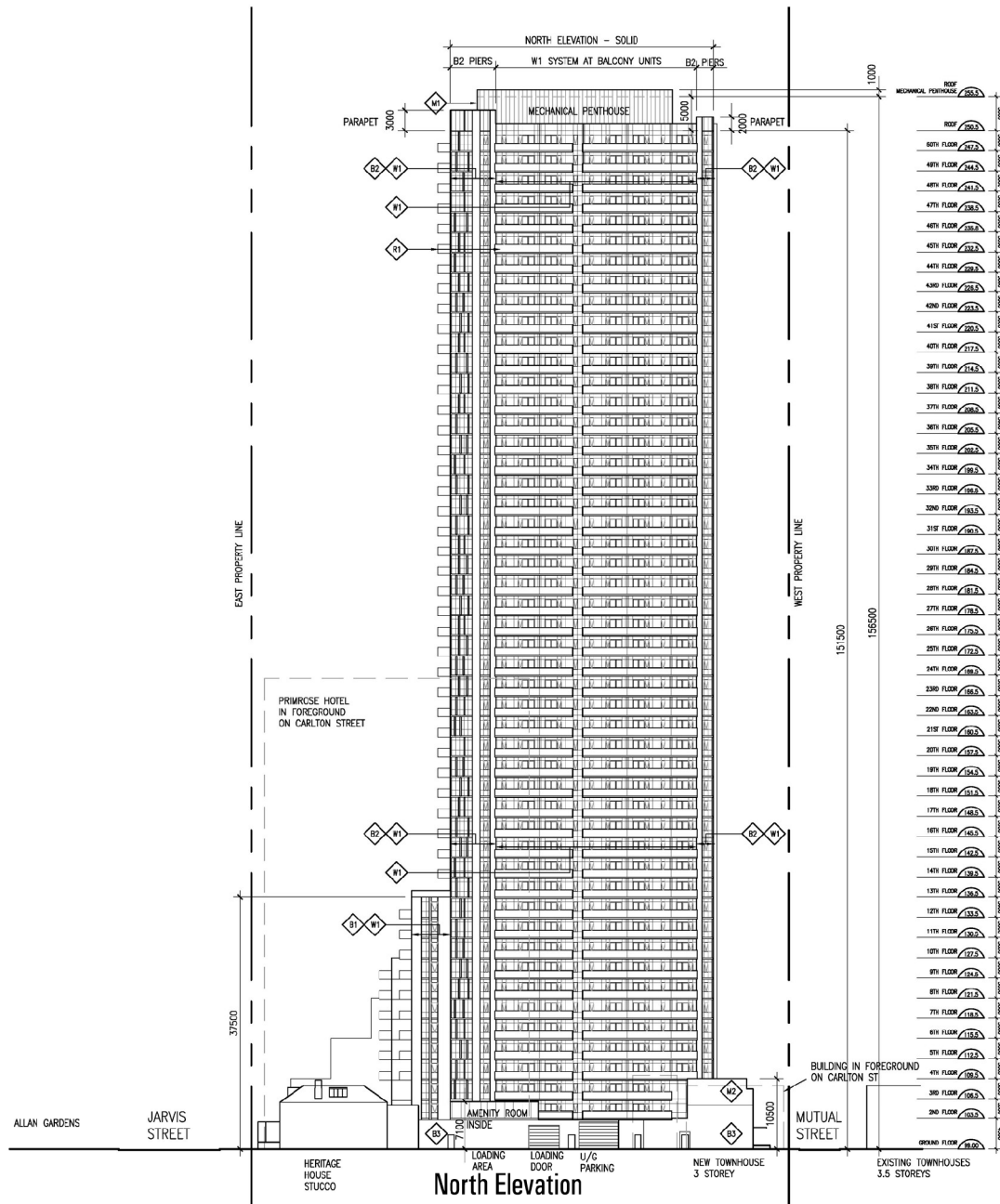
Site Plan

Applicant's Submitted Drawing

Not to Scale
02/23/2012

File # 12 110573 0Z

Attachment 2: North Elevation



Elevations

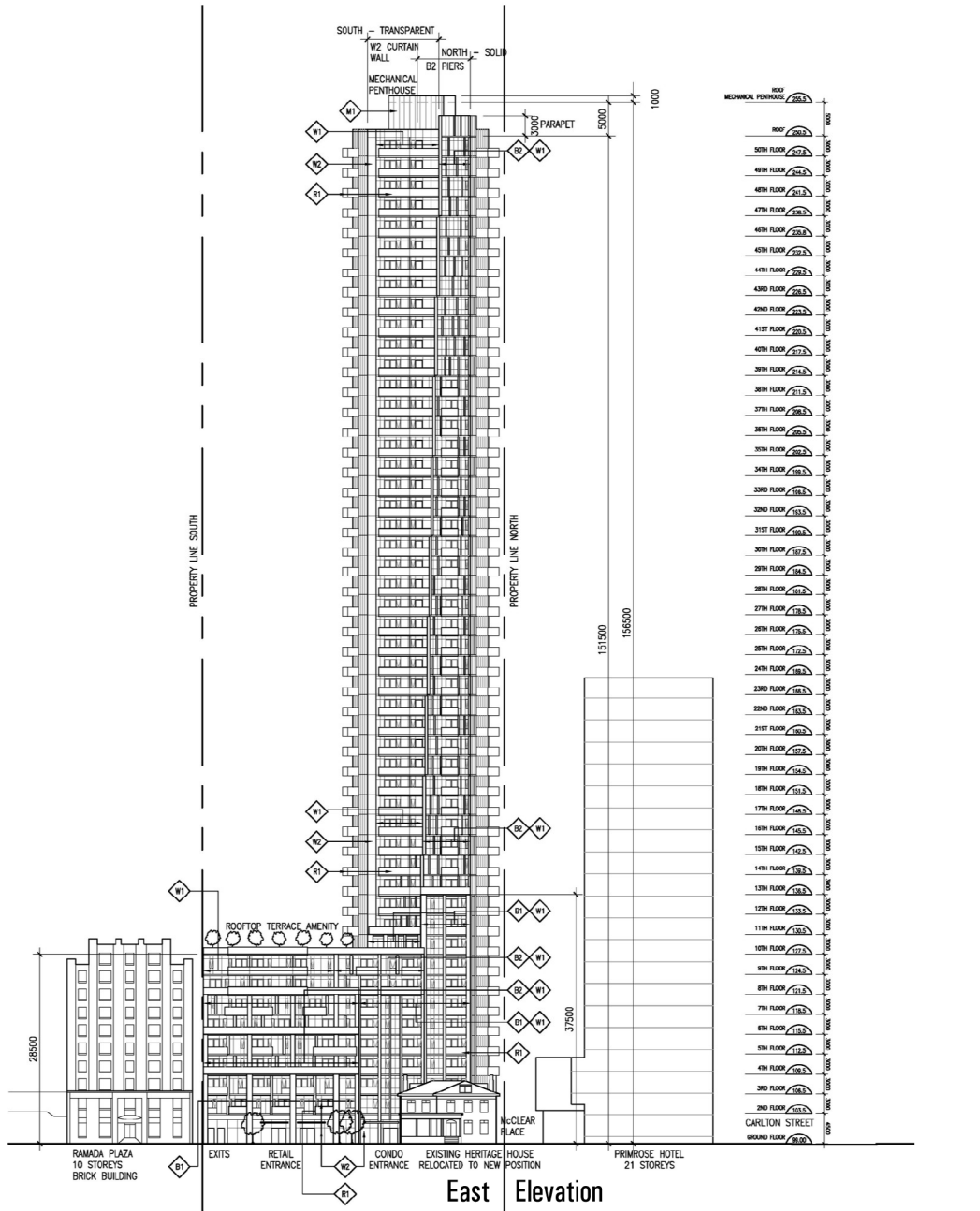
308-314 Jarvis Street and 225 Mutual Street

