

361 The West Mall and 24 Eva Road - Zoning By-law Amendment Application - Request for Direction Report

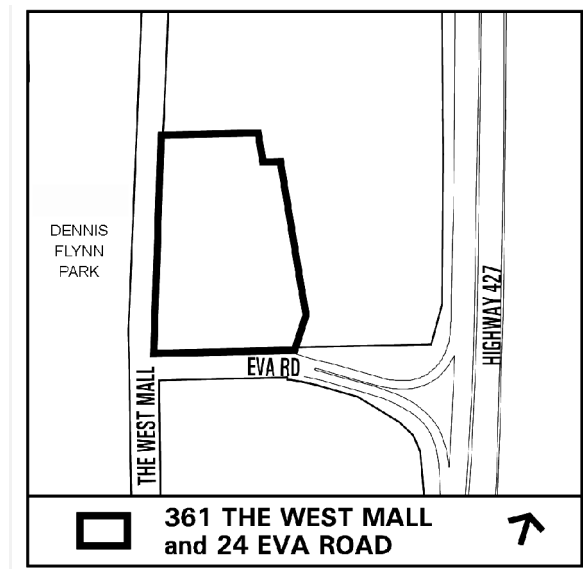
Date:	February 6, 2013
To:	Etobicoke York Community Council
From:	Director, Community Planning, Etobicoke York District
Wards:	Ward 3 – Etobicoke Centre
Reference Number:	10 217719 WET 03 OZ

SUMMARY

The owner of the site at 361 The West Mall and 24 Eva Road has appealed its Zoning By-law Amendment application to the Ontario Municipal Board (OMB) citing Council's failure to make a decision within the time allotted by the *Planning Act*. A Pre-Hearing Conference is scheduled for April 5, 2013, at which time a hearing date will be scheduled. The purpose of this report is to seek City Council's direction for the City Solicitor to oppose the applicant's proposal at the OMB.

The site is currently developed with two, 18 storey (48 m) residential apartment buildings and a two storey covered parking garage, which are to be retained. The application proposes to amend the former City of Etobicoke Zoning Code to permit the construction of two additional 23 storey (71 m) residential towers connected by a 3 to 4 storey podium fronting The West Mall and a third 5 storey (15.8 m) residential building on the eastern side of the property.

The proposal is not supportable in its current form. The site is located at the periphery of a *Mixed Use Areas* designation, on the east side of The West Mall. To the west are lands having *Parks* and *Neighbourhoods* designations. To the east are approved but not fully constructed



apartment buildings on the west side of Highway 427. The proposed siting, height and massing of the proposed 23 storey (71 m) buildings do not provide an adequate transition in scale, massing and height to Dennis Flynn Park and low scale residential uses on the west side of The West Mall.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, together with City Planning staff and any other appropriate staff, to oppose the appeal of the Zoning By-law Amendment application for 361 The West Mall and 24 Eva Road, attend any Ontario Municipal Board hearing in opposition to such appeal, and retain such outside experts as the City Solicitor may determine are required to support the position outlined in this report.
2. City Council direct the City Solicitor to request the OMB, in the event the OMB allows the appeal and permits the requested additional height or density, to:
 - (a) secure the following community benefits, pursuant to Section 37 of the *Planning Act*:
 - a. the rental tenure of the existing rental apartment buildings for a minimum of twenty (20) years;
 - b. improvements to the existing rental apartment buildings to the satisfaction of the Chief Planner and Executive Director, City Planning;
 - c. a payment in the amount of \$1,700,000, (together with any increases to reflect increases in the Construction Price Statistics between July 1, 2013, and the delivery of such payment), for the following:
 - i. parkland improvements to Dennis Flynn Park, including but not limited to improvements to accommodate additional recreation facilities such as mini-soccer fields, mini-basketball courts as well as improved pedestrian walkways and improved tree planting and park lighting;
 - ii. public art fund for the local area intended to develop a public art program and public art installations in the area; and
 - iii. capital improvements to existing non-profit childcare facilities in the area including but not limited to Eatonville Public School.
 - (b) require the owner to convey to the City, at no cost, lands for the proposed north-south road in accordance with OPA 85 and Official Plan Policy 2.2.3 a).

- (c) impose a Holding symbol (H) on any part of the site that does not have direct vehicular access to Eva Road or The West Mall, to be lifted upon completion of the proposed north-south road or permanent closure by MTO of the ramps connecting Eva Road and Highway 427 or other measures to the satisfaction of the Executive Director, Engineering and Construction Services to provide vehicular and servicing access.
 - (d) require the owner to provide detailed cost estimates and adequate financing for 50% of the cost of constructing the proposed north-south road adjacent to their lands to the satisfaction of the Executive Director, Engineering and Construction Services.
 - (e) require the owner to enter into an agreement with the City to provide for the landscaping and maintenance, at no cost to the City, of the land to be dedicated for the proposed north-south road until such time as the public road is constructed.
3. City Council authorize the City Solicitor and any other City staff to take such actions as necessary to give effect to the recommendations of this report.

Financial Impact

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

DECISION HISTORY

A number of pre-application meetings between the applicant and City Planning staff were held between 2008 and 2010. Issues such as the appropriate location, scale, height and massing of any additional buildings on the site were discussed at these meetings.

The Zoning By-law Amendment application was submitted on July 12, 2010. A Preliminary Report on the application was considered by Etobicoke York Community Council on August 17, 2010. The Preliminary Report identified height and density as an issue to be resolved and that the Official Plan Built Form policies, Design Criteria for Avenues and Mid-Rise Buildings Study and the Tall Building Guidelines would be used to assess the appropriateness of the proposed height, density and built form for the site. The report also noted that concerns raised during the pre-application meetings regarding the lack of transition to the lands to the west remained and that the implications of retaining the existing parking garage on site organization would be reviewed.

Community Council directed City Planning staff to schedule a community consultation meeting with an expanded notice area, and that notice for the public meeting be given according to the regulations of the *Planning Act*. The Preliminary Report is available at: <http://www.toronto.ca/legdocs/mmis/2010/ey/bgrd/backgroundfile-32262.pdf>

ISSUE BACKGROUND

Discussions with the Applicant

During pre-application consultations, staff consistently advised that the proposed buildings should provide an appropriate transition in scale, massing and height from the existing 18 storey (48.3 m) towers on the site to Dennis Flynn Park and the low scale housing located on the west side of The West Mall. Subsequent to the submission of the application, further meetings were held to explore and consider development options which would address City staff concerns. These meetings did not resolve these concerns.

Proposal

The site is currently developed with two, 18 storey (48.3 m) residential rental apartment buildings and a partially raised 2 storey parking garage. The existing development is centrally located on the lands with landscaped yards ranging from a depth of approximately 20 m at the northeast corner of the site to almost 40 m at the southwest corner of the site. The parking garage is in the centre of the site. Vehicular access to the site is provided from both Eva Road and The West Mall. Outdoor amenity space is comprised of the landscaped yards and a grassed rooftop on the parking garage.

