

710 The West Mall – Zoning By-law Amendment Application – Decision Report – Refusal

Date: January 25, 2024

To: City Council

From: Interim Chief Planner and Executive Director, City Planning

Wards: Ward 2 - Etobicoke Centre

Planning Application Number: 23 180580 WET 02 OZ

SUMMARY

This report reviews and recommends refusal of an application to amend the Zoning By-law to permit a 22-storey residential building containing 282 new dwelling units at 710 The West Mall.

The proposal does not have appropriate and supportable zoning standards, including the proposed building height, base building height, and tower floorplates. The proposed development does not conform to the City's Official Plan and does not meet the intent of the Tall Building Design Guidelines.

RECOMMENDATIONS

The Interim Chief Planner and Executive Director, City Planning, recommends that:

1. City Council refuse the application for a Zoning By-law Amendment in its current form for the lands municipally known as 710 The West Mall.
2. In the event the application is appealed to the Ontario Land Tribunal, City staff use mediation, conciliation or other dispute resolution techniques in an attempt to resolve the Zoning By-law Amendment application, to the satisfaction of the Interim Chief Planner and Executive Director, City Planning and City Solicitor.
3. City Council direct the City Clerk, should an appeal be filed, to notify all persons or public bodies who may have filed an appeal to this decision of City Council's intention to rely on subsection 34(11.0.0.1) of the Planning Act and the City Clerk shall provide notice to all prescribed persons or public bodies under subsection 34(11.0.0.2) of the Planning Act.

4. City Council direct the City Clerk, should an appeal be filed, to notify the Ontario Land Tribunal of City Council's intention, pursuant to subsection 34(11.0.0.1) of the Planning Act, and that the Ontario Land Tribunal shall receive the record, the notice of appeal and other prescribed documents and materials 75 days after the last day for filing a notice of appeal for these matters.

5. Should the Zoning By-law Amendment application be resolved, and there is no appeal to the Ontario Land Tribunal or appeal to the Ontario Land Tribunal has been withdrawn, City Council direct the Director, Community Planning, Etobicoke York to bring forward a Decision Report - Approval to the Etobicoke York Community Council for a statutory public meeting as required under the Planning Act.

6. City Council authorize the City Solicitor and other appropriate staff to take any necessary steps to implement City Council's decision.

FINANCIAL IMPACT

Section 34(11) of the Planning Act stipulates that City Council must make a decision on a Zoning By-law Amendment application within 90 days of the day the application was deemed complete. If City Council does not make a decision within the legislated timeline (by March 3, 2024), the City may be subject to a request to refund all or part of the application fees. Due to the financial impact of the recommendations of this report, this matter is urgent, requiring consideration at the February 6, 7, and 8, 2024 meeting of Council, and should not be deferred.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information as presented in the Financial Impact Section.

DECISION HISTORY

On June 26, 27, 28 and 29, 2018, City Council adopted By-law 1210-2018 for the entirety of the lands then described as 70 Dixfield Drive. It rezoned the lands to permit a six-storey apartment building to the east of the existing apartment building and a three-storey townhouse development to the north, in addition to the existing 12-storey residential apartment building. By-law 1210-2018 can be viewed here: <https://www.toronto.ca/legdocs/bylaws/2018/law1210.pdf>.

On January 16, 2020, the Committee of Adjustment approved a consent-to-sever 70 Dixfield Drive into three lots and to create various easements/rights-of-ways (File Number B0055/19EYK).

A pre-application consultation (PAC) meeting was held on December 14, 2022 for the subject site (710 The West Mall). The Planning Application Checklist Package resulting

from the PAC meeting is available here: <https://www.toronto.ca/city-government/planning-development/application-details/?id=5308986&pid=989897>.

The current application was submitted on July 27, 2023 and deemed complete as of December 5, 2023. A Community Consultation meeting is scheduled for January 31, 2024.

THE SITE

The site is located on the north side of The West Mall, just west of The West Mall's cul-de-sac terminus and it is rectangular in shape.

The site is currently occupied by surface parking and an outdoor pool associated with the existing apartment building located at 70 Dixfield Drive.

The surrounding land uses include:

North: Adjacent to the site is a three-storey stacked back-to-back townhouse development containing 42 dwelling units (known as 62 Dixfield Drive) which is under construction. Further north is a low-density residential neighbourhood comprised of detached and semi-detached dwellings.

South: Across from The West Mall is a large u-shaped 20-storey residential apartment building at 625 and 627 The West Mall. Further south is a seven-storey residential apartment building fronting onto Rathburn Road at 440 Rathburn Road.

East: Adjacent to the site is a large u-shaped 20-storey residential apartment building municipally at 714 and 716 The West Mall. Further east is Provincial Highway 427.

West: Adjacent to the site is an existing 12-storey residential apartment building at 70 Dixfield Drive. The subject site was previously part of this site but was severed from 70 Dixfield Drive through a consent application approved on January 16, 2020. Beyond is Wellesworth Park and Wellesworth Junior Public School.

PROPOSAL

The application proposes to amend the Zoning By-law to permit the development of a residential apartment building in an L-shape configuration. The proposed height of the building is 22 storeys (or 76 metres including the mechanical penthouse). A mix of unit types and sizes are proposed, including 147 one-bedroom (52%), 105 two-bedroom (37%), and 30 three-bedroom (11%) units, for a total of 282 dwelling units. The proposed development has a total gross floor area of 21,641 square metres, resulting in a density of 3.5 times the lot area, based on a site area of 6,191 square metres.

Vehicular access is proposed via an existing driveway off of The West Mall. A lay-by drop-off is proposed in front of the principal entrance of the building and a ramp leading to three levels of underground parking is proposed on the north end of the site. A total of 225 vehicular parking spaces are proposed. One Type G loading space is also proposed adjacent to the access to the underground parking. A total of 215 bicycle parking spaces is proposed.

A total of 646 square metres of indoor amenity and 783 square metres of outdoor amenity space is proposed, for a total of 1,429 square metres or five square metres per unit. Indoor amenity space would be located at the ground floor (including an indoor pool), on the second level, and on level 12. Outdoor amenity space would be located at grade (adjacent to the indoor amenity space and lobby), and on level 12 (adjacent to additional indoor amenity space).

Reasons for the Application

The proposal requires an amendment to city-wide Zoning By-law 569-2013 and the former City of Etobicoke Zoning Code to permit the proposed height and number of dwelling units and to revise other development standards as necessary to reflect the proposal.

