

70 PLUNKETT ROAD
UNIT 6
TORONTO, ONTARIO
M9L 2J5

T: 416.436.8355

AMBERSTEWARTLAW.COM

Please refer to: amber@amberstewartlaw.com

February 3, 2023

Erika Ivanic
Municipal Services Office – Central Ontario
16th Floor
777 Bay Street
Toronto, ON
M7A 2J3

Dear Ms. Ivanic:

Re: ERO No. 019-5936 - Ministry Reference No. 20-OP-221476

**By-law 844-2022 - City of Toronto Official Plan Amendment No. 540 re
Danforth GO Protected Major Transit Station Area (“PMTSA”) – SASP 623**

Submission from Greenstreet Flats re 2233 - 2235 Gerrard Street East

We are submitting this correspondence on behalf of Greenstreet Flats (“Client or Owner”) with respect to the redevelopment of the lands at 2233 - 2235 Gerrard Street East, Toronto (the “Subject Site”).

The Subject Site

The Subject Site comprised two low-rise residential lots fronting Gerrard Street East approximately 500-600 metres south of Danforth Avenue (See *Attachment 2*). The site has 17.16 metres of frontage on Gerrard Street East and a depth of 45.79 metres. The lot area is approximately 785.76 square metres. Two detached residential buildings are located on the subject site.

The Subject Site is designated as “Neighbourhoods” as shown on Map 21 – Land Use in the City of Toronto Official Plan. The site fronts Gerrard Street East, which is a Major Street with a planned right-of-way width of 20 metres as shown on Official Plan Map 3 - Right-of-Way Widths Associated with Existing Major Streets. The Subject Site is zoned R (d1.0) x815 by Toronto City-wide Zoning By-law 569-2013. The maximum permitted density is 1.0 x the lot area.

The Subject Site is located south of the Danforth GO Protected Major Transit Station Area (the “PMTSA”), as delineated by the City of Toronto in Official Plan Amendment No. 540, Site and Area Specific Policy 623, Schedule 10 (See *Attachment 1*).

In 2022, the Subject Site was granted approval by the Toronto Committee of Adjustment for the construction of a four storey multi-unit residential rental building.

In limiting the application to a height of four storeys, the Owner was constrained to the land use permissions for Neighbourhoods in policy 4.1 of the Official Plan. The City has historically maintained that an Official Plan Amendment is necessary for any buildings higher than four storeys within Neighbourhoods, even where located on Major Streets.

The Proposed Development

Our Client does not wish to proceed with a 4- storey development and instead, based on expert advice from a land use planner, an architect, and other professionals, believes that higher order intensification of the site would be appropriate. The Owner has developed massing schemes for a proposal to redevelop the Subject Site with a 6-storey (plus mechanical penthouse) residential rental apartment building comprising 38 units (See Attachment 2).

The proposed building would have a floor space index of 4.3 times the area of the site. The proposed development would include a mix of units, including studio, one, two- and three-bedroom units. Zero parking spaces would be proposed in the development, given its proximity to Danforth GO Station and Main Street TTC Station, active transportation options including the Danforth Cycle Tracks and Main Street Bike lanes, and a variety of commercial uses and park spaces in the vicinity. The Subject Site is within a four-minute walk of the Danforth Go station, well within the 500-800 m radius of an MTSA as defined in the Growth Plan.

Rationale and Request

The proposed 6-storey residential building has been designed to fit appropriately within a Major Street Neighbourhood context, limiting impacts on adjacent properties. The massing concept was developed utilizing the City's Mid-Rise Building Performance Standards ("Mid-Rise Guidelines"). Although this concept was developed specifically for the Subject Site, we believe it demonstrates how mid-rise development could occur on Major Streets within the Neighbourhoods designation in the PMTSA. Unlike the City-adopted PMTSA policies, the Owner's proposal would advance the objective to support a minimum density of 250 persons and jobs per hectare.

The minimum FSI approved by the City of Toronto on the Subject Site in OPA 540 is 0.5 FSI while the maximum FSI permitted by By-law 569-2013 on the site remains 1.0. In effect, the City of Toronto has not created any new opportunities for increased density in the substantial portion of lands within the Danforth GO PMTSA that are designated as Neighbourhoods, beyond those permissions which existed prior to the enactment of the current Growth Plan. This appears to be inconsistent with the policy objectives of the Growth Plan for development in MTSAs and PMTSAs to facilitate the creation of transit-supportive density. Development in the City's Neighbourhoods is currently very restricted. The Neighbourhoods

development criteria policies require new development to respect and reinforce the existing physical character of the neighbourhood, with specific reference to certain “prevailing” characteristics, including height, mass, scale, density, patterns of rear and side yard setbacks, and building type. Although the policies are written in a way that permits different and more intense development to occur on Major Streets, the City routinely interprets these policies to require new development – even on Major Streets – to replicate the prevailing physical characteristics in a neighbourhood. Where existing development reflects historical building patterns of single detached dwellings or other low rise building types, which is often the case on Major Streets, the City interprets the Official Plan as precluding opportunities for anything other than what exists.

Policy (c) of SASP 623 provides that the authorized uses of land are as set out in the associated land use permissions in Chapter 4 of the Official Plan. In our opinion, if the PMTSA does not include express relief from the current policy restrictions in Neighbourhood designated areas, a minimum density of 0.5 FSI will do nothing to create opportunities for new transit-supportive densities within this PMTSA.

Further, should OPA 540 be approved by the Minister in the form adopted by the City, the low-density permissions in these areas will be effectively frozen as-is due to the provisions of the Planning Act respecting future amendments to PMTSA policies.

Should OPA 540 be approved by the Minister in the form adopted by the City, the Owner is concerned that the City will rely on subsection 22(2.1.3) of the Planning Act, R.S.O. 1990, c. P.13, to effectively confine development within the lands designated as Neighbourhoods strictly in accordance with the in-force Neighbourhood policies which are insufficient to support the level of transit supportive density necessary to achieve the Province’s growth targets. Subsection 22(2.1.3) of the Planning Act states:

22. (2.1.3) If a protected major transit station area is identified in an official plan in accordance with subsection 16 (15) or (16), no person or public body shall request an amendment in respect of any of the policies described in those subsections in respect of that area, including, for greater certainty, policies described in subclauses 16 (16) (b) (i) and (ii) that are contained in the official plan of a lower-tier municipality. 2017, c. 23, Sched. 3, s. 8 (1).

Subsection 22(2.1.3) prevents the filing of an Official Plan Amendment without a specific Council resolution to change the use of land, effectively limiting the entirety of lands designated as Neighbourhoods within the PMTSA to a maximum height of 4-storeys, even in instances, such as on the Subject Site, where a building which is taller than 4-storeys can be designed to fit appropriately in context and increase the provision and mix of housing in the area.