The applicant proposes to construct three new condominium residential buildings on the site while retaining the existing buildings. These additional buildings are proposed to be located on the periphery of the site within the existing landscaped yards. The table below summarizes the development statistics of the application, which is illustrated on Attachment 2a) Proposed Site Plan and 2b) Site Plan Excerpt.

	Existing Buildings "A and B"	Proposed Building "C"	Proposed Building "D"	Proposed Building "E"
Building Height to Top of Roof	18 storeys, 48.3 m	23 storeys, 71 m	23 storeys, 71 m	5 storeys, 15.8 m
Mechanical Penthouse Height	Not applicable	5.5 m	5.5 m	6.4 m
Units	281	216	214	65
Parking	353	278	247	82
GFA (m ²)	34,490	20,582	19,028	6,564
Site Density	1.53 times the area of the lot			

After Full Development	
Total Units	776
Total GFA(m ²)	81,664
Total Site Density	3.63 times the area of the lot

Proposed buildings "C" and "D" would be located along The West Mall frontage and setback approximately 5 m from The West Mall and Eva Road. A connecting podium that would vary in height from 3 to 4 storeys would be situated between the towers. Vehicular access to these two buildings would be provided from existing driveways off The West Mall and Eva Road.

Building "E" is proposed on the eastern side of the property approximately 5 m from the property line fronting a planned future public road to be developed in conjunction with the adjacent lands to the east. Vehicular access to this building would be from this new public road. The applicant's proposal indicates that a holding symbol (H) could be placed on this portion of the lands related to the implementation of the new public road.

Two new and separate underground parking garages having a total of 607 spaces are proposed to serve the new condominium units. One new underground parking garage would service the proposed new towers and the second would service the proposed mid-rise building. The current 353 parking spaces serving the existing rental units would be maintained in the existing parking garage.

The proposed outdoor amenity space, after full development, would be provided on the roof of the existing parking garage, on the roof of the proposed podium connecting the towers, and at grade within the building setbacks. Indoor amenity space would be provided within the northerly existing rental building and within each of the three proposed new buildings. The applicant indicates that some of the new indoor and outdoor amenity space may be provided for the use of existing tenants.

Site and Surrounding Area

The site is located at the northeast corner of Eva Road and The West Mall. It is 2.2 ha in size and generally rectangular with approximately 193 m frontage on The West Mall. As noted above, there are two existing residential apartment buildings and a centrally located parking structure on the site, which are intended to be retained.

The surrounding uses are as follows:

North: A 5 storey office building above a 2 storey commercial structure immediately to the north and to the northeast a 4 storey Toronto District School Board office building.

South: Eva Road, and a 5 storey apartment building on the south side of Eva Road.

East: The property to the east is presently being developed with a multiple building, two phased residential development. Two towers, under construction, will be 92.3 m (30 storeys) and 84.4 m (27 storeys). Two additional towers would be 85.6 m (28 storeys) and 53.5 m (17 storeys). A proposed north-south public road has been included in "The

Designation of Planned but Unbuilt Roads" schedule of the Official Plan. Further to the east is Highway 427 and the Eva Road on and off-ramps.

West: Dennis Flynn Park on the west side of The West Mall. To the west of the park there is a predominantly single detached residential neighbourhood.

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. 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; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. 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

The property is located in a *Mixed Use Areas* designation on Map 15, Land Use Plan of the Official Plan. *Mixed Use Areas* are intended to absorb new employment and residential development, however not all *Mixed Use Areas* are expected to experience the same scale or intensity of development. Surrounding context, built form considerations and the capacity of municipal infrastructure will inform the extent of development. This designation contains policies and development criteria to guide development and its transition between areas of different intensity and scale. The Development Criteria in Chapter 4, *Mixed Use Areas* include, but are not limited to:

- locating and massing new buildings to provide a transition between areas of different development intensity and scale, as necessary to achieve the objectives of this Plan, through means such as providing appropriate setbacks and/or stepping down of heights, particularly towards lower scale *Neighbourhoods*;
- locating and massing new buildings so as to adequately limit shadow impacts on adjacent *Neighbourhoods*, particularly during the spring and fall equinoxes;
- locating and massing new buildings 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; and
- providing an attractive, comfortable and safe pedestrian environment.

Chapter 2 of the Official Plan sets out the Urban Structure of the City, develops the strategy for directing growth within this structure and establishes policies for the management of change, through the integration of land use and transportation planning.

The Healthy Neighbourhoods policies in Chapter 2 (Policy 2.3.1) require that developments in *Mixed Use Areas* that are adjacent or close to *Neighbourhoods* will:

- be compatible with those *Neighbourhoods*;
- provide a gradual transition of scale and density through the stepping down of buildings towards and setback from those *Neighbourhoods*;
- maintain adequate light and privacy for residents in those *Neighbourhoods*; and
- attenuate resulting traffic and parking impacts on adjacent neighbourhood streets so as not to significantly diminish the residential amenity of those *Neighbourhoods*.

Policy 2.3.1.6 also states that community and neighbourhood amenities will be enhanced where needed by:

- improving and expanding existing parks, recreation facilities, libraries, local institutions, local bus and streetcar services and other community services; and
- creating new community facilities and local institutions and adapting existing services to changes in the social, health and recreational needs of the neighbourhood.

Chapter 3 of the Official Plan establishes the policy direction for guiding growth by integrating social, economic and environmental perspectives on the built, human and natural environment.

Policies 3.1.1.14 and 3.1.1.15 refer to the development of new streets to promote a connected grid of streets, divide larger sites into development blocks, and provide access and address for new development. In implementing one of the recommendations of The West District Design Initiative, Official Plan Amendment 85 amended Schedule 2, The Designation of Planned but Unbuilt Roads, by adding a new north-south 18.5 m wide public road along the east property line of the subject lands between Eva Road and Civic Centre Court. A portion of this new road would be on the subject lands.

The Built Form policies (Policy 3.1.2) identify the importance of urban design as a fundamental element of City building. These policies are intended to minimize the impacts of new development and guide the form of new buildings to fit within the context of the neighbourhood and the City. They require that new development:

- be located and organized to fit with its existing and/or planned context;
- frame and support adjacent streets, parks and open spaces;
- locate and organize vehicular and service areas in such a way to minimize their impact and to improve the safety and attractiveness of adjacent streets, parks and open spaces;

- be massed and its exterior façade be designed to fit harmoniously into its existing and/or planned context and to limit its impact by, among other things, creating appropriate transitions in scale as well as adequately limiting the resulting shadowing and wind conditions on neighbouring streets, properties and open spaces;
- be massed to define edges of streets, parks and open space;
- provide amenity for adjacent streets and open spaces for pedestrians; and
- provide indoor and outdoor amenity space for residents.

