

440 Dufferin St – Official Plan Amendment and Zoning Amendment Applications – Request for Direction Report

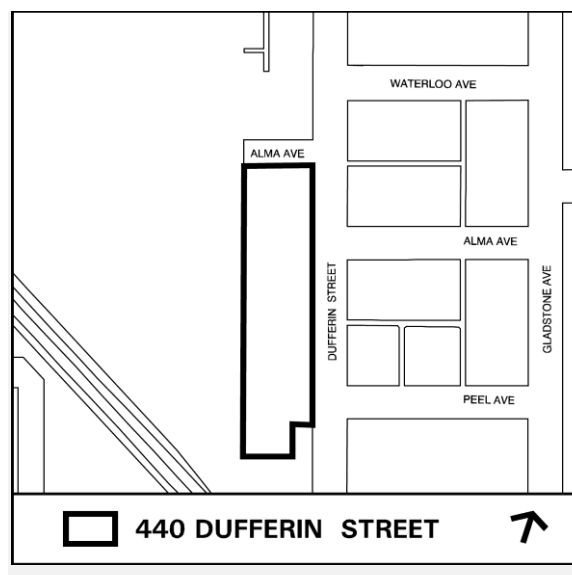
| | |
|--------------------------|--|
| Date: | July 10, 2014 |
| To: | Planning and Growth Management Committee |
| From: | Chief Planner & Executive Director, City Planning Division |
| Wards: | Ward 18 – Davenport |
| Reference Number: | P:\2014\Cluster B\PLN\PGMC\PG14129 (11 320041 STE 18 OZ) |

SUMMARY

This application proposes a mixed-use building containing 402 residential units (29,391 square metres) and 6,794 square metres of non-residential gross floor area at 440 Dufferin Street. The application has been revised since the initial submission including a re-massing of the building from a podium and tower typology to a long, midrise typology, and includes an increase in the proposed amount of non-residential gross floor area, the consolidation of access to the site and a slight reduction in the overall gross floor area of the site. The application has been appealed to the Ontario Municipal Board (OMB) and a pre-hearing is scheduled for Tuesday October 21, 2014.

This application was also considered as part of the recent Municipal Comprehensive Review, the results of which were adopted by City Council through Official Plan Amendment (OPA) 231. OPA 231 retains the lands at 440 Dufferin Street as *Employment Areas*, and designates them as *Core Employment Areas*. The proposed mixed-use building is contrary to this Council decision.

This report requests direction from City Council to oppose the proposed development at the OMB.



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 attend the Ontario Municipal Board hearing in opposition to the proposed applications for 440 Dufferin Street.
2. City Council authorize the City Solicitor and necessary City staff to take such necessary steps as required to implement the foregoing.
3. In the event that the Ontario Municipal Board allows the appeals in whole or in part, City Council direct the City Solicitor to request that the Board withhold any Order to approve the Zoning By-law Amendment application for the subject lands until such time as the City and the owner have presented to the Board a Draft Zoning By-law and an executed Section 37 agreement to the satisfaction of the City.

DECISION HISTORY

A Preliminary Report was adopted by the Planning and Growth Management Committee meeting on March 22, 2012. It can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.PG12.7>

Municipal Comprehensive Review

At its meeting of December 16, 17 and 18, 2013, City Council considered a request to convert these employment lands for non-employment purposes as part of the MCR. Under Section 2.2.6.5 of the Provincial Growth Plan for the Greater Golden Horseshoe, the City may convert employment lands for non-employment purposes only through such a MCR. City Council adopted staff's recommendations pertaining to the conversion request recommending refusal and that the lands be maintained for employment purposes.

Official Plan Amendment (OPA) 231

At the same meeting of December 16, 17 and 18, 2013, City Council adopted OPA 231, with amendments. In addition to adopting revised city-wide employment land policies and land use designations, OPA 231 retains the lands at 440 Dufferin Street as *Employment Areas*, and designates them as *Core Employment Areas*.

In January 2014, the City submitted OPA 231 to the Minister of Municipal Affairs and Housing for approval. The decision of City Council and OPA 231 can be found at the following links:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>

<http://www.toronto.ca/legdocs/bylaws/2013/law1714.pdf>

On July 9, 2014, the Minister of Municipal Affairs and Housing issued a decision on OPA 231. The Minister's Decision confirms Council's action to maintain the property at 440 Dufferin Street for employment purposes only. The owners have 20 days to appeal this decision.

ISSUE BACKGROUND

Proposal

The initial proposal was described in the Preliminary Report. On November 26, 2013 the applicant submitted a revised proposal to the city for review. The revised built form takes essentially the same amount of gross floor area and reallocates it on the site. Rather than three towers (24-, 12- and 8-storeys) on a base building, the revised proposal creates a 10-storey building over the entire site.

The building has an overall gross floor area of 36,185 square metres and is 5.3 times the area of the lot. The south end of the building is 11 storeys high (36 metres) and the north end is 9 storey high (32 metres). Stepbacks above the 4th floor vary along the length of the building and are proposed to break up the perceived buildings length which is approximately 150 metres.

Four hundred and two residential units are located in the top four floors in the northern portion of the building, and in 9 floors within the southern portion of the building. The unit breakdown is: 11 studios, 261 1-bedroom units and 130 2-bedroom units. No three bedroom units are proposed.

