

CITY OF TORONTO

BY-LAW No. 86-2014(OMB)

**To amend former City of Toronto Zoning By-law No. 438-86, as amended, with respect to
the lands municipally known as 64-70 Shuter Street.**

Whereas pursuant to Section 37 of the *Planning Act*, the Council of a municipality or the Ontario Municipal Board on appeal may in a By-law under Section 34 of the *Planning Act*, authorize increases in the height or density of development beyond those otherwise permitted by the By-law in return for the provision of such facilities, services or matters as are set out in the By-law; and

Whereas Subsection 37(3) of the *Planning Act* provides that, where an owner of land elects to provide facilities, services or matters in return for any increase in the height or density of development, the Municipality may require the owner to enter into one or more agreements with the Municipality dealing with the facilities, services and matters; and

Whereas the owner of the lands hereinafter referred to has elected to provide the facilities, services and matters, as hereinafter set forth; and

Whereas the increases in the density or height permitted hereunder, beyond those otherwise permitted in the aforesaid lands by By-law No. 438-86, as amended, are to be permitted in return for the provision of the facilities, services and matters set out in this By-law and are to be secured by one or more agreements between the owner of such lands and the City of Toronto (hereinafter referred to as the "City"); and

Whereas the Official Plan of the City of Toronto contains provisions relating to the authorization of the height and density of development; and

Whereas Council at its meeting of October 8, 9, 10 and 11, 2013 determined to support the coming into force of this By-law; and

Whereas Council has required the owner of the aforesaid lands to enter into one or more agreements dealing with certain facilities, services and matters in return for the increases in height and density in connection with the aforesaid lands as permitted in this By-law; and

Whereas the Ontario Municipal Board, by way of Order PL130554 issued on December 19, 2013, following an appeal pursuant to Section 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determined to amend the former City of Toronto Zoning By-law No. 438-86, the General Zoning By-law, with respect to lands known municipally in the year 2013 as 64-70 Shuter Street;

The Ontario Municipal Board orders:

1. Pursuant to Section 37 of the *Planning Act*, the *heights* and density of development permitted in this By-law are permitted subject to compliance with all of the conditions set out in this By-law and in return for the provision by the *owner* of the *lot* of the facilities,

