

**102 Shuter Street - OPA & Rezoning Application –
Supplementary Report on Settlement Offer**

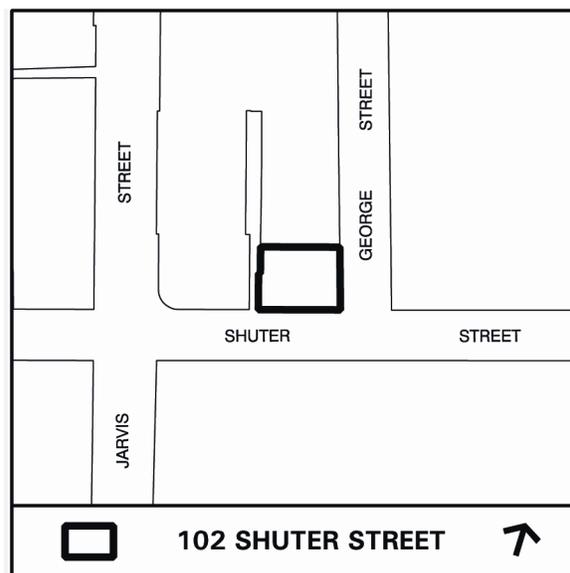
Date:	February 16, 2010
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	08 222718 STE 27 OZ

SUMMARY

The applicant has appealed the Official Plan Amendment and Zoning By-law Amendment to the Ontario Municipal Board (OMB) due to Council’s failure to make a decision within the time allotted by the Planning Act. Pre-hearing conferences were held on September 28th, 2009 and December 17th, 2009. An additional pre-hearing conference is set for April 15th and 16th, 2010 and a hearing is set to commence on May 17th, 2010 for a period of 3 weeks.

At its meeting on October 13, 2009, Toronto and East York Community Council (TEYCC) adopted the recommendations outlined in the staff Request for Direction Report dated August 25, 2009 which had been deferred from the September 15, 2009 TEYCC, recommending the City Solicitor, Chief Planner and Executive Director and other appropriate staff attend the OMB in opposition to the proposal. The proposed 20-storey residential apartment building represented an inappropriate intensification of a site in a Neighbourhoods designation resulting in light, view, privacy and other impacts.

The purpose of this supplementary report is to provide comment on the revised proposal formally submitted to the City on



December 18, 2009, as a settlement offer for matters before the Ontario Municipal Board.

Planning staff conclude that the revised 16-storey proposal does not address the reasons for refusal identified in the Request for Direction Report dated August 25, 2009 and do not recommend the settlement offer.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, the Chief Planner and Executive Director and other appropriate staff to attend any Ontario Municipal Board hearing in opposition to the revised proposal.
2. City Council authorize Planning staff, in consultation with the Ward Councillor, to determine an appropriate cash contribution and package of community benefits pursuant to Section 37 of the Planning Act, should the proposal be approved in some form by the Ontario Municipal Board.

Financial Impact

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

ISSUE BACKGROUND

Ontario Municipal Board (OMB) Appeal

On November 18, 2008 an application for Official Plan and Zoning By-law amendment was received by the City to permit a 20 storey residential condominium building with 69 units. The base of the building included three 2-storey townhouses fronting on Shuter Street. There were 56 parking spaces proposed within a four level underground garage accessed from an existing public lane. A valet service would take cars to the underground garage via a car elevator.

On June 4, 2009 the City Clerk's Office received notification that the applicant filed an appeal of the Official Plan Amendment and Zoning By-law Amendment application to the Ontario Municipal Board, citing Council's failure to make a decision on the application within the prescribed timelines as per the Planning Act.

Staff Directions Report dated August 25, 2009

A Request for Direction Report was prepared for consideration at Toronto and East York Community Council on September 15, 2009, recommending that City Council authorize the City Solicitor, the Chief Planner and Executive Director and other appropriate staff to attend any Ontario Municipal Board hearing in opposition to the current proposal. Community Council deferred consideration of this report (dated August 25, 2009) until its next meeting on October 13, 2009 requesting that staff report back on the appropriateness of re-designating the subject lands from *Neighbourhoods* to *Mixed-Use*

Areas and that staff have further consultation with the applicant prior to City Council providing direction.

A subsequent Request for Direction Report (October 5, 2009) was prepared for consideration at the October 13, 2009 Toronto and East York Community Council in response to Community Council's direction. Community Planning staff did not support the re-designation of the subject lands from *Neighbourhoods* to *Mixed-Use Areas* and during further consultation with the applicant could not reach an agreement on an appropriate form of development for this site beyond the 4-storeys permitted within the Official Plan. At this meeting Toronto and East York Community Council adopted the staff recommendation that City Council authorize the City Solicitor, the Chief Planner and Executive Director and other appropriate staff to attend any Ontario Municipal Board hearing in opposition to the proposal.

Ontario Municipal Board Pre-Hearing Conferences

A pre-hearing conference was scheduled at the Ontario Municipal Board and attended by City Legal, Community Planning staff, a number of area residents and interested parties on September 28, 2009. At this pre-hearing the details of the proposal were discussed and parties/participants were identified. An issues list was not established as there was no Council direction at the time. The Ontario Municipal Board set a second pre-hearing date for December 17, 2009 to outline issues, discuss hearing procedure and scheduled a full hearing for 3 weeks beginning February 16, 2010. Prior to the second pre-hearing date the applicant's solicitor submitted a settlement offer to the City regarding the appeals, which was made public on December 4, 2009.

In order to give Council an opportunity to receive staff advise and consider the applicant's offer and associated changes made to the proposal, an additional pre-hearing conference has been scheduled by the Ontario Municipal Board on April 15 and 16th, 2010 together with a revised full hearing date now beginning May 17, 2010 for 3 weeks.