The non-residential uses (6,794 square metres) are clustered at the north end of the site in the first five floors, and consist of industrial, office and retail uses. Live/work units are proposed at grade along Dufferin Street. More non-residential space is provided for in the proposal than currently exists on the site, although the uses and users may be different.

A publicly accessible private drive is located opposite Alma Avenue and brings vehicles into the site to access parking and loading. This private drive is 6 metres wide at the entrance, widens to 11.5 metres to allow for drop-off spaces on-site, and does have sidewalks on both sides for pedestrian access. The private driveway is covered by 4 levels of residential units, and the driveway opening is approximately 19 metres high. Three hundred and ninety three parking spaces (297 for residents, 20 car share and 76 shared between residential visitors and non-residential uses) are located below grade. Four hundred and fifty five bicycle parking spaces are also proposed.

The key differences between the initial and revised proposals are outlined below.

| | Initial Proposal Dec. 2, 2011 | Revised Proposal Nov. 26, 2014 |
|----------------------------------|--|---|
| Total Gross Floor Area | 37,638 square metres | 36,185 square metres |
| Residential Gross Floor Area | 32,353 square metres | 29,391 square metres |
| Non-Residential Gross Floor Area | 5,385 square metres | 6,794 square metres |
| Density | 5.5 times the area of the lot | 5.3 times the area of the lot |
| Height of tallest portion | 24 storeys (76 metres) | 11 storeys (36 metres) |
| # of units | 399 | 402 |
| # of parking spaces | 340 | 393 |
| Bike Parking | 317 | 455 |

Please see Attachments 1 to 5 for drawings of the proposal.

Site and Surrounding Area

The subject site is 6,847 square metres and runs along the west side of Dufferin Street from Alma Avenue to the Lower Galt Subdivision rail line. It is currently occupied by a 1 and 2-storey building which contains a variety of workshop and studio spaces totalling approximately 6,400 square metres of non-residential space and approximately 120 employees.

North: To the north of the subject site is Alma Avenue. On the north side of Alma Avenue is a one-storey building containing a marketing firm, and further north along the west side of Dufferin are a series of two-storey residential rowhouses and a three-storey mixed use building at Florence Street.

East: To the east of the site, on the east side of Dufferin Street is a low rise, residential neighbourhood characterized by two-storey row and semi-detached houses.

South: Immediately south of the site is the Lower Galt Subdivision rail line. It is this line which is being expanded for rail service to the airport and improved GO Transit service, and which will contain a southerly expansion of the West Toronto Rail Path. The Dufferin Jog project, which connected Dufferin Street under the rail corridor, has also recently been completed.

West: To the west of the site is a large triangular property adjacent to the rail corridor, with access from Alma Avenue which is currently occupied by Riverview Produce Inc., a produce wholesaler. North of this site, along the south side of Florence Street is a mix of residential buildings and small scale employment uses.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS), 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources and protecting public health and safety.

There is specific policy guidance on land use compatibility, requiring that major facilities (defined to include all facilities requiring separation from sensitive land uses) and sensitive land uses be planned, designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and ensure long-term viability of major facilities. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. 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 to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

The Growth Plan allows municipalities to permit conversion of lands within employment areas to non-employment uses only through a 'municipal comprehensive review' where key criteria have been met. A Municipal Comprehensive Review is an Official Plan review initiated by a municipality that comprehensively applies provincial policies.

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

Map 18 of the City's Official Plan shows the subject lands designated as *Employment Areas* (see Attachment 7). OPA 231 retains the lands at 440 Dufferin Street as *Employment Areas*, and designates them as *Core Employment Areas* (see Attachment 8).

Site and Area Specific Policy #154

Site and Area Specific Policy #154 applies to certain sites throughout the former cities of Toronto and York which were formerly designated with a mix of industrial and residential uses. Policy #154 does not currently apply to the subject property. The Policy states that:

"A mix of employment and residential uses are permitted provided that:

- a) if the property is designated *Employment Areas*, the building will provide for a satisfactory living environment compatible with the employment uses in the building and adjacent area; or
- b) if the property is designated as any designation other than *Employment Areas*, the employment uses are restricted to those compatible with residential uses in terms of emissions, odour, noise and generation of traffic."

The applicant is proposing to apply this Site and Area Specific Policy (SASP) to the subject site. However, OPA 231 did not apply this SASP to 440 Dufferin Street.

Zoning

The existing zoning on the site is I1 D2 (Industrial) with a height limit of 14 metres in former City of Toronto Zoning By-law 438-86. Please see Attachment 6 for a map of the zoning.

Site Plan Control

A Site Plan approval application is required but has not yet been submitted.

Reasons for the Application

Official Plan Amendment Application - The proposed residential uses are not permitted on lands designated *Employment Areas* in the Official Plan.

Zoning Amendment Application – The proposed residential uses, density and height are not permitted. Additional areas of non-compliance with the Zoning By-law may be identified through the application process.

Community Consultation

A Community Consultation meeting was held on May 28, 2012. After presentations by planning staff, the applicant and the architect (on the initial proposal submitted) the following issues were raised:

Height and Massing

Questions about the overall height, scale and massing of the building were posed by the attendees. The proposed height of 24 storeys was seen as too tall for the area, and concerns were raised about the shadow cast by the building and the precedent this building may set for tall buildings on Dufferin Street.

