

**64-70 Shuter Street Zoning Amendment Application -
Request for Direction Report**

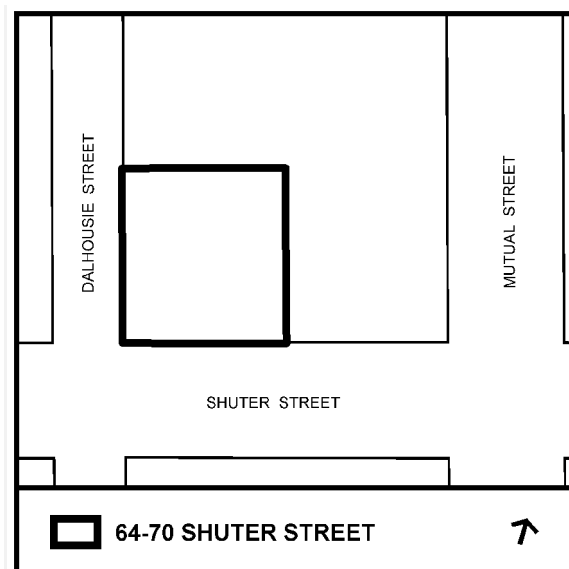
Date:	August 8, 2013
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	12 193153 STE 27 OZ

SUMMARY

This application proposes to amend the Zoning By-law to permit the development of a 28-storey mixed-use building on the lands at 64 to 70 Shuter Street. The application proposes 223 residential units, one commercial unit at grade, and 83 parking spaces in a five level below grade parking structure.

The site currently includes four buildings listed on the City of Toronto's Inventory of Heritage Properties. The proposed new building would integrate portions of two of the four existing buildings. The existing buildings contain 12 units of rental housing. The details of the replacement strategy are currently being negotiated with the applicant.

The applicant has appealed its zoning by-law amendment application to the Ontario Municipal Board due to Council's failure to make a decision within the times prescribed by the *Planning Act*. A four-day hearing has been scheduled from November 19 to 22, 2013. The report recommends that Council direct the City Solicitor, together with appropriate City staff, to oppose the proposal at the Ontario Municipal Board, as the application currently represents overdevelopment of the site and the height is unsupportable.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, together with appropriate staff, to attend the Ontario Municipal Board hearing to oppose the applicant's appeals respecting the zoning by-law amendment and site plan applications for 64-70 Shuter Street (File Numbers 12 1193153 STE 27 OZ) for the following reasons:
 - (a) The proposal does not conform to applicable policies in the Official Plan that include policies related to Mixed Use Area, Built Form – Tall Buildings, Heritage Resources, as well as Parks and Open Spaces; and
 - (b) The proposal represents over-development of the site.
2. City Council authorize the City Solicitor, in the event that the proposal is approved by the Ontario Municipal Board, to support the position that the development application should not be approved without the provision of the following services, facilities or matters pursuant to Section 37 of the *Planning Act*, with such community benefits to be adjusted as may be required should the proposal be approved in some altered form by the Ontario Municipal Board:
 - (a) The provision of a financial contribution in the amount of \$1,500,000, prior to the issuance of the first above-grade building permit, with the contribution to be used by the City for one or more of the following:
 - (i) \$250,000 to be used for capital improvements to TCHC buildings in Ward 27.
 - (ii) \$250,000 to be used for parks improvements to Arena Gardens Park.
 - (iii) \$1,000,000 to be used to fund streetscape improvements to local streets, including Yonge Street.
 - (iv) Require that the cash amounts identified in Recommendation a. (i), (ii) and (iii) 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.
 - (b) Appropriate rental housing replacement provisions in accordance with policies of the Official Plan to the satisfaction of the Chief Planner and Executive Director, City Planning.

3. City Council direct staff to advise the Ontario Municipal Board that any redevelopment of the lands must also include the full replacement of the 12 existing rental dwelling units and a Tenant Relocation and Assistance Plan, including the right of tenants to return to the new rental units in accordance with the Official Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning.
4. In the event the Ontario Municipal Board allows the appeal in whole or in part, City Council direct staff to request that the Board withhold any order to approve a Zoning By-law for the subject lands until such time as the City and the owner have presented to the Board a draft by-law that provides for securing the rental housing matters as outlined in Recommendations 2 and 3 above, and a Section 37 Agreement respecting these matters has been executed.
5. City Council authorize the City Solicitor in consultation with the Chief Planner and other City staff to take the necessary steps to implement the foregoing.

Financial Impact

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

DECISION HISTORY

At its meeting of December 18 and 19, 1995, Toronto City Council adopted By-law no. 1996-0064 amendments to the Zoning By-law to permit a site specific development for an approximately 10-storey mixed-use building on the lands known municipally as 64, 66, 68 and 70 Shuter Street. The proposed building for which this By-law was enacted has never been built.

At its meeting of September 11, 2012 Toronto and East York Community Council adopted staff recommendations to schedule a community meeting for the subject application.

ISSUE BACKGROUND

Proposal

The applicant is proposing a 28-storey mixed-use building, including a 3-storey base. The total Gross Floor Area (GFA) of the proposed development is 16,266 m² (16,196 m² residential, 70 m² retail), which translates into a Floor Space Index (density) of 17.97 on a lot that is 905 m².

The project would maintain a portion of two of the existing two-storey, listed heritage buildings. The heritage buildings would remain in their current locations and the facades of these buildings would be incorporated into the base building of the proposed tower.

The application is proposing a total of 223 residential units (21 bachelor, 117 one-bedroom, 61 two-bedroom and 24 three-bedroom), one commercial unit at grade and 83 parking spaces in a five-level underground parking structure. The applicant is also proposing to provide 209 bicycle parking spaces (163 resident, 46 visitor).

The main residential entry to the building would be located on Shuter Street. Retail entry, as well as a driveway for parking and servicing access is proposed on Dalhousie Street.

The tower portion of the building would be an oval shape oriented diagonally pointing to the north-east and south-west portion of the site. The typical floor plate would be 610 square metres. A total of 452 square metres of indoor amenity space and 306 square metres of outdoor amenity space are proposed. Indoor amenity would be located on the 4th floor with outdoor amenity space located on the roof of the three-storey base adjacent and accessible to the indoor amenity space.

The proposed base of the building is designed to extend to the property line on all four sides. Dalhousie Street and Shuter Street provide access to the building on the west and south sides respectively, while a private laneway borders the north side. The east side of the proposed base would abut the existing building at 76 Shuter Street. The width of the sidewalk will remain the same as the existing condition with 3 metres on Shuter Street stepping back to 5.1 metres in front of the heritage buildings and 1.5 metres on Dalhousie Street, similar to the existing condition.

Above the base, the main body of the tower (from the 6th to 28th floors) would be set back 5.5 metres from the shared property line to the east, creating a tower separation distance of 8.5 metres to the building face of 76 Shuter Street. To the north, a portion of the tower extends to the property line, creating a separation distance of 6 metres at the closest point. Floors 4 and 5 have an additional setback of 1.5 metres on all sides. A chart comparing the original submission with the current submission is outlined below.

