



Project No. 19143

August 20, 2019

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***2250 Speers Road, Zoning By-law Amendment File Z.168.010
Response to Comments***

We are the planning consultants for Acclaim Health with respect to their zoning by-law amendment application for 2250 Speers Road (the "Subject Site"), File Z.168.010. As you are aware, we prepared an addendum to the planning justification report (dated May 2019) to address comments received on the initial submission. The following is a response to the July 26, 2019 Oakville Planning Services Department report to Planning and Development Council as well as a response to the July 17, 2019 comments provided by Halton Region.

The key matters in the Town's report and the Region's comments are as follows (our responses follow):

1. **The proposed use is permitted.** As discussed in more detail below, the proposed use is a Community Use. Community Uses are permitted in all land use designations, except natural heritage. The Region's comments suggest that the temporary overnight beds would be considered residential and therefore would require an employment lands conversion. However, it is our opinion, as well as the Town's, that these beds are not a residential use in that they would be used on a very limited and temporary basis functioning like a hotel bed. Hotels are one of the permitted uses in the applicable employment zone category (E1 and E2, By-law 2014-014).
2. **Completeness of information provided in the supporting air and noise studies.** As discussed in more detail below, the air and noise study reports have been updated and resubmitted in response to the Peer Review comments and both conclude that the proposed use of the site for a dementia care facility will not impact the surrounding uses nor will those uses impact the proposed facility.
3. **Land Use Compatibility (D-6 Guidelines).** Analysis related to land use compatibility and the D-6 Guidelines is described in more detail below. In summary, the updated air and noise studies, as well as additional planning analysis with respect to the surrounding uses, confirm that the proposed use will not detrimentally affect the surrounding uses nor will the surrounding uses have an impact on the proposed use.

The following is a detailed response to the Town's report to Planning and Development Council and to the Region's July 2019 comments, summarized by theme.

A. Response to Town of Oakville Planning Services Department July 26, 2019 Report

The Town's July 2019 report addressed the matters of interest to Council that were raised at the May 13, 2019 Public Meeting, which included:

- undertaking a peer review of the noise study and consideration of the Noise By-law;
- investigating other jurisdictions that have successfully implemented overnight respite care;
- applicable development charges;
- consideration of the D-6 Guidelines (MOE);
- staff are to work to understand how to best characterize this use to properly assess it and to determine the best policy response;
- and how OPA 26 and 27 affect the proposal.

The following is a response to matters raised in the July 2019 staff report.

Updated Air and Noise Studies

On page 9 of the report, Town staff state that the "submitted Air and Noise Studies submitted in conjunction with the Application, and as peer reviewed by the Region, has not satisfactorily addressed that the proposed facility would not detrimentally impact the surrounding employment uses. As such, additional assessment of these studies would be necessary." The Town's report states again on page 10 that "additional assessment of the Air and Noise Studies is necessary in order to substantiate conformance with the Regional Official Plan and the matter of land use compatibility with the surrounding employment uses."

On page 14 of the report, staff state that there is insufficient analysis to determine that there would be no detrimental impact on the surrounding employment uses with respect to the noise and air quality reports.

Both the air and noise studies have been updated to address the comments from the Region and their Peer Reviewers. With respect to the updated noise study, additional analysis, including road and rail traffic noise and stationary sources, was completed by HCG Engineering. In their updated August 2019 report they conclude that they have no concerns with respect to the proposal, including the proposed mitigation measures, and land use compatibility.

