

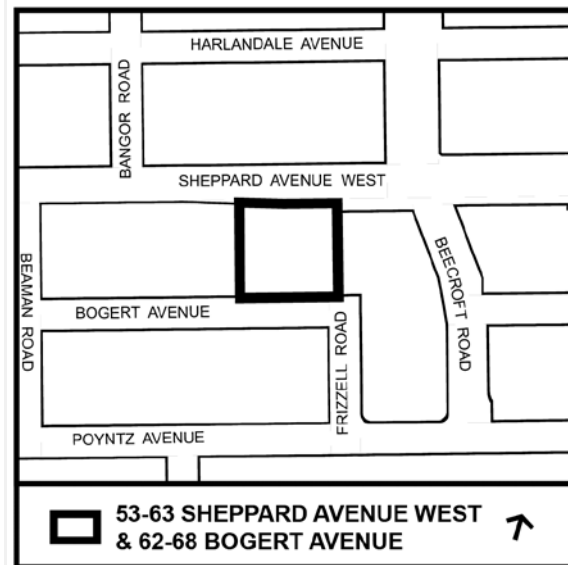
**53-63 Sheppard Avenue West and 62-68 Bogert Avenue
Official Plan Amendment and
Zoning By-law Amendment Applications
– Request for Direction Report**

Date:	December 16, 2015
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 23 –Willowdale
Reference Number:	15 170269 NNY 23 OZ

SUMMARY

The Official Plan Amendment and Zoning By-law Amendment applications have been appealed to the Ontario Municipal Board (OMB) citing Council's failure to make a decision within the time period prescribed under the *Planning Act*. A hearing date has yet to be established.

The applications are to amend the Official Plan and Zoning By-law to permit a 192 unit mixed use development that includes a 14 storey residential building with ground floor commercial uses, connected to 4 storey townhouses, at 53 to 63 Sheppard Avenue West and 62 to 68 Bogert Avenue.



The purpose of this report is to seek City Council's direction for the City Solicitor and other appropriate City staff as necessary to attend the OMB hearing to oppose the applications.

The development proposed by the applications would:

- be a significant change to an established *Neighbourhood* and area not designated for growth;
- have an inappropriate built form and transition to the *Neighbourhood*; and
- be a negative precedent for the rest of the Sheppard Avenue West corridor.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, City Planning staff and other appropriate City staff to attend the Ontario Municipal Board to oppose the appeal of the Official Plan Amendment and Zoning By-law Amendment applications (Application Number 15 170269 NNY 23 OZ).

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

On September 16, 2015 North York Community Council received a Preliminary Report from the Director of Community Planning North York District, on the proposed development and directed that a community consultation meeting be held together with the Ward Councillor, that notice for the community meeting be expanded to include lands beyond 120 metres, and that notice for any public meeting be given according to the regulations under the *Planning Act*. The report can be found here:

<http://www.toronto.ca/legdocs/mmis/2015/ny/bgrd/backgroundfile-83060.pdf>

In 2000, Council adopted a recommendation in the report from the Director, Community Planning North District to refuse a proposed Official Plan and Zoning By-law Amendment for a 7 storey mixed commercial-residential development with a density of 3.2 times the area of the lands at 53, 57 and 59 Sheppard Avenue West. In 2001, Council adopted a recommendation from the Director, Community Planning, North District to endorse a settlement before the Ontario Municipal Board for an Official Plan Amendment and Zoning By-law Amendment for a 5 storey (20.4 metre) office building with a density of 2.3 times the area of these lands. In this report City Council also adopted a recommendation that "Staff be directed to undertake a local area planning study for the lands along Sheppard Avenue West between Beecroft Road and the Don River West Branch, and further, to schedule community consultation meetings in consultation with the Ward Councillor." A Site Plan Control application was never received and the proposal was not built.

In June 2011 and in response to a community consultation meeting in the Sheppard Avenue West corridor, North York Community Council requested the Director, Community Planning, North York District, to "bring forward modifications to the existing Sheppard West Plan that would facilitate similar developments, which incorporate use of the 45 degree angular plane and other appropriate and desirable measures to protect adjoining *Neighbourhoods*, and which provide for a mix of residential and retail uses...". A review of the Secondary Plan was initiated, and community consultation meetings were held in January and March 2012, however the review has not been completed.

On December 8, 2015 the applicant appealed the proposed Official Plan and Zoning By-law Amendment to the Ontario Municipal Board.

ISSUE BACKGROUND

Proposal

The application is proposing an amendment to the Official Plan and Zoning By-law to provide for a 192 unit mixed use development with a 14 storey residential building (182 units) with ground floor commercial uses connected to 4 storey townhouses (10 units) at 53 to 63 Sheppard Avenue West designated *Mixed Use Areas* and 62 to 68 Bogert Avenue designated *Neighbourhoods*. The entire development is comprised of a single building located above an underground parking structure.

The site of the proposed development is comprised of 4 lots on Sheppard Avenue West and 4 lots on Bogert Avenue with a total area of 4,306.3m². The total proposed gross floor area of 20,545m² would result in a density of 4.77 times the area of the lands. The at-grade retail uses on the Sheppard Avenue frontage would be 639m² of the total with the remaining 19,906m² as residential uses.

The proposed development provides for a 4.86 metre road widening of Sheppard Avenue West and includes a 2 metre setback for street related retail uses. The 14 storey portion of the building fronts onto Sheppard Avenue West and is designed so that the second and third storeys have no setback from Sheppard Avenue West and overhang the first floor which has a height of 4.5 metres. From the 4th to the 11th storeys the building is setback 1.0 metre with balconies projecting into the setback. The 12th to the 14th storeys are stepped back to a height of 41.47 metres. Including the rooftop mechanical and amenity rooms, the building proposes a total height of 47.75 metres with all portions of the building below a 45 degree angular plane measured from both the properties on the south side of Bogert Avenue and on the north side of Sheppard Avenue West. The 4 storey townhouse component of the building on the south portion the site facing Bogert Avenue proposes a height of 14.5 metres.

Indoor amenity space is proposed on the third storey adjacent to outdoor amenity areas on the second and third storeys. Indoor and outdoor amenity space is also proposed on the rooftop. A total of 384m² of indoor amenity space is proposed and a total of 384m² of outdoor amenity space is proposed (2m²/unit).

Main pedestrian entrances are proposed directly from the Sheppard Avenue West sidewalk to the retail uses and residential lobby. Pedestrian access to the townhouse component is proposed from Bogert Avenue and a walkway along a portion of the eastern boundary of the site. Vehicle access to the loading/servicing area and to all 232 parking spaces in 3 levels of underground parking is proposed from Sheppard Avenue West at the western edge of the site. The underground parking extends underneath the entire building and almost to the limits of the subject lands. Also proposed are 19 at-grade and 132 below-grade bicycle parking spaces to serve the retail and residential uses.

The proposed Site Plan is in Attachment 1, East and North Elevations are in Attachments 2 and 3, and detailed site statistics are included in the Application Data Sheet in Attachment 8.

Site and Surrounding Area

The site is located on the south side of Sheppard Avenue West and the north side of Bogert Avenue, and immediately abutting Albert Standing Park which is located on the southwest corner of Sheppard Avenue West and Beecroft Road.

The site is a rectangular lot with dimensions of approximately 66 metres fronting on Sheppard Avenue West, 61 metres on Bogert Avenue and has a depth of 63 metres. The lands at 61 and 63 Sheppard Avenue West are occupied by 2 detached houses, and the lands at the eastern edge of the site at 53, 57 and 59 Sheppard Avenue West are screened from view and appear to be used solely for parking purposes. The lands at 62, 64, 66 and 68 Bogert Avenue all contain single detached houses.

The surrounding land uses are:

North: 1 and 2 storey commercial buildings and a parking lot operated by the Toronto Parking Authority are on the north side of Sheppard Avenue West. Further north are low rise residential neighbourhoods.