APPLICATION BACKGROUND

Application Requirements

The materials and studies submitted in support of the application can be found by visiting the [Application Information Centre](#).

Agency Circulation Outcomes

The application together with applicable materials and submitted studies have been circulated to all appropriate agencies and City Divisions. Responses received have been used in evaluating the application.

POLICY AND REGULATION CONSIDERATIONS

Provincial Policy Statement and Provincial Plans

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (PPS) (2020) and shall conform with Provincial plans, including the Growth Plan for the Greater Golden Horseshoe (2020) (Growth Plan).

Official Plan

The land use designation for the site is *Apartment Neighbourhoods* on Map 14 of the Official Plan. See Attachment 3 of this report for the Land Use Map. The Official Plan should be read as a whole to understand its comprehensive and integrative intent as a policy framework for priority setting and decision making. The Official Plan can be found [here](#).

Zoning

The site is zoned RA (x122) under city-wide Zoning By-law 569-2013 (See Attachment 4: Zoning Map). The Residential Apartment zone permits dwelling units within an apartment building. A lot coverage of 40% applies. Exception 122 refers to the provisions of site-specific Zoning By-law 1210-2018, which was enacted on July 27, 2018. This by-law rezoned the lands then municipally known as 70 Dixfield Drive to permit the development of one six-storey residential building and three three-storey townhouse buildings to the north of the site resulting in a total of 88 new residential units, in addition to the existing 12-storey apartment building on the site containing 141 rental units. After this rezoning, a severance was approved by the Etobicoke York Committee of Adjustment, resulting in the subject site and the townhouse site being created as new lots municipally known as 710 The West Mall and 62 Dixfield Drive, respectively. The provisions of By-law 1210-2018 apply collectively to all three properties and permit among other matters:

- A total maximum Gross Floor Area for all buildings of 27,200 square metres.
- A maximum of 229 dwelling units.
- A parking rate of 1.02 parking spaces for each dwelling unit, of which a minimum of 0.13 parking spaces for each dwelling unit must be visitor parking spaces.

City-wide Zoning By-law 569-2013 may be found here: <https://www.toronto.ca/city-government/planning-development/>.

Toronto/Lester B. Pearson International Airport Zoning Regulations

The site is subject to the Toronto/Lester B. Pearson International Airport Zoning Regulations (Government of Canada Regulation SOR/99-123). The site is subject to the airport zoning height restrictions, which provides a maximum allowable elevation above sea level resulting in a height limit for any proposed development on the lands. The maximum allowable elevation is 219.46 metres above sea level for the site.

Design Guidelines

The following design guidelines are relevant in the consideration of the proposal:

- Tall Building Design Guidelines.
- Growing Up: Planning for Children in New Vertical Communities Urban Design Guidelines.
- Pet Friendly Design Guidelines and Best Practices for New Multi-Unit Buildings.

Toronto Green Standard (TGS)

The TGS is a set of performance measures for green development. Applications for Zoning By-law Amendments, Draft Plans of Subdivision and Site Plan Control are required to meet and demonstrate compliance with Tier 1 of the Toronto Green Standard.

Site Plan Control

The proposed development would be subject to Site Plan Control once zoning permissions are in place. A Site Plan Control application has not been submitted.

COMMENTS

Provincial Policy Statement and Provincial Plans

Staff have reviewed the current proposal for consistency with the Provincial Policy Statement (2020) and conformity with the Growth Plan (2020), and find the proposal to be inconsistent with the Provincial Policy Statement (Policy 4.6, in particular) but in conformity with the Growth Plan.

Land Use

Permitted uses in *Apartment Neighbourhoods* include apartment buildings, parks, local institutions, cultural and recreational facilities, and small-scale retail, service and office uses that serve the needs of area residents. The Official Plan describes *Apartment Neighbourhoods* as stable areas of the city where significant growth is not anticipated on a city-wide basis; however, it recognizes that opportunities exist for additional apartments on underutilized sites.

While the residential apartment building use conforms to this designation, the proposed built form does not conform to all of the Development Criteria for *Apartment Neighbourhoods*. Compatible infill development may be permitted on a site within a developed *Apartment Neighbourhood* that improves the existing site conditions by being compatible with the scale, including massing, of existing apartment buildings on and adjacent to the site. Though the subject site is undeveloped it is surrounded by existing apartment buildings to the east and west. The proposed building features a base building that is 11 storeys tall, which is not characteristic of the existing or planned context and does not meet the Tall Building Design Guidelines.

Building Height

The site is subject to the Toronto/Lester B. Pearson International Airport Zoning Regulations, which permit a maximum elevation of 219.46 metres above sea level. The

proposed building height of 76 metres (including mechanical penthouse) equates to 221.05 metres above sea level, exceeding the maximum permitted height.

Massing, Tower Floorplates and Setbacks

The proposed development site can accommodate a tall building; however, the proposed 11-storey (34.5 metre) base building is too tall. The scale and height of base buildings should fit harmoniously within the existing context and respect the scale of adjacent streets and open spaces.

Policy 3.1.4.9 of the Official Plan identifies that the base portion of a tall building should respect and reinforce good street proportion and pedestrian scale. Policy 3.1.4.10 of the Official Plan further states that the tower portion of a tall building should reduce the physical and visual impacts of the tower onto the public realm, limit shadow impacts on the public realm and surrounding properties, and maximize access to sunlight and open views of the sky from the public realm. As per Tall Building Design Guidelines Section 3.1.1.b, in the absence of a consistent streetwall height context, the maximum height for a base building should be 80% of the adjacent street right-of-way width, up to a limit of 24 metres. The adjacent right-of-way width along The West Mall in this location is 26 metres. The proposed base building rises to 11 storeys (34.5 metres) to the east and north before transitioning to the tower portion of the building. This greatly exceeds the upper limit of the recommended base-building height and negatively impacts pedestrian scale, sunlight, and sky view access along part of the street and within the neighbouring property. A reduction in the scale of the base building would ensure that the building massing does not overwhelm the pedestrian environment, compound the impact of the tall building on shadows and sky view, and undermine the benefits of achieving a slender point tower form.