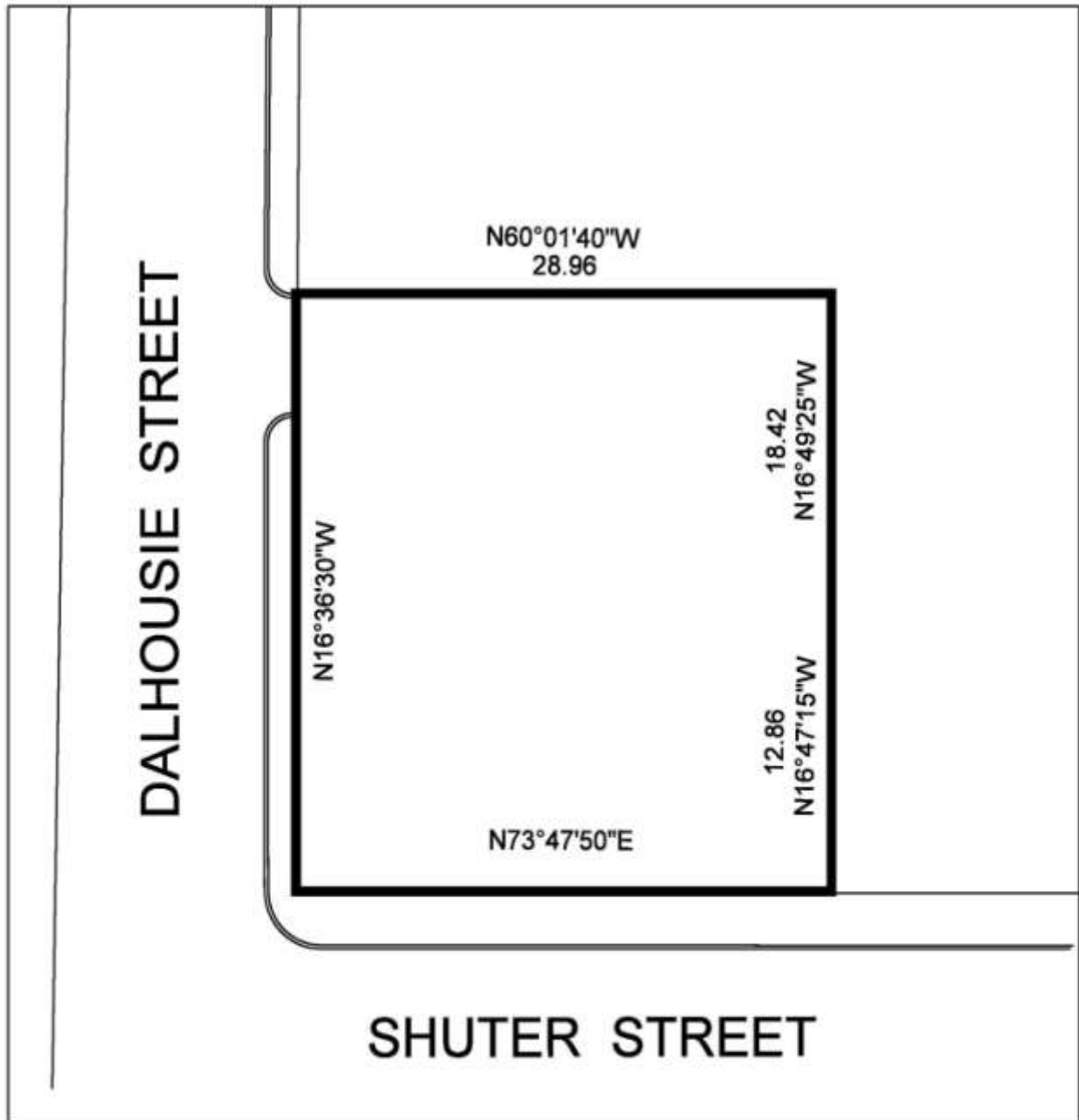
service and matters, to the City at the *owner's* sole expense and in accordance with and subject to the agreement referred to in Appendix "1" of this By-law.