Official Plan Policy 3.1.3.2 refers to Tall Building proposals and how they should address key urban design considerations. Sub policy b) and c) refer to demonstrating how a proposed Tall Building and site will contribute to and relate to the overall City structure and to the existing and/or planned context.

The Housing Policies in the Official Plan (Policy 3.2.1) support a full range of housing, including rental housing. Official Plan Policy 3.2.1.5 provides for securing existing affordable and mid-range rents and any needed housing improvements to the existing rental housing without the pass-through of costs to tenants for significant new development on sites where six or more existing rental units are to be retained.

Zoning

The site is zoned R4, Fourth Density Residential Zone, as amended by site-specific Zoning By-laws. By-law 716-1968 permits a maximum of two 18 storey apartment buildings and a maximum of 280 units in addition to specifying parking requirements. By-law 813-1968 includes provisions related to required underground parking and specifies that at least 70% of the site must be landscaped and building coverage shall not exceed 15%. By-law 1683-1970 permits a neighbourhood store within one of the apartment buildings.

West District Design Initiative

In 2007 City Council adopted the West District Design Initiative which established an urban design vision for three separate sites in Etobicoke, including the Etobicoke Civic Centre complex located to the north of the subject property and extending south to Eva Road. The vision included the recognition of the need to provide for a transition in building heights between Highway 427 and the *Neighbourhoods* designation to the west. Key recommendations included a 6-8 storey building height fronting The West Mall for the Etobicoke Civic Centre lands and a proposed north-south public road connecting Eva Road with Burnhamthorpe Road to break up large sites for future development blocks and provide for a connected street grid.

Site Plan Control

A Site Plan Control application is required for the proposal but has yet to be submitted.

Application Submission

The following reports/studies were submitted with the application:

- Planning Evaluation
- Traffic Impact Study
- Environmental Noise Feasibility Study
- Community Services and Facilities Study
- Functional Servicing Report
- Preliminary Assessment Pedestrian Level Wind
- Arborist Report
- Toronto Green Standard Checklist and Statistics Template
- Rental Housing Demolition and Conversion Declaration and Rents
- Shadow Plans

Notifications of Incomplete Application were issued on July 20 and July 30, 2010. A Notification of Complete Application was issued July 5, 2012.

Reasons for the Application

An application to amend the Zoning By-law is required to permit the additional buildings, including their proposed height, density and additional units, as well as to amend the current landscaped open space and building coverage provisions applying to the lands.

Community Consultation

A community consultation meeting was held by City Planning staff on November 23, 2010 and 6 members of the public attended along with the applicant and their consultants. There were no substantive issues raised at the community consultation meeting.

Agency Circulation

Planning staff have reviewed the submission and have circulated the plans and studies to other City divisions and agencies for commentary.

COMMENTS

Staff have reviewed the height of the proposed 23 storey (71 m) buildings and are of the opinion the proposal lacks an appropriate transition in building height, scale and massing as required by the Official Plan. This proposal is not supportable in its current form. The proposal lacks an appropriate transition from the existing and planned buildings to the east, to Dennis Flynn Park and to the low scale community to the west. The proposal also creates an inappropriate shadowing on the public boulevards and adjacent park.

Provincial Policy Statement and Growth Plan

Provincial Policy Statement (PPS)

The Provincial Policy Statement (PPS) identifies the Official Plan as the most important vehicle for implementing the PPS. The proposed development is located within a *Mixed Use Areas* designation, which is appropriate for intensification and redevelopment, however, the proposed height and form bordering lower scale mixed use and neighbourhood areas is not appropriate.

Policy 1.1.3.4 of the PPS refers to appropriate development standards which facilitate intensification, redevelopment and compact form, while maintaining appropriate levels of public health and safety. As outlined in greater detail below, the proposal represents an inappropriate scale of intensification at a location where a more moderate built form would better fit the existing and planned context.

Growth Plan

The Growth Plan requires that a significant portion of new population and employment growth be directed to built-up areas of the community through intensification. The Growth Plan outlines that through their Official Plans, municipalities will develop and implement policies to achieve intensification by recognizing urban growth centres, intensification corridors and major transit station areas as key areas to accommodate intensification. The Official Plan directs growth to the *Downtown, Centres, Avenues and Employment Areas*. The subject site is not located within one of these growth areas. The Growth Plan also requires all intensification areas to be planned and designed to achieve an appropriate transition of built form to adjacent areas (Policy 2.2.3.7 f).

The proposed 23 storey (71 m) buildings do not achieve an appropriate transition of built form to the *Neighbourhoods* and *Parks* designated areas, characterized by one to two-storey residential uses, to the west of The West Mall. As a result, the proposal does not conform to and conflicts with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The Healthy Neighbourhoods and Built Form policies of the Official Plan provide a policy framework for the review of development applications. While intensification is provided for in *Mixed Use Areas*, it must be achieved through a built form that provides appropriate fit, transition and the protection of lands designated *Neighbourhoods* and *Parks*. More specifically, Official Plan Policies 3.1.2.1 and 3.1.2.3 specify that new development will be located and organized to fit within its existing and/or planned context. As the subject lands are not on an Avenue and are not part of a Secondary Plan, the planned built form is derived from the Official Plan policies discussed below.

Massing and Built Form

The lands are at the edge of a *Mixed Use Area* in an area of the City typified by tower in the park and mid-rise apartment developments. These developments are characterised by buildings surrounded by large expanses of landscaped open space and/or parking areas. The existing built form comprises lower rise buildings and open spaces along west side of The West Mall which transition to tall buildings along Highway 427. Along this portion of The West Mall, the existing built form is almost exclusively mid-rise apartment buildings, with the notable exception of the existing buildings on the subject lands.

The two existing residential towers and parking garage limit the ability to locate any new buildings on site. Any infill development should maintain appropriate setbacks to ensure structural and visual integrity of the existing development in addition to addressing Official Plan policies regarding providing a gradual transition in scale and density (Policy 2.3.1.2 b). Official Plan Policy 3.1.2.3 a) and c) further requires the massing of new buildings to frame adjacent streets and open spaces in a manner that respects the existing and/or planned street proportion and to create appropriate transitions in scale to neighbouring buildings. Development criteria in the *Mixed Use Areas* designation also refer to massing new buildings to frame the edges of streets and parks with good proportion (Policy 4.5.2 e).

The proposed new towers fronting The West Mall do not provide a compatible physical relationship with the surrounding sites along The West Mall and do not form a positive visual relationship to the street or adjacent lands designated *Neighbourhoods* and *Parks*. They would create an unacceptable condition that does not conform to Official Plan policies with respect to appropriate built form and transition.