Applicant's Submitted Drawing

Not to Scale
02/23/2012

File # 12 110573 0Z

Attachment 3: East Elevation



Elevations

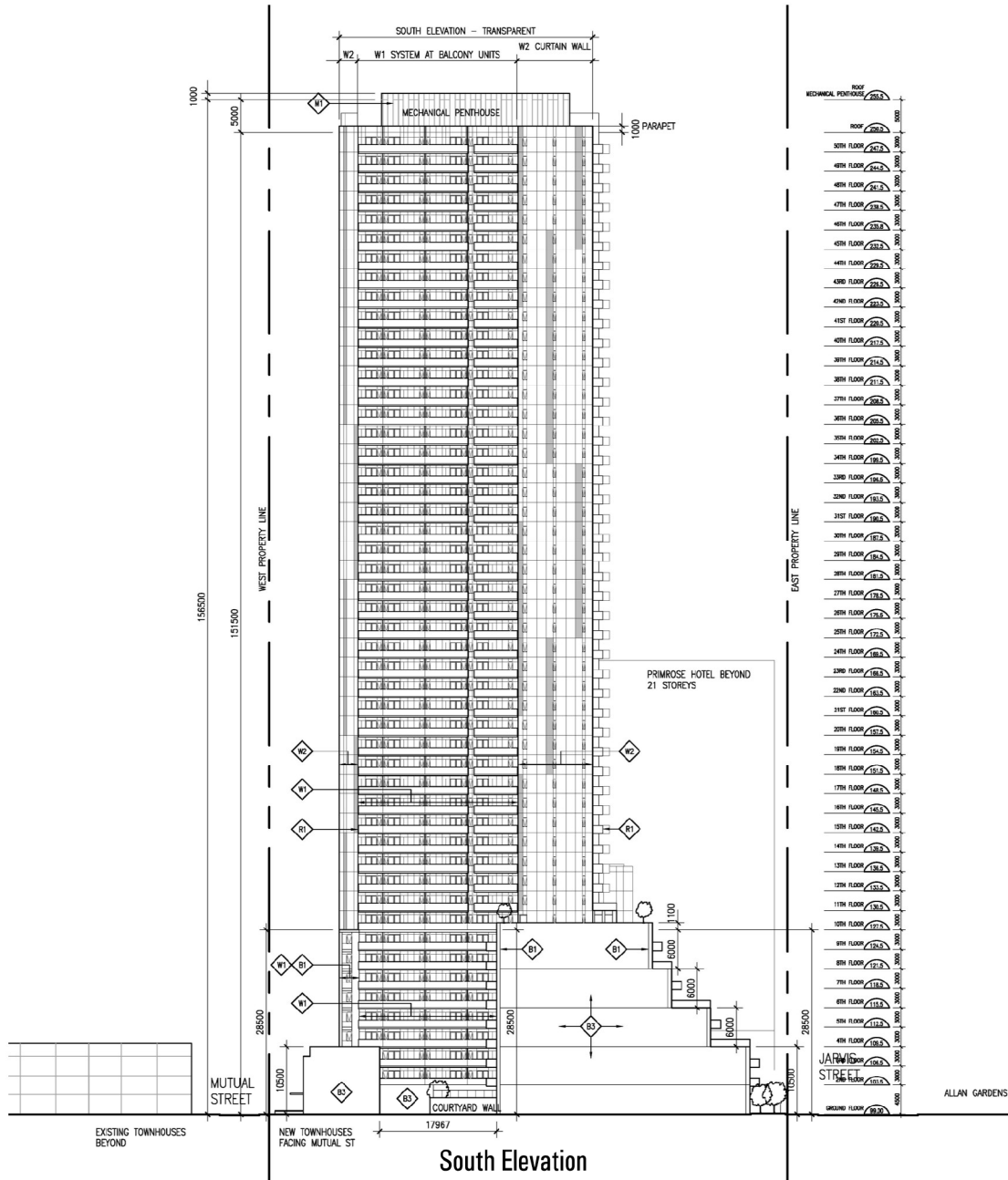
308-314 Jarvis Street and 225 Mutual Street