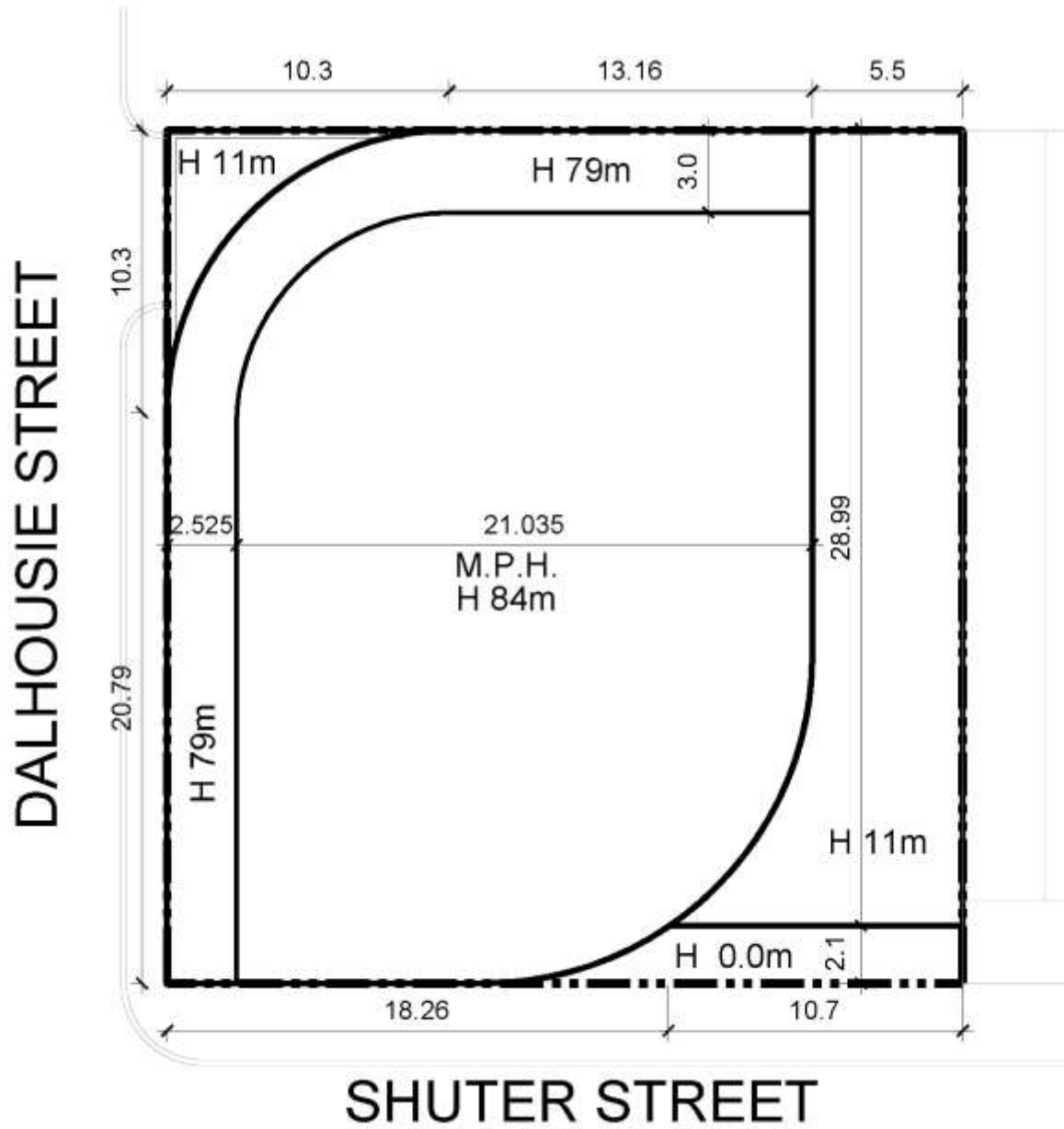
2. Upon execution and registration of an agreement or agreements with the *owner* of the *lot* pursuant to Section 37 of the *Planning Act* securing the provision of the facilities, services and matters set out in Appendix "1" hereof, the *lot* is subject to the provisions of this By-law, provided that in the event the said agreement(s) requires the provision of a facility, service or matter as a precondition to the issuance of a building permit, the *owner* may not erect or use such building until the *owner* has satisfied the said requirements.
3. This By-law applies to the lands delineated by heavy lines on Map 1 attached to and forming part of this By-law.
4. Except as otherwise provided herein, the provisions of By-law No. 438-86, as amended, shall continue to apply to the *lot*.
5. None of the provisions of sections 2(1) "*grade*", "*height*" and "*lot*", 4(2)(a), 4(5)(b), 4(12), 8(2)14, 8(3) Part I 1 and 3 and 8(3) Part II 1(a) of By-law No. 438-86, being "A by-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use of certain buildings and structures in various areas of the City of Toronto", as amended, shall apply to prevent the erection or use of a *mixed-use building* on the *lot* provided that:
 - (a) the *lot* comprises at least the lands delineated by heavy lines on the attached Map 1;
 - (b) the total combined *residential gross floor area* and *non-residential gross floor area* shall not exceed 14,500 m² of which at least 829 m² shall be for the *rental replacement dwelling units* of the building;
 - (c) the total *non-residential gross floor area* shall not exceed 75 m²;
 - (d) no portion of a building or structure erected on the *lot*, including the mechanical penthouse, shall have a greater *height* in metres than the *heights* in metres specified by the numbers following the symbol H on the attached Map 2 except that:
 - (i) railings, parapet walls, window washing equipment, stair towers, garbage chutes, partitions dividing outdoor recreation areas and trellises, landscape and public art features, elements of a green roof, lightning rods, exhaust flues and vents, may be located above the *height* of each of the roof levels of the building provided the maximum vertical dimension of any such element does not exceed 2.0 m;
 - (e) no portion of a building or structure erected or used above *grade* shall be located otherwise than wholly within the areas delineated by heavy lines on the attached Map 2 except that:

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- (i) awnings and canopies, lighting fixtures, ornamental elements, trellises, window sills, railings, balustrades, stairs, stair enclosures, wheelchair ramps, underground garage ramps, vents, landscape and public art features may extend to a maximum of 1.5 m beyond the heavy lines shown on Map 2;
 - (f) not less than 66 *parking spaces* shall be provided and maintained on the *lot* for the exclusive use of residents of the *mixed-use building*, of which two shall be for the use of the occupants of the *rental replacement dwelling units*;
 - (g) not less than 13 *parking spaces* shall be provided and maintained on the *lot* for the exclusive use of visitors to the *mixed-use building*;
 - (h) 4 *car-share parking spaces* shall be provided and maintained on the *lot*;
 - (i) a minimum of 209 *bicycle parking spaces* shall be provided on the lot as follows:
 - (i) 163 resident *bicycle parking spaces*; and
 - (ii) 46 shared visitor and retail *bicycle parking spaces*, of which 6 shall be provided at *grade*;
 - (j) *residential amenity space* shall be provided on the *lot* as follows:
 - (i) not less than 2.0 m² of indoor *residential amenity space* per *dwelling unit* in a multi-purpose room or rooms at least one of which contains a kitchen and a washroom; and
 - (ii) not less than 306 m² of outdoor *residential amenity space*;
 - (k) for the purposes of this By-law, all italicized words and expressions have the same meanings as defined in By-law No. 438-86, as amended, with the exception of the following:
 - (i) *car-share*" means the practice where a number of people share the use of one or more cars that are owned by a profit or non-profit car-sharing organization and where such organization may require that use of cars be reserved in advance, charge fees based on time and/or kilometers driven, and set membership requirements of the car-sharing organization, including the payment of a membership fee that may or may not be refundable;
 - (ii) *"car-share motor vehicle"* means a motor vehicle available for short term rental, including an option for hourly rental, for the use of at least the occupants of a building erected within the site;
 - (iii) *"car-share parking space"* means a parking space used exclusively for the parking of a *car-share motor vehicle*;

- (iv) "*grade*" means 89.85m Canadian Geodetic Datum;
 - (v) "*height*" means the vertical distance between *grade* and the highest point of the roof except for those elements prescribed in Section 5(e)(i) of this By-law;
 - (vi) "*lot*" means the lands delineated by heavy lines on Map 1 attached to this By-law; and
 - (vii) "*rental replacement dwelling unit*" means one of the twelve (12) new rental *dwelling units* in the building erected on the Site.
6. Despite any existing or future severance, partition or division of the *lot*, the provisions of this By-law shall apply to the whole of the *lot* as if no severance, partition or division occurred.
7. None of the provisions of this By-law shall apply to prevent the construction of a temporary sales office on the *lot*.
8. Zoning By-law No. 1996-0064, being a By-law "to amend By-law No. 438-86 with respect to lands known as 64-70 Shuter Street", is hereby repealed.

PURSUANT TO ORDER/DECISION OF THE ONTARIO MUNICIPAL BOARD ISSUED ON DECEMBER 19, 2013 UNDER OMB FILE NO. PL130554.





H: Denotes height in metres above grade



Appendix "1"

The facilities, services and matters set out below are required to be provided to the City at the *owner's* expense in return for the increase in height and density of the proposed development on the *lot* and secured in an agreement or agreements under Section 37(3) of the *Planning Act* whereby the *owner* agrees as follows:

1. Prior to the issuance of the first above-grade building permit, other than for a temporary sales office, the *owner* shall make a cash contribution to the City in the amount of \$1,600,000.00 which will be used by the City for one or more of the following:
 - (a) \$250,000 to be used for capital improvements to Toronto Community Housing Corporation buildings in Ward 27;
 - (b) \$250,000 to be used for parks improvements to Arena Gardens Park;
 - (c) \$100,000 to be used for two bike share stations in the vicinity of the site; and
 - (d) \$1,000,000 to be used to fund streetscape improvements to local streets, including Yonge Street.
2. The cash amounts identified in 1(a), (b), (c) and (d) above shall 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 submission of the funds by the Owner to the City.
3. The *owner* shall provide and maintain not less than 12 new replacement rental dwelling units on the *lot*, comprising of at least five (5) affordable rental *dwelling units* and at least seven (7) mid-range rental *dwelling units* with rents no higher than mid-range rents, which units must be of similar size to the units existing on the site at the date of this By-law, to the satisfaction of the City's Chief Planner and Executive Director, City Planning Division, subject to the following:
 - (a) the replacement rental *dwelling units* shall comprise of one (1) bachelor unit, two (2) one-bedroom units, eight (8) two-bedroom units and one (1) three-bedroom unit; and the combined floor area of the 12 replacement rental *dwelling units* shall be not less than 829.5 m², and the units will have a range of sizes as per the following list subject to such modifications as the Chief Planner may approve:
 - (i) the bachelor unit shall be not less than 39.95 m²;
 - (ii) the one-bedroom units shall be not less than 54.72 m²;
 - (iii) one (1) two-bedroom unit shall be not less than 65.68 m², three (3) two-bedroom units shall not have less than 68.18 m², two (2) two-bedroom units shall have not less than 73.39 m² and two (2) two-bedroom units must be at least 94.30 m²;