The proposed development also includes a tower floorplate that is relatively large, measuring at approximately 785 square metres above the 11th storey. Larger tower floorplates create increased shadow impact on the public realm and neighbouring properties. Official Plan policy 3.1.4.11.c) directs that the physical and visual impacts of towers should be reduced by limiting and shaping the size of tower floorplates above base buildings. Section 3.2.1 of the Tall Building Design Guidelines further states that tower floorplates should be organized, located, and articulated to minimize shadow impacts, minimize loss of sky views, and visually diminish the overall scale of the building mass.

As per Official Plan policy 3.1.4.11.d), appropriate separation distances should be provided from side and rear lot lines as well as other towers, in order to limit the physical and visual impacts of towers on the public realm. Further, the Tall Building Design Guidelines require a minimum 12.5-metre setback or greater in relation to property lines to ensure that a separation distance of at least 25 metres or greater between existing, planned or potential tall buildings is preserved. The submitted plans do not clearly identify the setback dimension from the tower to the east property line. However, it appears from the draft Zoning By-law Amendment provided with the

application that the proposed setback is 12.2 metres, only slightly below the recommended minimum.

Pedestrian-Level Wind Conditions

A Pedestrian Level Wind Study was submitted for the site and was reviewed. The study identified that wind conditions are not suitable for sitting for the majority of common amenity terraces at level 12 throughout all four seasons and grade level amenity areas during winter. Mitigation measures proposed by the wind study should be demonstrated through building articulation, massing, and in architectural and landscape features.

Transportation Impacts and Parking

A Transportation Impact Study (TIS) has been submitted for the site and was reviewed by Transportation Services and Transportation Planning staff.

A total of 225 vehicle parking spaces are proposed, including 197 resident spaces, 15 visitor spaces, and 13 spaces for the residents of the adjacent apartment building located at 70 Dixfield Drive. The proposed residential parking supply is acceptable to staff; however, there is a shortfall of visitor parking spaces which is unacceptable. Further, the applicant proposes a maximum of 0.9 residential occupant parking spaces per dwelling unit and a minimum of 0.02 residential visitor parking spaces per dwelling unit. This is unacceptable as sufficient rationale was not provided to support these modified rates through the TIS.

The applicant proposes the inclusion of one Type G loading space, which complies with the requirement under Zoning By-law 569-2013. However, Transportation Services staff note that the location of the loading space directly adjacent to the entrance to the underground parking ramp will create sightline difficulties for vehicles exiting the parking ramp. Transportation Services staff recommend either the relocation of the loading space to address this issue or the exploration of countermeasures to mitigate the risk of a potential collision.

Tier 1 of the TGS Version 4 requires demonstration of how the proposal will reduce single-occupancy auto vehicle trips through a variety of multimodal infrastructure strategies and Transportation Demand Management (TDM) measures. The TIS did not include any tangible and physically applicable TDM measures. Compliance with Electric Vehicle Infrastructure and Electric Bicycle Infrastructure was also not demonstrated. Transportation Services staff find the TIS to be unacceptable.

If the matter is appealed to the OLT, staff recommend the OLT withhold the issuance of any Orders that may approve the application until such time as the owner has addressed all comments from Transportation Services regarding the Transportation Impact Study to the satisfaction of the General Manager, Transportation Services.

Servicing

A Functional Servicing and Stormwater Management Report and associated plans have been submitted for the site and were reviewed by Engineering and Construction Services (ECS) staff. The findings of these reports are unsatisfactory. Amongst other issues, ECS has concerns with the sanitary and storm drainage conclusions.

In the event that the matter is appealed to the OLT, staff recommend that the OLT withhold the issuance of any Orders that may approve the application until such time as the owner has satisfactorily addressed all comments from Engineering and Construction Services and makes satisfactory arrangements for any upgrades to municipal infrastructure as identified in the accepted servicing report.

Housing Issues

A Section 37 Agreement was registered on the lands on July 20, 2018 in connection with By-law 1210-2018. This Section 37 Agreement includes several improvements to the existing residential apartment building located at 70 Dixfield Drive and is still binding on the subject site although it has been severed.

The Section 37 Agreement includes the requirement that the owner agrees to provide and maintain 141 existing rental units as rental housing for a period of 20 years.

The Section 37 Agreement also includes a number of improvements to the existing rental building to be completed prior to the occupancy of new buildings on the subject lands, improvements to be completed within one year of occupancy of new buildings on the subject lands, and the submission of a Letter of Credit for 120% of the value of all matters prior to first above-grade Building Permits for new buildings on the subject lands.

A Housing Issues Report has been submitted in support of the application and was reviewed by staff. The report speaks generally to the amenities and building improvements that must be provided and maintained for at 70 Dixfield Drive as per the Section 37 Agreement.

If the matter is appealed to the OLT, staff will consider seeking additional improvements to the existing building to meet Official Plan Policy 3.2.1.6. The Section 37 Agreement may be amended to include additional improvements in consideration of the significant increase in height and density being sought for the site.

Parkland

In accordance with Section 42 of the Planning Act, the owner is required to satisfy the parkland dedication requirement through cash-in-lieu. As per Toronto Municipal Code Chapter 415-29, the appraised value of the cash-in-lieu will be determined under the direction of the Executive Director, Corporate Real Estate Management. Additionally, the Toronto Municipal Code, Chapter 415-28, requires that the payment should be

made prior to the issuance of the first above-ground building permit for the land to be developed.

Tree Preservation

The application is subject to the provisions of the City of Toronto Municipal Code, Chapter 813 Articles II (Street Trees By-law) and III (Private Tree By-law). The application must comply with Tier 1: Ecology elements of the TGS, Version 4. As proposed, the application does not comply with TGS Version 4.0, Tier 1. Based on the site area of 6,191 square metres, and to achieve the TGS tree planting targets, Urban Forestry has calculated that the applicant will have to provide a total amount of 1,126 cubic metres of high-quality soil distributed across the site and the right-of-way. The application proposes 788 cubic metres, or 70% of the required soil volume. Urban Forestry also requires that the applicant provides an Application to Injure or Remove Trees to review tree removal prior to the passing of a Zoning By-law amendment.

If the matter is appealed to the OLT, staff recommend that the OLT withhold the issuance of any Orders that may approve the application until an Application to Injure or Remove Trees has been submitted by the owner and accepted by the General Manager of Parks, Forestry and Recreation.