Applicant's Submitted Drawing

Not to Scale
02/23/2012

File # 12 110573 0Z

Attachment 4: South Elevation



Elevations

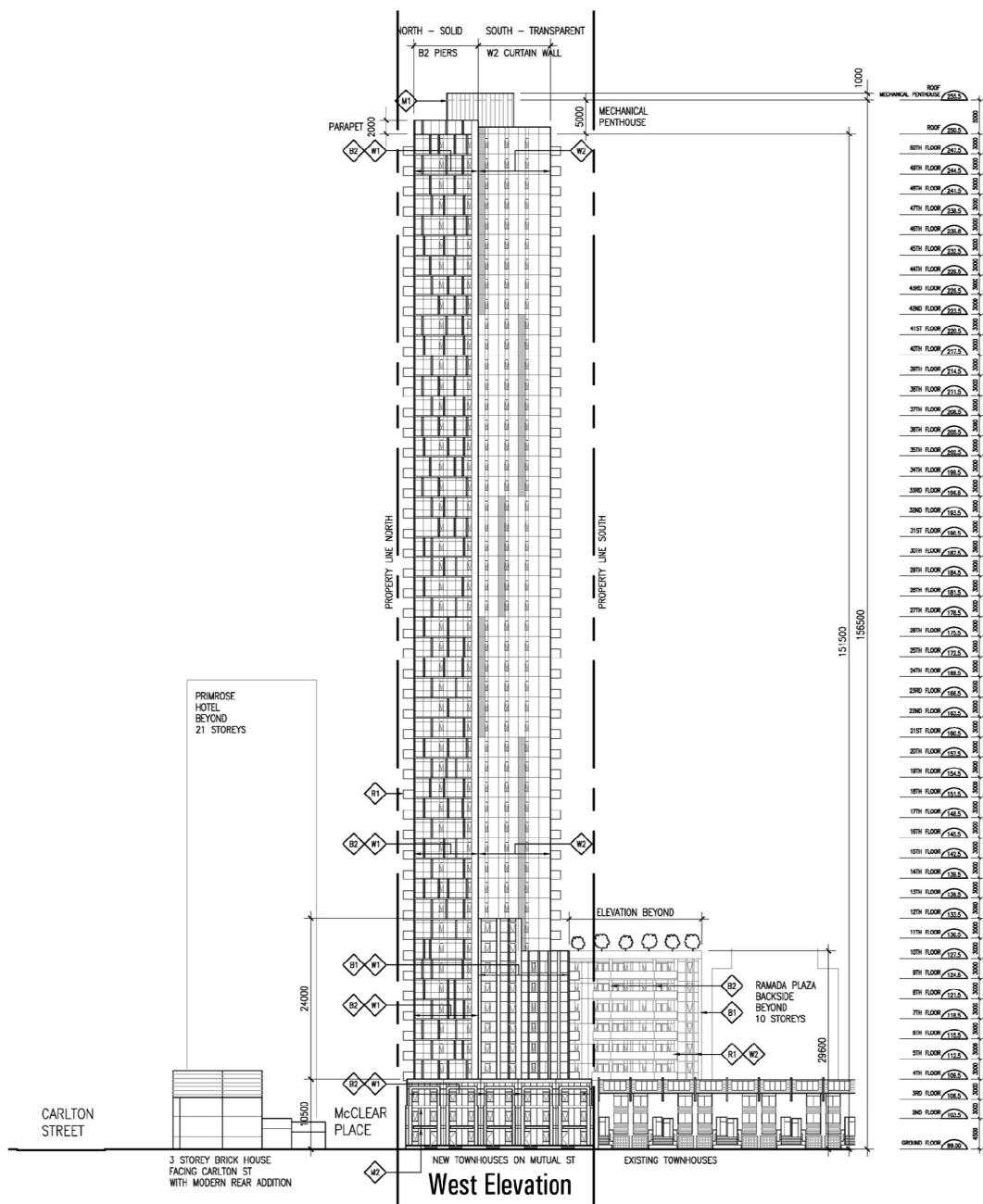
308-314 Jarvis Street and 225 Mutual Street

