

## **390 to 440 Dufferin Street - Categorization as Class 4 Noise Area pursuant to NPC-300**

Date: November 13, 2020

To: Toronto and East York Community Council

From: Director, Community Planning, Toronto and East York

Ward 9 - Davenport

**Planning Application Number:** 17 244416 STE 18 SA

**Current Use on Site:** Three mixed-use buildings under construction, replacing former one- and two-storey light industrial building.

### **SUMMARY**

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This report provides information on a development at 390 to 440 Dufferin Street composed of three mixed-use buildings (13 storeys, 10 storeys and 9 storeys) containing 397 residential units with retail at grade in two of the buildings and with employment/office/light industrial space in the first 5 storeys the third building, and recommends City Council classify the subject lands as a Class 4 Noise Area pursuant to Ministry of the Environment, Conservation and Parks (MECP) Publication NPC-300 (Environmental Noise Guideline).

### **RECOMMENDATIONS**

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The City Planning Division recommends that:

1. City Council classify the lands at 390 to 440 Dufferin Street as a Class 4 Noise Area pursuant to the Ministry of Environment (now Ministry of Environment, Conservation and Parks) Environmental Noise Guideline - Stationary and Transportation Sources - Approval and Planning Publication NPC-300, August 2013.

### **FINANCIAL IMPACT**

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The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

## DECISION HISTORY

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On March 22, 2012, Planning and Growth Management Committee directed staff to review an application to amend the Official Plan for the purpose of permitting residential development on the subject lands, concurrently, and in the context of the statutory Five Year Review of the Official Plan.

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

At its meeting of December 16, 17 and 18, 2013, City Council considered a request to convert these employment lands for non-employment uses as part of the Municipal Comprehensive Review (MCR). At the same meeting, City Council adopted Official Plan Amendment 231 (OPA 231), which designated the subject lands as General Employment Areas.

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

In January 2014, the City submitted OPA 231 to the Minister of Municipal Affairs and Housing for approval. On July 9, 2014, the Minister of Municipal Affairs and Housing issued a decision confirming Council's action to retain the property for employment purposes only. The applicant subsequently submitted an appeal to the Minister's decision of OPA 231.

On August 25, 2014, City Council authorized the City Solicitor, together with City Planning staff and any other appropriate staff, to attend the Ontario Municipal Board (OMB) hearing in opposition to the applications.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.9>

On March 31, 2015, City Council requested the Chief Planner to conduct a review of the lands known as the Dufferin Triangle Lands, which includes the subject lands.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PG2.11>

On June 10, 2015, City Council received a settlement offer and directed the City Solicitor and other staff to attend at the OMB hearing in support of a revised development proposal, and directed the City Solicitor to ask the OMB to amend OPA 231 to designate the lands as Mixed Use Area and allow the revised development to proceed in conformity with the Official Plan.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC7.6>

In June 2015, the OMB issued a partial order approving the settlement reached between the City and the applicant. On June 28, 2016, the Board issued its final order approving the Official Plan Amendment and Zoning By-law Amendment applications, permitting the redevelopment of the lands for mixed industrial, commercial and residential use in accordance with the settlement proposal.

## ISSUE BACKGROUND

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### Application Description

The site at 390 to 440 Dufferin Street and 41 Alma Avenue is located on the west side of Dufferin Street, running from Alma Avenue to the Lower Galt Subdivision rail line. The site is 6,850 square metres in area, and was formerly occupied by a 1- and 2-storey building containing a variety of workshop and studio spaces totalling approximately 6,400 square metres of non-residential floor space.

The proposed development consists of three towers in two independent buildings, with a total of 397 residential units, 6,605 square metres of non-residential floor area comprising retail, office and light industrial uses, 281 parking spaces in two below-grade parking levels, and 3 Type 'G' and 2 Type 'C' loading spaces.

Approximately 1,350 square metres of the non-residential floor space is required to be leased to the City at a below-market rate for the purpose of establishing a Small Business Incubation Centre. An 18 metre wide parcel between the middle and northmost buildings is to be conveyed to the City for future use as a public street.

Detailed project information is found on the City's Application Information Centre at: <https://www.toronto.ca/city-government/planning-development/application-information-centre/>

The proposed development is located adjacent to existing industrial uses and permits light industrial uses on a portion of the subject lands, and therefore noise impacts are of concern both in terms of impact on the proposed residential uses and the impact on existing industrial and residential uses in the vicinity.