South: Detached houses are on the south side of Bogert Avenue. Frizzell Road also connects Bogert Avenue to Poyntz Avenue with the Lansing United Church currently being reconstructed on the east side of Frizzell Road.

East: Albert Standing Park within the North York Centre abuts the site and extends to the southwest corner of Sheppard Avenue West and Beecroft Road.

West: Commercial uses are in 1 and 2 storey buildings with surface parking along Sheppard Avenue West and detached dwellings along Bogert Avenue.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and protecting public health and safety. The PPS directs official plans to provide comprehensive long-term planning through appropriate land use designations and policies, and recognizes that the official plan is the most important means of implementation. The PPS also directs municipalities to identify appropriate locations and promote opportunities where intensification can be accommodated that takes into consideration the existing building stock or area, and availability of infrastructure and public service facilities to accommodate projected needs. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow such as in Urban Growth Centres and Intensification Corridors; the provision of infrastructure to support growth such as transit, water and wastewater systems; and protecting natural systems. The Growth Plan directs municipalities to use their official plan and other supporting documents to achieve intensification. The strategy and policies in these documents are among other matters, to recognize urban growth centres, intensification corridors and major transit station areas as key intensification areas. The policies and strategies are also to identify the appropriate type and scale of development in intensification areas. More specifically, the Growth Plan directs municipal official plans to delineate the boundary of urban growth centres, and designate major transit station areas and intensification corridors. City Council's planning decisions are required by the *Planning Act*, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

Land Use Designations

The Official Plan designates the north portion of the site and properties fronting onto Sheppard Avenue West as *Mixed Use Areas*. The *Mixed Use Areas* designation provides for a range of residential and non-residential land uses. While lands in the *Downtown, Centres* and on *Avenues* are all designated *Mixed Use Areas* they are not all planned to achieve the same scale or intensity of development; and development on the *Avenues* is most often associated with the lowest scale of development.

The *Mixed Use Areas* policies provide criteria for development including providing a transition between areas of different intensity and scale and towards lower scale *Neighbourhoods*.

The properties fronting Bogert Avenue and on the south portion of the subject site are designated *Neighbourhoods*. *Neighbourhoods* are physically stable areas where no changes are to be made through planning applications that are out of keeping with the existing physical character of the neighbourhood. The *Neighbourhoods* policies specify those aspects of physical character that are to be reinforced and respected, including such as: the size and configuration of lots; heights, massing, scale and dwelling type of nearby residential properties; prevailing building type(s); setbacks of buildings from the street; and prevailing patterns of rear and side yard setbacks and landscaped open space.

Transportation Network

Chapter Two of the Official Plan includes policies to develop the City's transportation network and support growth management by among other matters, developing a network of major street right-of-ways. Map 3 of the Official Plan identifies Sheppard Avenue West as a major street with a planned 36 metre right-of-way width.

Healthy Neighbourhoods

Chapter Two of the Official Plan includes broad policies to shape and manage growth in the City and identifies the City's *Neighbourhoods* as physically stable areas where major change is not planned and the existing physical character is to be respected and reinforced. Development in *Mixed Use Areas* adjacent or close to *Neighbourhoods* are, among other matters, to provide a gradual transition by setting buildings back from or stepping down towards *Neighbourhoods*. Where the intensification of land is proposed adjacent to a *Neighbourhood*, Council is to determine whether an area based study will be done in consultation with the community.

Avenue Policies

Map 2 of the Official Plan identifies the northern portion of the site on the Sheppard Avenue corridor as an *Avenue*. In conjunction with the *Downtown, Centres, and Employment* Districts, most of the City's growth is to be directed to *Avenues*. As there are a variety of conditions along the City's *Avenues*, the Official Plan indicates that *Avenue* Studies are to be done along segments of each corridor to determine the specific means of facilitating and shaping growth. *Avenue* studies are to set out contextually appropriate as-of-right zoning that establishes among other matters, appropriate massing, scale, and transition to adjacent areas. An *Avenue* Study has not been done for this segment of Sheppard Avenue West as a Secondary Plan exists for most of the corridor.

The Official Plan indicates that development may be permitted prior to an *Avenue* Study being done. Pre-*Avenue* Study development proposals are to address the larger context and the potential precedent applications may have on the rest of the corridor if developed at similar form, scale and intensity. Proposals are to review whether the incremental development would adversely impact any adjacent *Neighbourhoods*, and whether it is supportable by available infrastructure. The Plan states that rezoning applications are not to proceed prior to an *Avenue* Study unless the review demonstrates to Council's satisfaction that there will be no adverse impacts on the rest of the *Avenue*. Prior to an *Avenue* Study, development is to implement the prevailing land use designations in the Official Plan (i.e. *Mixed Use Areas* and *Neighbourhoods*).

Built Form

The Official Plan includes policies to guide the location and massing of development, including among other matters, to fit development into its planned context and limit impacts on neighbouring streets and parks.

Archaeological Resources

The Official Plan includes policies to protect archaeological features on-site or undertake scientific investigation and documentation.

Housing

The Official Plan includes policies to secure existing rental housing on sites containing 6 or more rental units.

Parks and Open Spaces

The Official Plan includes policies to guide the required level of parkland and/or cash-in-lieu, to minimize the impacts of development on parks and open spaces, and also includes criteria for securing new parks that includes consolidation with existing parks.

Sheppard Avenue Commercial Area Secondary Plan

The lands on the Sheppard Avenue West frontage are within the Sheppard Avenue Commercial Area Secondary Plan. The Secondary Plan has the objective of permitting and encouraging commercial uses of primarily office and health care uses. The subject lands are designated *Mixed Use Area 'A'* which permits detached dwellings, financial institutions, institutional and office uses. The maximum density is 1.0 times the area of the lands, and the maximum height is 8.0 metres with no parts of a building exceeding the distance of the building from the rear lot line, or in effect a 45 degree angular plane.

Policies in the Secondary Plan indicate that new buildings are to maintain a houseform character, and the adjacent *Neighbourhoods* are to be protected from the impacts of development on Sheppard Avenue through fencing and landscaping.

A site specific policy applies to the lands at 53, 57 and 59 Sheppard Avenue West. The policy permits retail and service uses to a maximum density of 2.4 times the area of the lands, a maximum building height of 20.4 metres, and rear yard setbacks of 7.5 metres for the first storey and 12 metres above the first storey.

Zoning

The site is subject to two zoning by-laws and three zone categories. The portion with the site specific Secondary Plan policy noted above at 53, 57 and 59 Sheppard Avenue West has a C6(5) exception to the former City of North York Zoning By-law No. 7625 providing for retail and commercial uses to a maximum of 2,670 m² with minimum yard setbacks, a maximum height of 20.4 metres, and 3.75 metre landscaping along the rear property line. The portion of the site to the west at 61 and 63 Sheppard Avenue West is zoned C6 (Special Commercial Area Zone) which generally permits business, professional and medical offices and financial institutions, places of worship, libraries,

museums, art galleries and day nurseries. Single family dwellings used as a residential dwelling on May 15, 1991 are also permitted.

The north portion of the site is not subject to City of Toronto By-law 569-2013 but the remaining south portion of the site consisting of 62, 64, 66 and 68 Bogert Avenue is, and is zoned RD(f15.0;a550)(x5). This zone permits a dwelling unit in a detached house with a minimum lot frontage of 15 metres, minimum lot area of 550m², maximum height of 10 metres and 2 storeys, and minimum side yard setbacks of 1.8 metres.

Site Plan Control

The proposed development is subject to Site Plan Control. An application has not yet been submitted.