REVISED PROPOSAL DATED DECEMBER 18, 2009

The revised proposal/offer, which is the subject of this staff report, is to permit the development of a 16-storey residential condominium building with 53 units. The base of the building includes three 2-storey townhouses fronting on Shuter Street. The revised development proposal comprises a gross floor area of approximately 7,072 square metres (76,114 square feet) having a floor space index (F.S.I.) of approximately 9.0 (see Attachments 1 to 2D). The main part of the building would be 16-storeys (45 metres), exclusive of mechanical penthouse (53 metres to top of mechanical), with the north portion of the building stepping down to 14-storeys (40 metres).

Floors 3-4 would include 9 one-bedroom apartment units approximately 88 square metres (950 square feet), and 41 larger two-bedroom two-storey lofts starting on the 5th floor of approximately 130 square metres (1,400 square feet). The floor plate of the main building would be 455 square metres (4,900 square feet). The main pedestrian entrance and lobby would be located at the southeast corner fronting on Shuter Street. The proposal would include indoor amenity space on the 1st (10 square metres), 2nd (47 square

metres) and 3rd (49 square metres) floors along with an outdoor roof garden on the 3rd floor (158 square metres).

A total of 42 parking spaces are proposed to be provided within a three level underground garage accessed from the existing north-south public lane west of the site. The lane would be widened as part of this development process. A valet service would take cars to the underground garage via a car elevator inside the building. There would be 32 resident bicycle parking spaces in the underground garage on level 1 and an additional 8 bicycle parking spaces for visitors at the southwest corner of the building adjacent to the public lane.

For additional information please see updated Application Data Sheet (Attachment 5) and Table 1 below, which is a comparison chart of the two versions of the proposal.

Table 1 – Proposal Comparison		
	Initial Proposal – received November 2008	Revised Proposal – Received December 2009
Number of Storeys	20-storeys stepping down to 18-storeys at the north part of the property	16-storeys stepping down to 14-storeys at the north part of the property
Building Height	56 metres – 64 metres including mechanical penthouse	45 metres – 53 metres including mechanical penthouse
Total number of residential units	69 units (3 townhouses + 16 1-bedroom + 50 2-bedroom)	53 units (3 townhouses + 9 1-bedroom + 41 2-bedroom)
Gross floor area	8,893 square metres	7,072 square metres
Floor Space Index	11.3	9.0
Tower Floor Plate	466 square metres (5,016 square feet)	455 square metres (4,900 square feet)
Total vehicular parking / bicycle parking	56 vehicular (4 levels of below grade) and 52 bicycle spaces total	42 vehicular (3 levels of below grade) and 40 bicycle spaces total
Parking Area Access	Car elevator	Car elevator
Building Setbacks from property lines (approximately)	North – 0 m South – 1.5 m East – 0 m West – 2.5 m	North – 0.8 m South – 1.95 m East – 0.5 m West – 3.0 m
Separation distances	Townhouses to North – 0.23m Proposed development to West – 8m	Townhouses to North – 1.03 m Proposed development to West – 9.3 m

The statistics above are based on the current lot area. As part of the application circulation process, Technical Services has requested a 0.65 metre lane widening along the entire western boundary of the property adjacent to the public lane. This widening would reduce the development site in area by approximately 16 square metres (172 square feet) from 789 square metres to 773 square metres.

Application Submission Requirements

In order for staff to appropriately assess and report to Community Council on the revised proposal, City Legal in consultation with Community Planning staff, provided the applicant with a letter dated December 10, 2009 requesting additional information. This information included matters such as: letter outlining changes to the proposal, full-sized copies of the plans dimensioned, all underground parking level plans, updated site statistics, and other materials. The Ontario Municipal Board in its decision of January 5, 2010 also stipulated that this material was to be submitted to the City by December 18, 2009 allowing for materials respecting parking and storm water management to be produced early in 2010 and before further OMB proceedings take place. The requested information was submitted with the exception of a wind study, which has still not been received. Additionally, and as per the OMB's January 5, 2010 decision, the applicant's team were to meet with local residents in early January 2010 regarding the design and use of the salvaged heritage materials from the former Walnut Hall building that had collapsed on site. As advised by the applicant, that meeting was held on February 4, 2010.

Agency Circulation

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

COMMENTS

The applicant's revised proposal reduces the overall scale and intensity of the development as specifically highlighted in Table 1. The reduction in overall height and density consequently impacts other development standards and is an overall improvement from the original proposal submitted to Community Planning. Generally speaking, the height decrease has resulted in a proportionate reduction in terms of impacts but has not eliminated those impacts. Despite these changes the proposal still does not adequately address the reasons for refusal as identified in the Request for Direction Report dated August 25, 2009.

Provincial Policy Statement & the Growth Plan

The proposed reduction in height and density still does not address policy matters raised in staff's August 25, 2009 report.

The Provincial Policy Statement (PPS) states that the official plan is the most important vehicle for implementation of the PPS. Municipal official plans are required to identify provincial interests and set out appropriate land use designations and policies. The proposed residential development is within the Toronto downtown urban area, however, the proposed height, density and scale are not appropriate for this particular site. The proposal represents inappropriate intensification of a site located outside of a land-use designation identified for intensification in the Toronto Official Plan. The proposed Official Plan and Zoning By-law Amendments are not consistent with the Provincial Policy Statement.

The Growth Plan requires that a significant portion of new population and employment growth be directed to the built-up areas of the Greater Golden Horseshoe within intensification areas. The proposed development represents inappropriate intensification of a site that is outside a land-use designation identified in the Official Plan for intensification as required by the Growth Plan. The proposal does not conform to and conflicts with the Growth Plan for the Greater Golden Horseshoe.

Land Use, Density and Height

Although the proposed development has been reduced in height, the proposed residential building is still of a much higher intensity and scale than the maximum 4-storeys contemplated within the Neighbourhood's designation of the Official Plan. The proposed density increase of 9.0 versus 1.0 times the lot area and height increase of 16-storeys versus 4 storeys is still substantial and the intensity of the revised proposal still clearly exceeds the level of sensitive infill contemplated by the Official Plan.