### Provincial Land-Use Policies: Provincial Policy Statement and Provincial Plans

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site 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) and shall conform with Provincial Plans. All comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS and conform with Provincial Plans.

### The Provincial Policy Statement (2020)

The Provincial Policy Statement (2020) (the "PPS") provides policy direction province-wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- the efficient use and management of land and infrastructure;

- ensuring the sufficient provision of housing to meet changing needs including affordable housing;
- ensuring opportunities for job creation;
- ensuring the appropriate transportation, water, sewer and other infrastructure is available to accommodate current and future needs; and
- protecting people, property and community resources by directing development away from natural or human-made hazards.

The PPS is issued under Section 3 of the Planning Act and all decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS. Comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS.

### **A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)**

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) came into effect on August 28, 2020. This was an amendment to the Growth Plan for the Greater Golden Horseshoe, 2019. The Growth Plan (2020) continues to provide a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part. The Growth Plan (2020), establishes policies that require implementation through a Municipal Comprehensive Review (MCR), which is a requirement pursuant to Section 26 of the Planning Act.

Policies not expressly linked to a MCR can be applied as part of the review process for development applications, in advance of the next MCR. These policies include:

- Directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, contribute to environmental sustainability and provide for a more compact built form and a vibrant public realm;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;
- Achieving complete communities with access to a diverse range of housing options, protected employment zones, public service facilities, recreation and green space, and better connected transit to where people live and work;
- Retaining viable lands designated as employment areas and ensuring redevelopment of lands outside of employment areas retain space for jobs to be accommodated on site;
- Minimizing the negative impacts of climate change by undertaking stormwater management planning that assesses the impacts of extreme weather events and incorporates green infrastructure; and
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas.

The Growth Plan (2020), builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan (2020), take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise. In accordance with Section 3 of the Planning Act all decisions of Council in

respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan (2020). Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan (2020).

## **Toronto Official Plan**

The Official Plan designates the subject lands as Mixed Use Area and Core Employment Area on Map 18 - Land Use, and on Maps 1 to 4 of Site and Area Specific Policy (SASP) No. 516. Under SASP 516, residential uses are permitted on the portions of the site designated Mixed Use Area, and the Employment Area designation is stratified and applies only to portions of the first five floors of the northmost building containing non-residential uses. The lands directly to the north and the west of the subject lands are designated Core Employment Lands, and the lands on the east side of Dufferin Street are designated Neighbourhoods.

Mixed Use Areas contain a broad range of commercial, residential and institutional uses, in single use or mixed use buildings, as well as parks and open spaces and utilities. Core Employment Areas play an important role in the Plan's growth management strategy. Sensitive land uses, including residential uses, where permitted or proposed outside of and adjacent to or near to Core Employment Areas or within the influence area of major facilities, should be planned to ensure they are appropriately designed, buffered and/or separated as appropriate from Core Employment Areas and/or major facilities as necessary. See Attachment 2: Official Plan Land Use Map and Attachment 3: SASP 516 maps.

## **Zoning**

The subject site is zoned Mixed Use (CR) under By-law 438-86 as amended, subject to site-specific provisions as set out in By-law 367-2019(OMB). The Zoning By-law specifies permissions for:

- three mixed use buildings, with the northerly building permitting a variety of commercial, institutional and light industrial uses, excluding automotive-related uses and certain types of places of assembly
- a total combined residential and non-residential gross floor area not exceeding 35,700 square metres, including a minimum of 5,550 square metres of non-residential GFA and a maximum of 30,050 square metres of residential GFA
- a minimum of 10% of the dwelling units shall contain at least three bedrooms
- maximum heights of 45.3 metres for the southernmost tower, 33.9 metres for the middle tower, and 36.5 metres for the northernmost tower
- a minimum of 370 square metres of outdoor residential amenity space, and a minimum of 550 square metres of indoor residential amenity space.

## **Site Plan Control**

The applicant has filed an application for Site Plan Approval to permit the proposed development, which has been reviewed by staff and commenting partners. Notice of Approval Conditions (NOAC) were issued on December 21, 2018, and subsequently amended on February 25, 2020. Conditions of Site Plan Approval secure certain

recommended noise mitigation measures and warning clauses that are to be incorporated into the proposed development and secured in the site plan agreement.

## **COMMENTS**

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Staff have reviewed the proposed development and determined that it is consistent with the PPS 2020 and conforms with the Growth Plan 2020, and conforms to the City's Official Plan. SASP 516 and the associated site-specific zoning By-law 367-2019(OMB) are in force on the subject lands, and permit the redevelopment of the formerly industrial site for residential uses. The development as proposed in the Site Plan Approval application conforms to the policies of SASP 516, and complies with the provisions of the site-specific zoning by-law.