Table 1 – Summary of Revisions to the Application

Category	First Submission June 19, 2012	Final Submission May 30, 2013
Site Area	905 m ²	905 m ²
Proposed Tower Setbacks	5.5 m East Property Line 0 m Shuter Street 0 m North Property Line 3 m Dalhousie Street	5.5 m East Property Line 0 m Shuter Street 0 m North Property Line 2.525 m Dalhousie Street
Proposed Base Setback on Ground Floor		
Shuter Street	0 m	2.1 m in front of Heritage buildings
Dalhousie Street	0 m	0 m
Tower Floorplate	Approx 597 m ²	Approx 610 m ²
Gross Floor Area		
Total Residential	15,471 m ²	16,196 m ²
Non-Residential	87 m ²	70 m ²
Total	15,558 m ²	16,266 m ²
Floor Space Index	17.69	17.97

Category	First Submission June 19, 2012	Final Submission May 30, 2013
Number of Units		
Bachelor	1 (1%)	21 (10%)
One-Bedroom	174 (77%)	117 (52%)
Two-Bedroom	25 (11%)	61 (27%)
Three-Bedroom	27 (11%)	24 (11%)
Total	227	223
Ground Floor Height	4.6 m	4.6 m
Sidewalk width Dalhousie Street (1.5 m existing)	1.5 m	1.5 m
Sidewalk width Shuter Street (3.0 m existing)	3.0 m	3.0 m to 5.1 m at heritage buildings
Proposed Vehicular Parking (residential:visitor:non-residential)	84 (84:0:0)	83 (66:13:0) + provision for car share spaces
Proposed Bicycle Parking (residential:retail:other)	209 (163:46:0)	231 (186:45:0)
Loading Spaces		
Description	1 Type 'G'	1 Type 'G'
Amenity Space		
Interior Residential	452 m ²	452 m ²
Exterior Residential	306 m ²	306 m ²
Total Amenity Space Provided	758 m ²	758 m ²
Building Height	94.70 m	91.75 m

Site and Surrounding Area

The subject site is located at the northeast corner of Shuter Street and Dalhousie Street. The site is almost square with a frontage of 29.0 metres along Shuter Street and a depth of 31.1 metres along Dalhousie Street, for a total area of 905 square metres. There are currently five adjoining 3-storey buildings on the site, which contain 12 rental residential units and two office rental units. The buildings at 64, 66, 68 and 70 Shuter Street are listed heritage buildings. The block in which the site is located once held a roller rink which was an important public amenity at the time. The block was planned to be comprehensively redeveloped as co-operative housing with open space. The City of Toronto ultimately initiated a land swap which allowed for some market housing but increased the provision of open space (Arena Gardens Park).

North: To the immediate north of the development site is a 12-storey residential apartment building (75 Dalhousie Street) whose entrances face Dalhousie Street. The side wall of this building faces the subject site. There are principle and secondary windows on each floor across the width of this wall.

This building is the first of three adjoining apartment buildings which includes 81 and 99 Dalhousie Street and creates a continuous street wall nearly to Dundas Street. The tallest of these buildings is 81 Dalhousie Street, which has a height of 17 storeys.

Behind these buildings on the same block is Arena Park Gardens, a 0.2 hectare public park with playground.

East: To the immediate east of the development site is a 15-storey residential apartment building (76 Shuter Street) which includes a four-storey base. The building has 124 residential units and a density of approximately 10.1. The western wall of this building has no windows on the base. Above the base, balconies are inset on the centre of the wall.

South: To the south of the site, across Shuter Street is a large surface parking lot which takes up the entire block surrounded by Shuter Street to the north, Queen Street East to the south, Dalhousie Street to the west and Mutual Street to the east. Zoning for this site was amended in 2005 to support a mixed-use development proposal resulting in an FSI of 9.0 across the whole block. The proposal includes three 28-storey buildings and a number of 5 – 8 storey buildings.

To the south-west, at 167 Church Street, is the "Jazz" development, a 28 storey mixed-use building with an FSI of 14.26, which was built in 2006.

One block west of this site, the block bounded by Queen Street East, Bond, Shuter and Church Streets includes the Metropolitan United Church and a surface parking lot. Zoning for this site was amended in 2003 to support a 36-storey commercial and residential building and commercial parking garage, with a Floor Space Index of 2.42.

West: To the west of the site, across Dalhousie Street is a surface parking lot. West of this parking lot, across Church Street is the St. Michael's Cathedral. The Cathedral was listed on the City's Inventory of heritage properties in 1973. Council adopted an Intention to Designate on March 5, 2012.

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. Furthermore, Section 2 of the *Planning Act* sets out matters of provincial interest, which include the adequate provisions of a full range of housing and the orderly development of safe and healthy communities. The PPS sets the policy foundation for regulating the development and use of land. The 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 PPS also requires that planning authorities provide an appropriate range of housing types and densities, including the provision of affordable housing.

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 to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Staff have reviewed the proposed development for consistency with the PPS and for conformity 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.

Although much of the growth is expected to occur in the *Downtown*, not all of the *Downtown* is considered a growth area. The City of Toronto Official Plan states that: "while we anticipate and want *Downtown* to accommodate growth, this growth will not be spread uniformly across the whole of *Downtown*. In fact, there are many residential communities *Downtown* that will not experience much physical change at all, nor should they."

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*.

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 should 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 listed heritage properties – 64, 66, 68 and 70 Shuter Street. Policy 3.1.5 of the Official Plan requires that significant heritage resources listed on the City of Toronto's Inventory of Heritage Properties to be conserved. 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.

Section 3.2.1 Housing

The Official Plan polices address the need to preserve and increase the City's supply of rental and affordable housing. The site of the proposed development contains 12 residential rental units. Policies in section 3.2.1 of the Official Plan provide that new development that would have the effect of removing six or more rental units should not be approved unless the same number, size and type of rental housing units are replaced and maintained with rents similar to those already in effect. An acceptable tenant relocation and assistance plan is also required to address moving related costs, alternative accommodation, and other assistance to lessen hardship.

Section 3.2.3 Parks and Open Spaces

To the north-east of the proposed development is Arena Gardens Park. 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.

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. Furthermore, 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.

Zoning

The property is zoned CR T5.0 C0.5 R5.0 in the City of Toronto By-law 438-86. This zoning permits a wide variety of residential, retail and commercial uses, with the exception of automobile related uses.

By-law no. 1996-0064 applies to the property and permits a building with the following characteristics:

- Residential GFA of 5385 m².
- Combined residential GFA and non-residential GFA 5470 m².
- A detailed zoning envelope with heights ranging from 13 metres to 39.5 metres (10 storeys).
- 90 dwelling units.
- 64 parking spaces (59 for residents, 5 visitors).
- A setback of 1.2 metres from 76 Shuter Street to a height of 14.5 metres, then 3.2 metres.
- A setback of 1.1 metres from 75 Dalhousie Street.

Tall Building Design Guidelines

In May 2013, Toronto City Council adopted the updated city-wide Tall Building Design Guidelines and directed City Planning staff to use these Guidelines in the evaluation of all new and current tall building development applications. The guidelines establish a unified set of performance measures for the evaluation of tall building proposals to ensure that they fit within their context and minimize their local impacts. The city-wide Guidelines are available at <http://www.toronto.ca/planning/tallbuildingdesign.htm>

Policy 1 in Section 5.3.2 Implementation Plans and Strategies for City-Building, the Official Plan states that Guidelines will be adopted to advance the vision, objectives, and policies of the Plan. Urban Design guidelines specifically are intended "to provide a more detailed framework for built form and public improvements in growth areas." The Tall Building Design Guidelines serve this policy intent, helping to implement Chapter 3.1 The Built Environment and other policies within the Plan related to the design and development of tall buildings in Toronto.

This project is located within an area that is also subject to the Downtown Tall Buildings: Vision and Supplementary Design Guidelines (adopted by City Council in July 2012 and consolidated with the city-wide Tall Building Design Guidelines May 2013).

This document identifies specific Downtown streets that are most suitable for tall building development, establishes a height range along these streets and provides a set of supplementary Downtown specific design guidelines which address Downtown built form and context. The Downtown Vision and Supplementary Design Guidelines were used together with the city-wide Tall Building Design Guidelines in the evaluation of this tall building proposal. The Downtown Guidelines are available at <http://www.toronto.ca/planning/tallbuildingstudy.htm#guidelines>

The subject property is located on Shuter Street and Dalhousie Street. Shuter Street is identified as a Secondary High Street on Map 1. Dalhousie Street is not defined as a High Street or Secondary High Street. The height on a Secondary High Street is two thirds of the height of the nearest adjacent High Street. The nearest adjacent high streets are Dundas Street East and Queen Street East, both with a height range of 62 metres to 107 metres (20 to 35 storeys). Therefore, the height range for Shuter Street in this area should be 41 meters to 71 metres (13 to 23 storeys). The street is not identified as a Priority Retail Street on Map 4.