Noise and Vibration Study

An Environmental Noise and Vibration Feasibility Study prepared by Valcoustics Canada Ltd., dated July 4, 2023, was submitted in support of this application. If the matter is appealed to the OLT, staff recommend that the OLT withhold the issuance of any Orders that may approve the application until a peer review of the study is completed with verification for appropriate mitigation measures on the lands to the satisfaction of the Interim Chief Planner and Executive Director, City Planning.

Community Services Assessment

The Official Plan establishes and recognizes that the provision of and investment in community services and facilities supports healthy, safe, liveable, and accessible communities. Community services and facilities are foundational to creating complete communities and include matters such as recreation, libraries, childcare, schools, public health, and human and cultural services. Providing for a full range of community services and facilities in areas that are inadequately serviced or experiencing growth is a shared responsibility.

Based on a review of the application and increased number of dwelling units proposed, a Community Services & Facilities Study (CS&F) is required. The CS&F study must include a demographic profile based on the neighbourhood profile of Eringate-Centennial West-Deane, a facilities inventory and analysis by sector (i.e., capacity of schools, community recreation centres, libraries), and a summary of development activity within the study area.

If the matter is appealed to the OLT, staff recommend that the OLT should withhold the issuance of any Orders that may approve the application until such time as a CS&F Study is provided to the satisfaction of the Interim Chief Planner and Executive Director, City Planning.

Toronto Green Standard (TGS)

The applicant is required to meet Tier 1 of the TGS. The applicant is encouraged to achieve Tier 2 or higher to advance the City's objectives for resilience and to achieve net-zero emissions by 2040 or sooner. Some performance measures for the Tier 1 development features would be secured through the Zoning By-law amendment.

CONCLUSION

Staff recommend that Council refuse the application to amend the Zoning By-law to permit the development of a 22-storey residential building containing 282 new dwelling units at 710 The West Mall for reasons outlined in this report.

CONTACT

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SIGNATURE

Kerri A. Voumvakis
Interim Chief Planner and Executive Director
City Planning

ATTACHMENTS

City of Toronto Data/Drawings

Attachment 1: Application Data Sheet
Attachment 2: Location Map
Attachment 3: Official Plan Land Use Map
Attachment 4: Existing Zoning By-law Map

Applicant Submitted Drawings

Attachment 5: Site Plan

Attachment 6a: North Elevation
Attachment 6b: East Elevation
Attachment 6c: South Elevation
Attachment 6d: West Elevation

Attachment 1: Application Data Sheet

APPLICATION DATA SHEET

Municipal Address: 710 The West Mall Date Received: July 27, 2023

Application Number: 23 180580 WET 02 OZ

Application Type: Rezoning

Project Description: Proposal to construct a new 22-storey residential apartment building containing 282 new dwelling units on the subject site.

Applicant	Agent	Architect	Owner
H&R Properties Limited c/o George Hofstedter 3625 Dufferin Street Toronto, ON M3K 1N4	Goldberg Group c/o Michael Goldberg 2098 Avenue Road Toronto, ON M5M 4A8	Kirkor Architects and Planners 20 De Boers Drive, Suite 400 Toronto, ON M3J 0H1	H&R Properties Limited 3625 Dufferin Street Toronto, ON M3K 1N4

EXISTING PLANNING CONTROLS

Official Plan Designation: Apartment Neighbourhoods Site Specific Provision: N/A

Zoning: RA(x122) Heritage Designation: N/A

Height Limit (m): 24.0 Site Plan Control Area: Yes

PROJECT INFORMATION

Site Area (sq m): 6,191 Frontage (m): 70 Depth (m): 95

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			1,309	1,309
Residential GFA (sq m):			21,641	21,641
Non-Residential GFA (sq m):				
Total GFA (sq m):			21,641	21,641
Height - Storeys:			22	22
Height - Metres:			76	76

Lot Coverage Ratio (%): 21.14 Floor Space Index: 3.5

Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	21,641	
Retail GFA:		
Office GFA:		
Industrial GFA:		
Institutional/Other GFA:		8,775

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:				
Freehold:				
Condominium:			282	282
Other:				
Total Units:			282	282

Total Residential Units by Size

	Rooms	Studio	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:			147	105	30
Total Units:			147	105	30

Parking and Loading

Parking Spaces:	225	Bicycle Parking Spaces:	215	Loading Docks:	1
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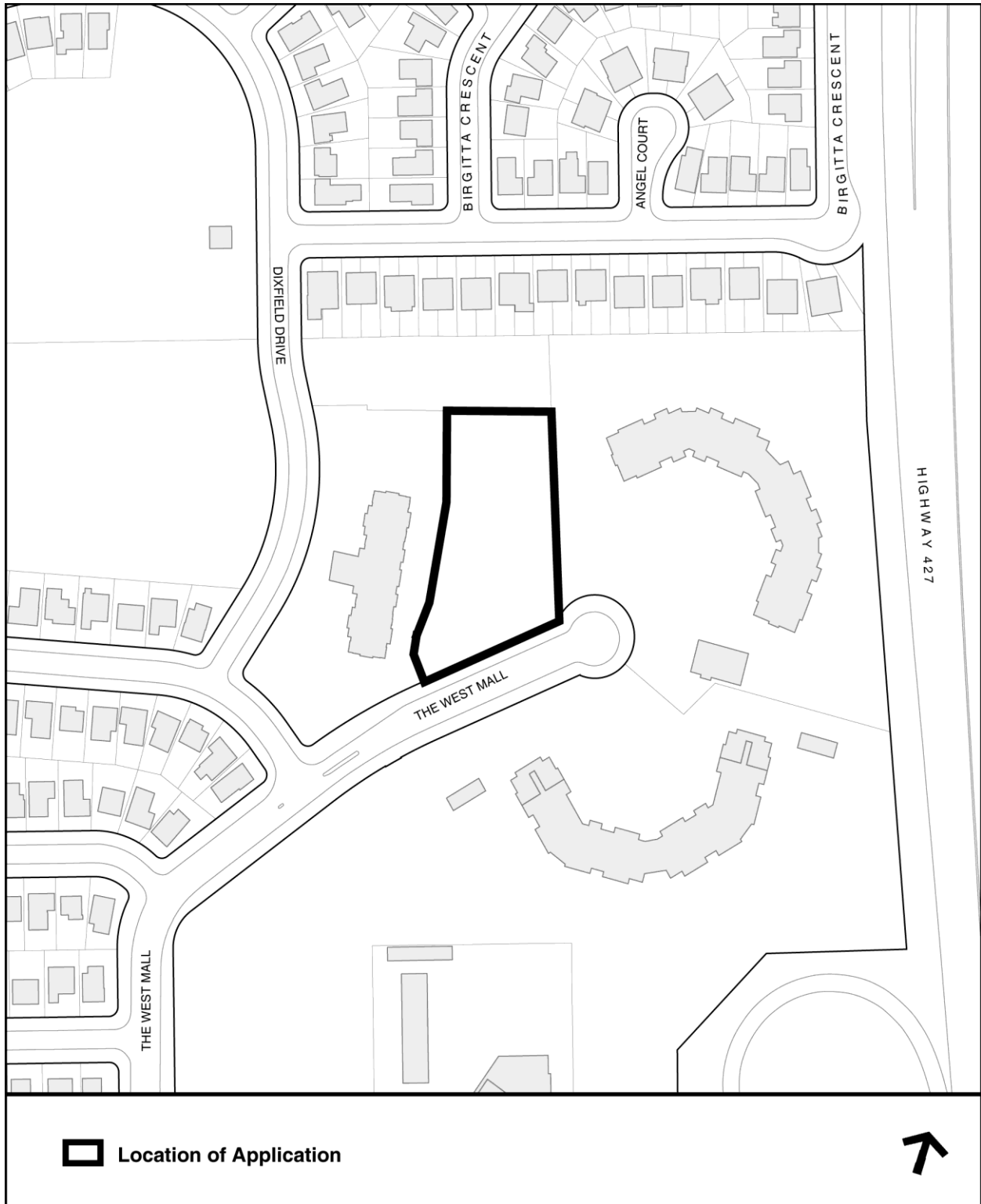
CONTACT:

Nicholas Deibler, Planner

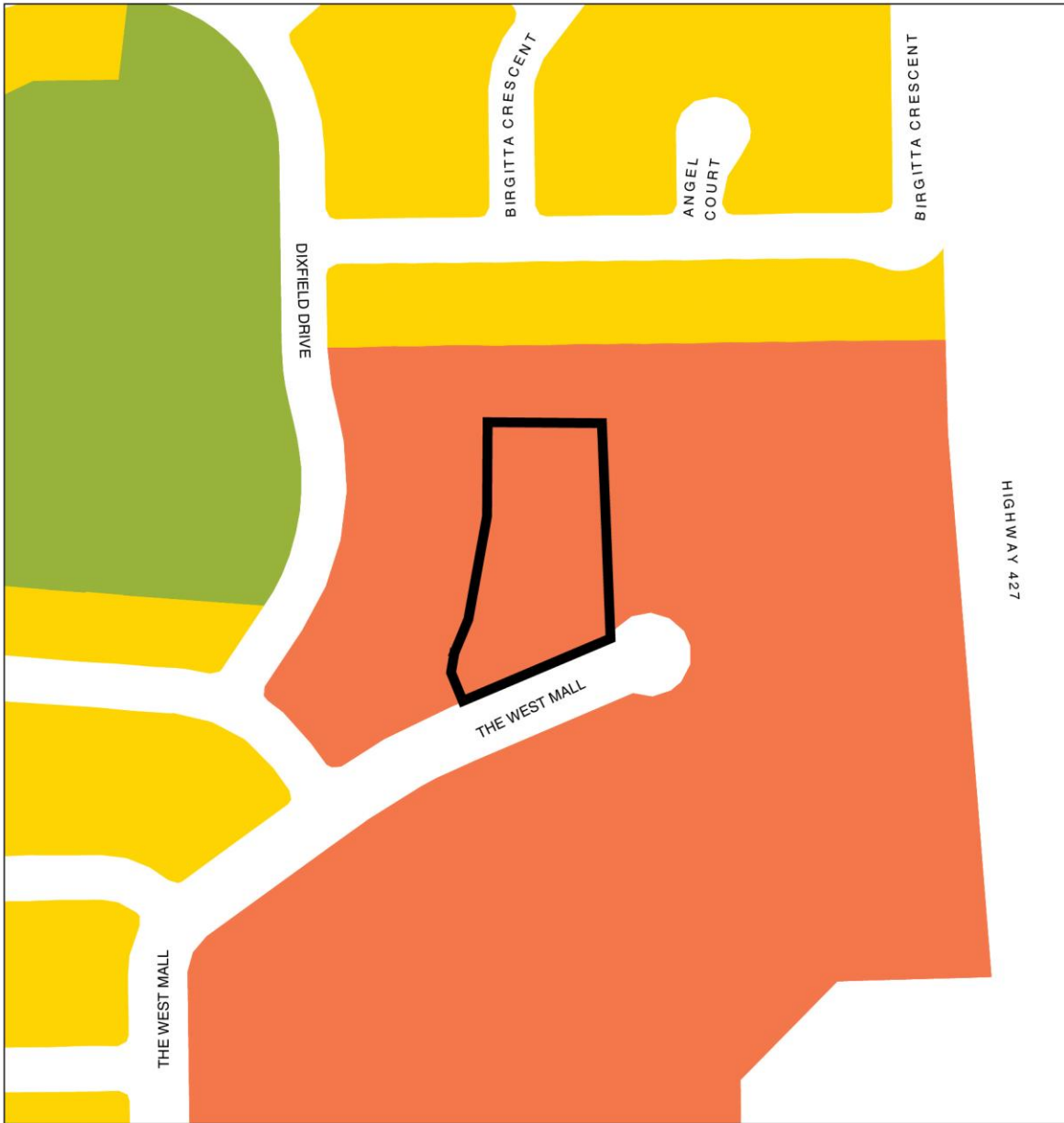
416-394-2946

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Attachment 2: Location Map



Attachment 3: Official Plan Land Use Map



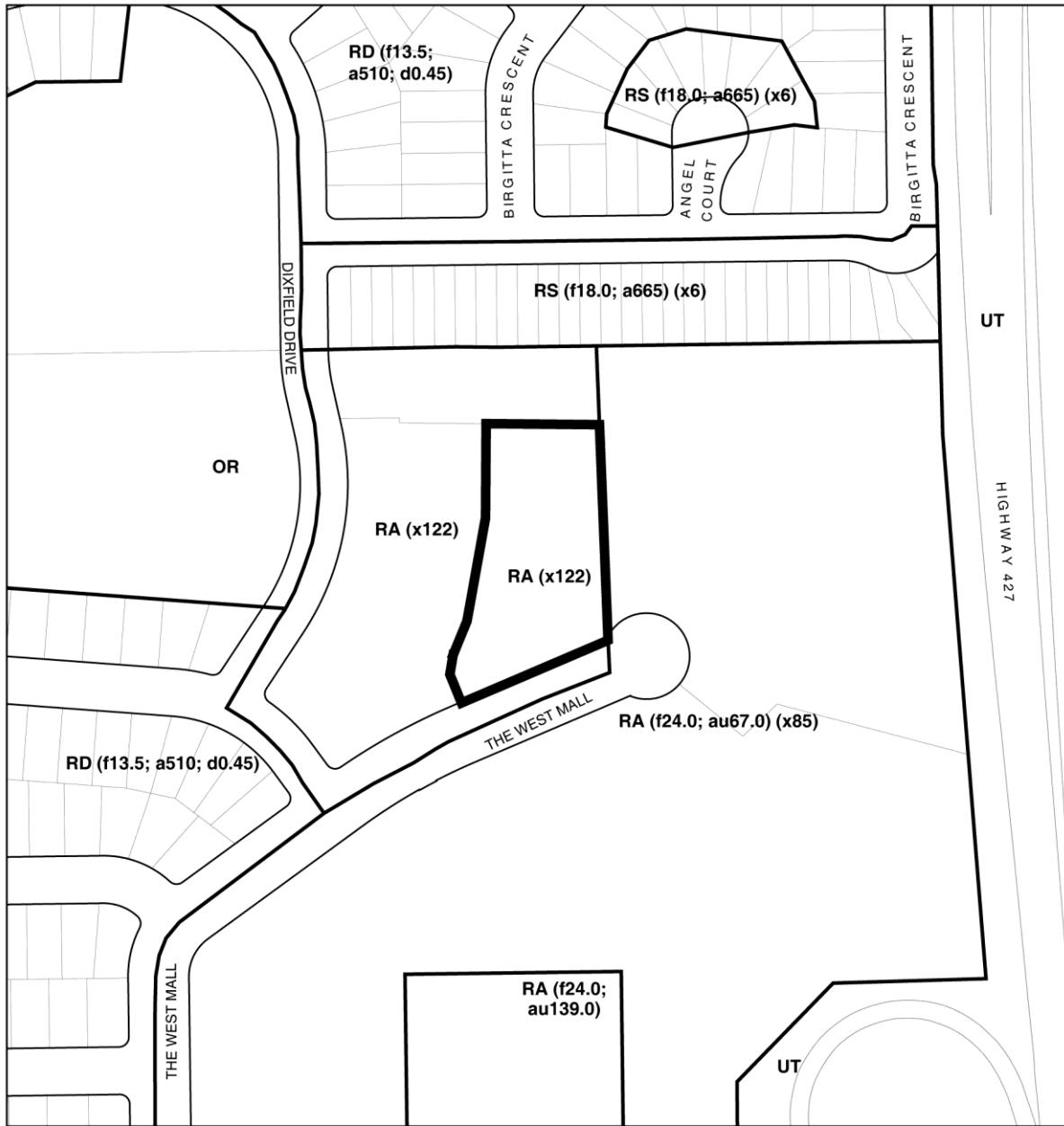
Official Plan Land Use Map #14

710 The West Mall
File # 23 180580 WET 02 0Z

- Location of Application
- Neighbourhoods
- Apartment Neighbourhoods