- (iv) the three-bedroom unit shall be at least 92.9 m²;
 - (v) at least 7 lockers shall be provided to the tenants of the rental replacement units; and
 - (vi) at least 6 units shall have access use of a private balcony;
- (b) the affordable units shall comprise a unit mix of one (1) bachelor, one (1) one-bedroom and three (3) two-bedroom units;
 - (c) the mid range units shall comprise a unit mix of one (1) one-bedroom, five (5) two-bedroom, and one (1) three-bedroom unit;
 - (d) the replacement rental *dwelling units* shall be maintained as rental housing units for at least 20 years, beginning with the date each unit is occupied and until the owner obtains approval for a zoning by-law amendment removing the requirement for the replacement rental housing units to be maintained as rental units. No application may be submitted for condominium registration, or for any other conversion to non-rental housing purposes, or for demolition without providing for replacement during the 20 year period; and
 - (e) the 12 replacement rental *dwelling units* shall be ready for occupancy no later than the date by which no more than 90% of the other dwelling units erected on the lot are available and ready for occupancy.
4. The *owner* shall provide and maintain affordable rents charged to the tenants who rent each of the five (5) designated affordable replacement rental dwelling units during the first 10 years of its occupancy, such that the initial rent shall not exceed an amount based on the most recent Fall Update Canada Mortgage and Housing Corporation Rental Market Report average rent for the City of Toronto by unit type inclusive of basic utility costs, and upon turnover, the rent charged to any new tenant shall not exceed the greater of the most recently charged rent or the most recent Fall Update Rental Market Report average rent for the City of Toronto by unit type and over the course of the 10 year period, annual increases shall not exceed the Provincial Rent Guideline and, if applicable, permitted above-Guideline increases.
5. The *owner* shall provide and maintain rents no greater than mid-range rents charged to the tenants who rent each of the designated seven (7) new mid-range replacement rental *dwelling units* with mid-range rents during the first 10 years of occupancy, with mid-range rents on the same basis as (4) except that maximum mid-range rent shall not exceed an amount that is 1.5 times the average market rent by unit type inclusive of basic utility costs.
6. Rents charged to tenants occupying a new replacement rental dwelling unit at the end of the 10-year period set forth in 4 and 5 shall be subject only to increases which do not exceed the Provincial rent guideline and, if applicable, permitted above guideline increases, so long as they continue to occupy their dwelling unit or until the expiry of the

rental tenure period set forth in 3 (d) with a phase-in period of at least three years to unrestricted rents.

7. Rents charged to tenants newly occupying a new replacement rental *dwelling unit* after the completion of the 10-year period set forth in 4 and 5 will not be subject to restrictions by the City of Toronto under the terms of the Section 37 Agreement.
8. The owner shall provide a Tenant Relocation and Assistance Plan to the satisfaction of the Chief Planner and Executive Director, City Planning Division, that requires the owner to provide for each eligible tenant at 64-70 Shuter Street the right to return to a replacement rental unit, assistance that includes at least a moving allowance and other financial assistance on a sliding scale geared to the length of occupancy of each tenant, with provisions for special needs tenants.
9. The Section 37 Agreement shall provide that if the property is designated under s.29 of the *Ontario Heritage Act* prior to the submission of a Site Plan Control application, the Owner shall obtain a permit to permit the proposed alteration pursuant to the *Ontario Heritage Act* prior to final Site Plan Control approval.