Avenues and Mid-Rise Building Study

The Avenue and Mid-Rise Building Study ("Mid-Rise guideline") adopted by Council in 2010 included a set of performance standards to guide the review of applications for mid-rise development. The performance standards provide guidance on matters such as building heights, appropriate transition in scale to adjacent neighbourhoods, street wall and streetscape, ground floor uses, and vehicle and loading access. Specific performance standards are provided to identify and facilitate mid-rise development on shallow properties.

The Mid-Rise guideline performance standards do not apply to lands within a Secondary Plan area; however where an amendment to the Secondary Plan is proposed, the performance standards in the guideline are a useful tool for evaluating them.

Reasons for the Application

The proposed Official Plan Amendment application has been submitted to: add the *Neighbourhoods* designated lands on Bogert Avenue to being within the boundary of the Sheppard Avenue Commercial Area Secondary Plan; permit multi-unit residential dwellings including townhouses on the Bogert Avenue lands; provide for a maximum density of 4.8 times the area of the site; permit a maximum height of 48 metres on the Sheppard Avenue West lands in a non-houseform building; and permit a maximum height of 14.5 metres on the Bogert Avenue lands. After the preliminary staff report went to Community Council, a revised draft Official Plan Amendment was received that changed the Bogert Avenue lands proposed to be within an expanded Secondary Plan boundary, from *Mixed Use Area A* to *Neighbourhoods*.

The proposed application to amend the Zoning By-law is required to permit multi-unit residential dwellings including townhouses, increase the height and density on the lands, and establish site-specific development standards including minimum setbacks, maximum building heights, minimum and maximum number of parking spaces, minimum amount of recreational amenity area, and minimum landscaping.

Community Consultation

A Community Consultation meeting was held on October 20, 2015 at St. Edward Catholic School. Approximately 85 people attended. Comments and questions from the community included: traffic impacts on Sheppard Avenue and in the neighbourhood on Bogert Avenue; vehicle access and whether there are any changes planned to Sheppard Avenue West; why townhouses are being proposed on Bogert Avenue instead of detached homes; impacts such as shadows on the adjacent Albert Standing Park; precedent of this development along the rest of the Sheppard Avenue corridor; how a 45 degree angular plane has been applied to provide transition to the neighbourhood and how it differs from the Secondary Plan; status of the current Secondary Plan review; justification for changes to the Secondary Plan boundary; impact on properties in the neighbourhood in terms of traffic, sunlight, shadows; what the height would be if the boundary and angular plane were not moved; how density is regulated in the area; general support for the current Secondary Plan and against the proposed development; general support for changes to the Secondary Plan that would provide for development such as that located further west on Sheppard Avenue West; need for more information on traffic and shadow impacts; basement flooding issues and how the development would address stormwater issues.

Since the Community Consultation Meeting many e-mails and letters were also received from area residents. Most were from members of the West Lansing Homeowners Association in opposition to the proposed development and proposed change to the Secondary Plan boundary in the City's Official Plan. Others were concerned about building height, traffic and density, and a few were in support of the proposal.

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

The issues identified in the August 19, 2015 Preliminary Report from the Director of Community Planning, North York District to North York Community Council remain. The proposed development should be opposed because it would be:

- a significant change to an established *Neighbourhood* and area not designated for growth;
- an inappropriate built form and transition to the *Neighbourhood*; and
- a negative precedent for the rest of the Sheppard Avenue corridor.

The proposed development does not conform to City of Toronto Official Plan, does not conform to the Growth Plan for the Greater Golden Horseshoe, and is not consistent with the Provincial Policy Statement.

Change in an Area not Designated for Growth

The proposed development does not conform to the Official Plan because it proposes significant redevelopment on lands in an area not identified in the Official Plan as being appropriate for achieving growth through intensification. The proposal is not consistent with the Provincial Policy Statement ("PPS") and does not conform to the Growth Plan for the Greater Golden Horseshoe ("Growth Plan") because it proposes major redevelopment of lands not identified in the Official Plan as being an appropriate area for intensification.

Official Plan Designates North Portion of the Site for Intensification

The City's Official Plan designates areas for intensification and growth within the *Mixed Use Areas* designation. This designation applies to the north portion of the proposed development and the lands at 53-63 Sheppard Avenue West. These properties have a depth of about 30 metres, and with the total depth of the subject lands through to Bogert Avenue being about 65 metres, the remaining southern 35 metres at 62-68 Bogert Avenue are designated *Neighbourhoods* in the City's Official Plan.

The boundary of *Mixed Use Areas* and *Neighbourhoods* designations are further defined through Secondary Plans. The north portion of the subject site within the *Mixed Use Areas* designation is also within the Sheppard Avenue Commercial Area Secondary Plan. The lands on Bogert Avenue are outside the Secondary Plan boundary. Immediately abutting the lands to the east is Albert Standing Park which is within the boundary of the North York Centre Secondary Plan.

The abutting North York Centre Secondary Plan includes policies to protect the adjacent *Neighbourhoods* outside the Secondary Plan area by providing a transition from the tallest, high density buildings at the Yonge/Sheppard Subway stations. The *Neighbourhoods* abutting the Secondary Plan boundary are further identified and protected by the Relevant Residential Property Line (RRPL) which is located on the east side of the houses on Bogert Avenue. The RRPL also connects to the southern boundary of the *Mixed Use Areas* designation and Sheppard Avenue Commercial Area Secondary Plan. The proposed scale of growth is largely due to an expansion of the area where intensification could occur, and as a result, the level of intensification and growth proposed far exceeds what has otherwise been achieved within the *Mixed Use Areas* designation and Secondary Plan boundary.

Official Plan Designates South Portion of the Site for Stability

In both the case of the Sheppard Avenue Commercial Area Secondary Plan and the abutting North York Centre Secondary Plan, the boundaries identify the appropriate location for growth and intensification. The corollary of designating appropriate lands for intensification is that other lands are excluded from those areas. Located abutting, but nonetheless outside these Secondary Plan boundaries, the properties on Bogert Avenue are designated *Neighbourhoods*. In contrast to the *Mixed Use Areas* designation and policies which promote intensification, the Official Plan directs *Neighbourhoods* to be

"physically stable areas", and for any development within them to "respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in these areas." The Official Plan directs development in established *Neighbourhoods* to respect and reinforce the existing physical character including such matters as: size and configuration of lots; heights, massing, scale and dwelling type; building types, setbacks, and landscaped open space. The 4 existing detached houses at 62, 64, 66 and 68 Bogert Avenue are typical of single detached houses that are prevailing throughout the adjacent neighbourhood to the south and west of the subject lands. While some minor changes have occurred in the area through minor variances or consents, they have all been for single detached houses that are in keeping with the existing physical character of the neighbourhood, and therefore in conformity with the Official Plan. The existing and new detached houses are a reflection of the neighbourhood being a physically stable area.

The proposed lower scale townhouse portion of the development fronting onto Bogert Avenue is connected to and shares an underground parking garage, loading areas, and indoor/outdoor amenity area with the 14 storey portion of the building. Even disregarding the fact that the proposed townhouses are part of a 14 storey mixed use development, there are no townhouses in the existing neighbourhood. The proposal therefore does not respect or reinforce the existing physical character of the neighbourhood because:

- it proposes to consolidate the 4 lots on Bogert Avenue with the lots on Sheppard Avenue West and fundamentally change the size and configuration of lots from the single detached lots in the neighbourhood;
- a height of 14.5 metres for the south portion of the building would introduce buildings heights that are not in keeping with existing detached houses in the neighbourhood;
- it would introduce multiple unit dwellings into a neighbourhood of entirely single detached houses; and
- townhouses, by their very nature, do not have the side and rear yard setbacks and landscaped open spaces associated with detached houses in the neighbourhood.

Subsequent to the original planning application and after the staff's preliminary report, the applicant provided a revised draft Official Plan Amendment changing the southerly portion of the lands on Bogert Avenue from *Mixed Use Areas A* to *Neighbourhoods*. This revision did not change the proposed Secondary Plan boundary expansion, or come with any change in the physical characteristics of the proposed development. The proposed development is still a mixed use building with integral portions of the building proposed in a stable residential *Neighbourhoods* designation.