Details of the non-residential space

Questions about the management of the space, how the space would be allocated to existing businesses on site, and what legal mechanism to secure low rents were raised. The applicant and city staff have not discussed how the space would be managed, or how low rents could be secured.

Compatibility between the residential and the non-residential space

Concerns were raised about the relationship between the different uses, both on the site, and between the subject site and the property to the northwest. Some of the existing uses in the building are loud, dusty, odorous and these uses will have difficulty occupying the same building as residential units.

Materiality of the proposal

The architect has not yet decided on the final materials, but the materials, if the application is approved by the Ontario Municipal Board, will be secured through the Site Plan process (a Site Plan application has not yet been filed).

Traffic and Public Transit

Concerns were raised about the number of car trips generated by residents and visitors to the development. Comments about the ability of public transit to accommodate any further passengers was mentioned by a number of attendees. The applicant has submitted a Transportation Impact Assessment which is under review by staff.

COMMENTS**Provincial Policy Statement and Provincial Plans**

The proposal is not consistent with the PPS. The City has completed its Municipal Comprehensive Review via OPA 231 and has concluded that there is no need to permit residential uses at 440 Dufferin Street.

The proposal does not conform to and conflicts with the Growth Plan for the Greater Golden Horseshoe. The Municipal Comprehensive Review which has resulted in OPA 231 recommends retaining the site as employment lands. The review did not find a need to convert the site to meet the Provincial population forecast for Toronto or to address an incompatibility of *Employment Area* permissions with existing adjacent uses. Further, staff are concerned with the potential adverse impacts the introduction of sensitive uses on the site may have on the long term viability of existing employment operations on the adjacent industrial sites and within the existing building.

Based on the above-noted reasons, the proposal does not conform to and conflicts with the Growth Plan for the Greater Golden Horseshoe.

Official Plan Including Built Form

Any redevelopment at 440 Dufferin Street should respond to, and respect, the existing built form context including the low-rise context on the east side of Dufferin Street. Section 3.1.2 of the Official Plan (Built Form) and Section 4.5 (*Mixed Use Area*) both contain policies which have not been addressed with the revised proposal. The prevailing built form on the east side of Dufferin Street is low-rise residential and is designated in the Official Plan as *Neighbourhoods*. For these reasons, there are limited redevelopment opportunities along the east side of Dufferin, and it is therefore imperative that redevelopment along the west side of the street relates to, and does not negatively effect, the established low-rise fabric on the east side of the street.

These comments are made only on the basis that the principle land use is determined and residential development is permitted on the site, and any proposal on the site will also have to comply with all other applicable policies in the Official Plan

Revised Proposal

Many of the land use and built form concerns that were outlined in the Preliminary Report remain outstanding. These include:

- Ensuring that the proposal fits and transitions into the existing built form context of the neighbourhood, including the area designated *Neighbourhoods* on the east side of Dufferin Street.
- The relationship of the application to the overall development potential of the entire block.
- The proposed unit mix if residential is considered.
- Traffic impact and parking.
- The applicability of Section 37 of the *Planning Act* to secure appropriate community benefits should the application be recommended for approval.
- Impact of the proposal on the existing food warehouse business immediately to the west of the site, and potential impact on other permitted employment uses.
- Impact of the proposal on the existing small businesses in the building currently on the site.
- The appropriateness of the proposed height of the building.
- The appropriateness of the setbacks between the proposed building and the surrounding properties.
- Review of the density, number and type of units to ensure an appropriate level of intensification and unit mix.
- Servicing including garbage pick-up.
- Adequate landscaping and tree planting.
- Adequate provision of open space, including parkland.

Conclusion

As concluded through the Municipal Comprehensive Review and articulated through OPA 231, Planning staff continue to recommend that the site be retained as *Employment Areas*, designated as *Core Employment Areas*. In addition, whether the site is developed for residential or employment uses, the built form proposed by the applicant is not appropriate for the site and does not address the issues outlined above. Therefore, staff recommend that City Council direct staff to support refusal of the conversion of land use and the proposed development at the Ontario Municipal Board.

CONTACT

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SIGNATURE

Jennifer Keesmaat, MES, MCIP, RPP
Chief Planner and Executive Director
City Planning Division