In the Owner's view, the approved 4-storey multi-unit building permitted on the site reflects a dated planning policy regime and constitutes underdevelopment of the site. By contrast, the proposed 6-storey development makes better use of the site and area infrastructure and better conforms to the contemporary objectives of the Growth Plan and Provincial Policy Statement. The 6-storey proposal will contribute to the Growth Plan of the Greater Golden Horseshoe's objective of encouraging transit-supportive density in proximity to higher order transit stations.

Our Client respectfully requests that the Province revise the Danforth GO Station PMTSA, SASP 623 to permit higher order development to occur on Major Streets within the PMTSA. This could be achieved through a modification to policy (c), to add the following or similar language:

Notwithstanding all land use and development criteria policies in Chapter 4.1 of the Official Plan, buildings up to 6 storeys in height plus mechanical penthouse are permitted on Major Streets within the Neighbourhoods designation.

In the alternative, we would respectfully request a site-specific modification to increase the minimum density to 4.3 FSI and permit the construction of a 6-storey residential building on the Subject Site. These permissions would assist the Client in constructing a 6-storey apartment building on the Subject Site. This amendment can be made by adding the following wording to Schedule 21 of OPA 540 immediately following subsection d)

“ e) 2233 - 2235 Gerrard Street East

Despite c) and d), above, on the lands known municipally as 2233 - 2235 Gerrard Street East, a residential building with a minimum floor space index of 4.3 and a height of 6-storeys, plus a mechanical penthouse, is permitted.”

In addition to the requested increase to minimum density on the Subject Site, our Client also comments that the Province should consider increasing the minimum density on other properties fronting Major Streets within the Neighbourhoods designation in the Danforth GO Station PMTSA to ensure the area permits sufficient redevelopment to meet or exceed the prescribed density target of 250 people and jobs per hectare. In the Owner's view, the planning policies respecting lands designated as Neighbourhoods in the Danforth GO PMTSA approved by the City of Toronto will not achieve the Province's objective to accommodate a minimum of 250 persons and jobs per hectare within this PMTSA.

Thank you for your consideration of our request. Please feel free to contact us should you wish to discuss the requested amendment and/or our concerns with the City of Toronto - approved Danforth GO PMTSA Policies.



Best regards,

Amber Stewart

Attachment 1: OPA No. 540 Excerpt - Site and Area Specific Policy 623,
Schedule 10

Attachment 2: Context Plan and Massing Scheme

Schedule "10" to Amendment 540

SASP 623. Protected Major Transit Station Area – Danforth GO Station

a) Protected Major Transit Station Area Delineation

The area surrounding and including the existing Danforth GO Station is a Protected Major Transit Station Area shown as the Danforth GO Protection Major Transit Station Area on Map 1.

b) Residents and Jobs per Hectare

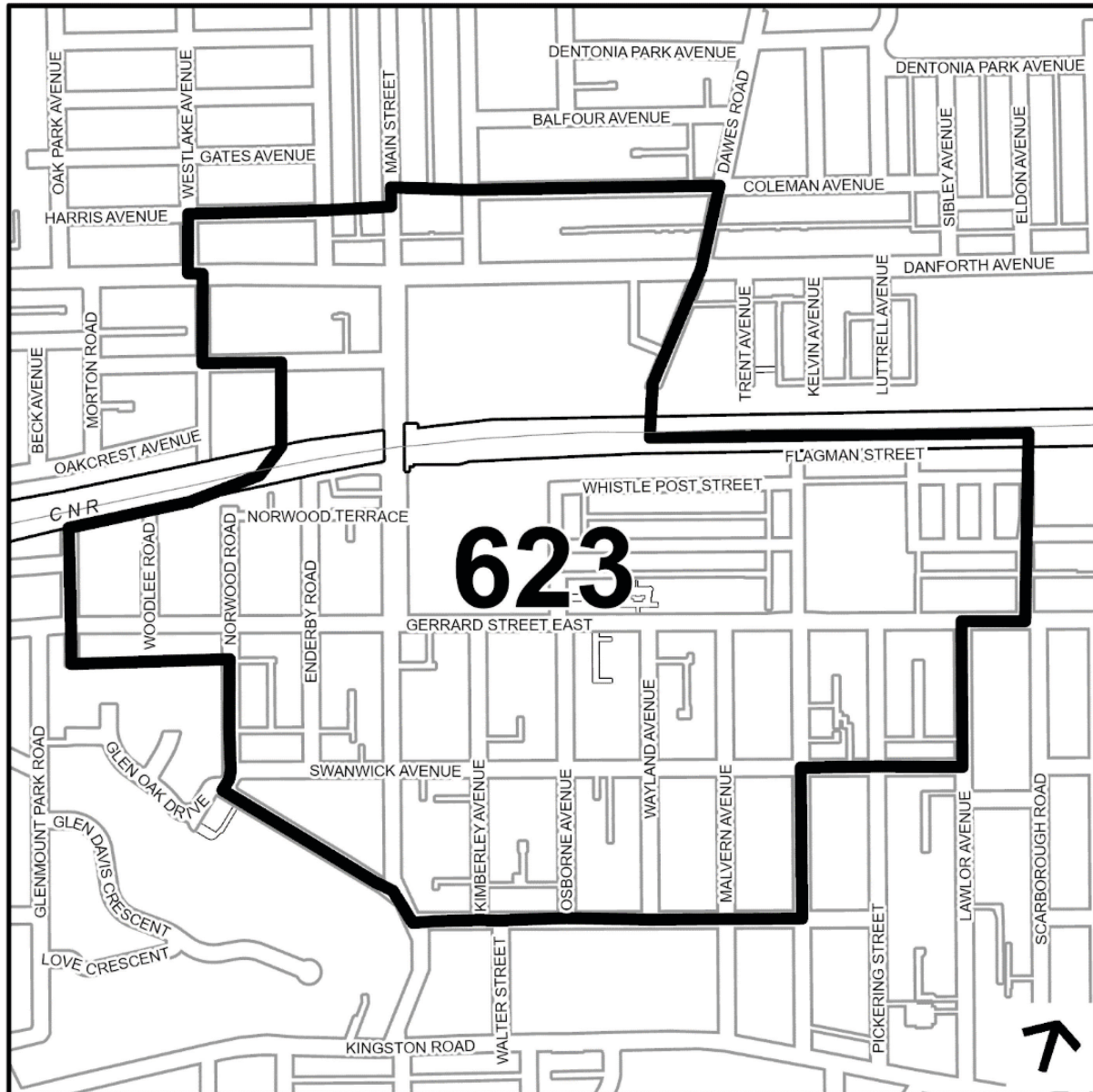
Existing and permitted development within the Protected Major Transit Station Area – Danforth GO Station is planned for a minimum population and employment target of 250 residents and jobs combined per hectare.