PPS and Growth Plan direct Official Plans to identify Intensification Areas

The PPS indicates that planning authorities are to identify appropriate locations for intensification. One of the criteria for identifying these locations includes consideration of the existing building stock or area. The PPS also identifies the Official Plan as the 'most important vehicle' for implementation. The Growth Plan has a similar policy thrust as the PPS by directing municipalities to use their official plans to identify intensification areas and recognize urban growth centres and intensification corridors as the key focus

for growth. The Growth Plan directs the boundaries of Urban Growth Centres to be delineated in the Official Plan and Major Transit Station Areas and Intensification Corridors to be designated in Official Plans. In consistency with the PPS and conformity with Growth Plan, the City's Official Plan identifies appropriate locations for intensification, and has identified boundaries for intensification corridors through the *Mixed Use Areas* designation in the Official Plan and *Mixed Use Area A* designation in the Sheppard Avenue Commercial Area Secondary Plan. In conformity with the Growth Plan, the Official Plan also delineates the boundary of the abutting North York Centre Urban Growth Centre.

Development Proposals should not be the basis for identifying Intensification Areas
In conformity with the Growth Plan and consistent with the PPS, the City's Official Plan has appropriately designated areas for growth. The proposed Official Plan Amendment would expand the boundary of the Sheppard Avenue Commercial Area Secondary Plan and significantly change the existing physical character of a neighbourhood that has been designated for stability. The proposal represents a significant redevelopment of an area not identified in the Official Plan as appropriate for major growth or intensification, and the proposed expansion to the Secondary Plan boundary is not consistent with the PPS and does not conform to the Growth Plan.

Inappropriate Built Form and Transition to the *Neighbourhood*

The proposed development has a height and scale that is too tall in relation to Sheppard Avenue West and does not provide an appropriate built form transition to the adjacent neighbourhood. The proposed development does not conform to the Growth Plan because it does not meet the Official Plan policies to provide for an appropriate scale of development and transition within intensification areas to adjacent areas. The City's Official Plan includes policies to address these matters. The Growth Plan also directs municipalities to use other supporting documents to assist with achieving intensification and to this end, the City developed the Mid-Rise Guideline. The proposed development does not conform to the Official Plan policies as informed by these guidelines, and therefore does not conform to the Growth Plan.

Inappropriate Built Form on Sheppard Avenue West

In terms of the appropriate scale of development in relation to Sheppard Avenue West, which has a planned right-of-way width of 36 metres, the tallest portion of the proposed building is 14 storeys and 41.47 metres with a centrally located mechanical penthouse and amenity room that brings the total building height to 47.75 metres. The Official Plan's *Mixed Use Areas* designation on the north portion of the subject lands fronting on Sheppard Avenue West provides for a broad range of land uses and includes criteria for supporting appropriate development along the corridor. The Official Plan directs development to frame streets and parks with good proportion and provide for a comfortable pedestrian environment. As well, Map 2 of the Official Plan identifies this segment of Sheppard Avenue West as an *Avenue*. An *Avenue* study has not been done for this corridor as it is governed by the Sheppard Avenue Commercial Area Secondary Plan. However, in the context of the proposed amendment to the Secondary Plan boundary, the *Avenues* policies are appropriate to consider and the Mid-Rise Guideline has a useful set

of performance standards for evaluating applications. The application proposes fundamental built form issues that should not be approved; however, if considered favorably by the OMB, there a number of other detailed built form issues that should be addressed.

The proposed development application has applied some of the performance standards in the Mid-Rise Guideline. The proposed building envelope has a height of 47.75 metres at its highest point that steps back below a 45 degree angular plane measured from the property line on the north side of the Sheppard Avenue West right-of-way. Based on the Built Form policies in the Official Plan to frame and support adjacent streets in a manner that respects the planned street proportion, the Mid-Rise guideline's maximum potential building heights are equal to the width of the adjacent planned right-of-way, or in this case, 36 metres. At 47.75 metres, the proposed development far exceeds the maximum 1:1 ratio and 36 metres height limit in the Mid-Rise guideline. Regardless of the condition that the lots on Sheppard Avenue West are not deep enough to provide an appropriate transition to the established neighbourhood, as further discussed below, the proposed total height of 47.75 metres is too tall because it does not frame the street or provide an appropriately scaled pedestrian environment. The proposed development does not conform to the Growth Plan because it does not provide an appropriate scale of development as articulated by Official Plan policies.

Inappropriate Transition to the Neighbourhood

In terms of the proposed scale of development in relation to the established neighbourhood, the proposal does not achieve an appropriate built form transition. In order to create a transition in scale to existing low rise residential areas, the Secondary Plan applies a 45 degree angular plane to all property lines in the abutting *Neighbourhoods* designation. The proposed Official Plan Amendment would allow the townhouse portion of a mixed use building to be located within a *Neighbourhoods* designation and change the boundary of the Secondary Plan so as to change the location from where transition to a *Neighbourhood* would be measured from. The proposed change would shift the point from which the 45 degree angular plane would be measured from by approximately 53 metres to the south, from the south limit of the properties fronting Sheppard Avenue West, to the northern limit of the properties on the south side of the Bogert Avenue right-of-way. No angular plane has been applied to the properties on the north side of Bogert Avenue to the west and in the abutting *Neighbourhoods* designation.

A central theme of the City's Official Plan is for development in *Mixed Use Areas* to provide a transition towards lower scale *Neighbourhoods*. The Secondary Plan has a height limit of 8.0 metres and also includes a clause that limits building heights to not exceed the horizontal distance from the rear property line, or in other words a 45 degree angular plane measured from the rear property line. The abutting North York Centre Secondary Plan to the east also provides for a transition from the *Neighbourhoods* designation (i.e. on the Bogert Avenue lands) to the tallest buildings on Yonge Street.

While site-specific amendments have been made to the maximum height limits in the Secondary Plan, in all cases, the transition has been measured from the rear lot line of properties fronting Sheppard Avenue West in order to provide an appropriate transition to the houses in the abutting *Neighbourhoods* designation. The proposed change in where transition is measured from represents a fundamental and inappropriate change in the scale of development supported by the Official Plan and Secondary Plan.

The PPS and Growth Plan direct municipalities to identify locations for intensification. The Growth Plan more specifically directs Official Plans to identify the appropriate scale of development and intensification, and to achieve a transition from intensification areas to adjacent areas. With clearly identified boundaries and transition policies to *Neighbourhoods* outside the Sheppard Avenue Commercial Area and North York Centre Secondary Plans, the City's Official Plan identifies the location of intensification and appropriate scale within. The proposed change in boundary location, and proposed shift in where transition to remaining neighbourhoods is measured from, would result in a significant increase in the scale of development. At 14 storeys and total height of 47.75 metres, the resulting proposed building is too tall and negatively impacts the Sheppard Avenue West streetscape and pedestrian realm. As well, the proposed building would overlook and negatively impact the privacy and adjacent detached dwellings to the southwest along Bogert Avenue. The proposed scale of development does not provide an appropriate transition to the existing and adjacent established neighbourhood.

Negative Precedent for the rest of the Sheppard Avenue Corridor

Avenue policies consider Precedent and Larger Context

The Official Plan's *Avenue* policies direct segment studies to be done for development in advance of *Avenue* studies being completed. Segment studies are to assess the larger context and help determine what precedent may be set by development proposals in terms of the form and scale of development along the rest of the corridor. The review is to assess the impacts of incremental development of the corridor at a similar form and scale as being proposed, allowing for distinguishing circumstances. The review is also to consider impacts of incremental development on any adjacent *Neighbourhoods*.