ATTACHMENTS

Attachment 1: Site Plan

Attachment 2: Ground Floor Plan

Attachment 3: North and South Elevations

Attachment 4: East and West Elevations

Attachment 5: 3-D Rendering

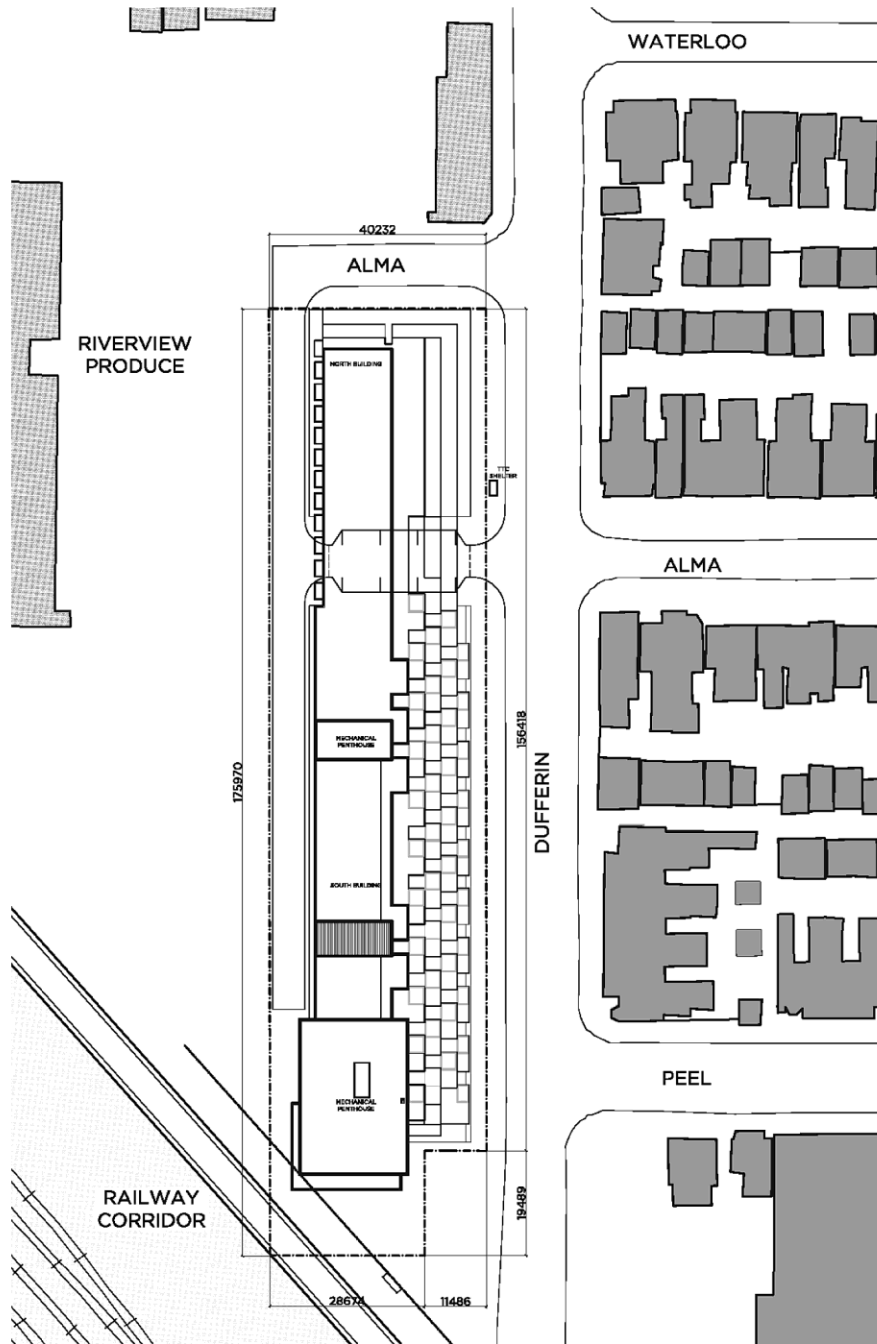
Attachment 6: Zoning

Attachment 7: Official Plan

Attachment 8: Official Plan – OPA 231

Attachment 9: Application Data Sheet

Attachment 1: Site Plan



Site Plan