Similarly, an updated air quality report was completed in August 2019 and concluded that there were no concerns with respect to the proposal and land use compatibility. Their updated report addressed the lack of concern regarding odour and dust impacts, as discussed by the Peer Reviewer. In addition, Novus' report included additional analysis with respect to wind direction. Finally, Novus does not

agree with some of the Peer Reviewer's comments with respect to the need for additional analysis, including the need for an assessment of transportation air quality impacts, and the need for a technical assessment with respect to M&G Steel Holdings, Monarch Plastics, Ropak Canada and Caravan Logistics' sites. Note that in the Region's comments regarding the air quality report, they stated that the air quality report had not addressed the policies from the PPS (2014), including policies 1.1.1(c), 1.2.6.1, 1.3.1(b)(c). The role of the PPS in the hierarchy of policies, guidelines and regulations has been addressed in the updated air quality report. In addition, it is our planning opinion that the proposal is consistent with the PPS, including policies 1.1.1(c), 1.2.6.1, 1.3.1(b)(c). Further, the results and conclusions from the technical studies (air quality and noise) demonstrate that :

- the proposed development will not cause environmental or public health and safety concerns (PPS 1.1.1(c)).
- the proposed sensitive land use (the dementia care facility) has been appropriately designed, buffered and/or separated from major facilities, defined by the PPS to include airports, transportation infrastructure and corridors, rail facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems and resource extraction activities, and vice versa, to prevent or mitigate adverse effects from odour, noise and other contaminants, thereby minimizing risk to public health and safety and ensuring the long-term viability of the major facilities. In this regard, both the updated noise and air quality studies addressed the proximity to transportation infrastructure, including the railway, and the proximity to surrounding industries and concluded that the proposal would not result in a risk to health and safety or the viability of the industry (PPS 1.2.6.1).
- As discussed, the updated air quality and noise studies concluded that the proposal will not impact existing and future businesses within the employment area (PPS 1.3.1 (b)(c)).

In summary, both the noise and air quality studies concluded that the proposed use of the site would not detrimentally impact the surrounding employment uses nor would there be impacts on the site, based on the proposal, including the proposed mitigation measures.

Finally, with respect to Council's comments regarding the Noise By-law, the Town's report states that the Noise By-law does not apply insofar as the impact of noise generated by one employment use on another employment use but that it does apply when noise emanates from a use in an employment zone negatively impacting a residential use.

Land Use

In the Region's comments they state that they have not had confirmation that the Town supports the applicant's assertion that the proposed use is a community use. In the Town's overview of the Provincial Policy Statement (2014), on page 7 of the

report, the Town states that “ the Dementia Care Centre is recognized as a Community Use providing a valuable benefit to the community as a whole. The use itself, defined as a Community Use, and being permitted in all land use designations in the Oakville Official Plan, is appropriate in the Employment District.” Further, on page 12 of the Town’s report, they state that “...the proposal is not considered a residential conversion, but rather the introduction of a Community Use, which may be permitted in all land use designations, subject to adherences to specific performance standards.” Finally on page 13, staff state that “the Respite (Dementia) Care facility would meet the definition of “Community Uses” under Section 7 of the Liveable Oakville Plan, in which such uses are intended to serve and support the health, educational, religious, recreational and cultural needs of the Town, which includes, amongst other uses, day care centres.” Therefore, the Town has confirmed that the proposal is a Community Use.

On page 15 of the report, staff state that the “introduction of a use that provides an adult day program and family caregiver support in the form of counselling is not dissimilar to other office functions that provide various services to clientele for varied and extended periods of time within an office environment. The Acclaim Health is more akin to an office, or commercial school function, that provides services to adult clientele from the broader community on a daily basis.”

Further, it is our opinion that the proposal is not a residential use. The Town is of a similar opinion and this is confirmed in the Town’s report on page 12 where the report states that the proposal is not considered a residential conversion. As a dementia care facility, individuals will visit the site to attend daytime programs and meetings or to stay overnight in temporary lodging. When individuals stay overnight, it is not because they do not have their own residence elsewhere or that they need medically supported healthcare/treatments but rather to provide relief to the individual’s caregiver so that that they are able to safely leave their family member overnight. In the Town’s report (page 15), staff state that the temporary overnight respite care is considered an ancillary function to the primary function of the Dementia Care that would provide temporary lodging. The use of these overnight beds would have a similar function to a hotel, which is a use that is permitted in the zone category for the subject site.