- Parks

Not to Scale
Extracted: 07/31/2023

Attachment 4: Existing Zoning By-law Map




Zoning By-law 569-2013

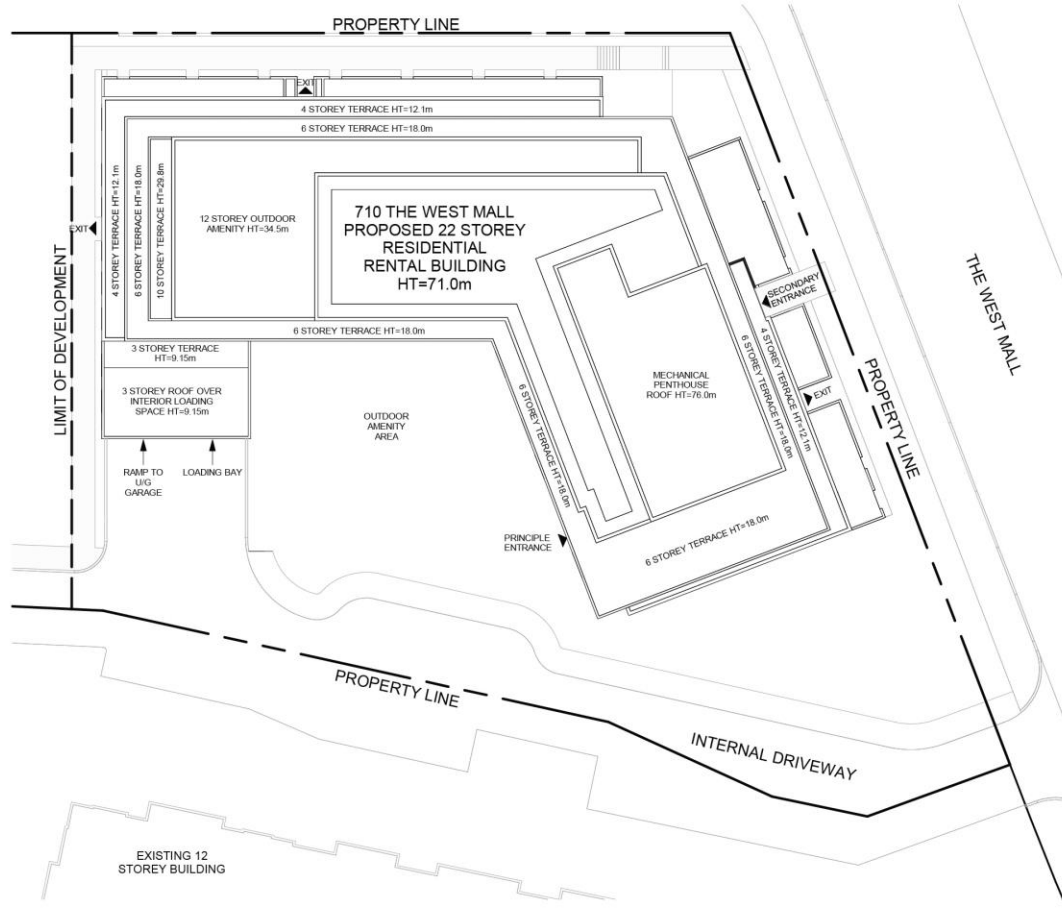
710 The West Mall

File # 23 180580 WET 02 OZ

-  Location of Application
- RD** Residential Detached
- RS** Residential Semi-Detached
- RA** Residential Apartment
- OR** Open Space Recreation
- UT** Utility and Transportation