c) Authorized Uses of Land

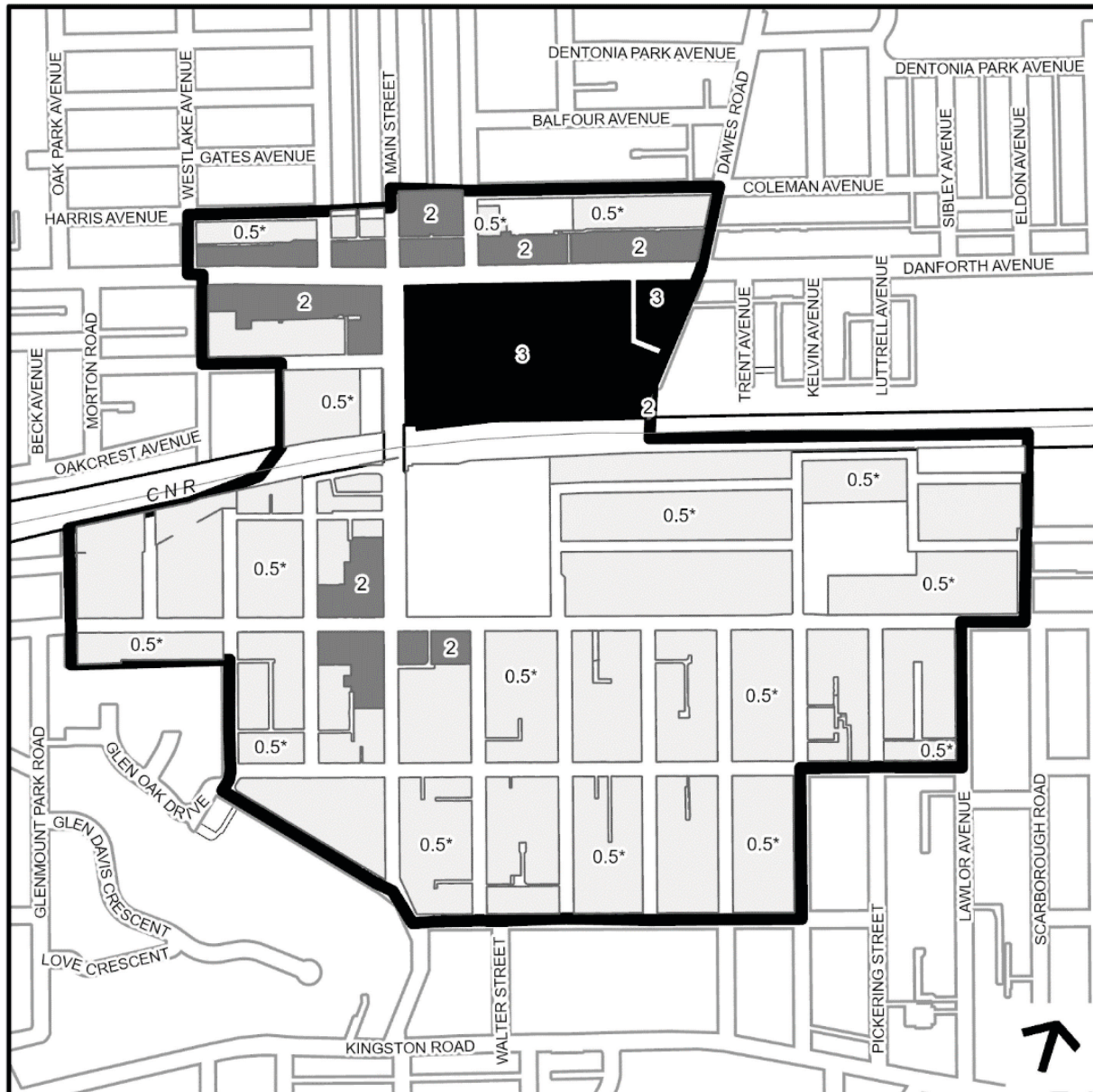
The authorized uses of land are as identified by the land use designations on Maps 20 and 21 and associated land use permissions in Chapter 4 of the Official Plan, applicable Secondary Plans and Site and Area Specific policies.

d) Minimum Densities









Minimum density requirements are shown on Map 2, represented in Floor Space Index and/or minimum units per site.