Applicant's Submitted Drawing

Not to Scale
02/23/2012

File # 12 110573 0Z

Attachment 5: West Elevation



Elevations

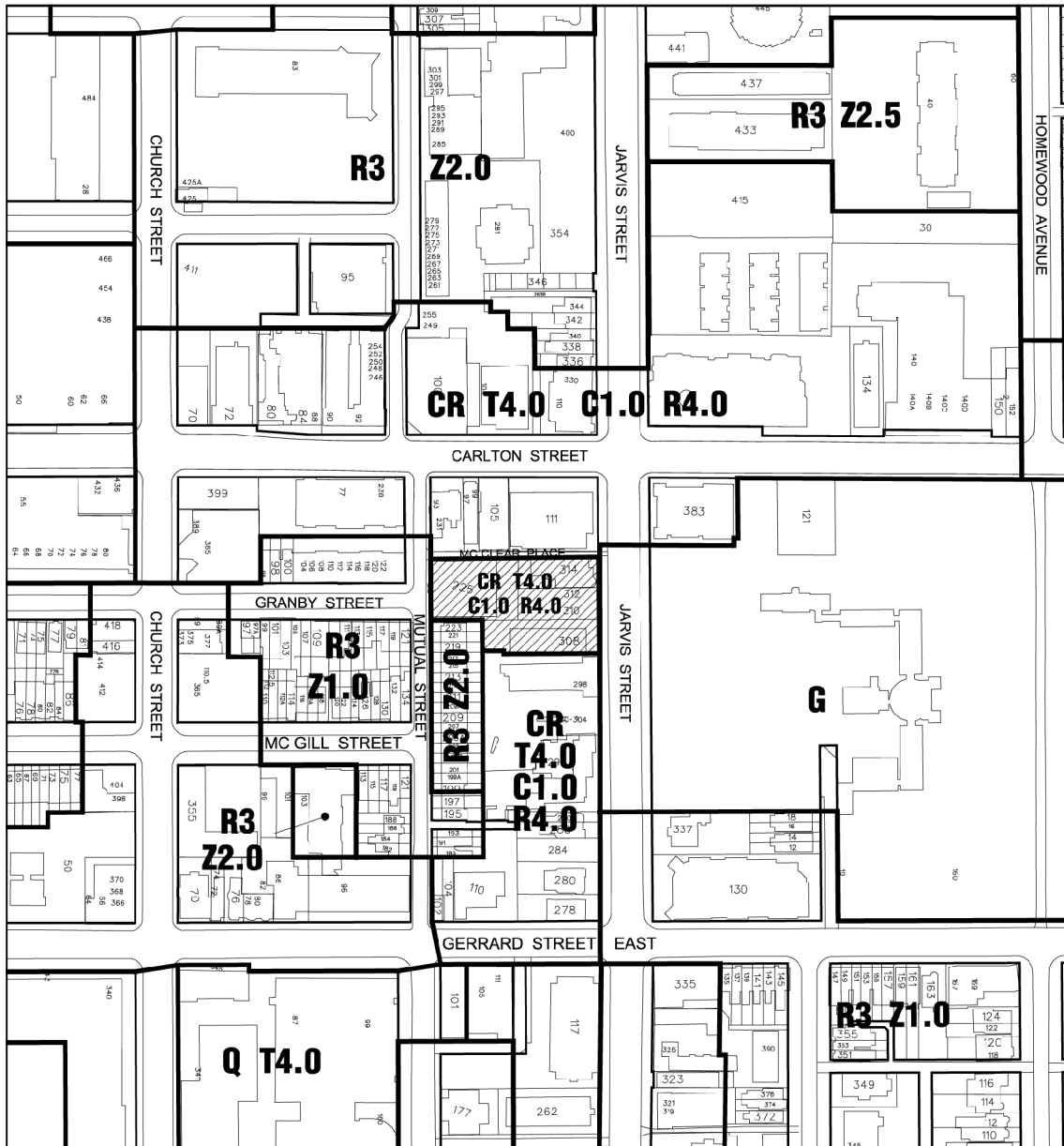
308-314 Jarvis Street and 225 Mutual Street