The issued Notice of Approval Conditions, as amended, requires that the owner obtain approval by City Council, or its delegate, for the designation of the site as a Class 4 Area under the Ministry of the Environment, Conservation and Parks Environmental Noise Guideline NPC-300, and further agrees to undertake any resulting required actions which may include the implementation of mitigation measures and registration on title or incorporation into lease agreements of warning clauses, as necessary, to the satisfaction of the Chief Planner and Executive Director, City Planning.

### **Noise Issue**

390 to 440 Dufferin Street is located on the westerly side of Dufferin Street north of the Metrolinx Lower Galt Subdivision rail corridor, between existing employment uses to the west and residential uses to the east. The area to the immediate north and west of the subject lands is designated Core Employment Areas, and is identified as Employment Areas in the Official Plan's Urban Structures map.

Existing industrial uses are located in these areas, including an existing produce distribution warehouse and retail operation (Riverview Produce Inc.) with loading bays for refrigerated trucking, including noise & vibration impacts, as well as various small-scale industrial uses. Located to the north of Riverview Produce and the subject lands is a mix of residential buildings and small scale employment uses.

Official Plan policy 2.2.4.5 requires that sensitive land uses, including residential uses, proposed outside of and adjacent to Employment Areas or within the influence area of major facilities should be planned to ensure they are appropriately designed to: prevent or mitigate adverse effects; minimize risk to public health and safety; prevent or mitigate negative impacts and minimize the risk of complaints; ensure compliance with existing environmental approvals, registrations, legislation, regulations and guidelines; and permit Employment Areas to be developed for their intended purpose. The existing employment uses to the west of the subject lands must be protected in accordance with Official Plan policy.

Ministry of the Environment, Conservation and Parks NPC-300 "Environmental Noise Guideline - Stationary and Transportation Sources - Approval and Planning" (NPC-300) is a Provincial Guideline published in 2013 that provides guidance for the appropriate

control of sources of noise emissions to the environment. It is not determinative planning policy for land use planning decisions. The purpose of the NPC-300 is:

- To provide sound level limits that are applied by the MOECC to stationary sources, such as industrial and commercial establishments and auxiliary transportation facilities;
- To provide advice, sound level limits and guidance that may be used when land use planning decisions are made under the Planning Act;
- To provide sound level limits that may be incorporated into noise control by-laws, which may be developed by municipalities; and
- To provide sound level limits that may be applied under the provisions of the Aggregate Resources Act.

Depending on the receptor area classification, different NPC-300 sound limits apply. NPC-300 classifies noise sensitive receptors by area. The four classes of receptors are as follows: Class 1 – Urban Areas, Class 2 – Suburban/Semi-Rural Areas, Class 3 – Rural Areas, and Class 4 – Infill Areas. The Class 4 classification was introduced by the Ministry in 2013, and is intended to allow for infill and redevelopment in proximity to existing stationary sources of noise, such as industry, while still protecting residents from undue levels of noise. The NPC-300 Guidelines define the Class 4 categorization as applicable to an area or specific site that would otherwise be defined as Class 1 or 2, and which:

- Is an area intended for development with new noise sensitive land use(s) that are not yet built;
- Is in proximity to existing lawfully established stationary sources; and
- Has formal confirmation from the land use planning authority with the Class 4 area classification which is determined during the land use planning process.

Class 4 allows for somewhat higher noise levels at residential receptors than would be permitted within a Class 1 area, which alleviates some of the burden from the proximate noise-generating industry making it is easier for industry to remain in compliance with Ministry requirements while also allowing municipalities to achieve sensitive land use redevelopment goals in accordance with its land use policies in proximity to industrial uses.

A Noise and Vibration Impact Study prepared by Swallow Acoustic Consultants Ltd. was submitted by the applicant as part of the Site Plan application, and peer reviewed by Jade Acoustics Inc.. The applicant's consultant and the City's peer reviewer agreed that the subject lands and proposed development meet the criteria set out in the NPC-300 Guidelines for consideration as a Class 4 area. They further recommend that the site be formally classified as a Class 4 Area by City Council to provide protection to the existing adjacent commercial/industrial operations, that the adjacent operations be informed of the Class 4 designation and sound level limits for their use in future Ministry approvals, that the development incorporate building materials with enhanced Sound Transmission Class (STC) ratings to reduce noise levels within residences, and that the applicant incorporate appropriate warning clauses within Agreements of Purchase and Sale or Lease.