Applicant's Submitted Drawing

Not to Scale 

440 Dufferin Street

File # 11 320041 0Z

Staff report for action – Request for Direction Report – 440 Dufferin St
V.05/13

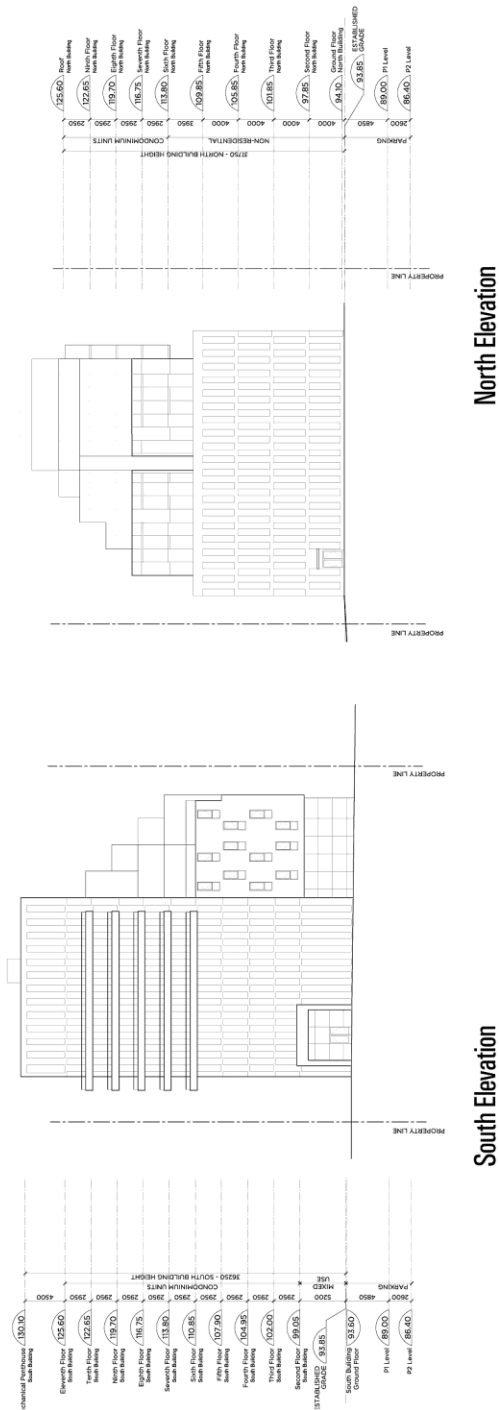


440 Dufferin Street

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07/11/2014

File # 11 320041 0Z

Attachment 3: North and South Elevations



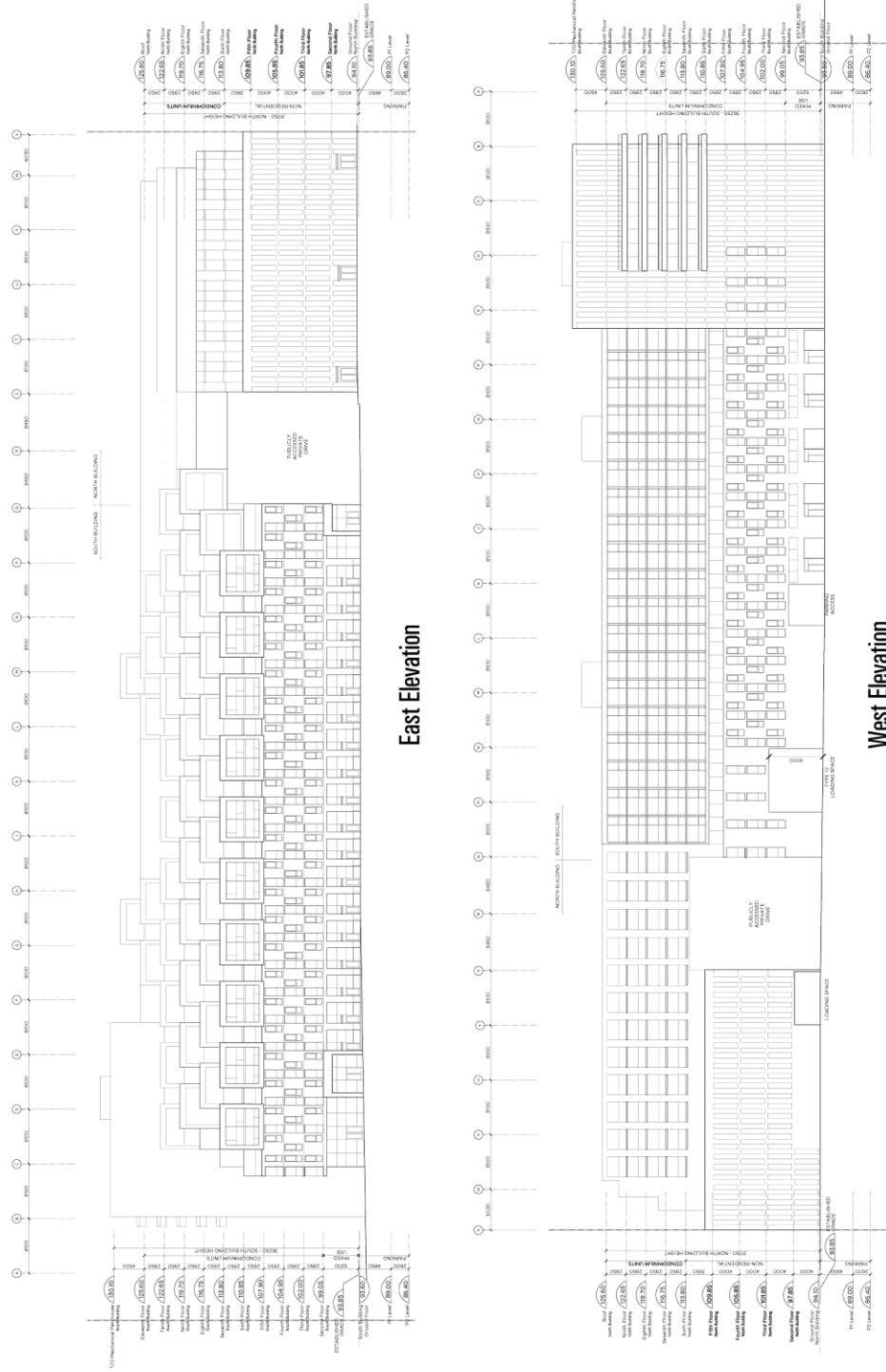