Massing, Sky view, and Privacy

The revised building continues to occupy the majority of the site, there are minor improvements by increasing the setbacks along all 4 property boundaries, increasing building separation distances and reducing the floor plate of the tower. However, the massing of the building continues to be inappropriate as the small site (789 square metres) in conjunction with the size of the building leave little opportunity for appropriate setbacks, stepbacks and transition.

As revised, a situation still exists in which the north end of the proposed residential building at 14-storeys (40 metres) continues to be adjacent to 3-storey (9.6 metre) semi-detached homes (Attachment 2C). The setback from the development site to the north property line has increased from 0 metres to 0.8 metres (2.6 feet). The proposed tall building cannot successfully be inserted on a small site abutting a low scale residential neighbourhood.

The reduction in floor plate of the tower would not allow for an appropriate separation distance between a tall building at this site and any potential building at 203 Jarvis Street. The property at 203 Jarvis Street is designated Mixed-Use Areas (Attachments 2A & 3). The separation distance has increased from 9.3 metres as opposed to the original proposal of 8 metres, however, the separation is still well below the City of Toronto's 'Design Criteria for Review of Tall Building Proposals' which recommends a minimum building separation distance of 25 metres. Also, having two towers adjacent to one another with such limited spacing, whether the proposed building at 102 Shuter Street is 16 or 20-storeys, would still have a negative impact on sky view from the rear yards of the 10 homes immediately abutting to the north at 226 to 244 George Street (Attachment 6).

Staff's August 25, 2009 report raised concern that there could be views of the rear yards of the semi-detached homes to the north at 226 to 244 George Street from the outdoor roof garden on the 3rd floor. The current proposal illustrates landscaping along the periphery of the outdoor garden that could function as privacy screening. Staff would require further details at a site planning stage to more thoroughly review this matter.

Sun, Shadow, Wind

The revised building proposal would continue to cause shadowing on adjacent properties. While the shadow has been reduced, the tall building casts unnecessary shadow on neighbouring residential properties and the elementary school grounds to the north east of the development (Attachment 4).

Staff has revisited the shadow impact studies for the revised proposal and during the summer months the revised building would cast shadows on the rear yards of those homes immediately north along George Street inappropriately impacting 226-230 George Street from approximately 9:00 am until noon. The June shadows would not impact the school yard to the northeast. Townhouses across the street to the east at 207 to 217 George Street would have their front yards impacted beginning at approximately 3:00 pm until 5:00 pm, with some shadowing impacting their rear yard amenity areas.

The shadowing impacts are more severe in the spring and fall (Attachment 6). Shadowing would begin at approximately 9:00 am in the morning and increase as the morning continues eventually negatively impacting the rear yard amenity areas of all residential properties from 226-244 George Street by about 11:00 am. Those properties closest to the proposed development would remain shadowed longest. Should the proposed development at 203 Jarvis Street, or similar such development be approved, the combination of the two building's shadows would impact those semi-detached homes most of the day with 226-232 George Street shadowed in some form until approximately 4:30 pm.

The revised proposal does not shadow the school yard and children's play area across the street to the north east as prominently as it did previously, however, this area is still impacted. The school yard and children's play apparatus are impacted beginning at approximately 2:00 pm until 3:00 pm. The residential homes across the street at 207-217 George Street are impacted by shadows in their front yards beginning at 3:00 pm and continuing until 5:00 pm and reaching their rear yards and those of the residential properties at 112-136 Shuter Street.

Except as specifically referenced above, the shadowing impacts described are in addition to shadowing that would result from any potential approval to the west at 203 Jarvis Street. The combination of two tall building on abutting sites would result in additional shadowing on the surrounding area.

The applicant proposed to submit a pedestrian level wind study as the original application proceeded through circulation and the consultation process. Such study was not submitted to Community Planning prior to appeal to the OMB. A wind study was requested by staff upon receiving the revised offer and the wind study was identified by the Ontario Municipal Board as an item the applicant was to submit to the City as part of their formal resubmission package by December 18, 2009. A wind study was received on February 12, 2010. Urban design staff have reviewed the wind study and have advised that it is acceptable at this time. Should an application proceed to the site plan stage, a revised more detailed wind study would be required.

Traffic, Access, Parking and Loading

The proposal has been revised by eliminating one level of underground parking and as a result, the total parking supply has also decreased. The applicant is proposing 3 levels of underground parking containing a total of 42 parking spaces, including 39 spaces for the use of residents and 3 spaces for the use of visitors. This parking supply, as with the previous submission, is less than the minimum estimated parking demand that will be generated by this project as per the City's parking demand guidelines for condominiums and is not supportable. The required amount of total parking is 53 spaces, including 50 resident spaces and 3 visitor spaces. The proposed parking supply is still deficient by 11 spaces similar to the 12 space shortfall as with the previous proposal. Technical Services has also indicated that there may be some parking stalls that do not meet minimum by-law standards due to obstructions. Technical Services has requested clarification on this matter during their review of both proposals which they have not yet received.

Access to the parking garage is consistent with the previous proposal occurring from the existing public lane to the west of the site which will be required to be widened 0.65 metres.

As with the previous proposal, the applicant has provided a valet car holding area and a loading area parallel to one another at the west end of the site accessed from the above mentioned public lane (Attachment 1A). The operation of these two areas conflicts with one another. If the valet holding area is occupied then loading vehicles cannot access the loading area and would obstruct the public lane. Similarly, if a loading truck is parked or exiting this area and vehicles require access to the valet holding area, vehicles may not be able to enter until loading/unloading has been completed. The applicant's current scheme would likely impact the proper operation of the public lane. The public lane is also used for access by residential properties to the north fronting on to both George Street and Jarvis Street. Technical Services and Community Planning require further details as to how this valet/loading area would operate or require the applicant to revise their proposal to address this matter.