Map 1 – Danforth GO Protected Major Transit Station Area

Map 2 – Minimum Densities, Danforth GO Protected Major Transit Station Area

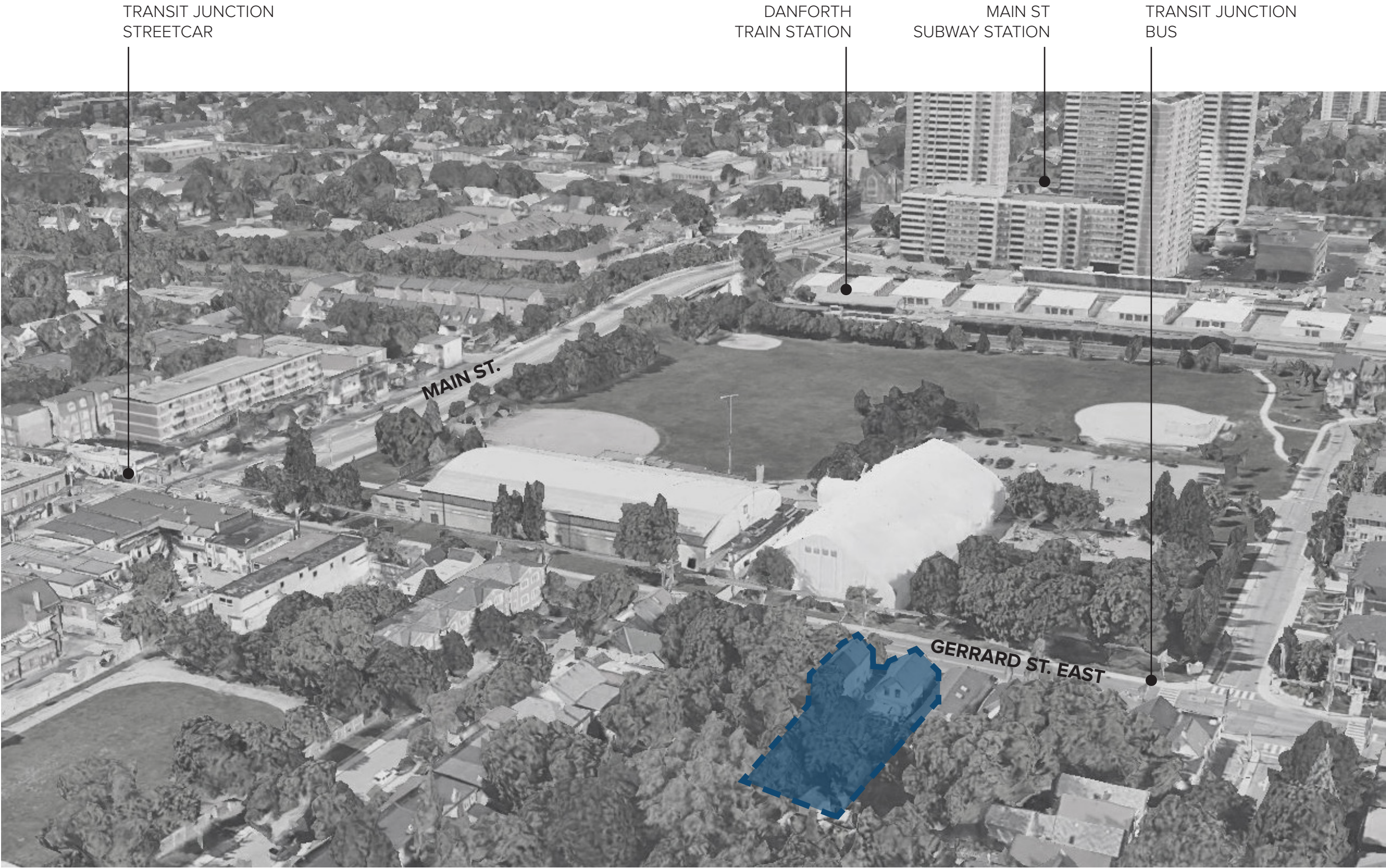


Minimum Density

 0 FSI	 1.0 FSI	 2.5 FSI
 0.5 FSI or 3 units*	 1.5 FSI	 3.0 FSI
 0.9 FSI or 3 units*	 2.0 FSI	

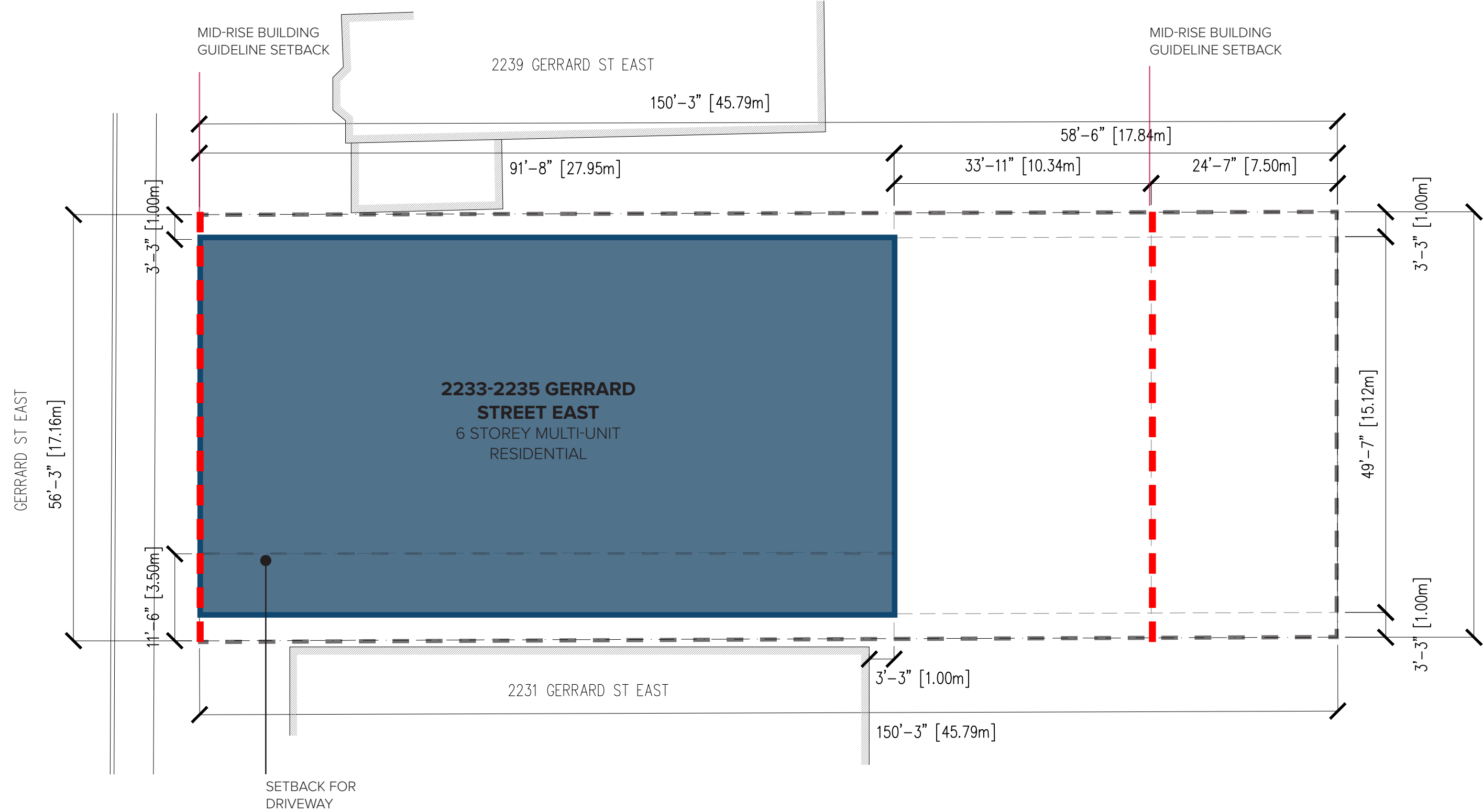
*Option to provide a minimum of 3 units instead of minimum FSI only applies to lands designated Neighbourhoods in the Official Plan.