In Oakville Zoning By-law 2014-014, hotels are defined as “*a premises containing lodging units for the temporary lodging of the travelling public_and may include meeting facilities, recreation facilities, a restaurant, public hall, and retail stores which are incidental and subordinate to the primary hotel function and located in the same building*”. The primary difference between the proposed use and the definition of a hotel is that the temporary lodging that would be provided is not for the travelling public. The proposed beds for respite care would provide temporary lodging for brief stays. Typically an individual would stay for 3 to 4 nights with a 14 night maximum at one time and no more than 24 nights in one calendar year.

Hotels are permitted in three of the four employment zones (E1, E2, and E4), which includes the employment zone applicable to the subject lands. Of note are existing hotels in the E1, E2 and E4 zones on sites abutting the E3 zone where a range of industrial uses are permitted. Examples include a Holiday Inn on Wyecroft Road,

a Staybridge on Wycroft Road, and a Homewood on Winston Park Drive. Further, hotels are permitted in employment lands in other municipalities in the Region.

In the context of the proposed use of the site it is important to understand the Town's vision for the surrounding area. The Town's report indicates on page 11 that the subject site is located approximately 440 metres west of the Bronte GO Station site and that the Town has initiated the Bronte GO Major Transit Station Area (MTSA) Study, stating that "The study will develop an Area Specific Plan to create a complete, transit-supportive community which accommodates future population and employment growth and development. Further, on page 13, the report states that the MTSA study will provide updated and new policies to "delineate the boundary, the mix of land uses (e.g. employment, commercial, residential) and the intensity and scale of future development."

In conclusion, it is our opinion that the proposed use is appropriate, and is consistent with and conforms to Provincial and Regional policies and plans. Further, in the Town's report staff state that "the introduction of the dementia care facility in this location is generally supportable, given its function as a necessary and valuable use that services and benefits the broader community."

Overnight Respite Care

Town staff summarized the City of Toronto's definition of respite care facility and their discussions with City of Toronto staff. They note that respite care facilities are not permitted in employment zones in the Toronto by-law.

However, it is important to note that the range of permitted uses in Toronto's employment zones is more limited than Oakville's, in particular that the employment zones in Toronto do not permit hotel as a use, whereas hotel is permitted in three of the four employment zones in Oakville.

Further, there are other municipalities that permit dementia care, including overnight respite care beds, in a range of designations and zone type, including employment areas. For example VON Hamilton has respite beds with their Adult Day Program and is located in an industrial area. Unlike Acclaim's proposal, VON Hamilton also provides nursing care. Respite care facilities, including day only and some overnight care facilities, are located in industrial areas in Markham, Thornhill, Vaughan, Brampton, Mississauga and Burlington.

Land Use Compatibility

The D-6 Guidelines address land use compatibility to prevent or minimize encroachment of sensitive land uses upon industrial land use and vice versa. These Guidelines provide that properties fall into one of three classes and that for each class there is a potential area of influence and a potential minimum separation distance to be addressed (as shown in **Table 1** below). Class I properties generally have the least intensive use whereas Class III properties tend to have the most intensive.

Table 1. D-6 Guidelines Potential Area of Influence and Minimum Separation Distance by Class.

	Area of Influence	Minimum Separation Distance
Class I	70 metres	20 metres
Class II	300 metres	70 metres
Class III	1000 metres	300 metres

The air quality study identified the classification of the industries in the surrounding area, up to 1000 metres from the site (refer to **Figure 1**).

The D-6 guidelines provide that actual areas of influence are determined through studies specific to the industrial activities and appropriate studies can provide mitigation strategies, if required. When a development is proposed within an industry's area of influence or recommended minimum setback, an assessment may be performed to determine if compatibility can be achieved.