Heritage

As part of the most recent revision to the proposal, the applicant has submitted a letter dated December 18, 2009 itemizing the material salvaged from the demolition of Walnut Hall and stated that the material is in storage and available for inspection. The letter did not indicate if the work to salvage the materials was done with the aid of a heritage consultant. The letter to the City indicates that the owner is open to a strategy to incorporate the salvaged materials into the building design to appropriately commemorate Walnut Hall's design and history. A printed copy of a presentation made to the Community submitted to City Planning on December 18, 2009 illustrates a section of wall on George Street identified as the "Walnut Hall History Wall". Any final design of salvaged materials should: commemorate Walnut Hall; be publicly accessible; and incorporate the salvaged material into the design of the new building such that the salvaged material is compatible with the new building yet distinguishable as part of the commemoration. Heritage staff will be meeting with the applicant's representatives to discuss a strategy to incorporate the salvaged materials into the revised building design to

appropriately commemorate Walnut Hall's design and history, in an attempt to resolve this issue for the hearing.

Section 37

Section 37 of the Planning Act allows the City to grant increased density and/or height in exchange for community benefits. The Official Plan contains provisions authorizing such an exchange, provided the density and/or height increase are consistent with the objectives of the Official Plan regarding building form and physical environment.

Section 5.1.1.4 of the Plan allows Section 37 to be used for development with more than 10,000 square metres of gross floor area where the zoning by-law amendment increases the permitted density by at least 1,500 square metres and/or significantly increases the permitted height.

Despite the proposed changes that have reduced the overall height of the development from that of the original submission, the increase in height above that permitted in the zoning by-law is still substantial and a Section 37 contribution would be appropriate. Discussions regarding Section 37 benefits between the applicant and the City have not occurred as there is not an agreement on appropriate development for the site.

Toronto Green Standard

The Toronto Green Standard contains performance targets and guidelines that relate to site and building design to promote better environmental sustainability of development in Toronto. The Toronto Green Standard Checklist was not submitted as part of the initial or revised application package.

Open Space/Parkland

The parkland dedication for the residential component of the development would not change as a result of the revisions and would remain 0.00789 hectares (78.9 square metres). The applicant would be required to satisfy the parkland dedication requirement through cash-in-lieu. The actual amount of cash-in-lieu to be paid would be determined at the time of issuance of a building permit.

Development Charges

It is estimated that the development charges for this revised project would be \$276,681.00.

Conclusions

The revised development still does not comply with or meet the intent of the Official Plan, is not consistent with the PPS and continues to be inappropriate intensification of the site, whereas the Plan anticipates a sensitive infill project. The proposed reduction in height and density would still, if approved, generate certain negative impacts on neighbouring properties and create a negative precedent for intensification in Neighbourhoods. The intensity of impacts, such as shadowing and sky views, have been reduced proportionately with the height and scale of the project, however they remain inappropriate.

Planning staff conclude that the revised proposal does not address the reasons for refusal identified in the Request for Direction Report dated August 25, 2009 and are not recommending the settlement offer be accepted.

CONTACT

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SIGNATURE

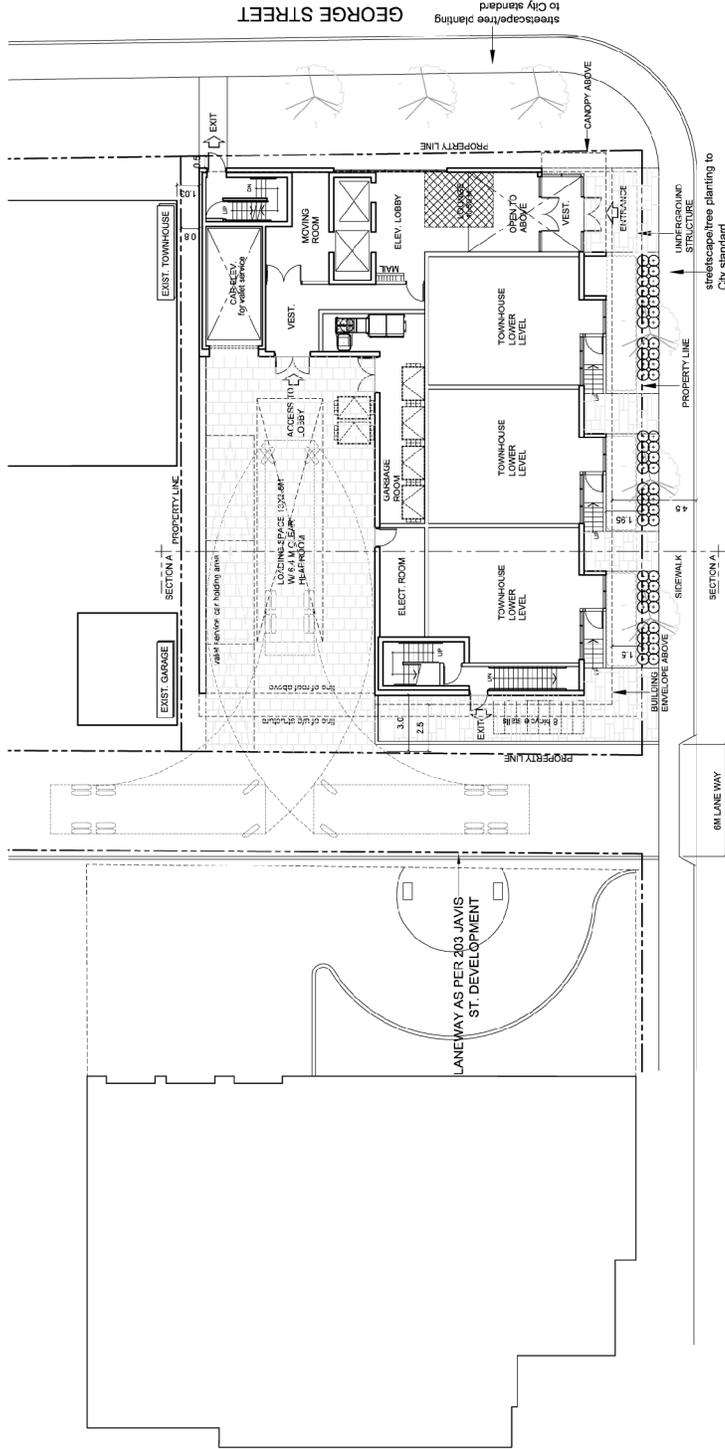
Raymond David, Director
Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Site Plan
Attachment 1A: Site Plan – Loading Area
Attachment 2A-D: Elevations
Attachment 3: Official Plan
Attachment 4: Zoning
Attachment 5: Application Data Sheet
Attachment 6: Sky view and Shadows