The Planning & Urban Design Rationale submitted with the applications also included an analysis of soft sites in the rest of the corridor. The analysis concluded that the sites on both the south (subject site) and north (between Sheppard Avenue West and Harlandale Avenue) sides of Sheppard Avenue West can be distinguished from the rest of the corridor and are appropriate for larger developments of 12 to 14 storeys with townhouses located within the *Neighbourhoods* designation. The basis for making this distinction was that the lands are in close proximity to the Yonge-Sheppard subway and bus stations, and that these lands are in a transitional zone between the higher densities at Yonge Street and Sheppard Avenue West and nearby existing areas. The Rationale concluded that the proposed development would set a positive precedent for the area.

Subject Site is similar to the rest of Sheppard Avenue West

The review has not adequately demonstrated that the tests within the Official Plan for an Avenue segment study have been satisfactorily addressed. i.e. that there will be no impacts on the rest of the Sheppard Avenue West, or that the adjacent *Neighbourhoods* will not be adversely impacted. The sites adjacent to the North York Centre, which include lands in the abutting *Neighbourhoods* designation, cannot be distinguished from the rest of the corridor. The lot and block structure formed by the parallel east-west Bogert Avenue on the south side of Sheppard Avenue West and for that matter Harlandale Avenue on the north side of Sheppard Avenue West, extends quite consistently from the boundary of the North York Centre Secondary Plan to the westward limit of the Sheppard Avenue Commercial Area Secondary Plan. Almost all properties fronting on this segment of Sheppard Avenue West are within the Sheppard Avenue Commercial Area Secondary Plan and have the common characteristic of abutting a *Neighbourhoods* designation in the rear yards.

Proximity to the subway and bus stations is not in itself a justification for an expansion of a Secondary Plan boundary, be it either to the Sheppard Avenue Commercial Area Secondary Plan or North York Centre Secondary Plan. The boundary of the North York Centre Secondary Plan was developed to accommodate growth in proximity to the Yonge and Sheppard subway stations. If the proposed development was supportable on the basis of adjacency with this infrastructure, then the proposed Official Plan Amendment would be an amendment to the boundary of the North York Centre Secondary Plan and not the proposed amendment to the Sheppard Avenue Commercial Area Secondary Plan. The boundary of the North York Centre delineates the Urban Growth Centre under the Growth Plan and there is no need or justification for an expansion of this Urban Growth Centre.

The Planning & Urban Design Rationale submitted with the application also indicated that the subject lands are a 'transitional zone' between higher densities at Yonge Street and Sheppard Avenue West and nearby areas. This rationale does not match with the draft Official Plan Amendment which proposes an amendment to the Sheppard Avenue Commercial Area Secondary Plan. As previously noted, a transition from the subway to nearby areas has already been provided within the North York Centre Secondary Plan, as identified by its boundary and transition policies that include the Relevant Residential Property Line. The Sheppard Avenue Commercial Area Secondary Plan also includes policies to provide a transition between development on Sheppard Avenue and the *Neighbourhoods* behind. Other than the proposed resulting increase in the scale of redevelopment in the corridor, there has been no need or justification provided for an expansion of this Secondary Plan boundary.

Proposal would lead to Destabilizing other existing *Neighbourhoods* in the Corridor

The proposed development also does not meet the other criteria for *Avenue* studies to not adversely impact adjacent *Neighbourhoods* in the rest of the corridor. As noted, the proposed development of lands on both Sheppard Avenue West and Bogert Avenue has similar characteristics as the rest of the corridor to the west. There is nothing fundamental that distinguishes this site from others along the corridor, and the concerns with impacts of the proposed development on the established *Neighbourhoods* on the north and south sides of properties fronting onto this portion of Sheppard Avenue West as previously discussed would, if approved, apply equally to the remainder of the corridor. As also previously noted, no angular plane has been applied to the properties on the north side of Bogert Avenue to the west and in the abutting *Neighbourhoods* designation. This treatment would further destabilize homes in the abutting *Neighbourhood* and advance similar types of redevelopment to encroach on residential properties further to the west. Approval of this development would not just result in a destabilization of the existing neighbourhood on the subject lands and remaining abutting neighbourhood lands. Any approval could also be replicated along the remainder of the corridor and produce the same destabilizing impacts on other neighbourhoods. The proposed change would create a precedent for all the properties on the north side of Bogert Avenue west of the subject lands, and on the south side of Harlandale Avenue, which would fall within the same potential boundary change, and subsequently the same change in where transition is measured.

Secondary Plan boundary changes should be done comprehensively

Redesignating the Bogert Avenue properties from *Neighbourhoods* and into a Secondary Plan area is in effect an expansion of the boundary of the Sheppard Avenue Commercial Area or North York Centre Secondary Plans. Such a redesignation represents a significant and fundamental change in the vision and character of the area. As supported by the PPS and required by the Growth Plan, such Secondary Plan boundary expansions should be more comprehensively addressed through a municipally initiated review of the Secondary Plan in consultation with the local community. City Staff has been directed by Community Council to review the Secondary Plan, and while some work has been completed on this, additional work and comprehensive amendments to the Secondary Plan are at this time expected to be completed by the third quarter of 2016.

Parkland

Official Plan policy is to preserve the utility of parks by minimizing the effects of development from adjacent properties, including additional shadows, noise, traffic and wind. The proposed development should be opposed as it would cast significantly increased shadows on the abutting Albert Standing Park to the east.

The Official Plan also contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Official Plan shows local parkland provisions across the City. The lands which are the subject of this application are in the area with 0.8 to 1.56 hectares of local parkland per 1,000 people. The site is in the middle quintile of current provision of parkland. A portion of the site is located within

the boundaries of the Sheppard Avenue Commercial Area Secondary Plan, and is in a parkland priority area, as per Chapter 415, Article III, of the Toronto Municipal Code.

At the alternative rate of 0.4 hectares per 300 units specific in Chapter 415, Article III, of the Toronto Municipal Code, the parkland dedication requirement is 2,560 m² or 64% of the site area. However, for sites that are less than 1 hectare in size, a cap of 10% of the development site is applied to the residential use while the non-residential use is subject to a 2% parkland dedication rate. In total, the parkland dedication requirement is 394 m² or 9.9% of the net site area after the required road widening.

If approved, the application is to be revised to satisfy the parkland dedication requirement through an on-site dedication. The parkland dedication is to be located on the east side of the site, immediately adjacent to the Albert Standing Park and towards the south portion of the subject lands, in order to enhance and expand the existing park. The Official Plan supports new parklands conveyed to the City be consolidated or linked with an existing park. If the application is approved, further discussion with the applicant is required pertaining to the specific configuration of the on-site parkland dedication. Any dedication is to also meet the Official Plan policies for new parks conveyed to the City, namely: to be free from encumbrances; visible and accessible from adjacent public streets; of a shape, topography and size that reflect its intended use; and, to meet Provincial soil regulations for parkland uses.

Initial discussions were held with the applicant regarding the potential function and location and dimensions of an on-site park, however these discussions were not concluded owing to the OMB appeal and more fundamental planning issues already noted.

Other Issues

Servicing, Road Widening

Among other matters, prior to any approval of development a number of issues with the Functional Servicing Report would need to be addressed such as including groundwater discharge, sanitary sewer capacity, water pressures and flows, and stormwater management. The required road widening on Sheppard Avenue West that tapers from 6.14 metres wide to 4.86 metres would also need to be confirmed and secured.

Archaeological Resources

The Official Plan includes policies to protect archaeological resources on-site and/or undertake scientific investigation and documentation if the resources cannot be preserved on-site. If the OMB favorably considers the application, Heritage Preservation Services staff recommend that prior to any final approval that the requirements of the Ontario Heritage Act be fulfilled including carrying out a Stage 2 archaeological resource assessment, which may result in requirements to mitigate, through preservation or resource removal and documentation, adverse impacts to any significant archaeological resources found (i.e. Stage 3-4).