440 Dufferin Street

Elevations
Applicant's Submitted Drawing

File # 11 320041 0Z

Not to Scale
07/11/2014

Attachment 4: East and West Elevations



440 Dufferin Street

Elevations

Applicant's Submitted Drawing

Not to Scale
07/11/2014

File # 11 320041 0Z

Attachment 5: 3-D Rendering



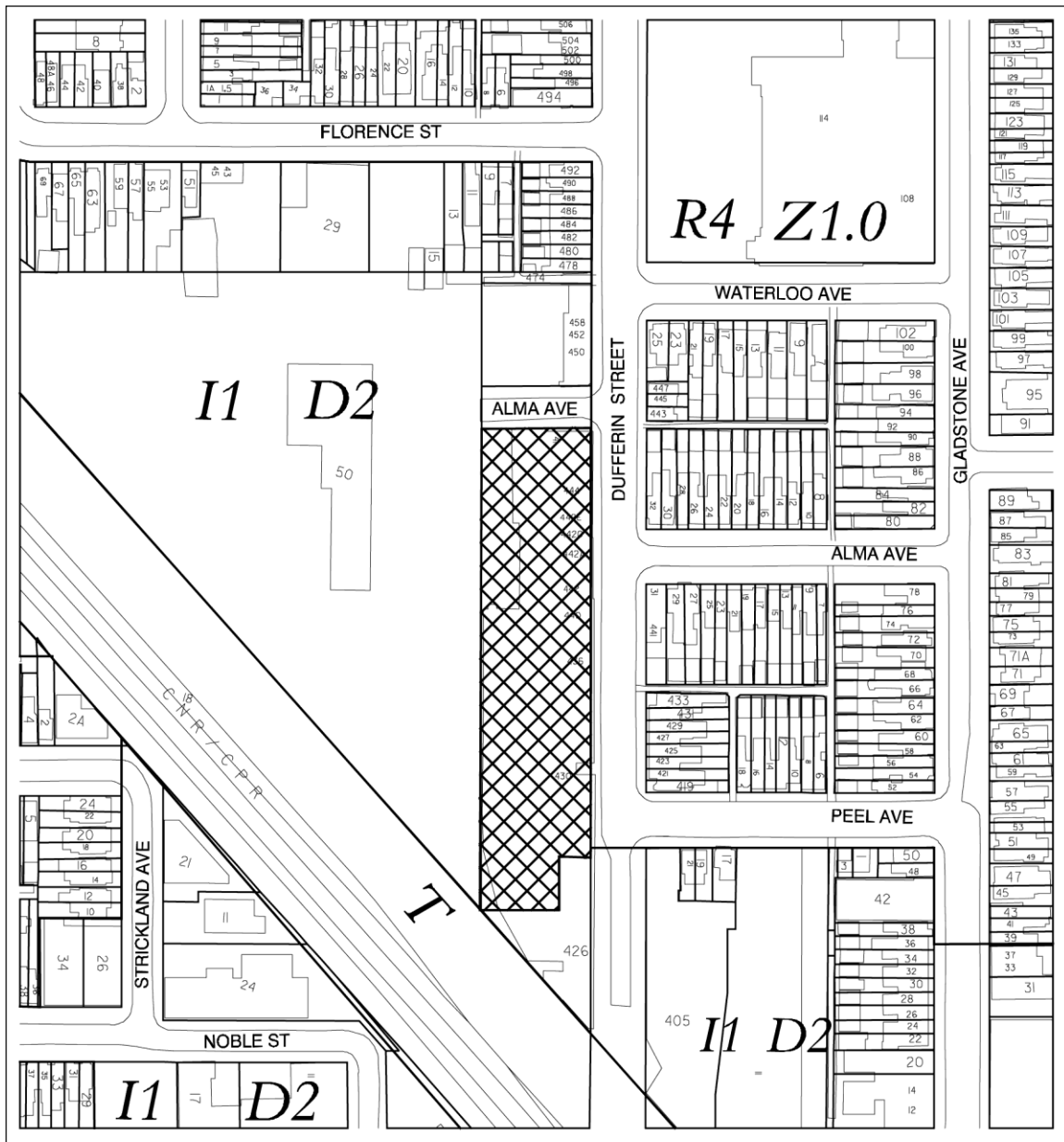
Perspective Rendering
Applicant's Submitted Drawing