Attachment 1: Site Plan



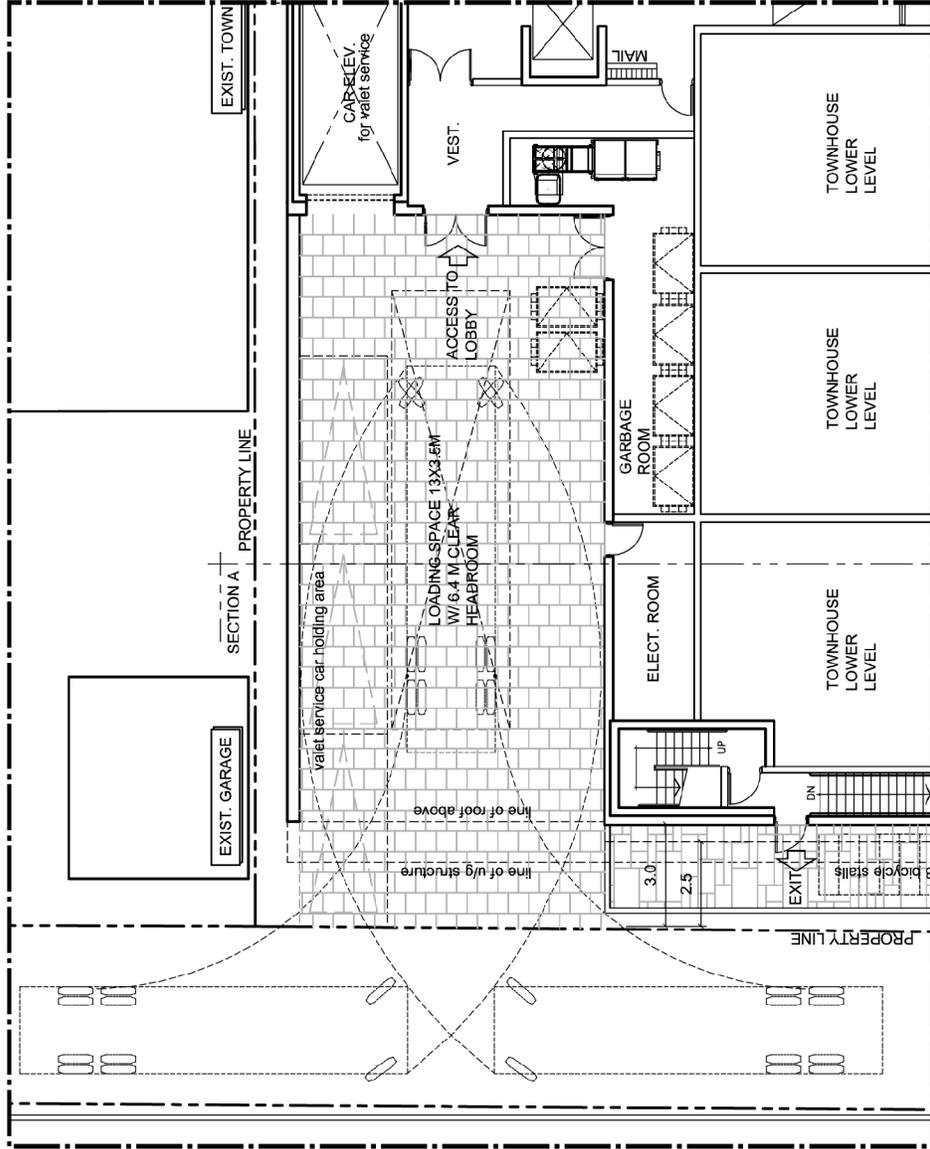
102 Shuter Street

Site Plan
 Applicant's Submitted Drawing

Not to Scale
 01/18/2010

File # 08_222718

Attachment 1A: Site Plan – Loading Area



102 Shuter Street

Site Plan (Loading Area)