## **Conclusion**

Given that residential uses have been permitted on the subject lands by SASP 516 and the in-force site-specific Zoning By-law, that the development has been appropriately designed, and that the recommended warning clauses will be secured through Site Plan Approval, staff recommend that City Council classify the subject lands as a Class 4 Noise Area in accordance with the Provincial Environmental Noise Guideline NPC-300.

## **CONTACT**

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## **SIGNATURE**

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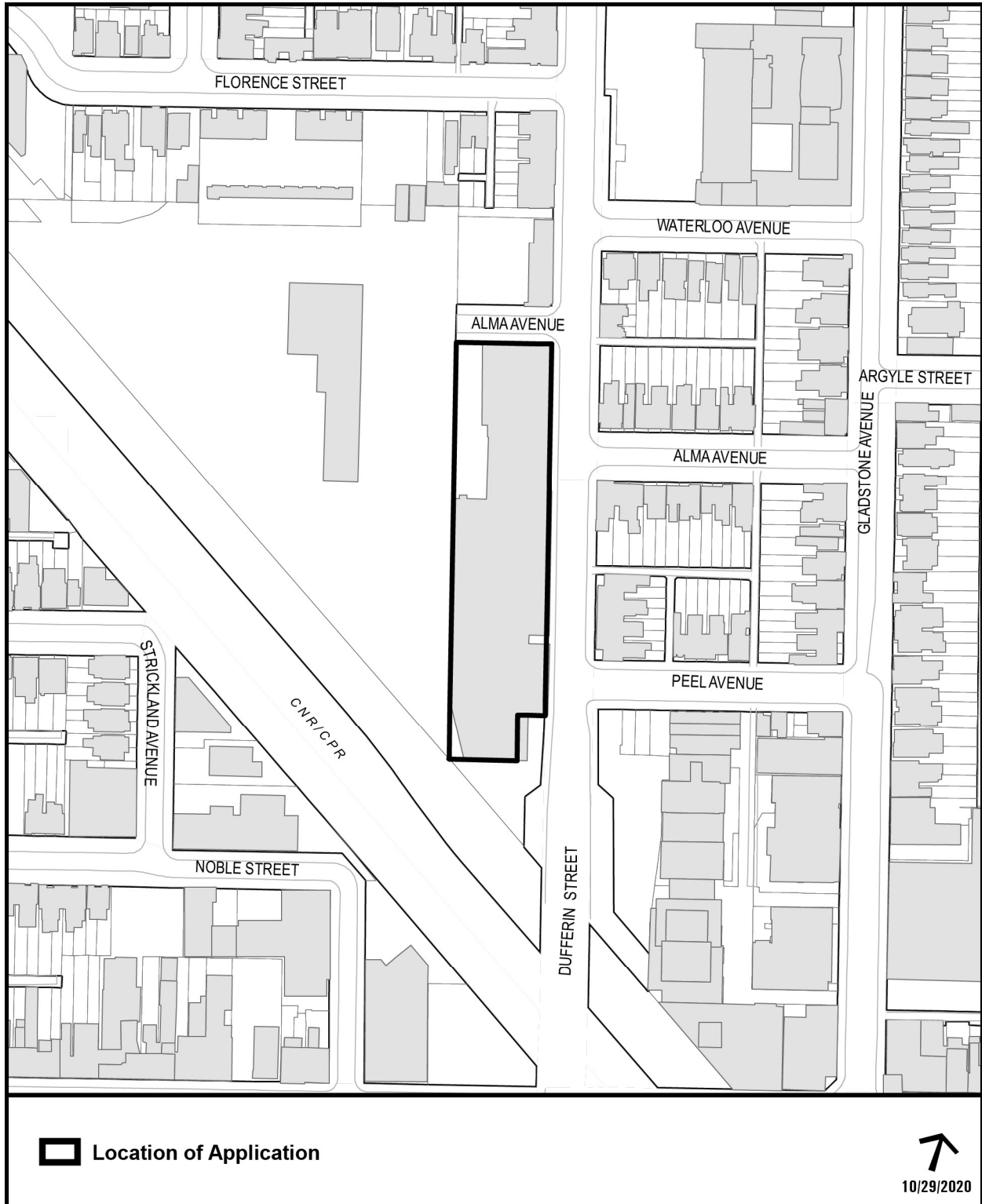
## **ATTACHMENTS**