Site Plan Control

As a Site Plan Control application has not been submitted, a detailed review of Site Plan matters has not been undertaken. Should the OMB approve the application, any final order should be withheld pending a Site Plan control application being submitted, a Notice of Site Plan Approval conditions being issued, and a Site Plan Agreement being executed.

Community Benefits

The Official Plan directs Section 37 community benefits to be considered for developments with more than 10,000m² and/or significant increases in height. In light of the OMB appeal and more fundamental planning issues already noted, there have been no discussions regarding these policies, which would apply however, if the OMB were to consider the application favourably. On December 16, 2015, and after the OMB appeal was received, correspondence from the applicant's solicitor to the local Councillor offered to meet with the local Councillor and City Planning staff to discuss potential Section 37 contributions and revisions to the application. No meeting had been scheduled as of the date of writing this report.

Conclusion

The proposed development includes lands in a stable *Neighbourhood* and would be a significant change to an area not designated in the City Official Plan for growth. Including these lands and applying a transition to some of the remaining *Neighbourhood* results in a building that is too tall in relation to both Sheppard Avenue West and the adjacent *Neighbourhood*. There is nothing of significance distinguishing this site from the rest of the Sheppard Avenue corridor and approval of the proposed development would set a precedent for the subsequent incremental redevelopment of the rest of the corridor and would negatively impact the Sheppard Avenue streetscape and *Neighbourhoods*.

The proposed development does not conform to City of Toronto Official Plan, is not consistent with the Provincial Policy Statement, and does not conform to the Growth Plan for the Greater Golden Horseshoe.

It is recommended that City Council authorize the City Solicitor and appropriate staff to attend the Ontario Municipal Board Hearing in opposition to the proposal.

CONTACT

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Tel. No. 416-395-7059
E-mail: rgibson@toronto.ca

SIGNATURE

Joe Nanos, Director
Community Planning, North York District

ATTACHMENTS

Attachment 1: Site Plan

Attachment 2: East Elevation

Attachment 3: North Elevation

Attachment 4: Zoning (By-law 569-2013)

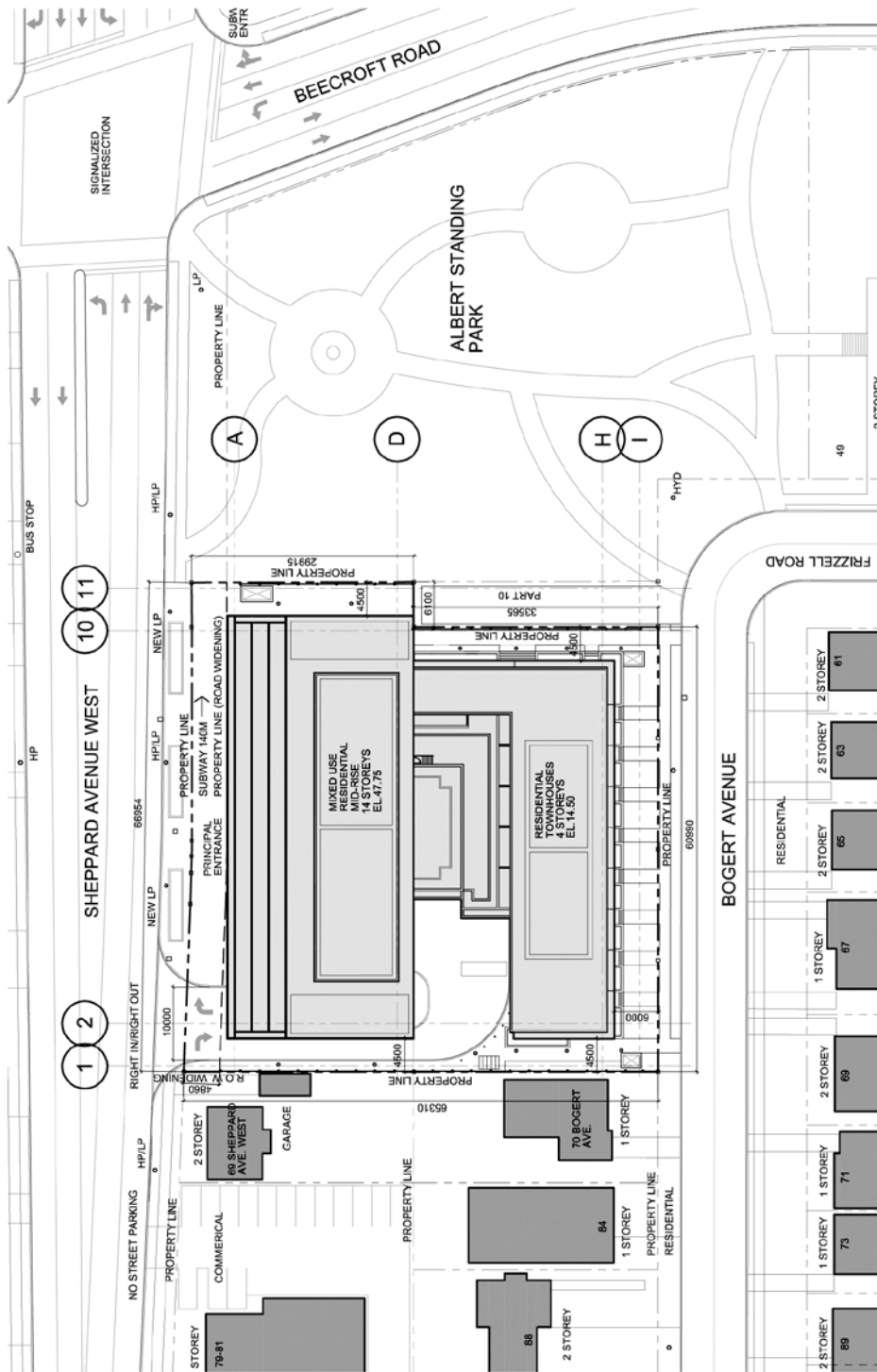
Attachment 5: Zoning (By-law 7625)

Attachment 6: Official Plan

Attachment 7: Sheppard Avenue Commercial Area Secondary Plan – Map 29-1

Attachment 8: Application Data Sheet

Attachment 1: Site Plan



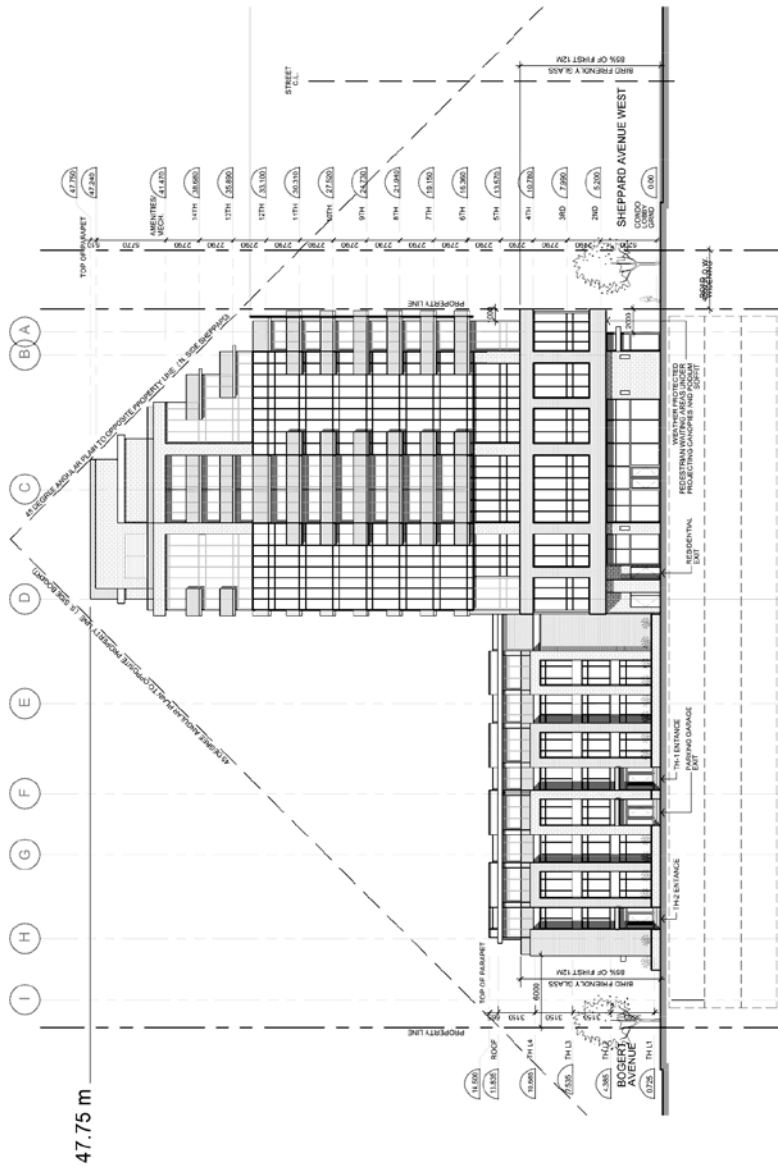
**53-63 Sheppard Avenue West
& 62-68 Bogert Avenue**