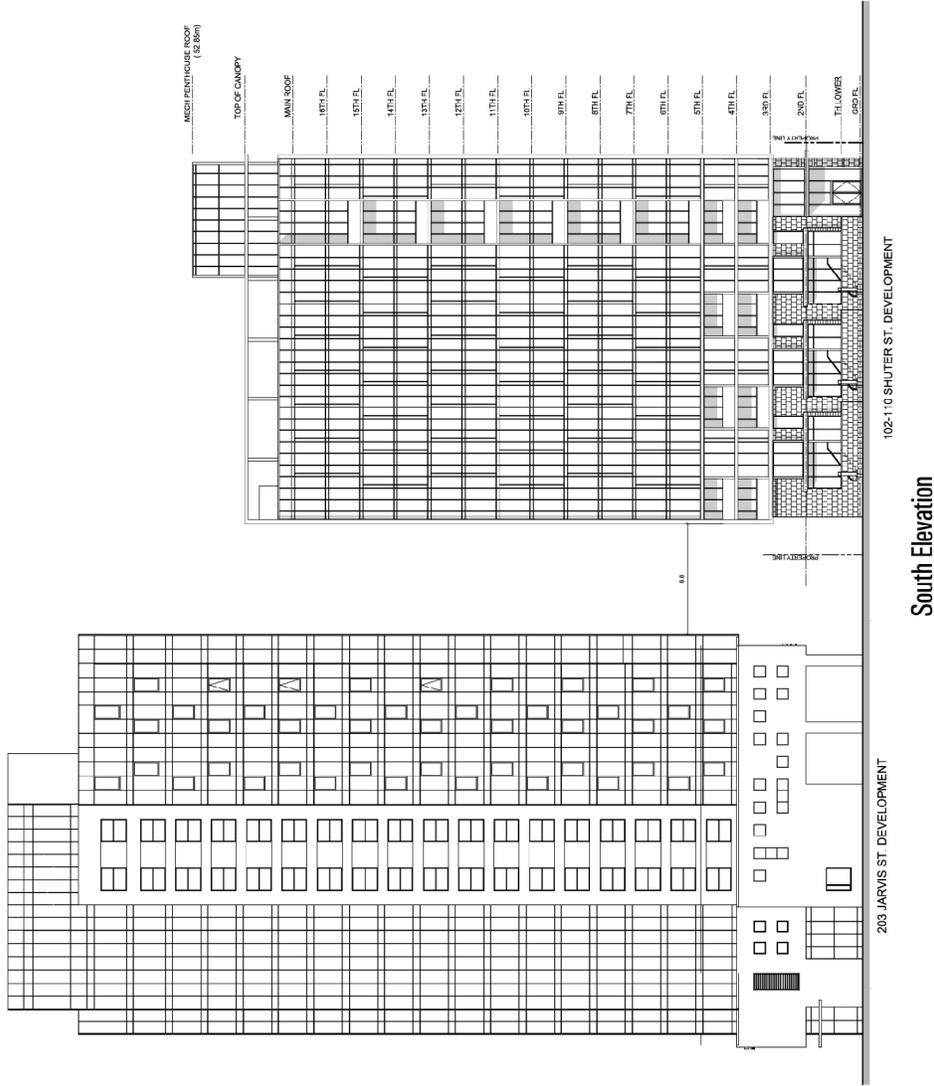
Applicant's Submitted Drawing

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01/18/2010



File # 08_222718

Attachment 2A: South Elevation



Elevations

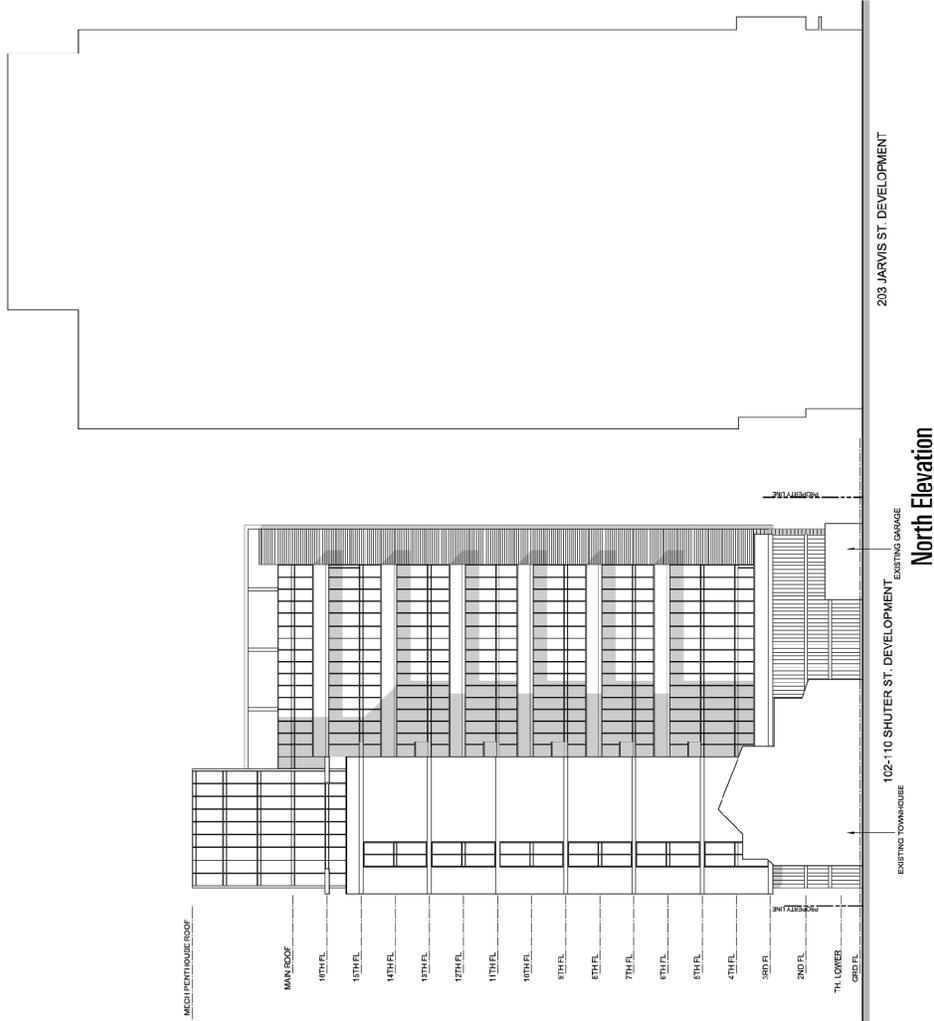
Applicant's Submitted Drawing

Not to Scale
01/18/2010

102 Shuter Street

File # 08_222718

Attachment 2B: North Elevation



102 Shuter Street

Elevations

Applicant's Submitted Drawing

Not to Scale
01/18/2010

File # 08_222718

Attachment 2C: East Elevation



East Elevation

102 Shuter Street

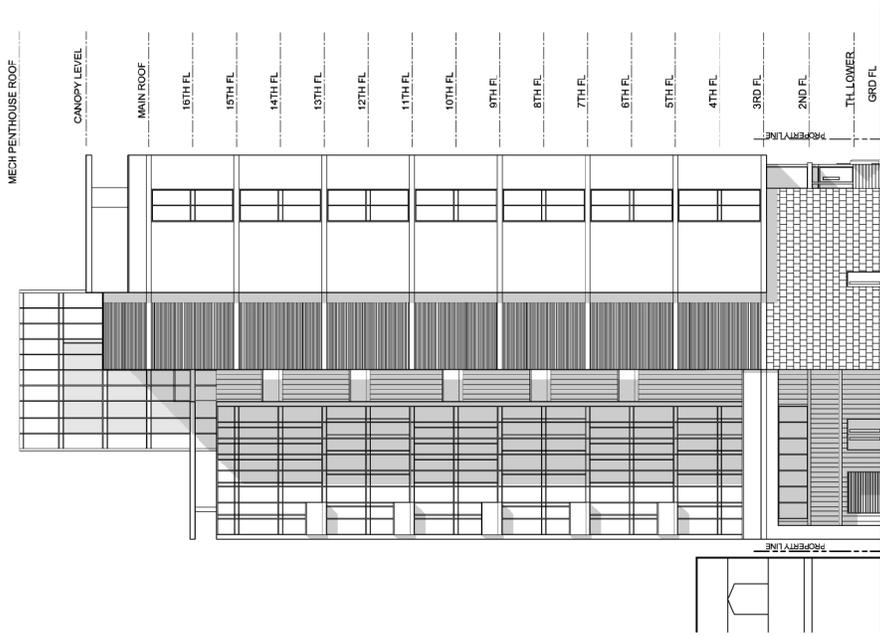
Elevations

Applicant's Submitted Drawing