Not to Scale
07/11/2014

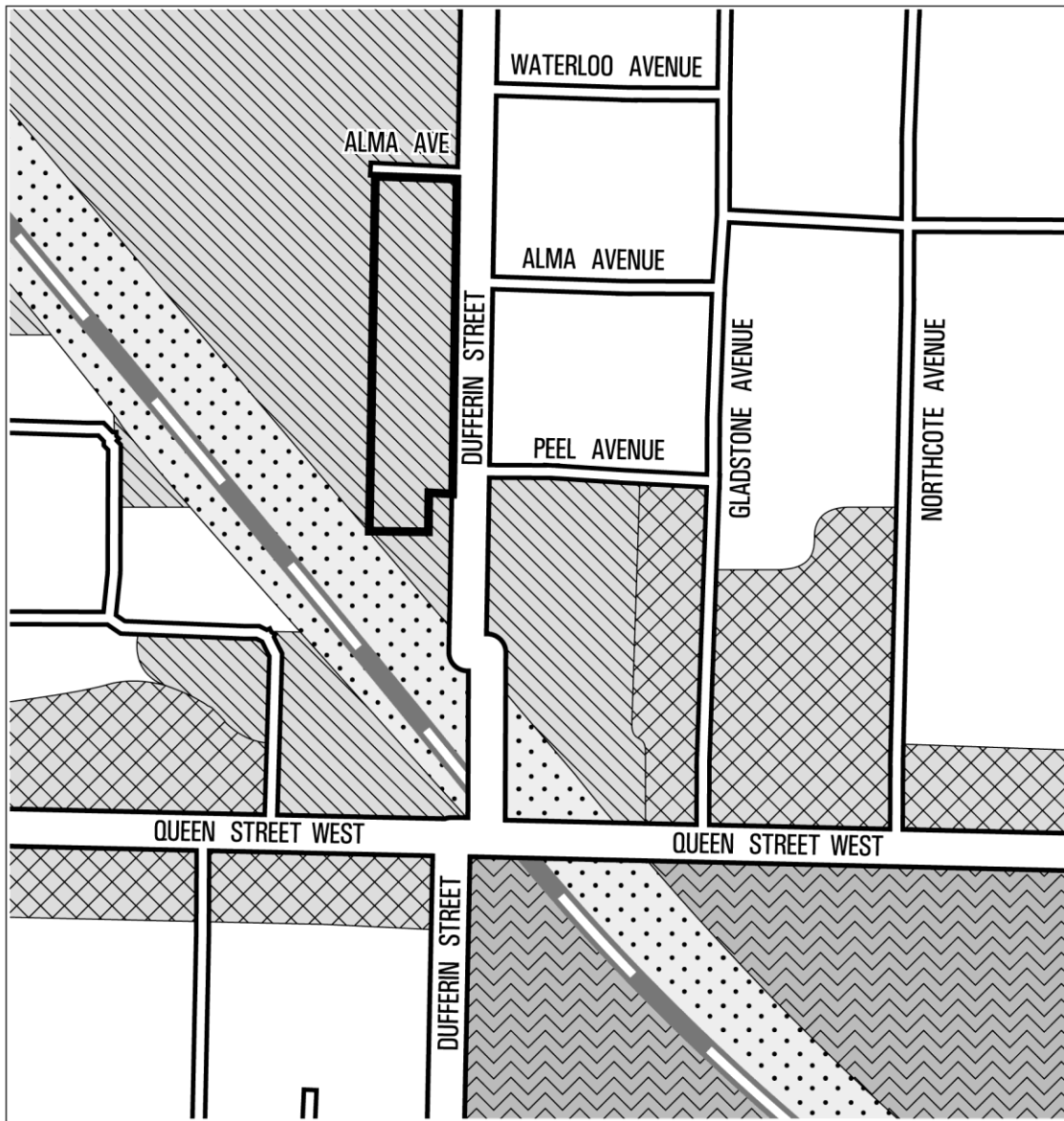
440 Dufferin Street

File # 11 320041 0Z

Attachment 6: Zoning



Attachment 7: Official Plan



Toronto City Planning
Division
Official Plan

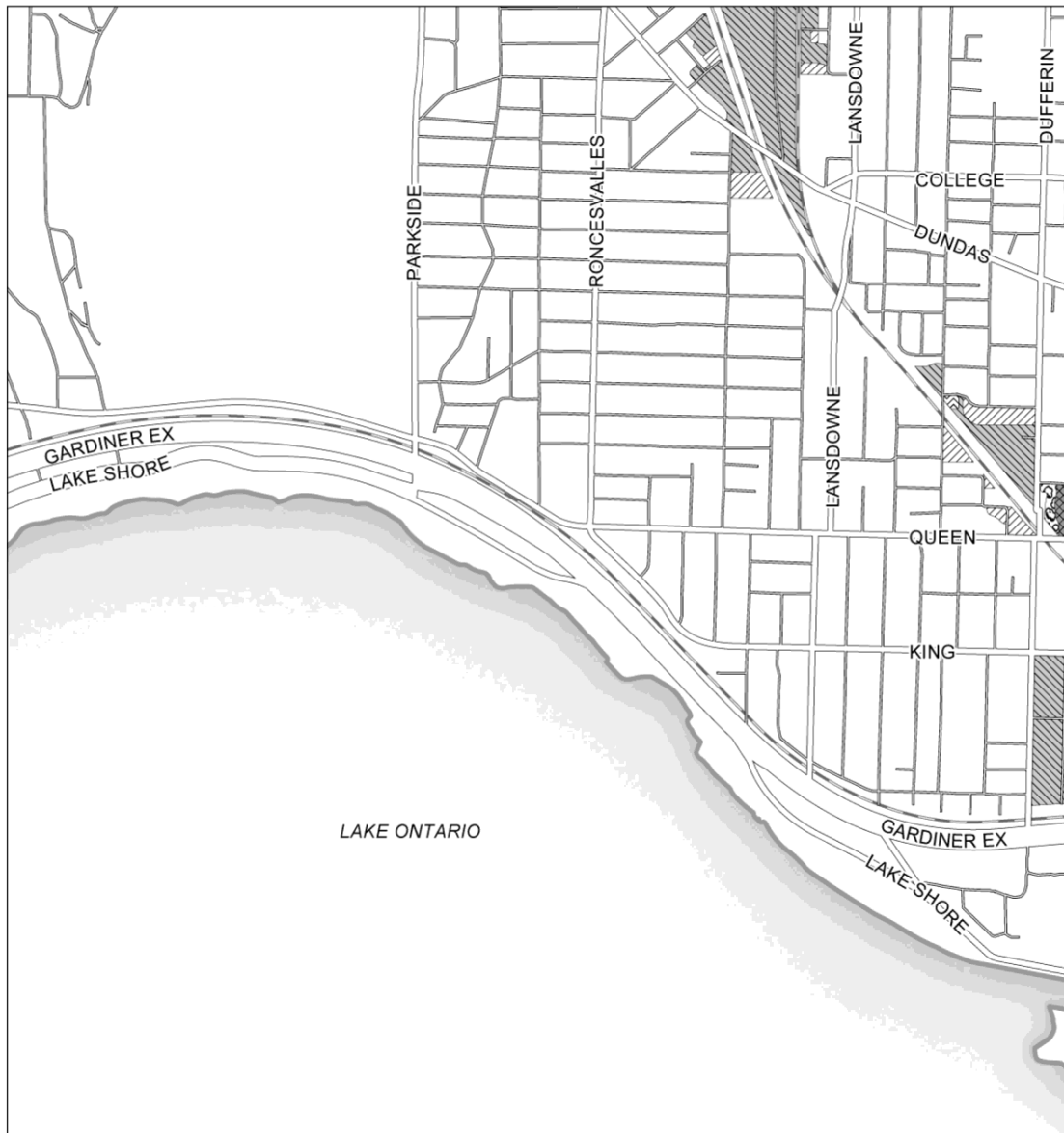
440 Dufferin Street

File # 11_320041

| | | | |
|--------------------------|---------------------------|---------------------|-------------------|
| Site Location | Parks & Open Spaces Areas | Institutional Areas | Utility Corridors |
| Neighbourhoods | Natural Areas | Regeneration Areas | |
| Apartment Neighbourhoods | Parks | Employment Areas | |
| Mixed Use Areas | Other Open Space Areas | | |

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01/12/12

Attachment 8: Official Plan - OPA 231



Redesignate from 'Employment Areas' to Official Plan Designations Shown on Maps 1 to 48 inclusive

Map 42

| | | | | | | | |
|--|--------------------------|--|--------------------------|--|--------------------------|--|-------------------|
| | Neighbourhoods | | Parks & Open Space Areas | | Employment Areas | | Utility Corridors |
| | Apartment Neighbourhoods | | Natural Areas | | Core Employment Areas | | |
| | Mixed Use Areas | | Parks | | General Employment Areas | | |
| | Regeneration Areas | | | | | | |

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Not to Scale
10/30/2013

Attachment 9: Application Data Sheet

| | | | |
|-----------------------|---|---------------------|----------------------------------|
| Application Type | Official Plan Amendment & Rezoning | Application Number: | 11 320041 STE 18 OZ |
| Details | OPA & Rezoning, Standard | Application Date: | December 2, 2011 |
| Municipal Address: | 440 DUFFERIN ST | | |
| Location Description: | PLAN 294 LOT 7 PT LOT 8 **GRID S1806 | | |