AERIAL PERSPECTIVE

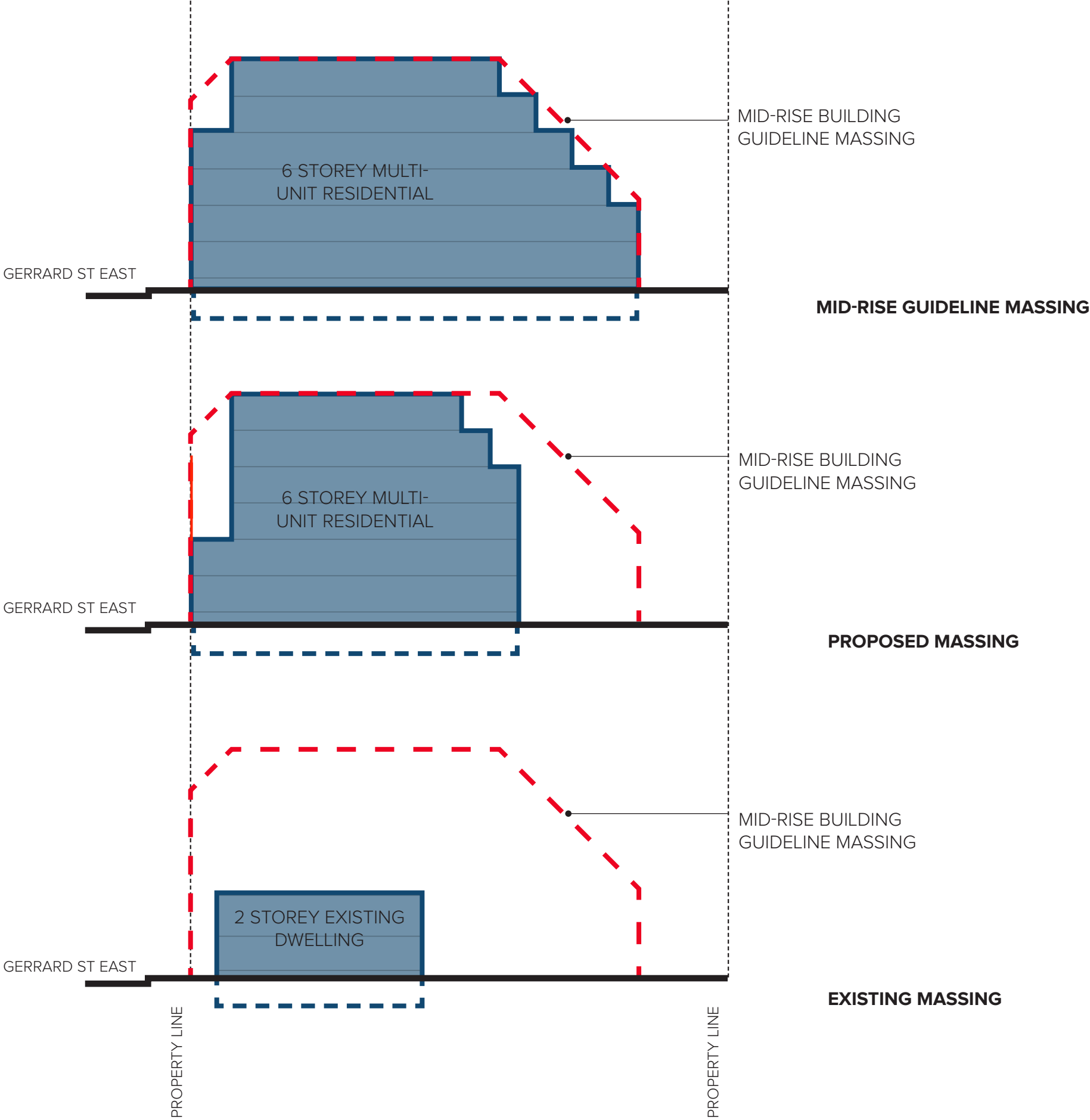


AERIAL VIEW LOOKING NORTH UP MAIN ST

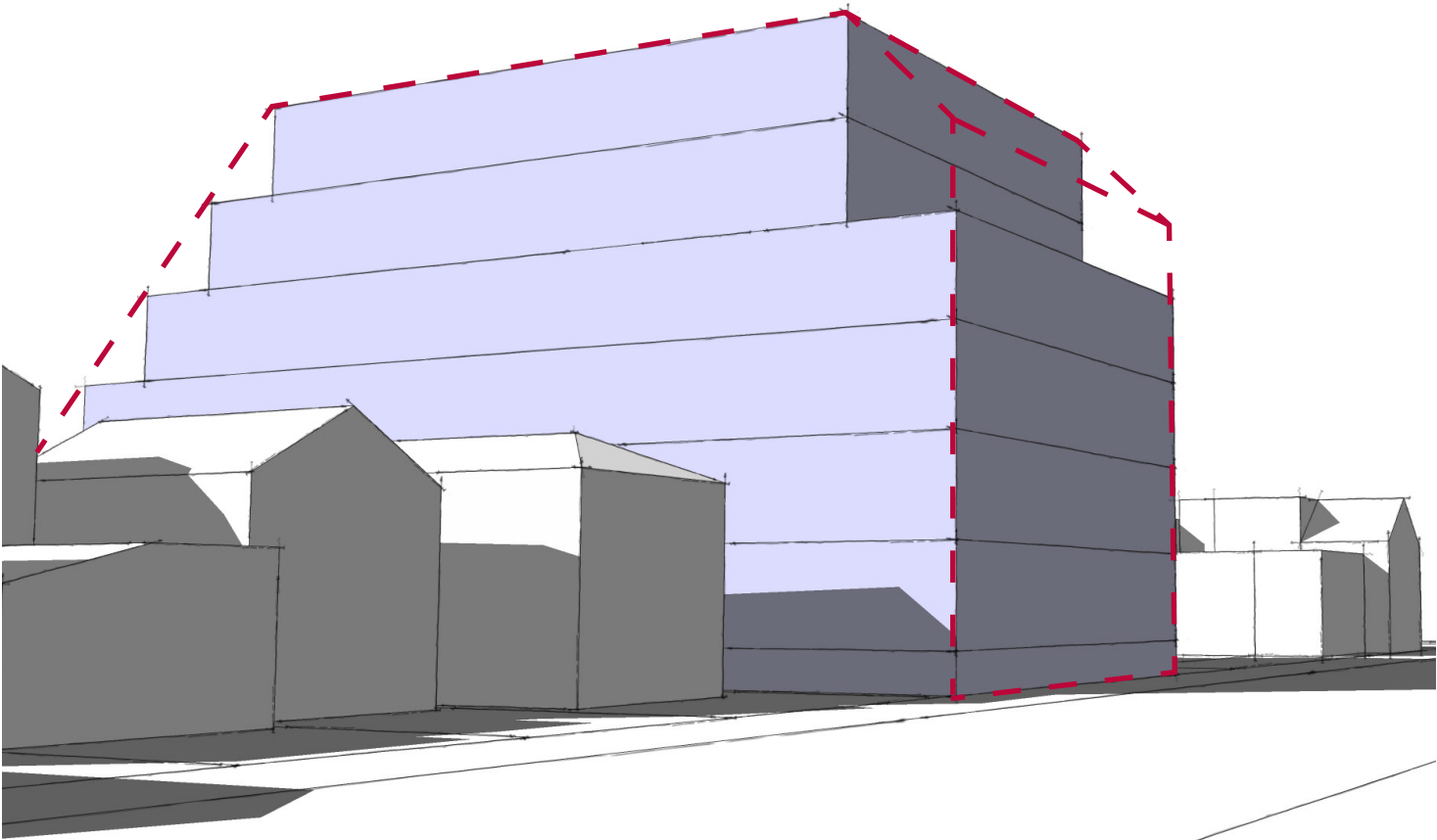
SITE PLAN