Not to Scale
01/18/2010

File # 08_222718

Attachment 2D: West Elevation



West Elevation

102 Shuter Street

Elevations
Applicant's Submitted Drawing

Not to Scale
01/18/2010

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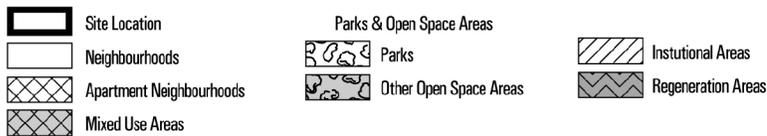
Attachment 3: Official Plan



TORONTO City Planning
Official Plan

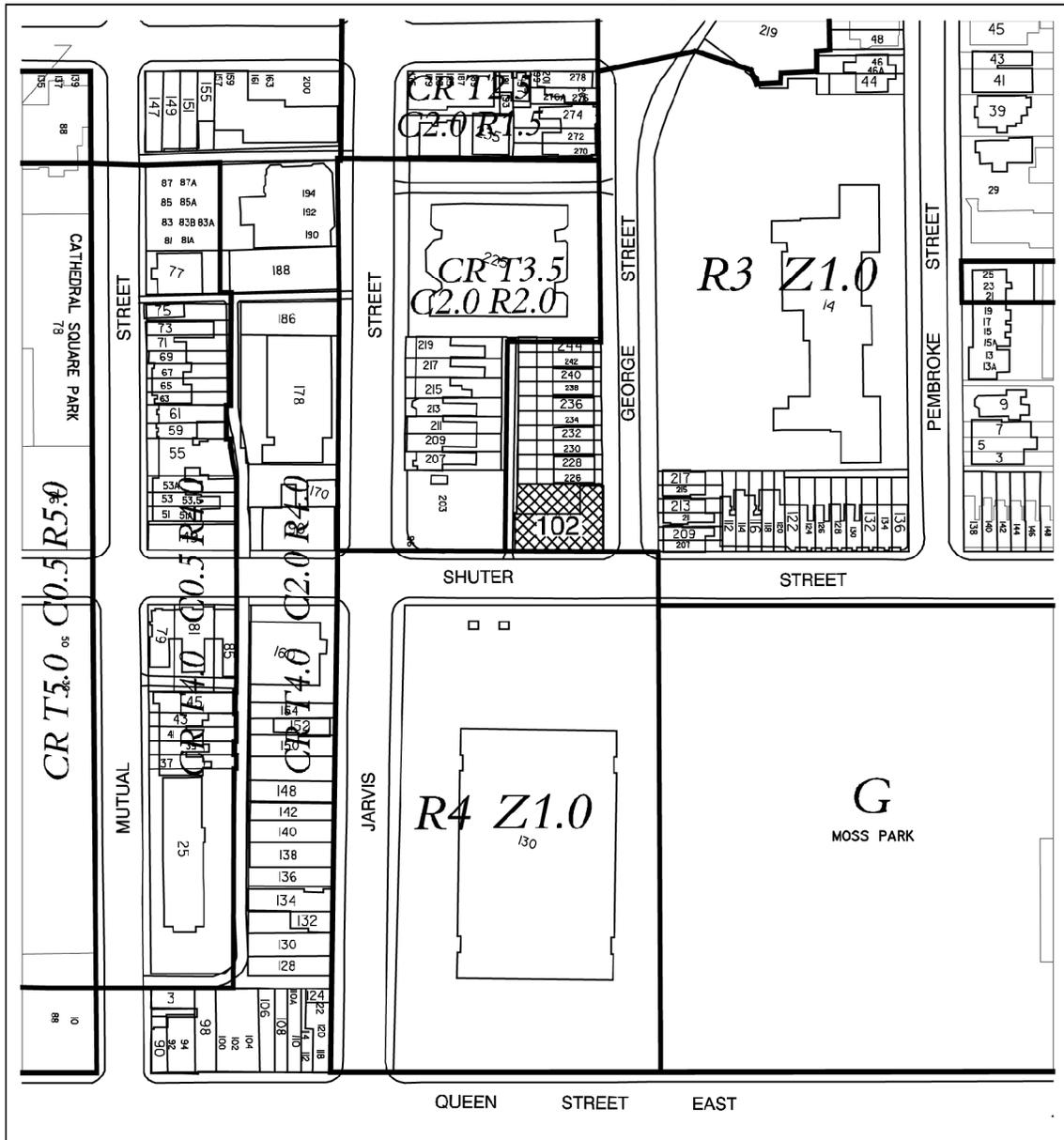
102 Shuter Street

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Attachment 4: Zoning



TORONTO City Planning
Zoning

102 Shuter Street
File # 08_222718

- G Parks District
- R3 Residential District
- R4 Residential District
- CR Mixed-Use District