 Not to Scale
 Extracted: 07/31/2023

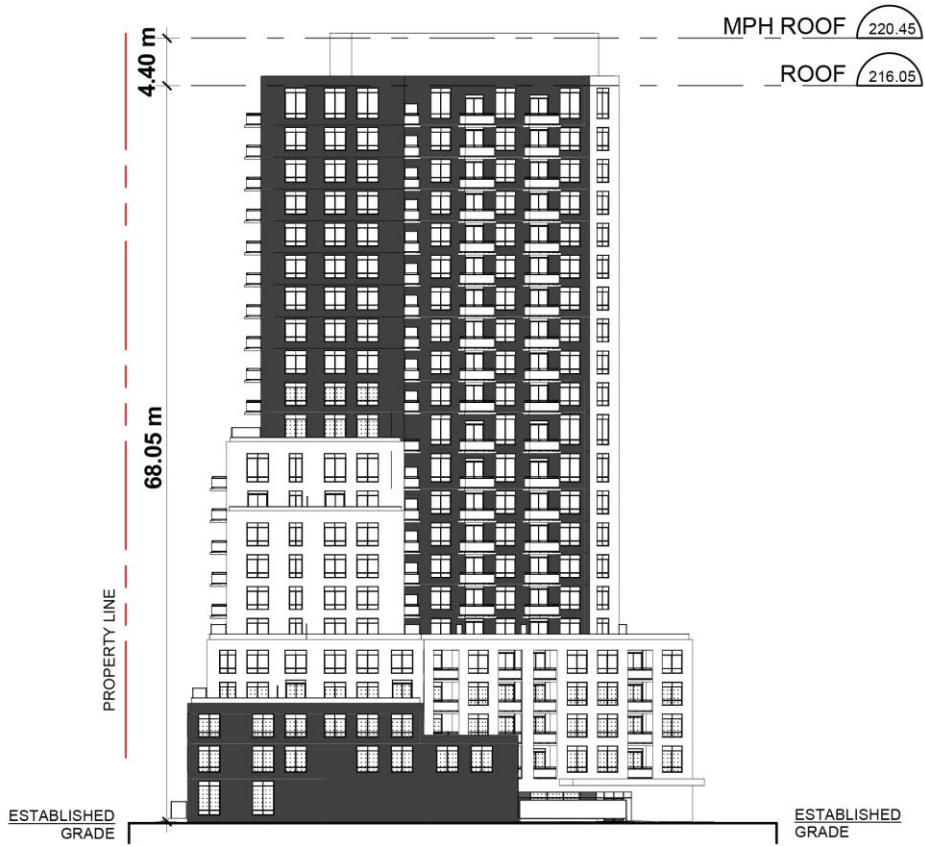
Attachment 5: Site Plan



Site Plan

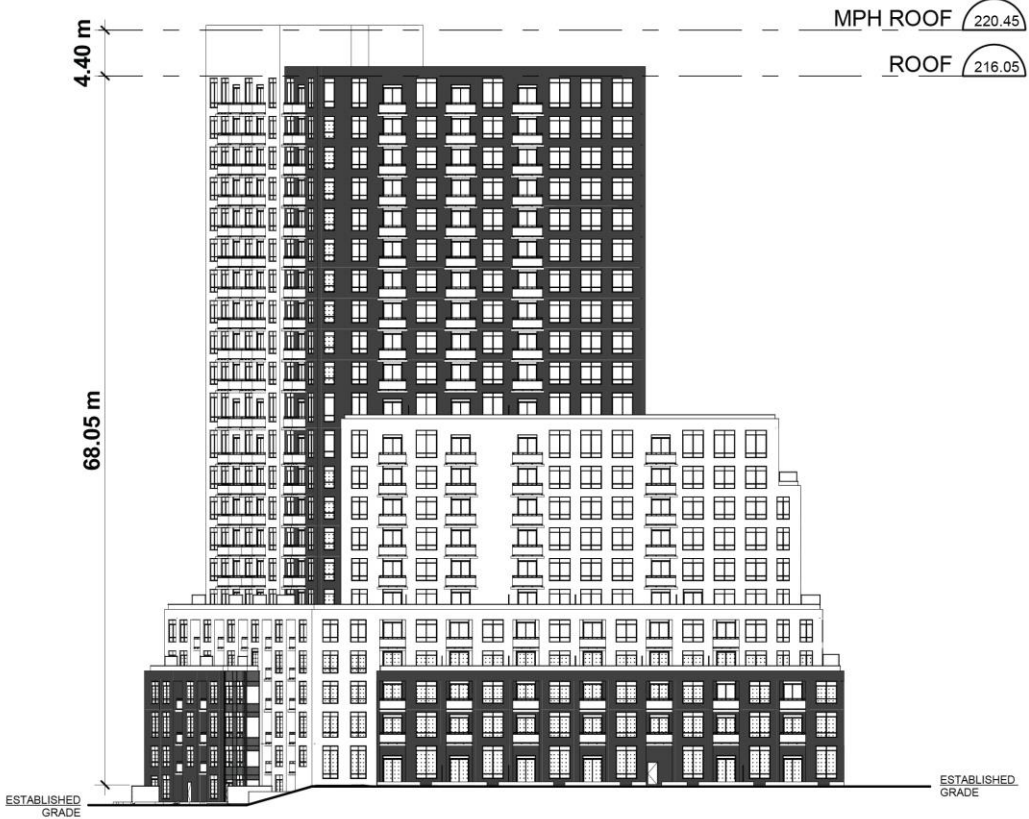


Attachment 6a: North Elevation



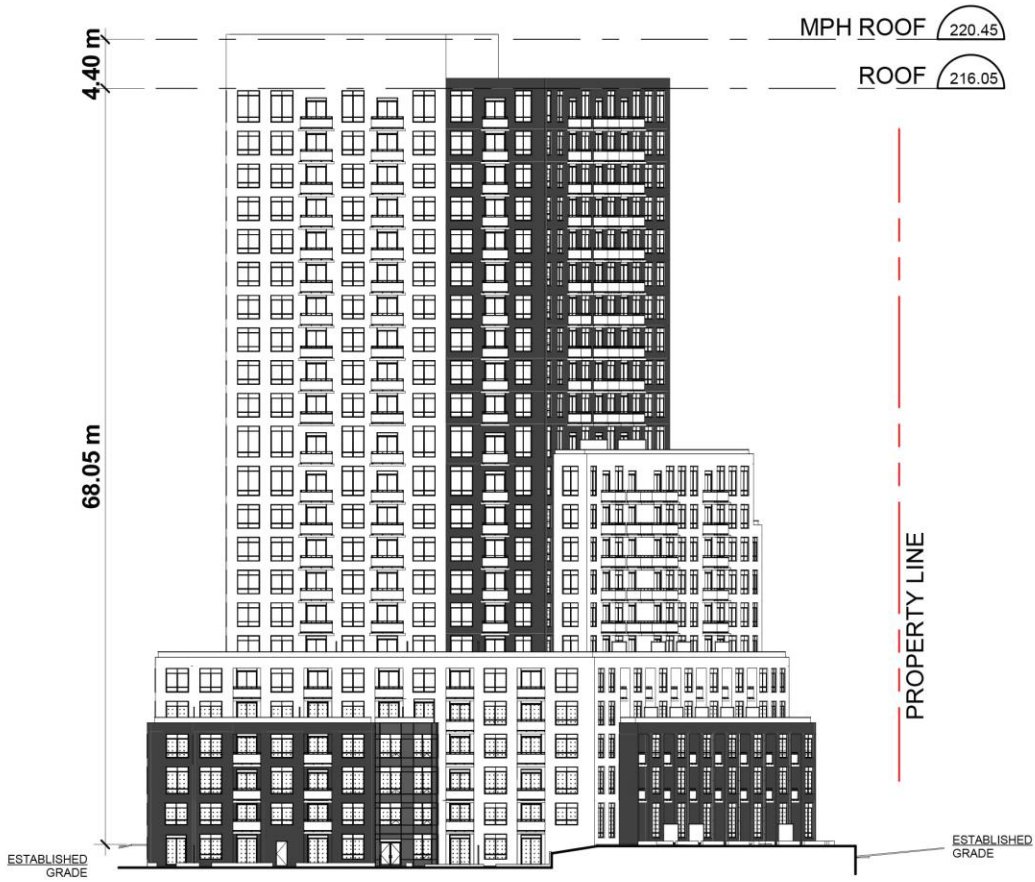