Site Plan Control

The proposed development will be subject to site plan control. A site plan control application has not been submitted to date.

Rental Housing Demolition and Conversion

Policy 3.2.1 of the Official Plan requires that all rental developments with 6 or more rental units provide for the replacement of those units either on site or in another location. It further requires that the units be in the same size and configuration, rental rates and that a tenant relocation strategy be devised. Section 111 of the *City of Toronto Act, 2006* authorizes Council to regulate the demolition and conversion of residential rental properties in the City. By-law No. 885-2007, also known as the Rental Housing Demolition and Conversion By-law, established Chapter 667 of the Municipal Code. The By-law makes it an offence to demolish residential rental property unless approval has been granted for a Section 111 permit. Proposals in which six or more rental housing units will be affected require a decision by City Council. Approval of related planning applications, such as a rezoning, should be conditional upon the applicant receiving a Section 111 permit. Council may refuse an application, or approve the demolition with conditions that must be satisfied before a demolition permit is issued. These conditions are based on the Official Plan policies and established practices the City has in place when considering rental housing demolition. Typically these conditions include the full replacement of the rental units to be removed, as well as tenant assistance and the right for tenants to return. Unlike *Planning Act* applications, the City's decisions on refusal or approval of a Section 111 permit are not subject to appeal to the Ontario Municipal Board.

The applicant has submitted the required Rental Housing Demolition and Conversion Application under Chapter 667 of the Municipal Code for the City's review, as 12 residential rental units are to be demolished in the existing building on the site.

A Housing Issues Report with detailed plans for the replacement of the 12 rental housing units, and a Tenant Relocation and Assistance Plan have been submitted and are under review for consistency with the Official Plan and the City's standard practices.

Reasons for Application

Although the uses are permitted by the zoning by-law, the applicant is seeking an amendment to the zoning by-law to permit the desired height and density which currently exceeds the permitted limits by 52.25 m and 11 times coverage respectively.

As the demolition of a related group of buildings containing 12 units of affordable and mid-range rents is proposed, a Section 111 permit is required under Chapter 667 of the *City of Toronto Act* to permit the redevelopment of this site.

Community Consultation

A Community Consultation Meeting was held on November 13, 2012 at City Hall. The overall reaction to the proposal was negative. Notwithstanding the as-of-right built form which would have many of the same impacts on the first 11 floors of the adjacent condominium buildings, most residents expressed concern about the proximity of the proposed development and the impacts it would have on their quality of life.

Residents above the 11th floor of the adjacent condominiums who were aware of the as-of-right zoning were particularly concerned about the increase in height. In addition, concerns were expressed about shadowing on Arena Gardens Park and laneway that runs along the north property line. Concerns were also expressed about potential traffic impacts in the area.

Subsequent to the Community Consultation Meeting Planning Staff held informal consultations with the adjacent condominium residents on Dalhousie Street and Shuter Street. At this meeting the same concerns were expressed to staff regarding quality of life, shadowing and traffic. Again, residents who had undertaken due diligence on their purchases felt that building anything above the as-of-right was unfair.

Since the meetings, City Planning Staff have received correspondence via email and regular mail expressing concerns about the development. City Planning Staff did receive one email in support, expressing that this development could potentially provide an affordable entry into the housing market for those renting in the area.

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

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement promotes new development primarily through intensification and requires that new development create efficiencies in land use. 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. Section 1.1.3.3 of the Provincial Policy Statement also requires: "planning authorities to identify and promote opportunities for intensification redevelopment".

This application constitutes a significant redevelopment of a property and does comply generally with the Provincial Policy Statement in regards to efficiencies of land use and intensification. However, the proposal is not consistent with all applicable policies of the City of Toronto Official Plan, and therefore, as per Section 4.5, it cannot be said the application is fully consistent with the Provincial Policy Statement.

The Growth Plan for the Greater Golden Horseshoe designates Toronto as a growth area. The growth is primarily intended to occur through infill development and intensification. While the applicant's proposal represents a significant intensification of property, the proposed residential development is not necessary to meet the growth targets forecast by the Province of Ontario for the City of Toronto. The proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe.

Land Use

The proposed development is located in the *Mixed Use Areas* of the Official Plan. The uses proposed for the project are residential and retail. This constitutes a mixed-use building and complies with the land use provisions for *Mixed Use Areas* in the Official Plan.

Floor Space Index

Section 3.1.3 of the Official Plan requires that tall buildings relate to their existing and planned context. The density or floor space index of the development is 17.97 times, an increase of 0.28 from the June, 2012 submission. The density proposed is significant but in keeping with recent approvals east of Church Street that includes: 155-163 Dundas Street East (19 times), 159 Wellesley Street East (19.2 times), and 568-580 Jarvis Street (15.4 times). The site, however, is small relative to all of the above, and at the density proposed the tower dominates the site and struggles to relate to its existing context.

Built Form and Massing

At its meeting of December 18 and 19, 1995, Toronto City Council adopted Clause 13 of Report No. 18 of the Land Use Committee, which allowed for a site specific zoning by-law on the lands known municipally as 64, 66, 68 and 70 Shuter Street.

The by-law allowed for the construction of an 11-storey condominium building that could be built lot line to lot line with minimal articulation and almost no separation from the condominium buildings at 76 Shuter Street (which had not yet been constructed) and 75 Dalhousie Street.

At its meeting of September 11, 2012 Toronto and East York Community Council adopted the report from the Director, Community Planning, Toronto and East York District, dated August 7, 2012 and titled "64-70 Shuter Street – Zoning Amendment - Preliminary Report". In that report staff stated that: "The proposed building has a number of built form issues and would not normally be entertained by Planning Staff. However, the applicant has permission for an as-of-right building that City Staff also consider to be problematic and which would have a negative impact on the quality of life of the residents of the building to the east if built. For these reasons, City Planning Staff are seeking to improve upon the as-of-right building envelope." The proposed built form for the new tower at 64-70 Shuter Street should be understood within this context.
<http://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-49499.pdf>

The proposed development consists of a single tower (28-storeys) inclusive of the base building. The approximate tower floor plate is 610 square metres. The base expression is not robust, as the tower cantilevers back over the base from the sixth storey at the Shuter Street, Dalhousie Street frontages and the north property line. The tower does maintain its separation distance from the adjacent condominium building at 76 Shuter Street. The tower is massed into an oval shape with rounded corners at the north west and south east corners.

In terms of the Tall Building Design Guidelines and Downtown Tall Buildings: Vision and Supplementary Design Guidelines ("the Guidelines"), the proposed building represents a tower and base typology which is recommended for the area. As stated, however, the base building is not articulated well, and the fact that the tower cantilevers back over the base eliminates the microclimatic benefits of having a tower and base typology.

The Guidelines recommend a maximum base building height of eighty percent of the street right-of-way with a step back and minimum base height of 10 metres. In the case of Shuter Street this would normally require a base building of 16 metres in height stepping back to a maximum height 20 metres. The proposed base is 12.5 metres and meets the objectives of the Guidelines.

The proposed tower has zero setback from the north property line and is setback 5.5 metres from the east property line. However, the proposed tower is rounded off at the northwest corner and notched at the north east corner to allow for greater light penetration and separation from 75 Dalhousie Street than the as-of-right zoning by-law allows. In regards to the proposed 5.5 metre setback from the eastern property line, this is much improved from the as-of-right zoning. This combines with the rounded corner at the south east of the tower to allow for greater light penetration and views from the recessed balconies at 76 Shuter Street.