Not to Scale
Zoning By-law 438-86 as amended
Extracted 12/08/08 - DR

Attachment 5: Application Data Sheet

Application Type: Official Plan Amendment & Rezoning Application Number: 08 222718 STE 27 OZ
 Details: OPA & Rezoning, Standard Application Date: November 18, 2008
 Municipal Address: 102 SHUTER ST
 Location Description: PLAN 62 PT LOTS 10 TO 13 **GRID S2714
 Project Description: Armstrong Hunter & Associates (O.B.O. 6645411 Canada Inc.) has applied to amend the Official Plan & Zoning By-law to permit a 16 storey residential condominium building with 53 units. The base of the building includes three 2-storey townhouses fronting on Shuter Street. There are 42 parking spaces proposed within a three level underground garage accessed from an existing public lane. A valet will take cars to the underground garage via a car elevator.

Applicant:	Agent:	Architect:	Owner:
ARMSTRONG HUNTER & ASSOCIATES, 156 Duncan Mills Rd, Ste.6A, Toronto, ON M3B 3N2		Page + Steele IBI Group 95 St. Clair Avenue West Toronto, ON M4V 1N6	6645411 CANADA INC. c/o Maan Development Corp. 345 Horner Ave., Suite 100, Toronto ON M8W 1Z6

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:	
Zoning:	R3 Z1.0	Historical Status:	Y
Height Limit (m):	12	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	789.25	Height:	Storeys:	16
Frontage (m):	24.6		Metres:	44.9
Depth (m):	32.3			
Total Ground Floor Area (sq. m):	418			Total
Total Residential GFA (sq. m):	7071.8		Parking Spaces:	42
Total Non-Residential GFA (sq. m):	0		Loading Docks	1
Total GFA (sq. m):	7071.8			
Lot Coverage Ratio (%):	52.7			
Floor Space Index:	8.96			

DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	0
1 Bedroom:	9
2 Bedroom:	44
3 + Bedroom:	0
Total Units:	53

FLOOR AREA BREAKDOWN (upon project completion)

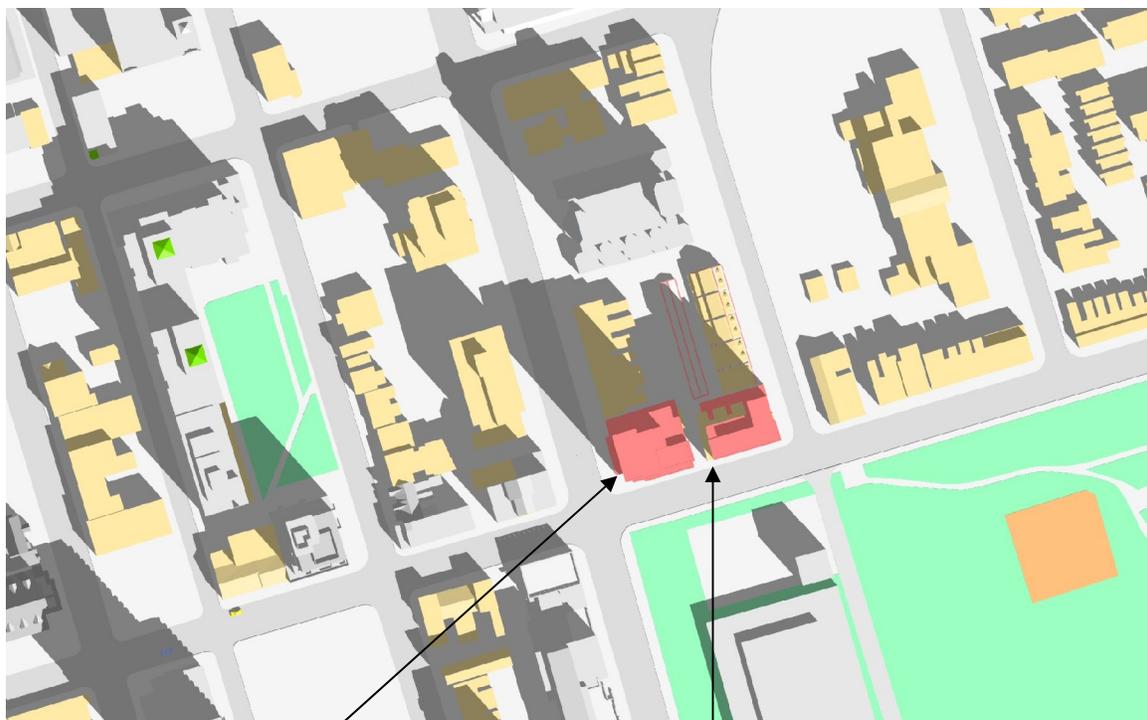
	Above Grade	Below Grade
Residential GFA (sq. m):	7071.8	0
Retail GFA (sq. m):	0	0
Office GFA (sq. m):	0	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	0	0

CONTACT: PLANNER NAME: John Andreevski, Senior Planner, jandree@toronto.ca
TELEPHONE: 416-392-9434

Attachment 6: Sky view and Shadows



Sky view looking south
(from rear yards of 226 – 244 George St.)



Proposed 20 storey hotel / 203 Jarvis

Proposed 16 storey building / 102 Shuter

March / September 21 11:18 am