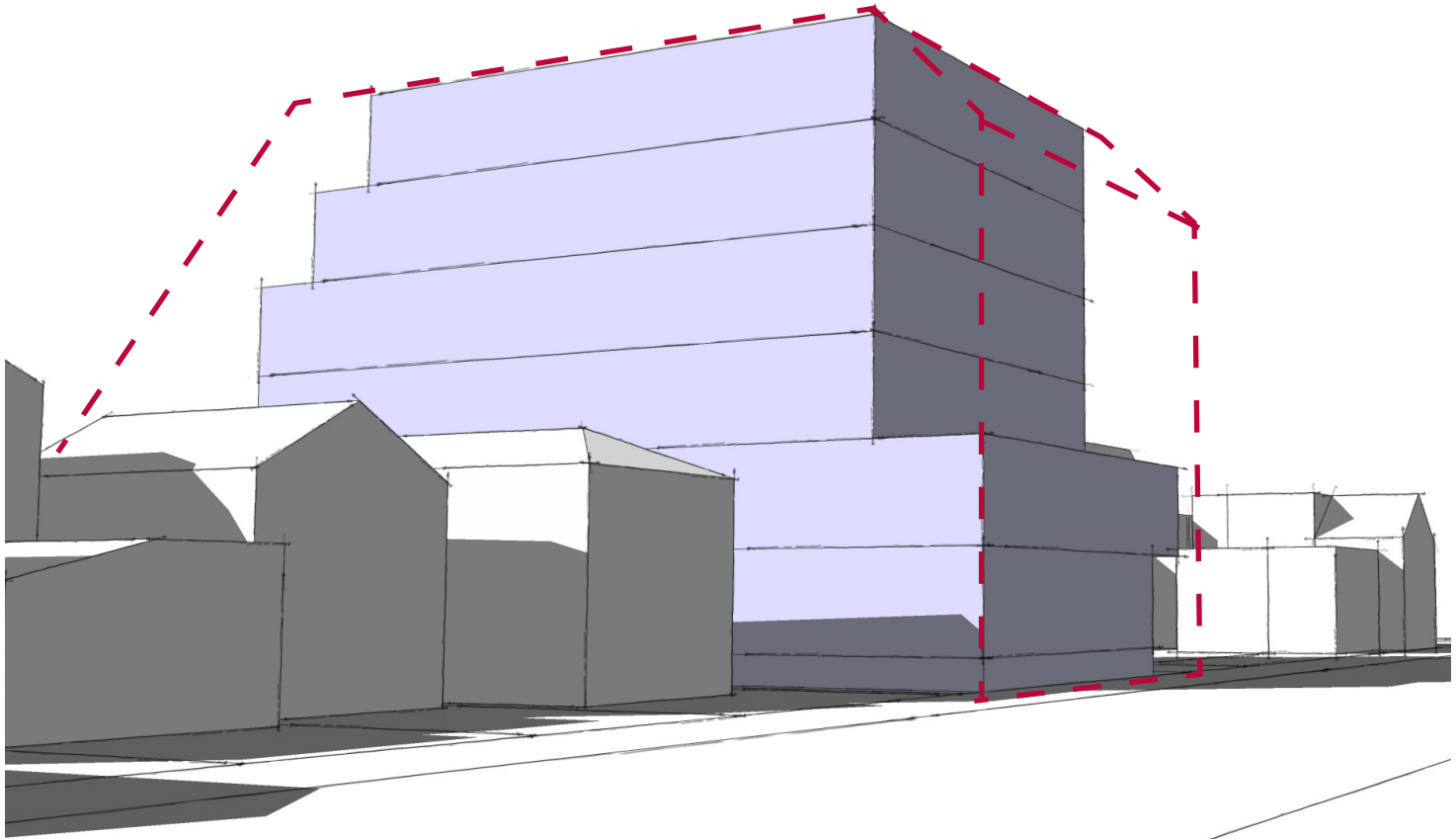
SECTION DIAGRAM



PROPOSED MASSING

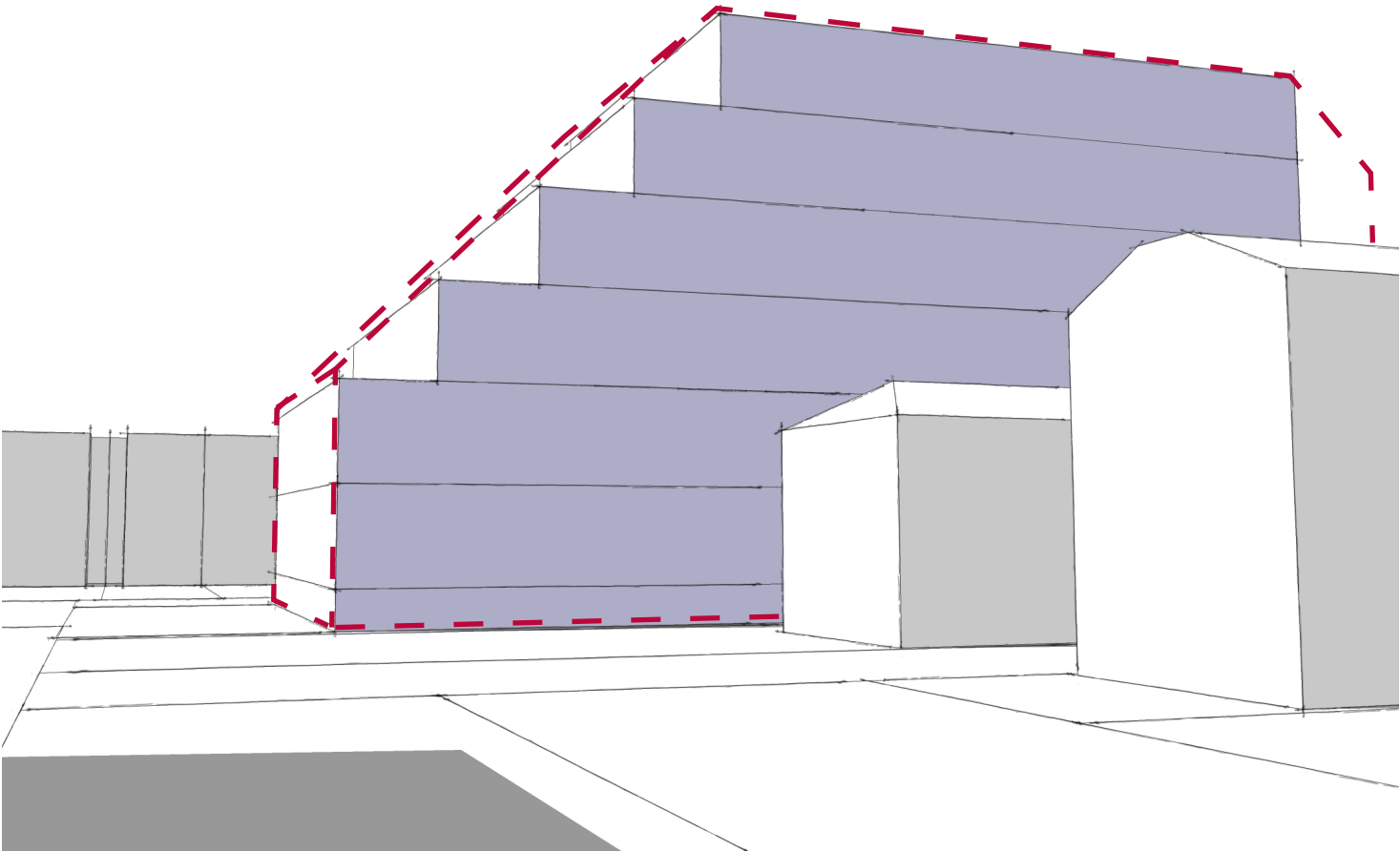


MID-RISE GUIDELINES PERMITTED MASSING