Separation distances will be discussed in greater detail below, however Staff note that the applicant has worked to address the substandard condition of the as-of-right zoning as best as can be accommodated on the site. Although significantly deficient from the Guidelines, the as-of-right zoning was also deficient and the proposed condition is an improvement.

The proposed tower floor plate of the building is 610 square metres which is far less than the maximum recommended floor plate of 750 square metres recommended in the Guidelines.

Heritage

Section 3.1.5 of the Official Plan requires that significant heritage resources listed on the City of Toronto's Inventory of Heritage Properties be conserved. The properties located at 64-70 Shuter Street are included on the City of Toronto's Inventory of Heritage Properties. They were listed by Toronto City Council at their meeting of May 28, 1990. The properties consist of four three-storey row houses. The buildings at 68 and 70 Shuter Street were constructed in 1850 and are clad in buff brick with Georgian detailing. The properties at 64 and 66 Shuter Street were redeveloped after 1893 and are clad in red brick with Romanesque detailing that dates from this time.

The applicants are proposing to demolish the row houses at 64 and 66 Shuter Street (red brick). The principle elevations of the row houses at 64 and 70 Shuter Street (buff brick) would be incorporated into the new development. During construction these elevations would be supported in situ while the remainder of the buildings are demolished and a below grade parking garage is excavated.

A portion of the original west elevation would be reconstructed and would be visible in the main lobby of the residential building. The forward pitch of the roof and the chimneys would also be constructed. New townhouse units with floor heights corresponding to the original row houses would be constructed behind these elevations. A new base building with a glazed lobby would be constructed adjacent to the conserved elevation. This base building would wrap around onto Dalhousie Street. A glazed two storey transition element would be stepped back from the south elevation of the heritage building and connect into the residential tower. The residential tower would partially cantilever over the heritage building and rise 28 storeys.

In 2008 Toronto City Council adopted the *Standards and Guidelines for the Conservation of Historic Places in Canada* as the official document guiding planning, stewardship and conservation approach for all listed and designated heritage resources within the City of Toronto. Heritage Preservation Services has reviewed a Heritage Impact Assessment (HIA) submitted in support of the planning application prepared by ERA Architects Inc. dated November 1, 2011 and revised May 22, 2013. The following heritage issues have not been resolved:

Scale, Form, and Massing

The scale form and massing of the property are important character defining features and they will be affected by the construction of the new residential building. Staff do not typically support proposals to cantilever new development over heritage buildings. In the majority of cases suspending the mass of a new building over a heritage building significantly affects the visual integrity of the heritage building as a three dimensional building when viewed from the street. In order to fully understand the visual impact that this cantilever will have on the heritage resources heritage staff require accurate three dimensional modeling that allows a better understanding of the potential views of the heritage building from street level on Shuter Street.

Base Building Design

The three-storey base building should set a supportive context for the existing heritage building. The majority of this base building will be clad in a yellow brick veneer that will be compatible with the heritage building. However, adjacent to the heritage building on the south elevation the base building will be expressed primarily in glazing. In this location the two-storey transition element (between the tower and the base building) cantilevers out over the base building. Stepping back this transition element behind the plane of the base building on this elevation will allow for greater visual separation between the base building and the two-storey transition element above. This will also establish a consistent three-storey base along Shuter Street that will reinforce the existing three-storey heritage building.

Shoring and Bracing Plan

The conservation strategy for the proposal is premised on keeping the south elevation of 68-70 Shuter Street in place during construction. However, the HIA does not provide a shoring and bracing plan that describes in detail how this will be accomplished. Staff will require a shoring and bracing plan that demonstrates how the south elevation will be appropriately maintained in place during construction.

64 and 66 Shuter Street

The applicant's heritage rationale for the demolition of the properties at 64 and 66 Shuter Street is that these buildings have been extensively altered. These alterations include the recladding of the exterior of the buildings prior to 1900. Staff has considered this rationale and independently reviewed the properties for potential designation under Part IV of the Ontario Heritage Act. Through our review we have determined that these properties do not meet the criteria for designation as prescribed in Ontario Regulation 9/06.

In keeping with the City of Toronto Official Plan, should the demolition of these building be approved, the property owner will be required to undertake thorough documentation of the heritage resources. This documentation will serve as a final record of the property and will be submitted to the City of Toronto Archives.

Other Heritage Comments

Should the proposal, or a variation, ultimately be approved, among other conditions heritage staff, would likely seek a Heritage Easement Agreement, a Detailed Conservation Plan, and Heritage Interpretation Plan as conditions of approval.

Rental Demolition and Replacement

The property includes 4 buildings which together contain 12 residential rental units. Section 3.2.1 of the Official Plan requires that these units be replaced on site or in another location, as well as have their form, configuration and rental rates replicated. The unit mix is 1 studio unit, 2 one-bedroom, 8 two-bedroom and 1 three-bedroom apartment, with affordable and mid-range rents, though 1 apartment has a high end rent. The apartments are of a reasonable size, with several being generously proportioned.

Currently there are only about 3 tenant households remaining. Tenants have received information about the proposed demolition and redevelopment, the City's policies protecting rental housing and the provision of relocation assistance for affected tenants, and their rights as tenants during the City's review process. A tenant consultation meeting has been scheduled for mid-September, and the results of those discussions will be included in the work by Planning staff to finalize terms for the rental replacement in the event that redevelopment is approved.

The owners have worked with staff to more fully develop the rental replacement plans to meet the objectives of the Official Plan since the Preliminary report noted that their proposals for replacement and tenant assistance were unclear. Their revised plans have improved unit layouts and provide for full replacement of the rental housing units at 99% of the original floor area of the existing rental units, in addition to storage lockers for 7 of the apartments. The one high-end unit will be replaced with one renting at mid-range rents so there will be 5 affordable and 7 mid-range rental units. Tenant relocation assistance will meet the City's standards. The location of the rental units on several floors will be grouped to facilitate their exclusion from condominium registration, but the rental units and the tenants will be fully integrated in the condominium and share all amenities and facilities. Staff are satisfied with the rental housing component of the owner's redevelopment proposal.

Due to the appeal of the Zoning Amendment application to the Ontario Municipal Board, a Final Report with recommendations on the rental demolition application, under Municipal Code Chapter 667 for a Section 111 permit, has not been submitted to Toronto and East York Community Council. If the Zoning By-Law Amendment is approved, a report on the Section 111 matters will be submitted for decision by City Council, after Planning staff have finalized the terms of the replacement rental housing and all related facilities, as well as tenant assistance.

Recommendations 3 and 4 of this report are focused on ensuring that the rental replacement and tenant assistance matters are reflected in the final planning approvals, and secured through the Zoning By-law and a Section 37 Agreement, should the OMB approve the proposed development in full or in part.

The Board will be advised that notwithstanding any decision made by the OMB to approve the development, demolition cannot proceed unless and until City Council gives approval under Section 111 of the *City of Toronto Act*.

Stepbacks and Separation Distances

The proposed building steps back for 2 metres at the 4th and 5th storeys before cantilevering back out. This effectively eliminates any proposed stepbacks. The separation of the tower from 76 Shuter Street is 8.5 metres and the separation distance from 75 Dalhousie Street is 6 metres. These separation distances are deficient by a large margin from the 25 metres recommended in the Tall Building Guidelines.