Shadow

Shadowing impacts are important as they affect thermal comfort (enjoyment) of being outside. In the case of a park, shadows affect passive park use. Shadows are impacted by the size and shape of building footplates, height, setbacks as well as the time of year and angle of the sun. Plans have been submitted illustrating the extent of shadowing that would result from the proposed development for March 21 (see Attachments 4a and 4b) but not for September as required by City guidelines.

The shadow plans show that the proposed development would create unacceptable shadowing on the adjacent Dennis Flynn Park (*Parks* designation), the single detached houses on Mulgrove Drive (*Neighbourhoods* designation) and on The West Mall public realm. More specifically, the proposed two towers would create the following shadow impacts:

- 9:18 a.m.: approximately half the park, some of the adjacent single detached houses and a portion of the right-of-way
- 10:18 a.m.: approximately one quarter of the park and a portion of the right-of-way
- 11:18 a.m.: minimally on the park and a portion of the right-of-way

By 12:18 pm there would no longer be shadows on the park, the single detached houses or the right-of-way. Based on the information provided, it appears that shadowing from the proposed 3-4 storey podium connecting the proposed towers would only impact the eastern part of The West Mall right-of-way and would not impact the single detached houses or the park. The shadows from the proposed 5 storey mid-rise building would not impact the park, the single detached houses or The West Mall.

There are a number of Official Plan policies which refer to protecting *Parks* and *Neighbourhoods* from additional shadows. Policies 2.3.1.3 and 2.3.1.2 c) refer to protecting neighbourhoods from negative impacts and maintaining adequate light. Policy 3.1.2.3 d), e) and f) further refers to providing for adequate light and limiting shadows on streets, properties and open spaces and minimizing any additional shadowing on neighbouring parks to preserve their utility. In the case of *Parks*, Policy 2.3.2.1 a) refers to improving, preserving and enhancing the *Green Space System* by improving the enjoyment of lands under public ownership, i.e. the Dennis Flynn Park. This is expanded on by Policy 3.2.3.3 which references minimizing additional shadows on parks to preserve their utility. Also of significance are Official Plan Policy 4.5.2 d) and e), which provide development criteria in *Mixed Use Areas*. These policies reiterate the need to locate and mass new buildings to limit shadow impacts on adjacent *Neighbourhoods* and maintain sunlight on adjacent streets and parks.

The proposed development does not comply with the relevant Official Plan policies as it would significantly increase shadowing of the park, adjacent residential properties and the public street. This increase in shadowing would have an unacceptable effect on their enjoyment and use.

Height Transition

The existing built form in the vicinity of the site consists of lower scale buildings located to the west of The West Mall with mid-rise and tall buildings to the east of The West Mall. This general pattern is most evident for The West Mall between Burnhamthorpe Road and Bloor Street where building heights transition down from Highway 427 to the *Neighbourhoods* designation to the west. A similar transition in building heights exists on the east side of the highway along The East Mall and also on The West Mall between Burnhamthorpe Road and Rathburn Road. The West District Design Initiative recommendations for the lands immediately to the north of the subject site is for a transition in building heights from tall buildings fronting Highway 427 to 6-8 storey buildings along The West Mall.

Official Plan Policy 2.3.1.2 b) refers to developments in *Mixed Use Areas* stepping down in height to adjacent *Neighbourhoods* and Official Plan Policy 4.5.2 c) also refers to locating and massing new buildings to provide a transition through setbacks and/or stepping down of heights, particularly towards lower scale *Neighbourhoods*.

The existing and planned context is characterized by a stepping down of heights from the Tridel site to the east, which is adjacent to Highway 427, to Dennis Flynn Park and low

density residential neighbourhood to the west of The West Mall (as illustrated in Attachment 5). The approved height for the Tridel development is 30 storeys (92.3 m) which transitions down to the 18 storey (48.3 m) existing towers on the subject site before transitioning to the park and the 1-2 storey single detached houses on the west side of The West Mall. Further south along The West Mall, between Eva Road and Bloor Street, the built form provides similar transitioning, going from 18 and 14 stories adjacent to Highway 427 to 5-7 storeys along both sides of The West Mall to the low density residential neighbourhood further to the west.

The introduction of two towers at a height of 23 storeys (71 m) on the subject site is not appropriate as the buildings would not provide the transition in height and scale directed by the Official Plan. The existing and planned context for this area provides for a transition to lower scale uses and any proposed development on the subject site should maintain this transition and not negatively impact the public realm of the street and the park.

Avenues and Mid-Rise Buildings Study and Tall Building Guidelines

The City Council endorsed "Avenues and Mid-Rise Buildings Study" performance standards provide for mid-rise buildings having a height less than the width of the adjacent right-of-way, up to a maximum height of 11 storeys. Applying the Mid-Rise guidelines to the west side of the site, would result in a maximum building height of 9 storeys (27 m) adjacent to The West Mall.

A tall building is generally defined as a building having a height exceeding the width of the adjacent right-of-way. The Tall Building guidelines assist in assessing applications for tall buildings on sites that are otherwise appropriate for tall buildings. However, compliance with the guidelines does not justify permitting a tall building on a site that is not appropriate for this built form. The proposed 23 storey (71 m) buildings do not conform to Official Plan policies and are therefore not supportable on the west side of the site.

The proposed two towers would not, in any event, comply with the Tall Building guidelines as they do not meet the criteria relating to the provision of an appropriate transition in scale between the proposed tall buildings and lower scale buildings and open spaces (Design Criteria 1.2).

In addition, the guidelines provide only minimum standards and are to be considered within the existing built form context. In this case, as the application is an infill proposal, the proposal should be assessed with respect to light, view and privacy considerations of the existing 18 storey building which may require more than just the minimum requirements of the guidelines.

Future Public Road

The West District Design Initiative identified the need for a new north-south road to be located on the eastern side of the subject lands and the western side of the adjacent Tridel site (2-6 Eva Road). Official Plan Amendment 85 was approved in 2009 and designated a new 18.5 m public wide right-of-way in this location. Official Plan Policy 2.2.3 a) refers to protecting and developing the network of rights-of-way through City acquisitions over time of the additional property needed to achieve the designated width.

The adjacent Tridel site has a holding symbol (H) imposed on the Phase 2 buildings as they would have vehicular access directly from the proposed new north-south road. The H was imposed to protect for the road, receive at no cost the lands for the road, receive 50% of the financing for the cost estimates and construction costs for the road and provide for the landscaping and maintenance of the lands for the road until such time as the road is constructed or to provide other satisfactory means of providing vehicular access.

Should any development be approved on the subject lands, staff recommend that similar conditions apply as outlined in Recommendations 2(b), 2(c), 2(d), and 2(e).

Minutes of Settlement – 2, 4 and 6 Eva Road

At its meeting of September 30 and October 1, 2009 City Council instructed the City Solicitor to enter into Minutes of Settlement regarding an appeal to the OMB by the owner of 2, 4 and 6 Eva Road against the passage of an Official Plan Amendment to provide for the proposed new north-south road between Burnhamthorpe Road and Eva Road. These Minutes of Settlement were based in part upon an agreement to relocate the alignment of the proposed road between the two sites. Schedule "C" to the Minutes of Settlement contained a plan entitled "West Mall Investments Concept Plan", which illustrates two additional apartment buildings containing 400 units on the subject lands.