The Novus report also indicates that in some cases the D-6 Guidelines are not the only requirements that need to be addressed. For example, facilities that emit significant amounts of contaminants are required to obtain and maintain environmental approval, including Environmental Compliance Approval (ECA) from the Ministry.

In their report, Novus indicated that there are eight Class III properties within the 1000 m Area of Influence around the subject site and that two of these (2285 Speers Road and 2335 Speers Road) are within the 300 metres minimum separation distance (Refer to **Figure 2**). Those two Class III properties that are within 300 m of the subject site are also within 300 metres of the residential properties to the south.

The Class III property at 2285 Speers Road, M&G Steel, has an ECA for discharging into the air. For the ECA to be renewed, they would have to demonstrate the potential impacts, or lack thereof, from this property to other properties in the area of influence and minimum separation distance area, including the sensitive uses in the employment lands and the residential properties. Similarly, the property at 2335 Speers Road, Monarch Plastics, has an ECA for air and heating systems and would also need to take the sensitive uses in the employment lands and the residential properties into account.

In Novus' updated August 2019 report, they provide analysis with respect to wind direction and conclude that given the direction of the wind, the obstructions between these two properties and the subject site, and the proximity of other sensitive uses, they have no concerns about the land use compatibility associated with the proposed use of the site.

Further, with respect to the long-term compatibility, the uses in the area may change over time because, as stated in the Town's report "Over the longer term, the findings of the Bronte GO Major Transit Station Area (MTSA) Study may introduce additional land use policies that promote further intensification and a range of mixed uses more supportive and complimentary to the dementia care facility."

In our opinion, including our understanding of the results of the noise and air quality report, there would not be a land use compatibility concern.

Response to Region of Halton, July 17, 2019 Comments

In their comments, the Region stated that " the application, together with the supporting studies, have not sufficiently demonstrated that the introduction of an overnight respite care facility in area designated for employment uses, including a range of heavy industrial users, is a compatible land use."

The following addresses the specific comments from the Region:

Region's comment (page 1, last paragraph of July 17, 2019 Letter): "...there has not been adequate technical rationale to justify the assertion that the proposed land use is compatible with the surrounding industries. The proposed land use has the potential to impact the surrounding industries ability to operate, and it has not been demonstrated that the overall air quality in the area supports the proposed development. Further assessments are required to demonstrate that the proposed land use is compatible with the surroundings."

The updated air quality and noise studies have been prepared to address the comments from the Region and the Peer Reviewer. These updated reports provide the technical rationale and outline the justification for the proposed use and concludes that it is compatible with the surrounding industries and their ability to continue to operate within their own regulatory requirements.

Region's comment (page 2, 2nd paragraph of July 17, 2019 Letter): " With respect to the Noise Feasibility Study...the peer review identified that there are some concerns from a noise perspective that should be addressed. Although the proposed development would be designed with in-operable windows, the selection of the window should be designed to ensure there is a suitable indoor acoustic environment for the occupants, as well as to protect the surrounding commercial and industrial properties from potential noise complaints."

The updated Noise Study has demonstrated that from a noise perspective there are no concerns with the proposal, which includes the proposed mitigation

measure of inoperable windows. The noise study provides general direction on the type of windows but the detail of the particular type of window would be confirmed at the site plan and permit stage.

Region's comment (page 2, 3rd paragraph): *"There are also references in the APJR to considering the proposed development being a Community Use. Regional planning staff has not received formal confirmation that the Town staff agree with the interpretation that the proposed development is appropriate as a Community Use (Section 6.2.4) in the context of conformity to the Town's Official Plan, however, for the purposes of these comments, Regional staff have made the assumption that this interpretation is acceptable to the Town. If this is an incorrect assumption, Regional staff would request the opportunity to provide further comments in this regard."*

As discussed in the preceding section, Town staff confirmed in their July 26, 2019 report to Planning and Development Council that the proposed development is a Community Use (pages 12 and 13 of the report).