However, the as-of-right development was separated by only 4.2 metres at the nearest point to 6.2 metres at the largest from 76 Shuter Street. Furthermore, the as-of-right building is a square, whereas the proposed building provides rounded corners and notching to increase views and light penetration. The separation distance to 75 Dalhousie Street is largely unchanged from the as-of-right zoning, however, as with 76 Shuter Street, rounding the north west corner and notching the north east corner, improve views and sunlight penetration over the as-of-right. Overall, Staff are satisfied that the applicant has done as much as possible to improve the proposed separation distances and still maintain a viable floor plate. Although deficient from the Guidelines, the proposed built form is an improvement over the as-of-right, the principal issue Staff have with the proposed tower is the height, discussed below.

Height

The height of the proposed tower is 28 storeys. Although taller than the recommended heights in the Guidelines (13 to 23 storeys), there is a planned context for the proposed height. Across the street on the former Cook's Church site three 28-storey towers have been approved but never constructed. At the south west corner of Shuter Street and Dalhousie Street is the Jazz rental building (28 storeys) and at the south west corner of Church Street and Shuter Street is the approved but not constructed building at the Metropolitan United Church site (36-storeys).

The principal difference with these sites is that the site areas are all very large. Some of the sites also include heritage conservation as well as green space. Furthermore, with the exception of the Metropolitan United Church site, all the towers are set back significantly from Shuter Street. Lastly, as will be discussed below, those sites do not impact Arena Gardens Park as the proposed building does. Therefore, it is the existing context, rather than the planned, with which the proposed building does not comply, as required by policy 3.1.3 of the Official Plan. Staff are willing to entertain extra height and density in exchange for a better built form, however, the height of the tower overwhelms the surrounding buildings, removes sky views and creates steeper angles for light penetration. The unfortunate consequence of this height is that it acts to remove much of the benefits achieved from the greater separation distances.

Sun, Shadow, Wind

Policies listed under 4.5.2 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. The city generally evaluates these conditions between the vernal and autumnal equinoxes (March 21 and September 21, respectively).

At the proposed height, Arena Gardens Park will experience significant shadowing at 1 p.m. and 2 p.m., during the spring and autumn equinoxes, overshadowing an area of the park that currently enjoys relatively unobstructed sunlight. At 3 p.m. the shadows have moved off the park and it is largely shadowed by the surrounding built form.

Unfortunately this means that the only time in the afternoon that the park enjoys sunlight will be removed by the proposed building. Planning Staff believe that this will significantly affect the enjoyment and utility of the Park in contravention of policies listed in section 3.2.3 of the Official Plan. This is especially true when compared against the as-of-right zoning which only has a marginal net increase in shadow at the southern end of the park. Furthermore, that shadow is in an area where the existing built form already acts to shadow much of the same portion of the park.

Due to the fact that the tower cantilevers back over the base building, much of the benefit of a base and tower configuration is eliminated. A pedestrian level wind assessment has been conducted and the consultant found that generally conditions at grade would be comfortable, however in the winter time, uncomfortable windy conditions would be prevalent on Shuter Street. Pedestrian level weather protection may act to mitigate some of these concerns.

Pedestrian Amenity

No sidewalk widening or areas of continuous weather protection are proposed as part of the development. The consolidated Tall Building Guidelines recommend a minimum sidewalk width of 6 metres. The current proposal does nothing to improve the pedestrian realm on either Shuter Street or Dalhousie Street. However, by maintaining the heritage buildings in their current alignment, the sidewalk widths are improved from the as-of-right. Overall, however, the public realm is not substantially improved by this proposed development.

Cycling Amenity

The applicant is currently proposing to oversupply the amount of resident and visitor bicycle parking. A total of 223 bicycle parking spaces are proposed. This goes beyond the City of Toronto Green Standard Checklist and is a welcome addition to the area given the proximity to bicycle lanes on Shuter Street, Gerrard Street and Sherbourne Street.

Traffic Impact, Access, Parking and Servicing

Engineering and Construction Services Staff have reviewed the impacts of the proposed development. Although they support the consultant's conclusions that there will be a minimal impact from a traffic perspective, they do not accept the applicant's rationale for the proposed reduced parking ratio. As such they require that the full parking complement of 143 parking spaces be supplied.

Staff have concluded that 1 type-G loading space is acceptable and the proposed servicing scheme is acceptable. However, Staff have also noted that the proposed sanitary sewer in which the applicant is proposing to connect is currently surcharged. The applicant is required to revise their Storm Water Management report and grading plan.

Amenity Space

The applicant is proposing to supply 452 square meters of indoor amenity space and 306 square meters of outdoor amenity space for a total of 758 square metres. For their proposed 223 units, this is deficient by 134 square metres. Staff recognize that it is not always possible to include a full provision of outdoor amenity space, especially on small sites. In these cases Staff have allowed for the difference to be made up in indoor amenity space such that the total amount is still achieved. It is important with the amount of new development in this parkland deficient area, that new construction support itself both from a servicing perspective and an amenity perspective. As such, Staff do not support the reduction in proposed amenity space.

Provision of Family Sized Units

The applicant is proposing to supply 24 three-bedroom units which make up approximately 11 percent of the total supply. Staff routinely seek to secure 10% of all units as three bedroom or greater to broaden the range of housing provided downtown. The proposed ratio complies with that objective.

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.

Section 37

Section 37 of the Planning Act allows the City to grant increased density and/or height in exchange for community benefits. Community benefits are specific capital facilities (or cash contributions for specific capital facilities) and can include: parkland and/or park improvements above and beyond the parkland dedication; public art; streetscape improvements on the public boulevard not abutting the site, Heritage Conservation District studies identified in the Official Plan; and other works detailed in Section 5.1.1.6

of the Official Plan. Section 37 may also be used as may otherwise be agreed upon, subject to the policies contained in Chapter 5 of the Official Plan.

The community benefits must bear a reasonable planning relationship to the proposed development including at a minimum, an appropriate geographic relationship and the addressing of planning issues associated with the development (e.g. local shortage of parkland, replacement rental apartment units). The Official Plan provides that Section 37 may be used regardless of any increase in height or density to secure the replacement of rental housing.

Following the submission of the development application City staff determined it was not appropriate to discuss Section 37 matters beyond the provision of replacement rental housing until there was agreement on the height and density of the proposal. Until staff had received a proposal that was deemed to be 'good planning' then such discussions were considered premature.

Following the appeal of the application to the Ontario Municipal Board, City staff gave consideration to appropriate community benefits in consultation with relevant City staff and the ward councillor. Staff have initiated discussions with the applicant regarding Section 37 benefits should the application be approved by the Ontario Municipal Board and staff remain open to continuing those discussions. In the event that consensus on appropriate benefits cannot be achieved with the applicant prior to the hearing, staff seek Council's authorization to request the Ontario Municipal Board not to approve the proposal without the provision of the following community benefits. Benefits provided should be secured in a Section 37 agreement and cash contributions should be indexed. If the development application is approved at a revised height and density, staff propose that the benefits be adjusted accordingly. The benefits should be as follows:

- (1) The provision of a financial contribution in the amount of \$1,500,000, prior to the issuance of the first above-grade building permit, indexed upwardly from the date of approval to the date of issuance of such permit, with the contribution to be used by the City for one or more of the following:
 - (i) \$250,000 to be used for capital improvements to TCHC buildings in Ward 27.
 - (ii) \$250,000 to be used for parks improvements to Arena Gardens Park.
 - (iii) \$1,000,000 to be used to fund streetscape improvements to local streets, including Yonge Street.
 - (iv) Require that the cash amounts identified in Recommendation a. (i), (ii) and (iii) 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.

- (2) Appropriate rental housing replacement provisions in accordance with policies of the Official Plan to the satisfaction of the Chief Planner and Executive Director, City Planning.

Conclusions

The applicant has worked closely with Staff to address issues with the as-of-right development and attempt to develop a more sensitive built form that would improve the quality of life of adjacent residents, improve the heritage condition and replace the rental units within the existing development. Staff are satisfied that the separation distances have been improved to the degree possible and the gestures of the built form, including the rounded edges, serve to ameliorate the proximity of the tower.