The applicant's consultants have asserted that the City or its staff have, in some way, thereby acknowledged the potential future development of the site as shown on that Concept Plan. Staff have reviewed the relevant Council authority and the Minutes of Settlement and are satisfied there was no concurrence by City Council or City staff to any new buildings as shown on the Concept Plan. The Minutes of Settlement specify that it "only applies to the uses that will be permitted on the Eva Road Lands by such policies and provisions and the location of the Proposed Road as referred to in the Modified Agreement." While the Minutes of Settlement may bind the previous owner of the lands to the east to not oppose any development application for two additional residential buildings on the subject lands, that commitment does not extend to the City.

Access, Parking, Traffic and Loading

The proposed development would provide vehicular access from multiple locations. The existing driveway from The West Mall would be retained. The existing driveway from Eva Road would be slightly modified. A new driveway is proposed from the future north-south road along the east side of the property. The slightly modified Eva Road driveway and the north-south road connection to Eva Road will require MTO approval. Any portion of the development accessing the un-built north-south road should be subject to a holding symbol (H).

Transportation Services staff have advised that the proposed parking and loading is sufficient for the proposed development and that existing roads and intersections have sufficient capacity to accommodate the development.

Future site plan applications would provide an opportunity for a detailed review of site operations including vehicular circulation, parking space dimensions, ramp design, driveway width and radii, loading operations and pick-up and drop-off facilities. It should also be noted these reviews could potentially result in revisions to floor plans, loading spaces/operations, ramps, parking space supply and vehicular movements.

Landscape Open Space and Amenity Space

The subject lands were developed as a 'tower-in-the-park' with significant areas of landscaped open space including on top of the existing parking garage. An outdoor swimming pool was formerly located on top of the parking garage but has since been filled in and replaced with grass. The existing units also have balconies that provide individual amenity space.

The development proposal includes both indoor and outdoor amenity space. The indoor amenity space is proposed in a 395 m² dedicated space for existing tenants plus a separate 1,663 m² indoor amenity space for the new units. This equates to 1.4 m² of indoor amenity space per unit for the existing rental units and 3.4 m² of indoor amenity space per unit for the proposed units.

Outdoor amenity space is proposed through additional plantings and landscaping on top of the existing parking garage and new outdoor amenity space on top of the podium between the proposed towers. Some of the new units would also have balconies or terraces. The applicant has indicated that some of this outdoor amenity space would be dedicated to specific buildings; however, it is not clear how this would be implemented.

The applicant's proposed By-law Amendment before the OMB proposes a minimum of 2 m² indoor plus 2 m² of outdoor amenity space per unit. It is not clear from the submitted plans how these minimum allocations were identified or are to be secured and protected for, especially in the case of outdoor amenity space.

Rental Housing Protection

In keeping with Policy 3.2.1.5 of the Official Plan, the applicant is required to secure the rental tenure of the existing apartment buildings at 361 The West Mall and 24 Eva Road. The Official Plan policy also requires reinvestment by the owner in the existing rental property at the same time as investment is made in the proposed new buildings. The intent is to secure the ongoing viability of the existing rental use, as well as provide improvements to the property to be enjoyed by tenants of the existing buildings.

The applicant has undertaken initial discussions with staff on securing the existing rental tenure for a period of at least twenty (20) years and providing improvements to the proposed development. Preliminary discussions on potential improvements have identified the nature of indoor and outdoor amenity improvements, tenant access to all common areas including foyers, lobbies and proposed amenity spaces, as well as additional security features. The scope of these improvements has not been confirmed or finalised and additional information is required. Once agreed to, these matters should be secured through any Zoning By-law Amendment and a Section 37 Agreement.

Toronto District School Board

Toronto District School Board (TDSB) staff advise there is insufficient space at the local schools to accommodate students anticipated from the proposed development. TDSB have indicated that children from this development will not displace existing students at local schools. Alternative arrangements will be identified to optimize enrolment levels at all schools across the TDSB, however it is unknown at this time which schools are anticipated to serve this potential development. Should it be approved, TDSB are requesting that as a condition of any approval, signs be erected on site and that all offers of purchase and sale include warning clauses advising potential purchasers of the TDSB's requirements.

Toronto Green Standard

The application was submitted in July 2010 and is subject to the Toronto Green Standard. Any subsequent Site Plan Control applications must comply with the TGS, with the exception of those standards secured through any zoning approved by the OMB. The applicant will be required to complete and submit the TGS checklist as part of the site plan review process.

Solid Waste Management

Engineering and Construction Services staff advise that the proposed buildings are eligible for City garbage, recycling and organic collection services. Should the proposal be approved, the site plan approval process will address garbage and recycling details such as access, loading area and garbage/recycling rooms. Finalizing the solid waste

management arrangements for the proposed buildings could result in changes to the ground floor plan that may impact the proposal.

Stormwater Management and Site Servicing

Engineering and Construction Services staff concur with the findings of a Functional Servicing Report submitted with this proposal. Should this proposal be approved, a detailed stormwater management and site servicing report would be required with a Site Plan Control application.

Section 37

Given the increase in height and density represented by the current proposal, the Official Plan provides for the provision of Section 37 matters. Discussions regarding Section 37 benefits between the applicant and the City did not occur as there was no agreement on appropriate development for the site. However, as this matter has been appealed to the OMB, it is necessary to address Section 37 matters in the event the OMB approves the proposed development.

This report therefore recommends that if the application is approved by the OMB, that in accordance with Policy 2.3.1.6 and 5.1.1 of the Official Plan, \$1,700,000 should be provided under Section 37 of the *Planning Act* for the following community benefits: parkland improvements at Dennis Flynn Park on the west side of The West Mall; contribution to a local area public art fund; and contributions to capital improvements to non-profit childcare facilities in the local area including but not limited to Eatonville School. The amount and recommended community benefits are comparable to those secured for similar developments in the area.

As well, the preservation of rental housing for a minimum of twenty (20) years and any related improvements to the existing rental buildings as recommended by the Chief Planner and Executive Director, City Planning should be secured in the Section 37 Agreement.

Conclusions

The current proposal does not conform to Official Plan policies relating to massing and built form, shadowing and transition. As currently proposed, the development is out of scale and character for the planned and existing built form context and represents an over intensification of development on this site.

Additional development could be supported at this location, provided it is within a built form that provides an appropriate transition of scale, limits shadow and wind conditions, provides compatible physical relationships between developments and creates a positive visual relationship to the street. The proposed tower height, scale and site layout fails to achieve this.