File # 15 170269 NNY 23.0Z

Site Plan
Applicant's Submitted Drawing

Not to Scale
08/10/2015

Attachment 2: East Elevation



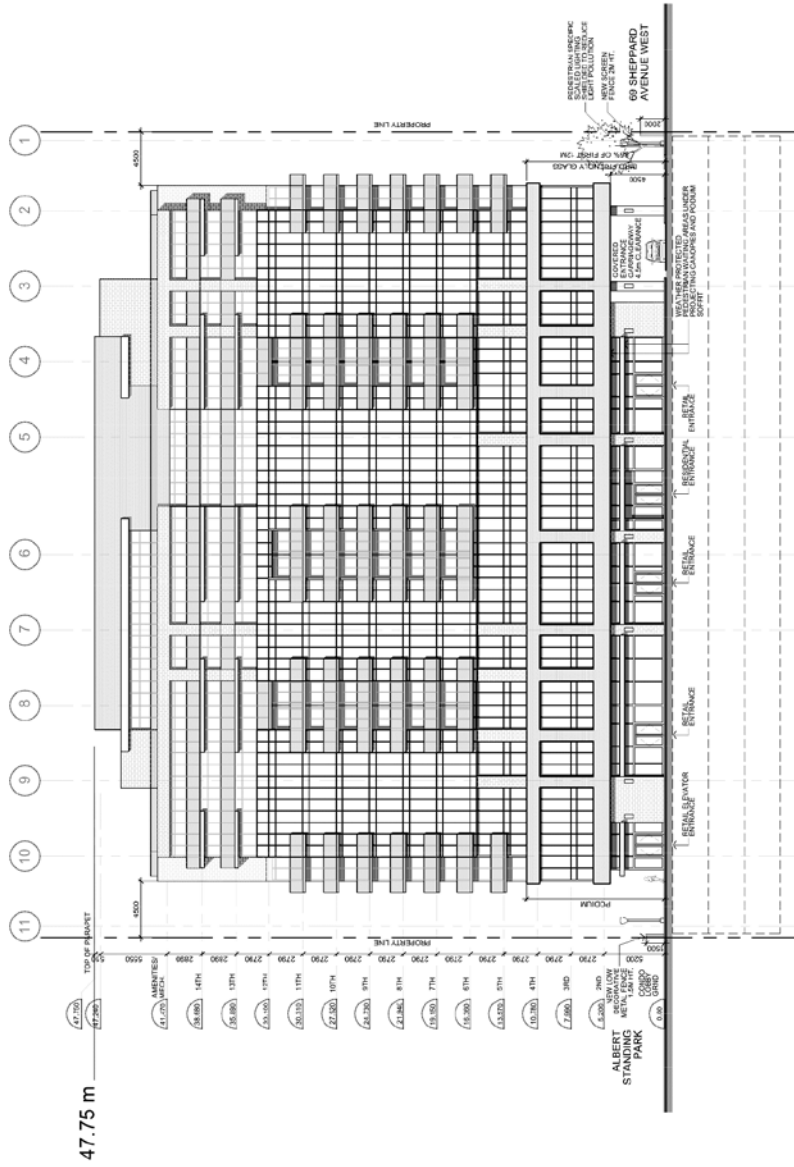
**53-63 Sheppard Avenue West
& 62-68 Bogert Avenue**

File # 15 170269 NNY 23 02

East Elevation
Applicant's Submitted Drawing

Not to Scale
08/10/2015

Attachment 3: North Elevation



**53-63 Sheppard Avenue West
& 62-68 Bogert Avenue**

File # 15 170269 MWY 23 0Z

North Elevation
Applicant's Submitted Drawing

Not to Scale
08/10/2015

Attachment 4: Zoning (By-law 569-2013)





53-63 Sheppard Avenue West & 62-68 Bogert Avenue

Zoning By-Law No. 569-2013

File # 15 170269 NNY 23 02

 Location of Application
RD Residential Detached

 See Former City of North York By-Law No. 7625
R4 One-Family Detached Dwelling Fourth Density Zone
RM6 Multiple-Family Dwellings Sixth Density Zone
C1 General Commercial Zone
C6 Special Commercial Area Zone
O1 Open Space Zone


Not to Scale
Extracted: 08/10/2015

Attachment 5: Zoning (By-law 7625)



53-63 Sheppard Avenue West & 62-68 Bogert Avenue

File # 15 170269 NNY 23 02

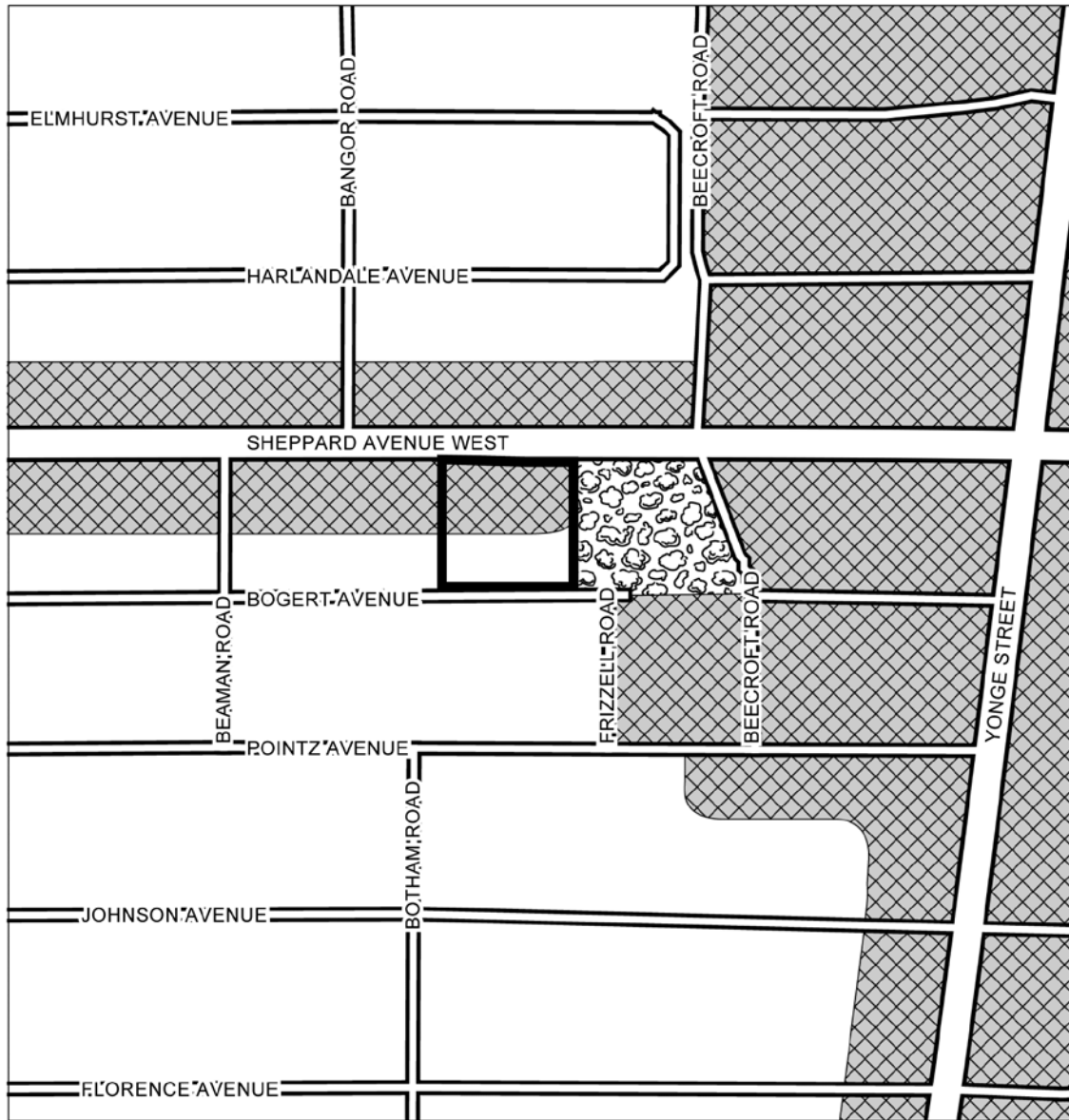
- R4 One-Family Detached Dwelling Fourth Density Zone
- R6 One-Family Detached Dwelling Sixth Density Zone
- RM6 Multiple-Family Dwellings Sixth Density Zone
- C1 General Commercial Zone