Furthermore, the applicant has worked with Heritage Preservation Staff to keep 68 and 70 Shuter Street in situ rather than demolish the structures and move them forward.

Although not ideal, this represents an improvement over as-of-right permissions. Though the details are not finalized, the applicant has worked with Planning staff on a rental replacement and tenant relocation proposal that meets the City's policies and practices, and staff are confident that an agreement can be reached. This report recommends that the OMB be advised that any redevelopment approval should provide for rental replacement and tenant assistance to the satisfaction of the Chief Planner, and secured in a Section 37 Agreement.

The principal issues remaining are that of height and finalizing heritage details. City Planning Staff attempted to arrive at a compromise that would satisfy staff issues but the applicant did not agree with Staff's position. The height of the proposed building would have a significant impact on Arena Gardens Park to the north east and would have a negative impact on the quality life of adjacent residents, removing some of the positive gains achieved by increasing the separation distances. This is complicated by the fact that the proposal cannot support itself from a parking or amenity space perspective. Ultimately, Staff do not think that there has been sufficient improvement over the as-of-right built form to justify the large increase in height (152 metres) and density (11 times) being requested by the applicant.

For this reason Staff think that the application should be opposed at the Ontario Municipal Board on the grounds that the proposal represents over development, is not in the public interest and does not constitute good planning.

CONTACT

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SIGNATURE

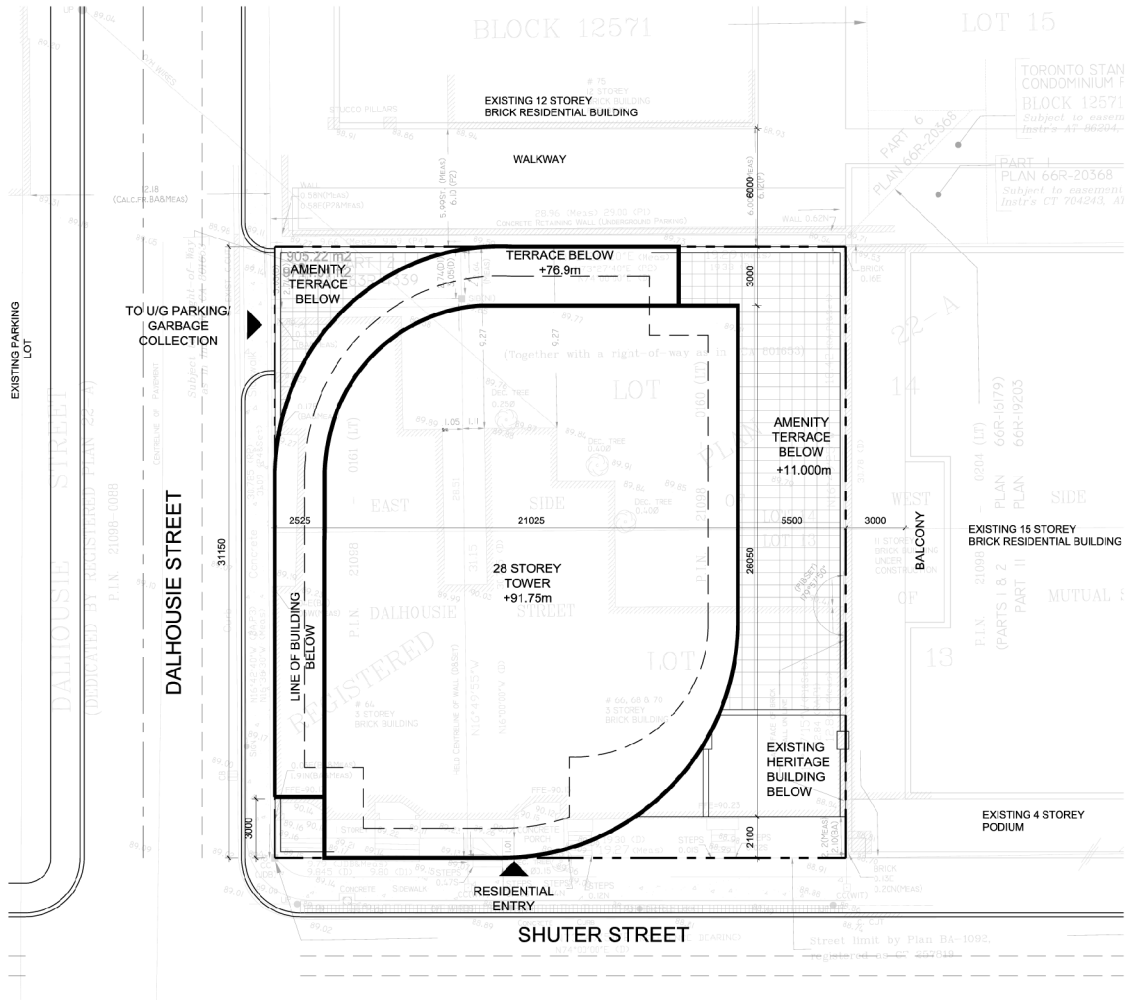
Gregg Lintern, MCIP, RPP
Director, Community Planning
Toronto and East York District

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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