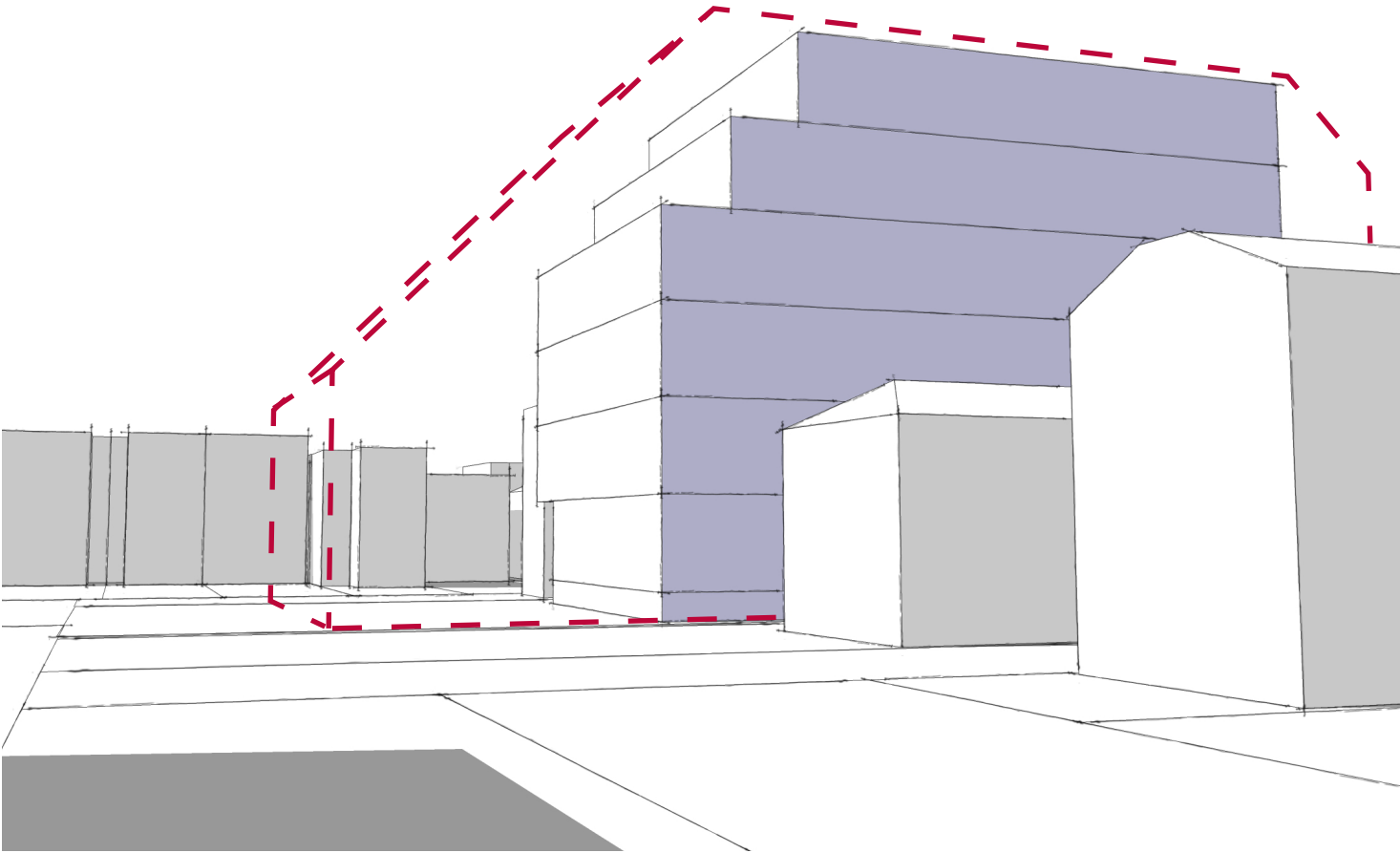


PROPOSED MASSING

PROPOSED MASSING

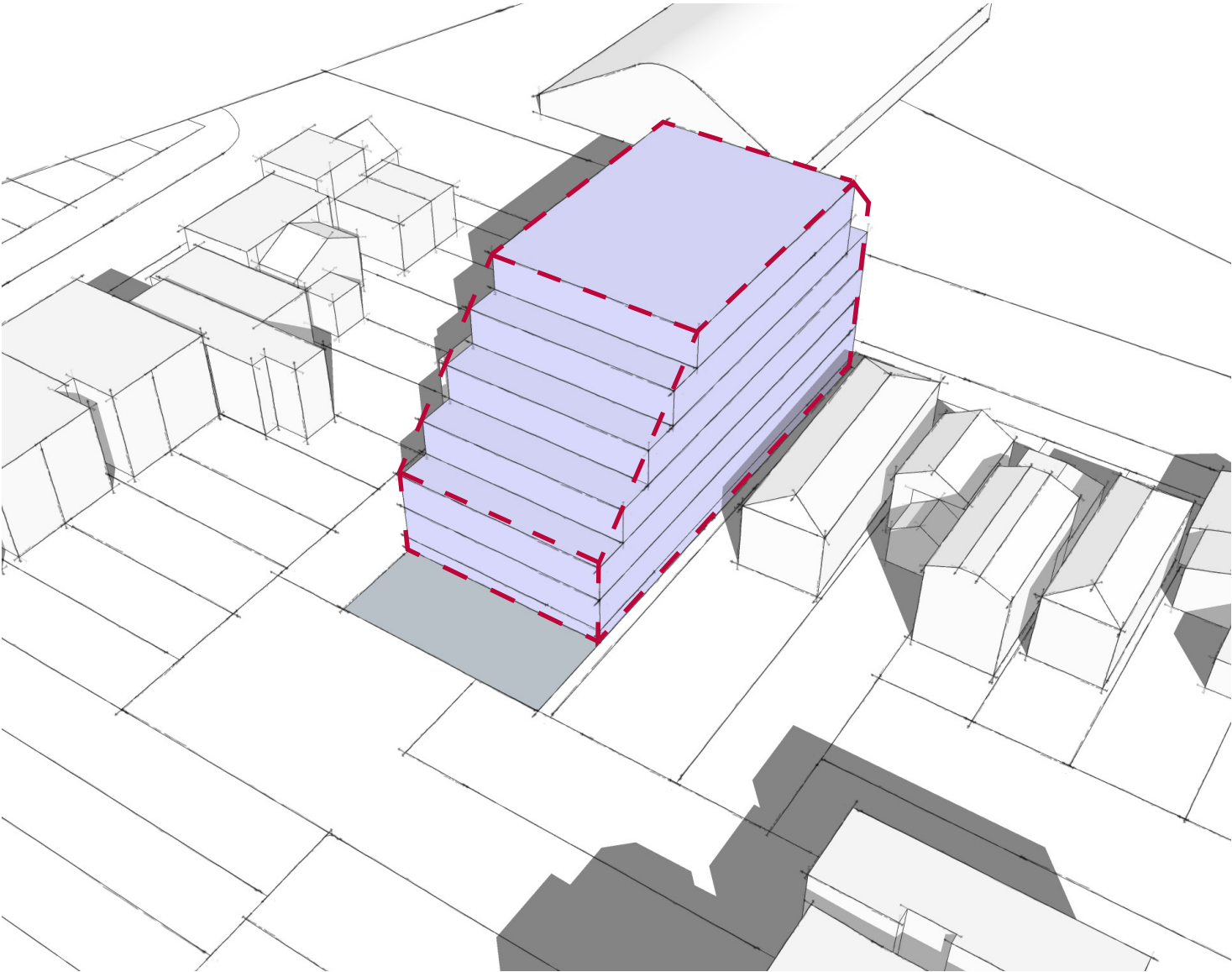


MID-RISE GUIDELINES PERMITTED MASSING

