

ISSUE DATE:

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PL090478

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

6645411 Canada Inc. has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the former City of Toronto to redesign ate lands municipally known as 102-110 Shuter Street from Neighbourhood to Mixed Use Area to permit the development of a residential condominium .

Approval Authority File No. 08 222718 STE 27 OZ

OMB File No. PL090478

6645411 Canada Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 438-86, as amended, of the former City of Toronto to rezone lands respecting 102-110 Shuter Street from Residential (R3 Z1.0) zone to include site-specific zoning by-law amendment to permit the development of a residential condominium .

OMB File No. PL090479

APPEARANCES:

Counsel*/Agent

6645411 Canada Inc.

D. Bronskill*

J. Drake*

City of Toronto

S. Haniford*

Manga Hotels (Downtown) Inc.

M. Piel*

Garden District Residents Association

Nick Culverwell

Choi Wong

**MEMORANDUM OF ORAL DECISION DELIVERED BY G.C. O'CONNOR AND
N.C. JACKSON ON DECEMBER 17, 2009 AND ORDER OF THE BOARD**

The Applicant proposes the development of a 20 storey condominium residential building at 102-110 Shuter Street in the City of Toronto. Applications were made to amend the City of Toronto Official Plan and Zoning By-law 438-86. Those two applications were not acted upon within *Planning Act* time periods and were appealed as private appeals to this Board.

At this second pre-hearing, the group of opposed residents known as the Shuter Group Residents confirmed that they will act under the umbrella of an incorporated association known as the Garden District Residents Association (incorporation number 1006682). Their spokesperson and agent is to be Nick Culverwell.

Choi Wong of George Street was made a party at the previous pre-hearing. She has now settled in accordance with the conditions set out in Exhibit 4. She asked that those ten conditions be part of the Board decision or order. As a result she asked to withdraw as a party and to become a participant. This was granted on consent.

Barbara Zaleski is an owner of 228 George Street, part of the building owned by Choi Wong at 226 George Street. She is a member of the Garden District Residents Association. She is reviewing terms of settlement and expects to hear from Mr. Bronskill, Counsel for the Appellant.

It is significant that the Appellant has revised his appeal to reduce the height sought from eighteen and twenty storeys to fourteen and sixteen storeys. This has been reviewed with the City first on a privileged basis then with the residents in a community meeting. The City did not respond in the time stipulated, but the Appellant has now affirmed this offer in public. Both legal counsel for the City and the Appellant agree that the target for the previous three week hearing date set for February 16, 2010 cannot be met as additional preparation time is necessary given the change in position. That three week time allotment is now released from the Board's calendar.

There is a dispute between the City and the Appellant as to process leading up to either a settlement hearing or full hearing in the event of no settlement. The City has set out their request for additional material in a letter of December 10, 2009, made Exhibit 5. Fifteen matters are identified of which thirteen will be dealt with no later than December 18, 2009 and will be in the hands of the City and Mr. Culverwell by the end of business hours at City Hall on December 18, 2009. Material respecting parking and storm water management will be produced early in 2010 and before further proceedings take place. In addition the Appellant will provide more detailed material on the use of the salvaged material from the former heritage building on the site. Mr. Culverwell has agreed to consider how that material including some ten thousand bricks, ten wooden timber beams, eight pieces of limestone lintels, eighteen decorative feature elements

and a cast iron metal structure can best be incorporated in the new proposal. Mr. Culverwell's interest was in the design of the outer walls on George and Shuter Streets.

In early January, Mr. Bronskill will meet with the residents regarding design generally and specifically of the former heritage materials.

Ms. Haniford had suggested a further pre-hearing be scheduled in the first week of February, 2010 to confirm whether she is on track for getting the report to City council. No pre-hearing is scheduled by the Board for that purpose.

Ms. Haniford suggests a two day pre-hearing in the week of April 12, 2010 with a hearing at the end of May. Mr. Bronskill prefers an earlier hearing date and earlier pre-hearing date. After hearing submissions, the Board concludes that sufficient time for Community Council and report to City Council is important based upon the good intentions expressed for possible settlement. This was raised at City Council and has been pursued successfully with some residents. Mr. Culverwell aligns the opposing residents with the City and places some emphasis on the City Planner's Report regarding the new proposal for massing, light, shadows and air circulation. With his input on behalf of some twenty six residents, it is important to allow for the planning analysis already commenced to be completed for the revised proposal.

The Board notes that a previous OMB approval for seven storeys and fifty six units may have some relevance to the reduced height and the number of units which is now fifty three. The Board acknowledges the City concerns with meeting and agenda closing periods while being aware that matters can be brought before council earlier. In this case particularly with the constructive participation of Mr. Culverwell, the Board will schedule a further pre-hearing for April 15 and 16, 2010. If there is a settlement or settlements, they will be dealt with based upon evidence at this pre-hearing. The pre-hearing will also deal with outstanding matters for the hearing. The Board has heard from both counsel on the Issues List and Procedural Order. With consent the Procedural Order will be remitted to the Board planner, Sandra Chan, for issuance. The City will not raise as an issue the need for consent to alter under the *Heritage Act*. The City is content that the removal of the former building means that the architectural reasons for designation no longer apply.

In the event of no settlement the Board schedules a revised hearing date to commence May 17, 2010 at 10.00 a.m., 655 Bay Street. Three weeks have been reserved. This panel is not seized of the hearing.

No further notice is required for the April 2010 pre-hearing date or the May 2010, hearing date.

So Orders the Board.

"G.C. O'Connor"

G.C. O'CONNOR
MEMBER

"N.C. Jackson"

N.C. JACKSON
MEMBER