| Project Description: | Employment Lands Conversion. OPA and REZONING application for 2 new mixed use buildings with common underground parking garage. All buildings have ground and second floor commercial / industrial uses and remaining floors are residential. - 402 residential units - buildings range between 9 and 11 stories - 393 parking spaces - 2 levels below grade parking. | | |
| Applicant: | Agent: | Architect: | Owner: |
| AIRD AND BERLIS | | RAW Architects Inc. | SITELINE 390 DUFFERIN STREET INC |

PLANNING CONTROLS

| | | |
|----------------------------|------------------|--------------------------|
| Official Plan Designation: | Employment Areas | Site Specific Provision: |
| Zoning: | I1 D2 | Historical Status: |
| Height Limit (m): | 14 | Site Plan Control Area: |

PROJECT INFORMATION

| | | | | |
|------------------------------------|--------|---------|-----------------|--------------|
| Site Area (sq. m): | 6847 | Height: | Storeys: | 11 |
| Frontage (m): | 156.42 | | Metres: | 36.5 |
| Depth (m): | 40.23 | | | |
| Total Ground Floor Area (sq. m): | 3468 | | | Total |
| Total Residential GFA (sq. m): | 29391 | | Parking Spaces: | 378 |
| Total Non-Residential GFA (sq. m): | 6794 | | Loading Docks | 2 |
| Total GFA (sq. m): | 36185 | | | |
| Lot Coverage Ratio (%): | 50.6 | | | |
| Floor Space Index: | 5.3 | | | |

DWELLING UNITS

| | |
|--------------|-------|
| Tenure Type: | Condo |
| Rooms: | 0 |
| Bachelor: | 11 |
| 1 Bedroom: | 261 |
| 2 Bedroom: | 130 |
| 3 + Bedroom: | 0 |
| Total Units: | 402 |

FLOOR AREA BREAKDOWN (upon project completion)

| | Above Grade | Below Grade |
|----------------------------------|-------------|-------------|
| Residential GFA (sq. m): | 29391 | 0 |
| Retail GFA (sq. m): | 1022 | 0 |
| Office GFA (sq. m): | 3063 | 0 |
| Industrial GFA (sq. m): | 2709 | 0 |
| Institutional/Other GFA (sq. m): | 0 | 0 |

CONTACT: **PLANNER NAME:** **Sarah Phipps, Senior Planner**