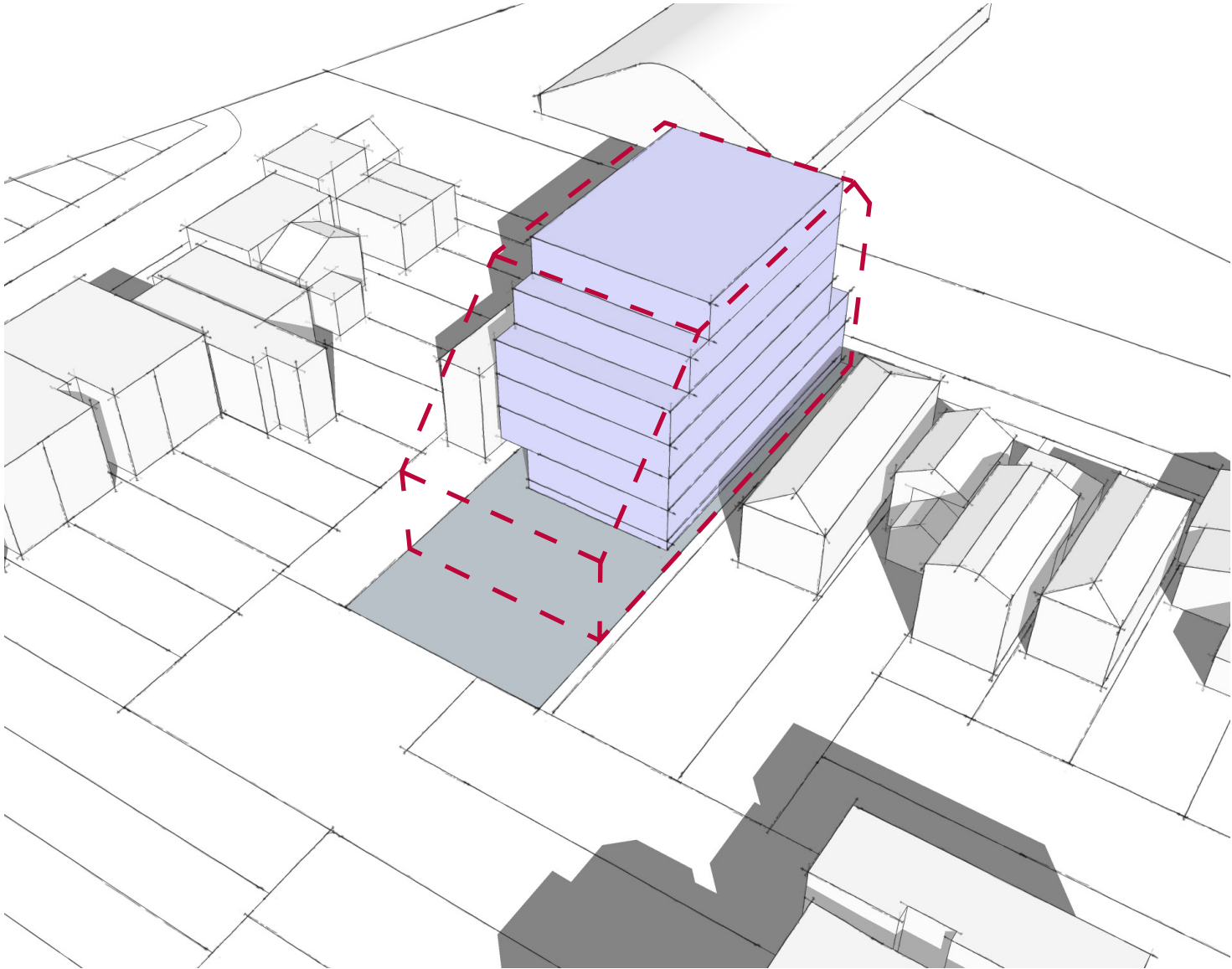


PROPOSED MASSING

PROPOSED MASSING



MID-RISE GUIDELINES PERMITTED MASSING



PROPOSED MASSING