North Elevation

Attachment 6b: East Elevation



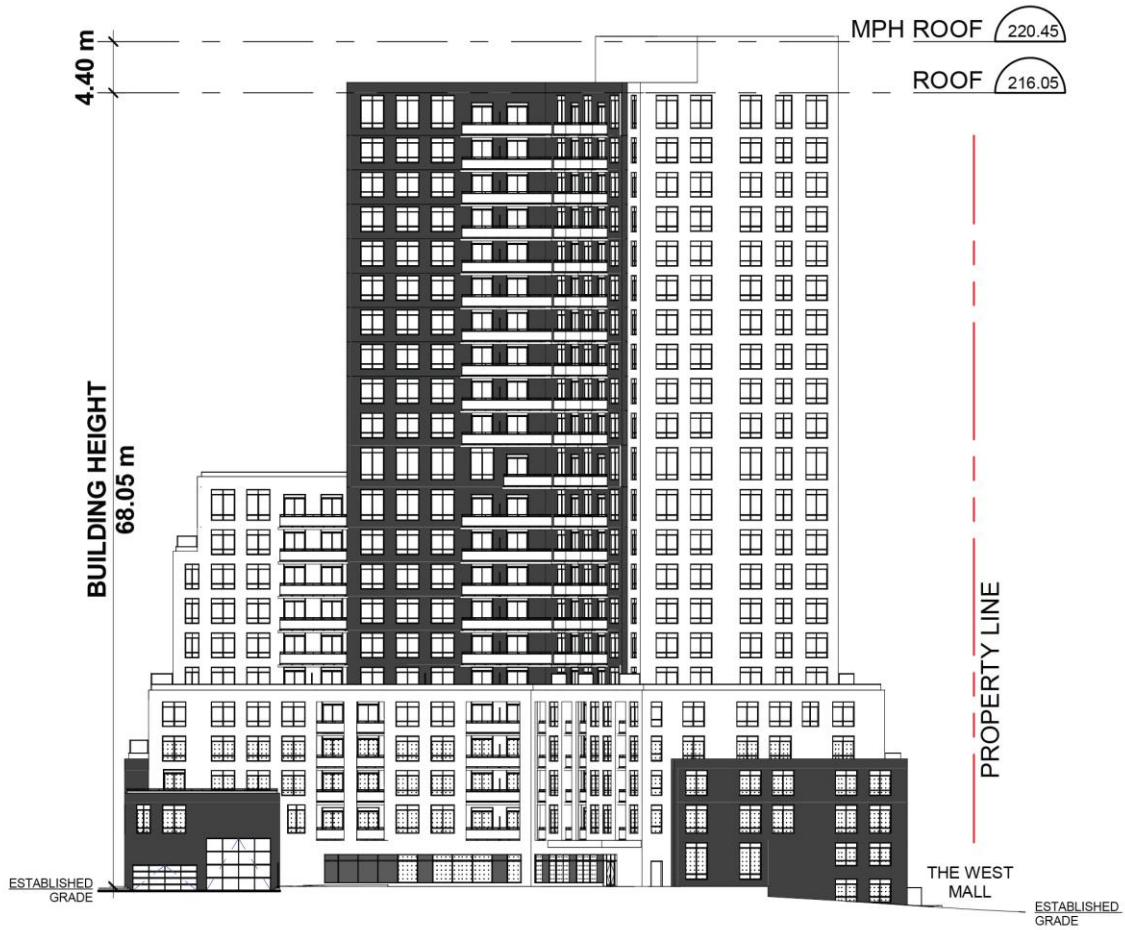
East Elevation

Attachment 6c: South Elevation



South Elevation

Attachment 6d: West Elevation



West Elevation