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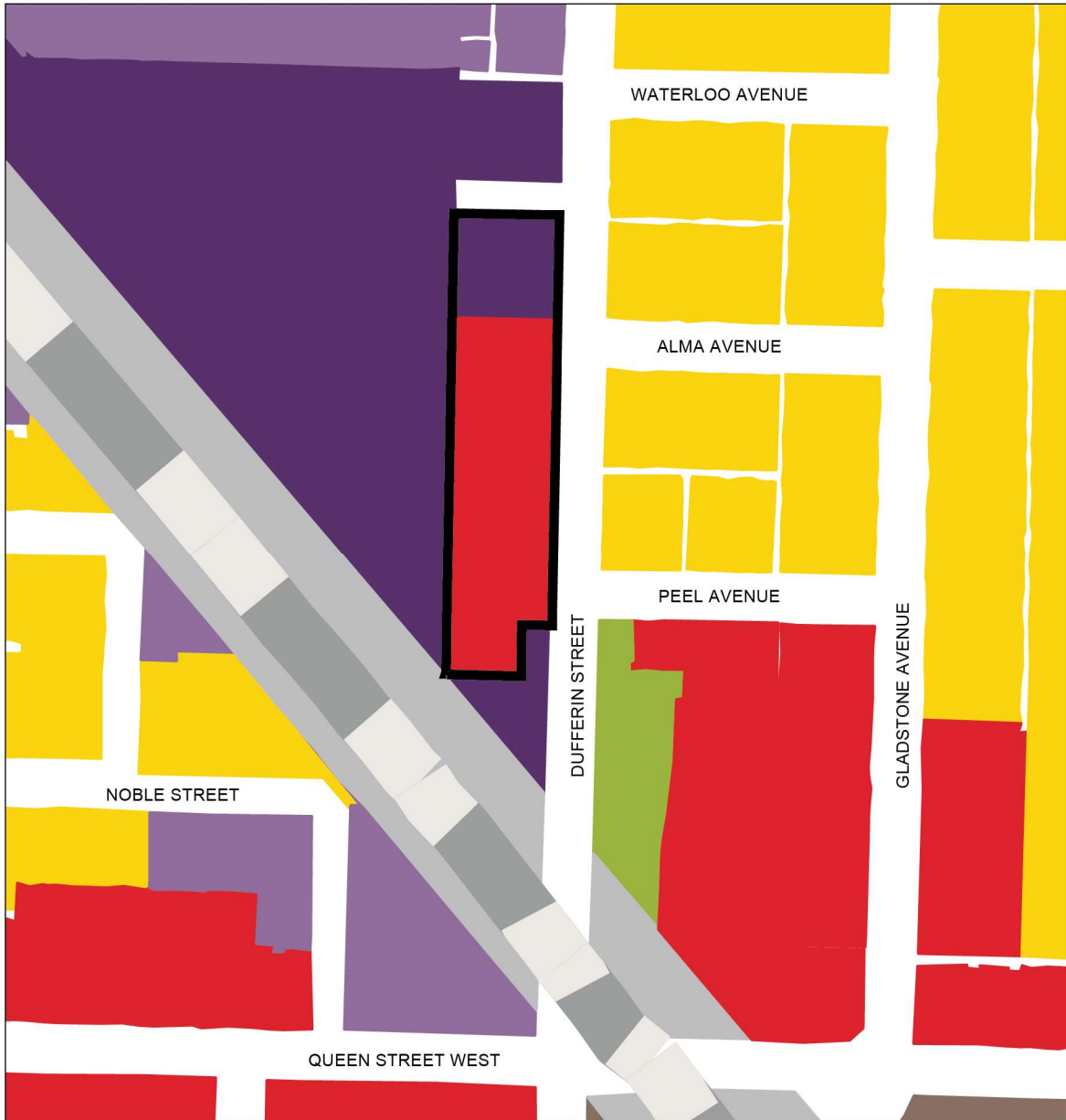
Attachment 1: Location Map  
Attachment 2: Official Plan Land Use Map  
Attachment 3: Site and Area Specific Policy No. 516 Maps



Attachment 1: Location Map



Attachment 2: Official Plan Land Use Map



390-440 Dufferin Street

Official Plan Land Use Map #18

File # 17 244416 STE 18 SA

Location of Application	Parks & Open Space Areas	Utility Corridors	General Employment Areas	 Not to Scale 10/29/2020
Neighbourhoods	Parks		Core Employment Areas	
Mixed Use Areas				

Attachment 3: Site and Area Specific Policy No. 516 Maps