The proposed tall buildings on the west side of the site cannot be supported. However, the proposed building "E", being a 5 storey mid-rise building on the east side of the site, could be considered as a potential location for a tall building. This may require modifications to the existing parking garage and would be subject to the same holding provision (H) relating to vehicular access as the proposed 5 storey building.

For the reasons outlined in this report it is recommended that staff be directed to attend the OMB hearing to oppose the appeal of the current Zoning By-law Amendment application for 361 The West Mall and 24 Eva Road.

This report also recommends that the City Solicitor request the OMB, in the event the OMB allows the appeal and permits the requested additional height or density, to:

- (a) secure the following community benefits, pursuant to Section 37 of the *Planning Act*:
 - a. the rental tenure of the existing rental apartment buildings for a minimum of twenty (20) years;
 - b. improvements to the existing rental apartment buildings to the satisfaction of the Chief Planner and Executive Director, City Planning,
 - c. a payment in the amount of \$1,700,000, (together with any increases to reflect increases in the Construction Price Statistics between July 1, 2013, and the delivery of such payment), for the following:
 - i. parkland improvements to Dennis Flynn Park, including but not limited to improvements to accommodate additional recreation facilities such as mini-soccer fields, mini-basketball courts as well as improved pedestrian walkways and improved tree planting and park lighting;
 - ii. public art fund for the local area intended to develop a public art program and public art installations in the area; and
 - iii. capital improvements to existing non-profit childcare facilities in the area including but not limited to Eatonville Public School.
- (b) require the owner to convey to the City, at no cost, lands for the proposed north-south road in accordance with OPA 85 and Official Plan Policy 2.2.3 a).
- (c) impose a Holding symbol (H) on any part of the site that does not have direct vehicular access to Eva Road or The West Mall, to be lifted upon completion of the proposed north-south road or permanent closure by MTO of the ramps connecting Eva Road and Highway 427 or other measures to the satisfaction of

the Executive Director, Engineering and Construction Services to provide vehicular and servicing access.

- (d) require the owner to provide detailed cost estimates and adequate financing for 50% of the cost of constructing the proposed north-south road adjacent to their lands to the satisfaction of the Executive Director, Engineering and Construction Services.
- (e) require the owner to enter into an agreement with the City to provide for the landscaping and maintenance, at no cost to the City, of the land to be dedicated for the proposed north-south road until such time as the public road is constructed.

CONTACT

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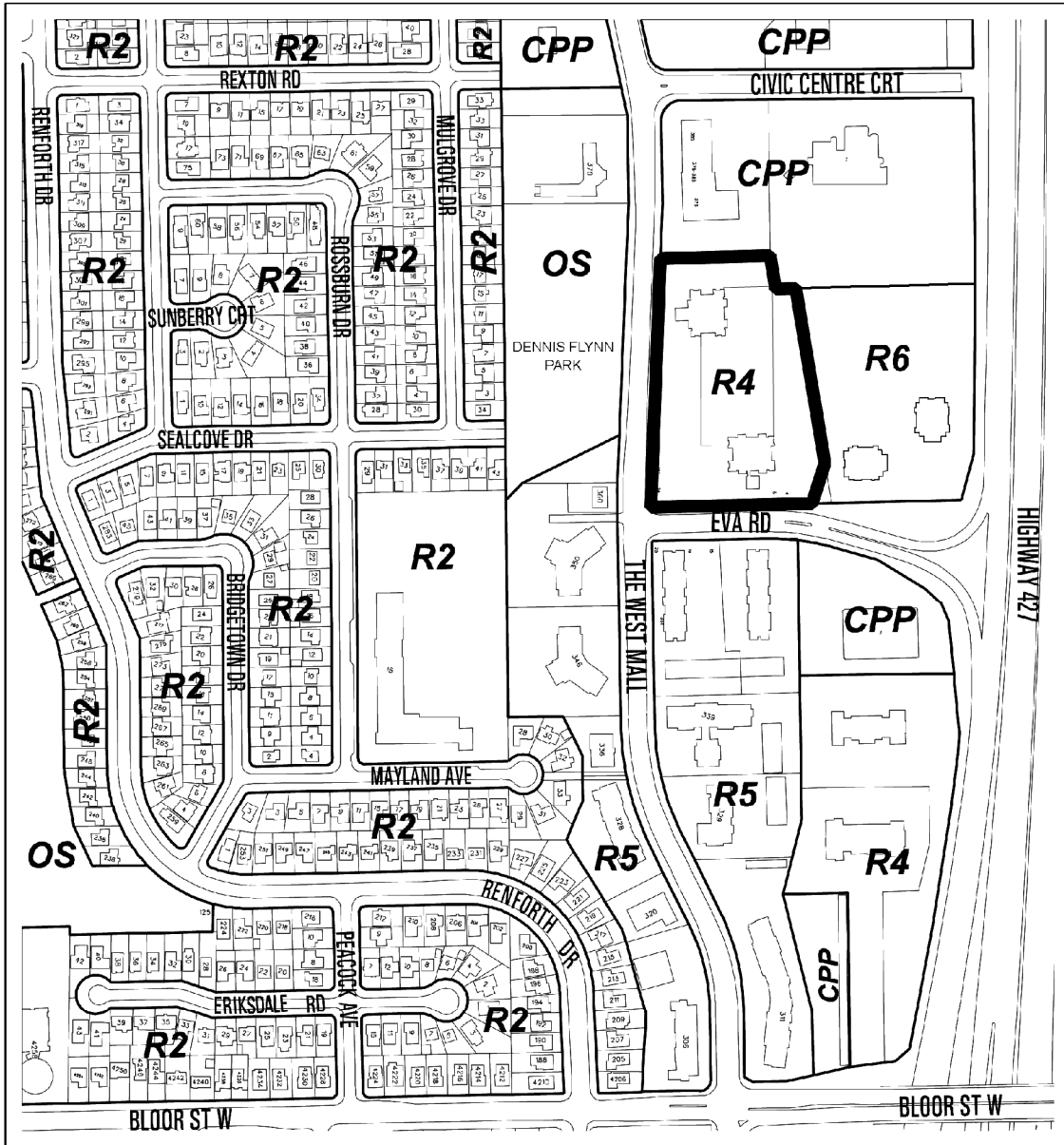
SIGNATURE

Neil Cresswell, MCIP, RPP
Director, Community Planning
Etobicoke York District

ATTACHMENTS

Attachment 1: Etobicoke Zoning Code
Attachment 2a: Proposed Site Plan
Attachment 2b: Site Plan Excerpt
Attachment 3: Section
Attachment 4: Shadows
Attachment 5: Cross Section
Attachment 6: Development Statistics