O1 Open Space Zone

NOTE: Numbers in Brackets Denote Exceptions to the Zoning Category

↑
Not to Scale
Zoning By-law 7625
Extracted 08/10/2015

Attachment 6: Official Plan



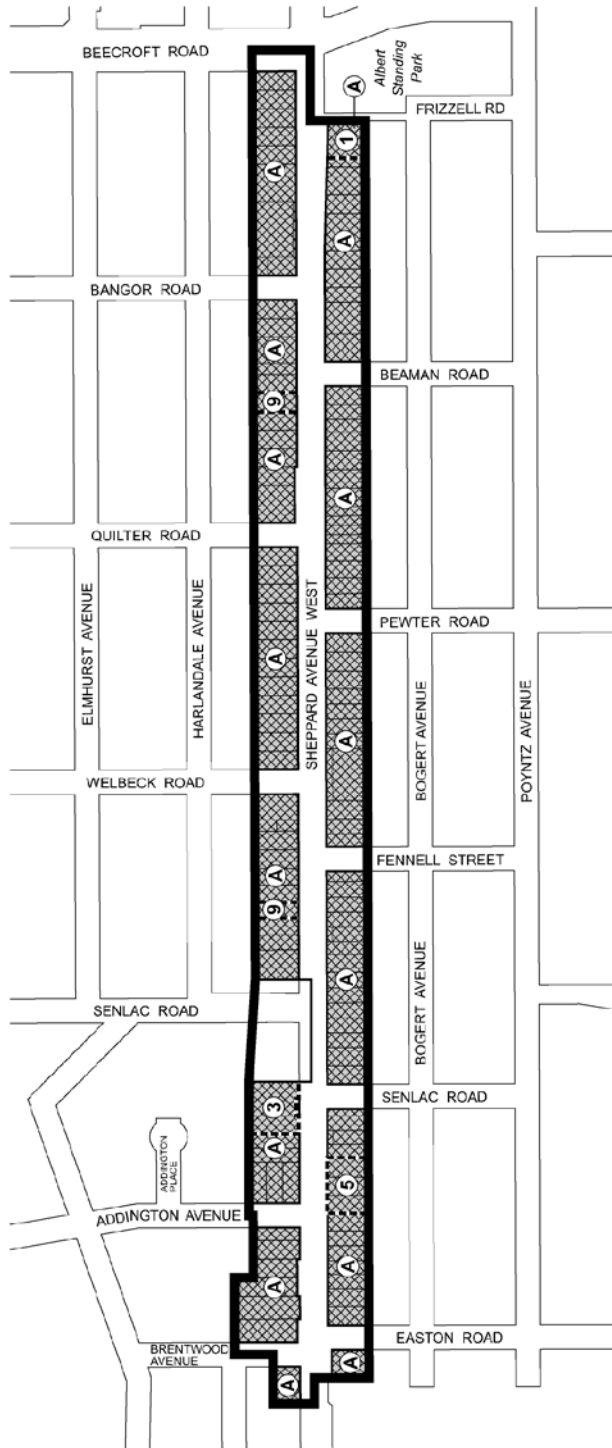
Toronto City Planning
Extract from Official Plan

**53-63 Sheppard Avenue West
 & 62-68 Bogert Avenue**
 File # 15 170269 NNY 23 0Z

- | | |
|---|--|
|  Site Location |  Parks & Open Space Areas |
|  Neighbourhoods |  Parks |
|  Mixed Use Areas | |


 Not to Scale
 08/10/2015

Attachment 7: Sheppard Avenue Commercial Area Secondary Plan – Map 29-1



Not to Scale

Sheppard Avenue Commercial Area Secondary Plan MAP 29-1 Land Use Areas



- Secondary Plan Boundary
- ▬ Study Area
- ▨ Mixed Use Areas
- ① Site and Area Specific Policy Areas

November 2015

Attachment 8: Application Data Sheet

Application Type	Official Plan Amendment & Rezoning	Application Number:	15 170269 NNY 23 OZ
Details	OPA & Rezoning, Standard	Application Date:	June 8, 2015

Municipal Address: 53-63 SHEPPARD AVE W & 62-68 BOGERT AVE

Location Description: PLAN 1743 LOT 1198 TO 1201 PT OF FRIZZELL RD RP64R13604 PARTS 21 22
**GRID N2305

Project Description: An application to amend the Official Plan and Zoning By-law to permit a 14 storey 182 unit residential building with ground floor commercial uses fronting on Sheppard Ave West, and 4 storey residential townhouses fronting on Bogert Ave and three levels of underground parking.

Applicant:	Agent:	Architect:	Owner:
WEIRFOULDS LLP	B. KUSSNER	PELLOW + ASSOC.	GRMANDA HOLDINGS

PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	Sheppard Ave Commercial Area Secondary Plan 4.1
Zoning:	C6(5); C6; RD (f15.0; a550) (x5)	Historical Status:	N
Height Limit (m):	20.4, 8, 10	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	4306.3	Height:	Storeys:	14
Frontage (m):	66.95		Metres:	47.7
Depth (m):	66.31			
Total Ground Floor Area (sq. m):	2110			Total
Total Residential GFA (sq. m):	19906		Parking Spaces:	232
Total Non-Residential GFA (sq. m):	639		Loading Docks	2
Total GFA (sq. m):	20545			
Lot Coverage Ratio (%):	49			
Floor Space Index:	4.77			

DWELLING UNITS

Tenure Type:	TBD
Rooms:	0
Bachelor:	0
1 Bedroom:	107
2 Bedroom:	66
3 + Bedroom:	19
Total Units:	192

FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	19906	0
Retail GFA (sq. m):	639	0
Office GFA (sq. m):	0	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	0	0

CONTACT:	PLANNER NAME:	Robert Gibson, Senior Planner rgibson@toronto.ca
	TELEPHONE:	(416) 395-7059