Applicant's Submitted Drawing

Not to Scale
02/23/2012

File # 12 110573 0Z

Attachment 6: Zoning



308-314 Jarvis Street and 225 Mutual Street

File # 12 110573 0Z

- R3 Residential District
- CR Mixed-Use District
- Q Mixed-Use District
- G Parks District



Not to Scale
Zoning By-law 438-86 (as amended)
Extracted 02/23/2012

Attachment 7: Application Data Sheet

APPLICATION DATA SHEET

Application Type	Rezoning	Application Number:	12 110573 STE 27 OZ
Details	Rezoning, Standard	Application Date:	January 23, 2012
Municipal Address:	308-314 JARVIS STREET AND 225 MUTUAL STREET		
Location Description:	CON 1 FB PARK PT LOT 6 **GRID S2712		
Project Description:	Proposal to construct a 50-storey mixed-use building, inclusive of a 9-storey podium. The proposal contains 590 units, 5 of which are townhouse units fronting onto Mutual Street. Five levels of below grade parking are proposed, with the retention of the existing heritage home. The heritage home is proposed to be relocated during construction.		

Applicant:	Agent:	Architect:	Owner:
Fraser Milner Casgrain, LLP 77 King Street West, Ste 400 Toronto-Dominion Centre Toronto, ON, M5K 0A1	Bousfields, Inc. 300 Church St., Ste 300 Toronto, ON M5E 1M2	Quadrangle Architects Ltd. 380 Wellington St. W. Toronto, ON M5V 1E3	Duration Investments Ltd. 1501 Woodbine Ave, Ste. B1-B2, Toronto, ON M4C 4H1

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision: No. 151
Zoning:	CR T4.0 C1.0 R4.0	Historical Status: Yes
Height Limit (m):	30	Site Plan Control Area: Yes

PROJECT INFORMATION

Site Area (sq. m):	3211	Height:	Storeys:	50
Frontage (m):	46		Metres:	151.5
Depth (m):	78.52			
Total Ground Floor Area (sq. m):	2301			Total
Total Residential GFA (sq. m):	44904		Parking Spaces:	354
Total Non-Residential GFA (sq. m):	2287		Loading Docks	1
Total GFA (sq. m):	47191			
Lot Coverage Ratio (%):	71.7			
Floor Space Index:	14.7			

DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	0
1 Bedroom:	420
2 Bedroom:	163
3 + Bedroom:	7
Total Units:	590

FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Residential GFA (sq. m):	44904		0
Retail GFA (sq. m):	580		0
Office GFA (sq. m):	0		0
Industrial GFA (sq. m):	0		0
Institutional/Other GFA (sq. m):	1707		0

CONTACT: PLANNER NAME: Giulio Cescato, Planner
TELEPHONE/EMAIL: (416) 392-0459/gcescat@toronto.ca