Attachment 1: Etobicoke Zoning Code



TORONTO City Planning
Zoning

361 The West Mall & 24 Eva Road
 File # 10_217719

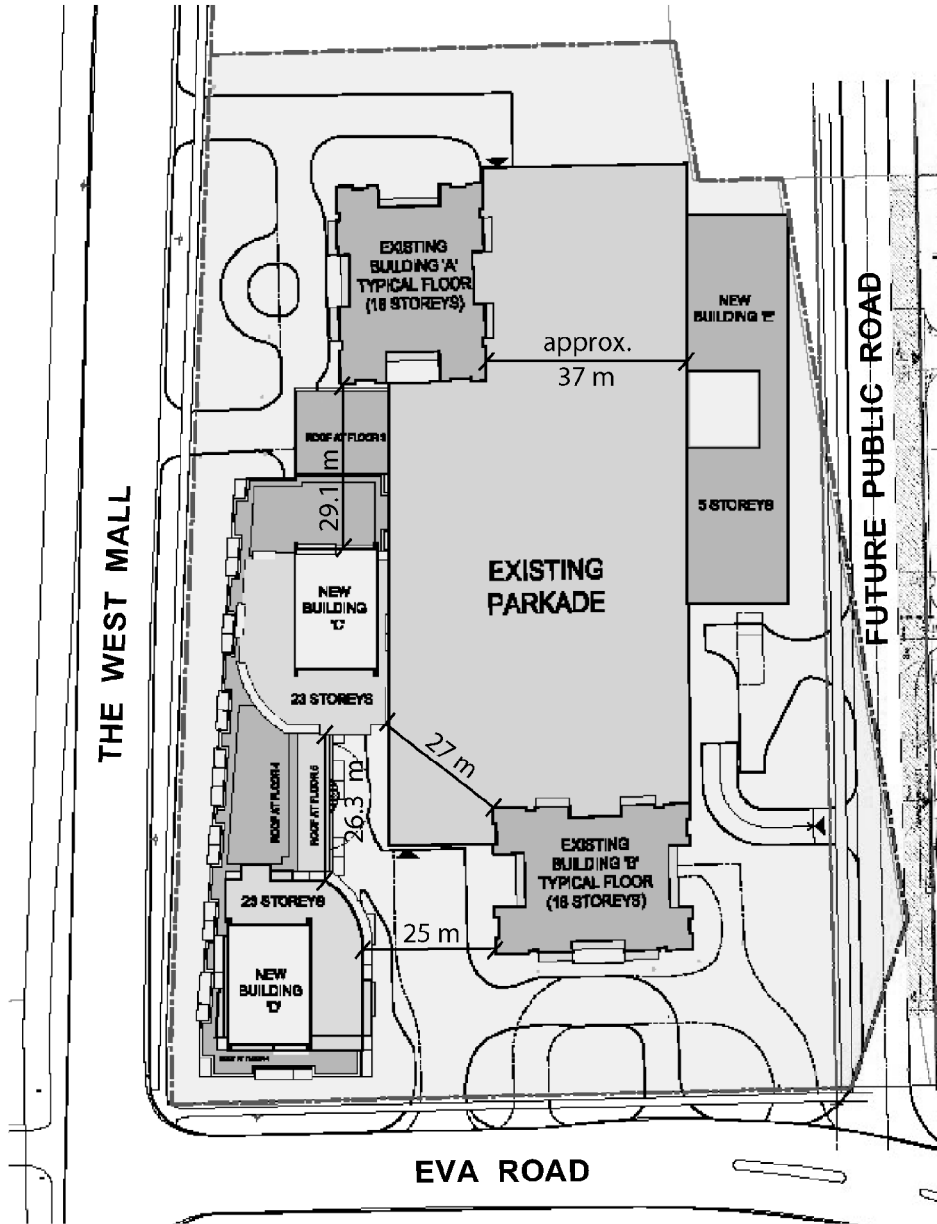
Former Etobicoke By-law 11,737

- R2 Residential Second Density
- R4 Residential Fourth Density
- R5 Residential Fifth Density
- OS Public Open Space
- CPP Commercial Planned Referred