Site Plan

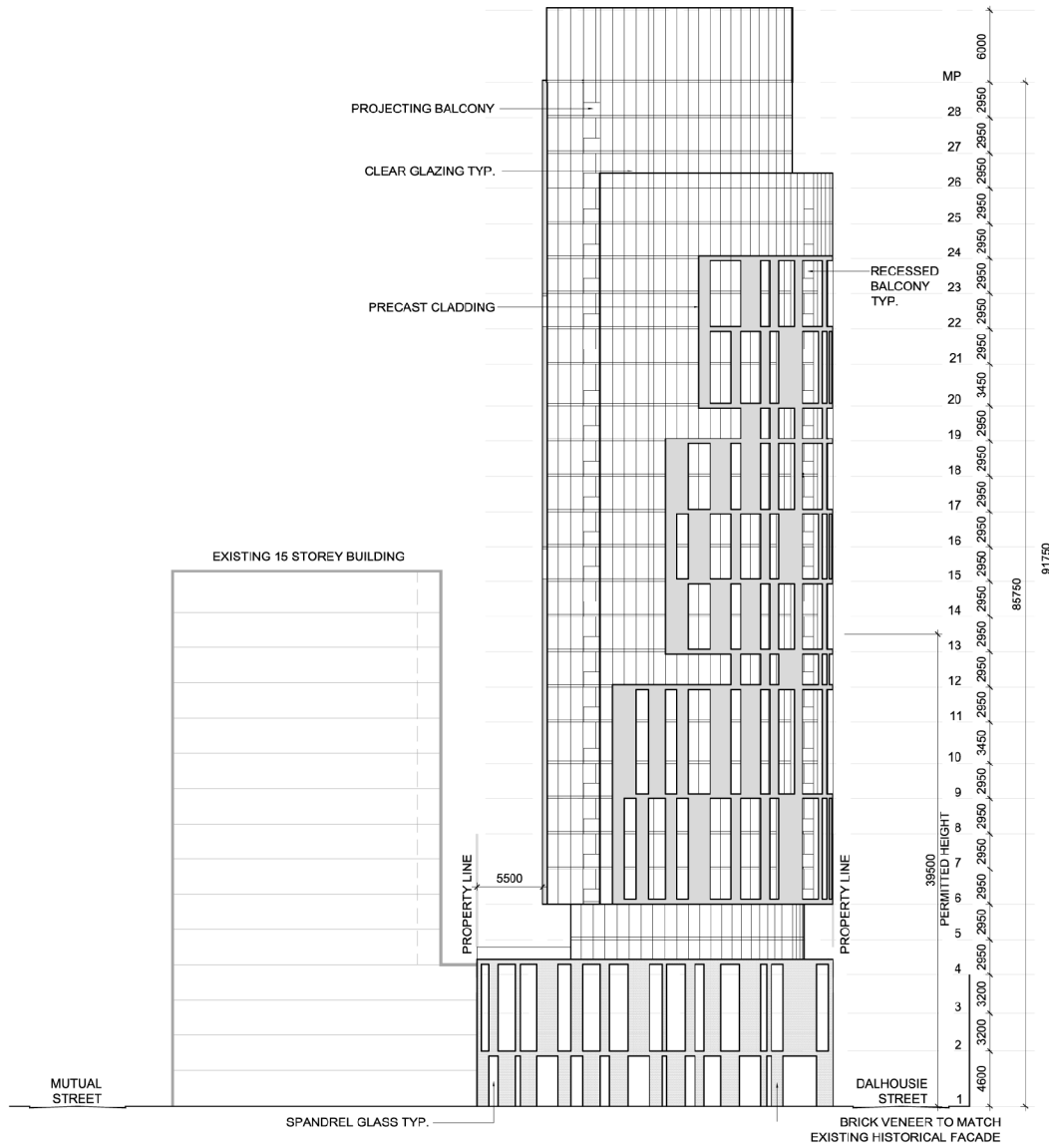
64-70 Shuter Street

Applicant's Submitted Drawing

Not to Scale 
06/27/2013

File # 12 193153 0Z

Attachment 2: North Elevation



North Elevation

Elevations

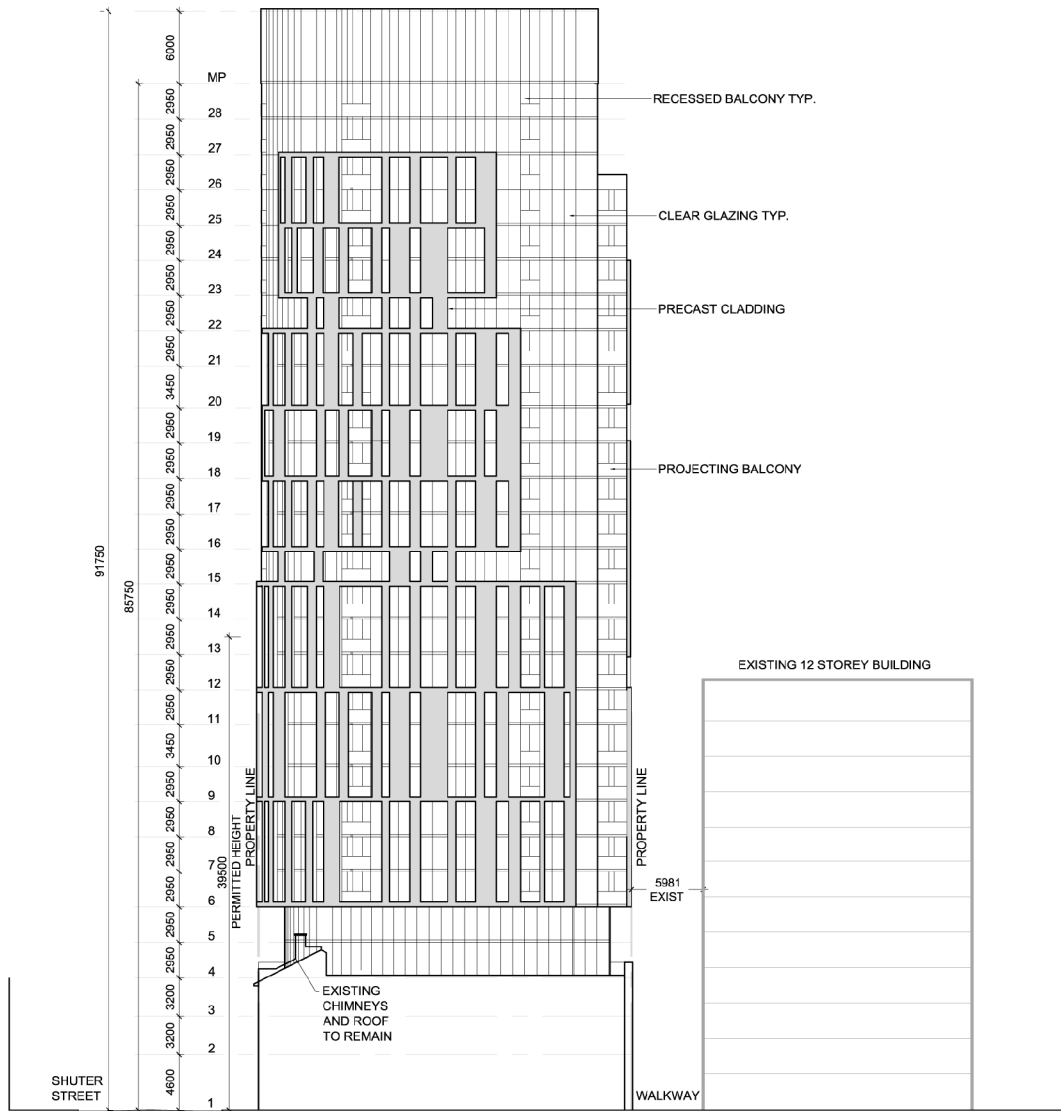
64-70 Shuter Street

Applicant's Submitted Drawing

Not to Scale
06/27/2013

File # 12 193153 0Z

Attachment 3: East Elevation



East Elevation

Elevations

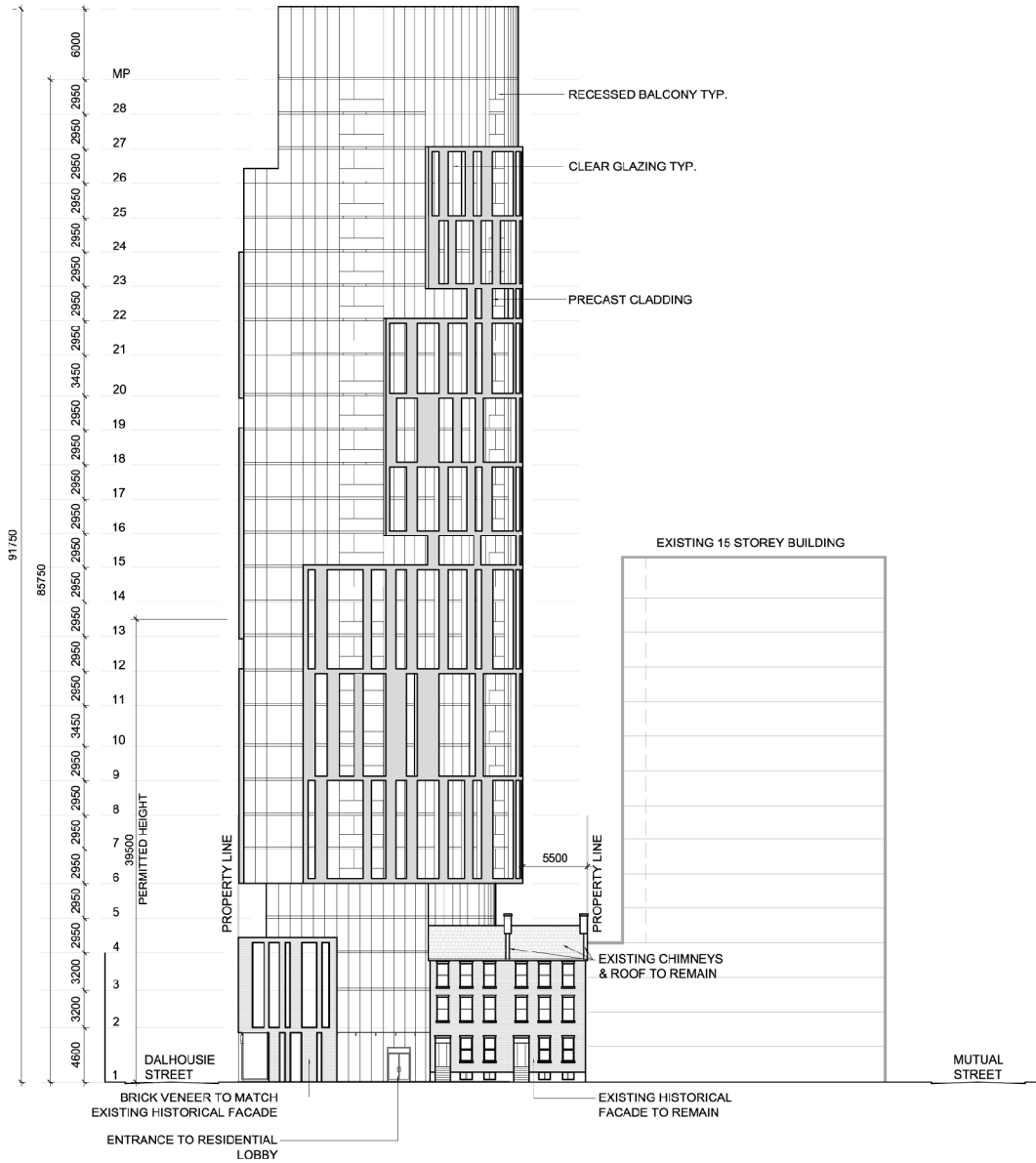
Applicant's Submitted Drawing

Not to Scale
06/27/2013

64-70 Shuter Street

File # 12 193153 02

Attachment 4: South Elevation



South Elevation

Elevations

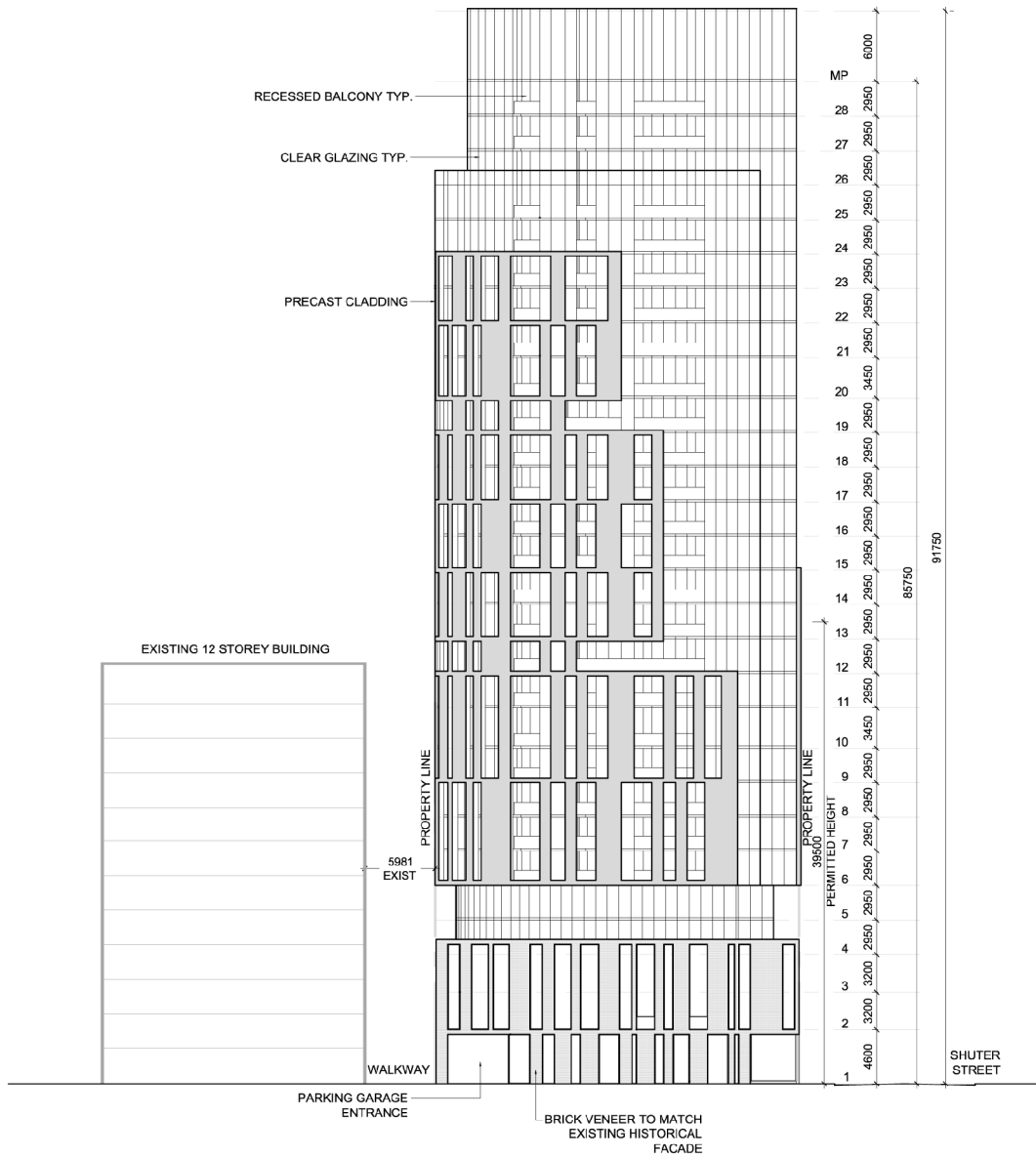
Applicant's Submitted Drawing

Not to Scale
06/27/2013

64-70 Shuter Street

File # 12 193153 0Z

Attachment 5: West Elevation



West Elevation

Elevations

Applicant's Submitted Drawing

Not to Scale
06/27/2013

64-70 Shuter Street

File # 12 193153 0Z

Attachment 7: Application Data Sheet

Application Type	Rezoning	Application Number:	12 193153 STE 27 OZ
Details	Rezoning, Standard	Application Date:	June 14, 2012

Municipal Address: 64-70 SHUTER STREET

Location Description: PLAN 22A PT LOTS 13 & 14 **GRID S2714

Project Description: Redevelopment of the existing properties municipally known as 64-70 Shuter Street for the purposes of a new mixed use building , 28 storeys above grade with 223 dwelling units and ground floor retail - 83 parking spaces for residents are proposed to be provided in 5 levels of underground parking.