Not to Scale
 Zoning By-law 11,737 as amended
 Extracted 01/14/13



Attachment 2b: Site Plan Excerpt

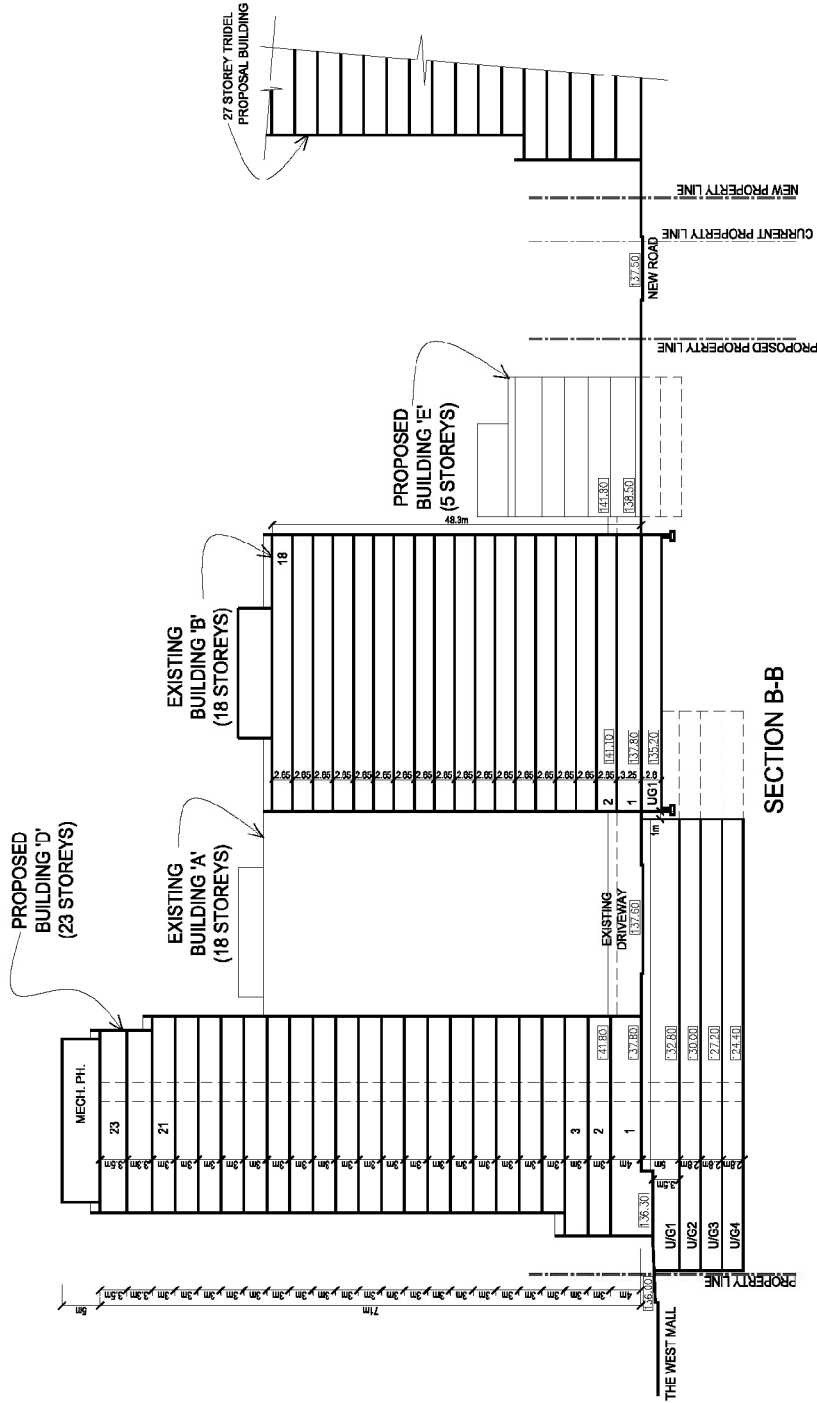


Site Plan
361 The West Mall & 24 Eva Road

Applicant's Submitted Drawing
Not to Scale
01/14/13

File # 10_217719

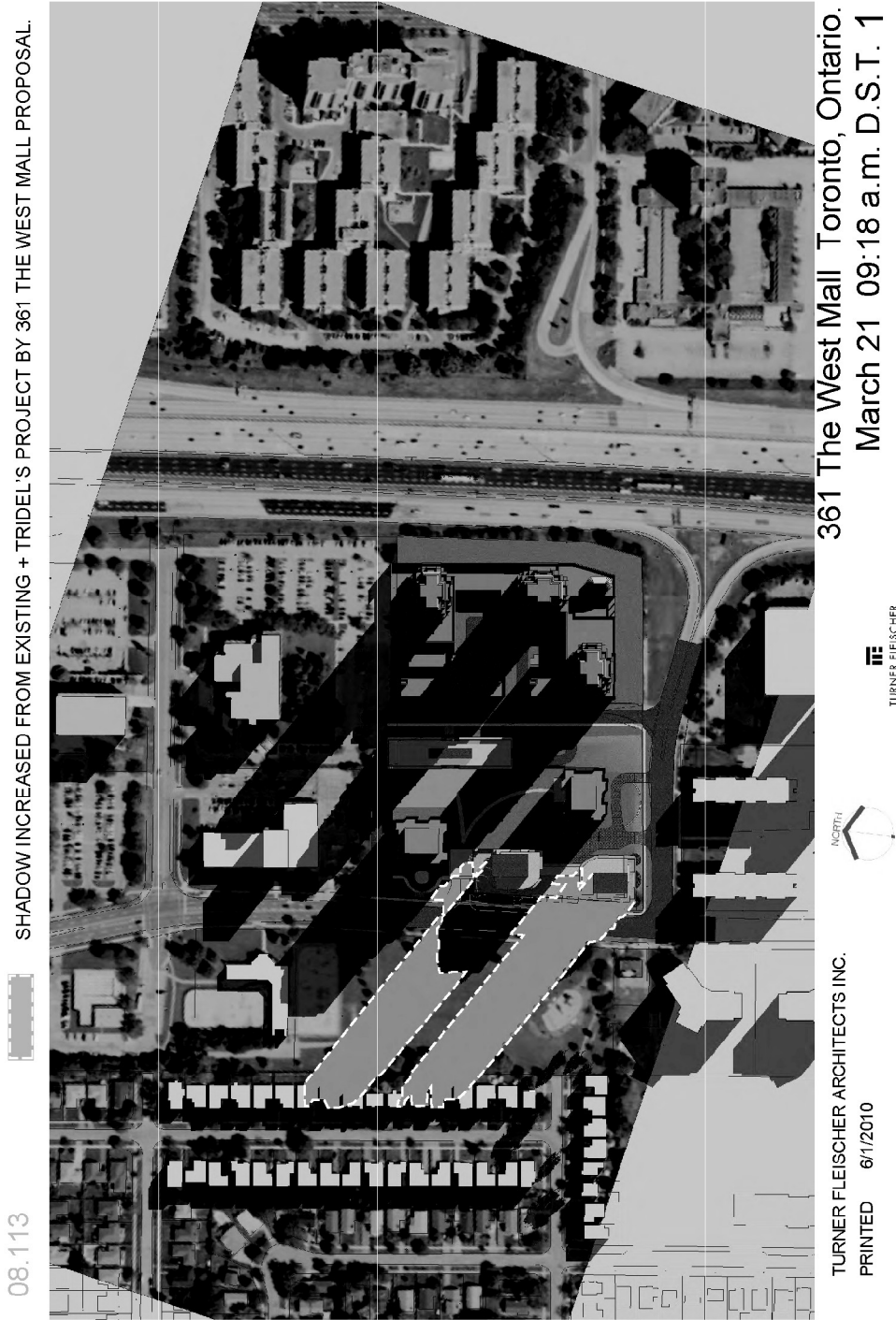
Attachment 3: Section



Section
 Applicant's Submitted Drawing
 Not to Scale
 01/14/13

361 The West Mall & 24 Eva Road
 File # 10_217719

Attachment 4: Shadows



Shadow Study 1

Applicant's Submitted Drawing

Not to Scale
07/14/13

361 The West Mall & 24 Eva Road

File # 10_217719

08.113

SHADOW INCREASED FROM EXISTING + TRIDEL'S PROJECT BY 361 THE WEST MALL PROPOSAL.



TURNER FLEISCHER ARCHITECTS INC.
PRINTED 6/1/2010

361 The West Mall Toronto, Ontario.
March 21 10:18 a.m. D.S.T. 2



Shadow Study 2

361 The West Mall & 24 Eva Road

Applicant's Submitted Drawing

Not to Scale
01/14/13

File# 10_217719

Attachment 6: Development Statistics

	Existing Buildings	Proposed Buildings	After Full Development
Site Area	22,491 m ²	--	22,491 m ²
Units	281	495	776
Parking	353	607	960
Gross Floor Area	29,495 m ² (plan A0a)	46,174 m ² (plan A0a)	75,669 m ²
Incl. exist garage above grade	34,490 m ²	--	81,664 m ²
FSI	1.53	--	3.63
Height not incl. mechanical	18 st, 48.3 m	23 st, 71 m (plan A11b) and 5 st, 15.8 m (plan A11a)	--
Height including mechanical	unknown	23 st, 76 m (plan A11b) and 5 st, 22.2 m (plan A13)	--
Indoor Amenity Space	unknown	1663 m ² (plan A0b)	Exist build 395.3 m ² (plan A3) New build 1663 m ² (plan A0b) Total 2058.3 m ²
Space per unit	--	3.36 m ²	Exist build 1.41 m ² New build 3.36 m ² Total 2.65 m ²
Outdoor Amenity Space	Not specified	1112 m ²	Not specified