Applicant:	Agent:	Architect:	Owner:
Aird & Berlis LLP Brookfield Place, 181 Bay St. Suite 1800, Box 754 Toronto, ON M5J 2T9	Bousfields, Inc. 300 Church St., Ste 300 Toronto, ON M5E 1M2	Page + Steele 95 St. Clair Ave. W, Ste. 200 Toronto, ON M4V 1N6	Queensgate Developments Inc. 3800 Steeles Avenue West Woodbridge, ON L4L 4G9

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	N
Zoning:	CR T3.0 C2.0 R3.0	Historical Status:	Y
Height Limit (m):	Site Specific	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	905	Height:	Storeys:	28	
Frontage (m):	29		Metres:	91.75	
Depth (m):	31.1				
Total Ground Floor Area (sq. m):	396				Total
Total Residential GFA (sq. m):	16,196		Parking Spaces:	83	
Total Non-Residential GFA (sq. m):	70		Loading Docks	1	
Total GFA (sq. m):	16,266				
Lot Coverage Ratio (%):	44				
Floor Space Index:	17.97				

DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	21 (10%)
1 Bedroom:	117 (52%)
2 Bedroom:	61 (27%)
3 + Bedroom:	24 (11%)
Total Units:	223

FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	16196	0
Retail GFA (sq. m):	70	0
Office GFA (sq. m):	0	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	452	4479.4

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