Region's comment (page 2, final paragraph): *"Regional staff is not satisfied that the proposed use is consistent with the above noted policies in the Provincial Policy Statement as the current submissions with respect to land use compatibility, noise and air quality have not provided the adequate technical analysis to demonstrate consistency with the above noted policies"*.

With respect to the policies of the Provincial Policy Statement referred to by the Region in this comment (policies 1.1.1(c), 1.2.6.1, 1.3.1(b)(c)), and as discussed in the land use and land use compatibility sections of this letter, it is our opinion that the proposal is consistent with these Provincial Policy Statement policies. Further, the updated air quality report concludes that the proposed use is compatible with the surrounding uses and that they have provided adequate analysis with respect to noise and air quality studies.

Region's comment (page 3, 5th and 6th paragraphs): *"The applicant, through the APJR suggests that because the land use compatibility study provided by Novus Environmental indicated there would be no impacts to or from the surrounding industrial uses by the proposed facility. As a result, they indicate there would be no need to prohibit the sensitive land use (2.2.5.7) or to avoid the development of such use as the existing industrial uses are already constrained by residential uses to the south. This conclusion is not supported by the peer review obtained by the Region (attached) and staff note that the peer reviews indicate, that a conclusion on the potential for impacts required additional technical analysis."*

With respect to existing residential uses to the south, Regional staff would suggest that this proposal is the introduction of a new use closer to the existing and future employment uses than the existing residential lands to the south, which could result in increased impacts to the employment lands. Further the peer review obtained by the Region indicates that, among other things, "The dispersion of contaminants emitted from an industry – including odour – is dependent on a number of atmospheric and physical factors including: wind speed, wind direction,

physical blockages (e.g. buildings) and ground cover. Odours are typically assessed based on frequency and intensity which can be predictive of complaints. Comparing two receptors based on proximity to an odour source does not provide complete analysis of the potential for odours". That these impacts, among others, have not been addressed means, in the opinion of Halton Region staff, that conformity with the 2019 Growth Plan has not been established."

The updated air quality report provides additional analysis with respect to potential impacts, including wind rose diagrams, odour studies and dust analysis. They have clearly indicated that odour is not a concern, especially given that it was tested on a worst-case scenario day. Further, they indicated that there are other sensitive land uses that are closer to source industries tied to wind direction and have taken into account physical blockages between the subject site and the source. The report states that the existing industries have regulations that they need to comply with including sensitive land uses in the surrounding area. Based on this additional analysis as well as their initial findings, the report concludes that there will be no land use compatibility concerns with the proposed use.

Region's comment (page 4, 1st paragraph): *"The applicant's current proposal indicates a "respite care facility" and a "dementia care facility" as the use proposed to be permitted on the subject lands which are identified as Employment Area in the Region's Official Plan and area within the Built Boundary. Institutional uses are permitted within the Region's Employment Area subject to criteria; however, residential uses are not. The introduction of residential uses as a primary use of land would be considered a conversion of employment lands."*

As discussed above, the proposed use is not residential and therefore would not be considered a conversion.

Other Matters

The Region's response also included comments on other matters, as discussed below.

"The FSR should be revised to include fire flow testing results and the corresponding hydraulic analysis to demonstrate that the existing water system in the area can accommodate the change in use of the building. ... If the FSR is not revised then it is recommended that this zoning amendment be approved with a holding provision applied to it concerning the revised FSR."

The revised Municipal Water Supply and Distribution Analysis report, dated May 9, 2019, included the fire flow test results and the Town has acknowledged that the Region's requirement for a hold is no longer required.

"An updated Phase 1 and Phase 2 ESA based on O.Reg. 153/04 is required in order to address ROP policy direction in this regard. ... Please note that the proposed use is changing to a more sensitive land use as per the definitions of O.Reg. 153/04 and therefore a Ministry of Environment, Parks, and Conservation

acknowledged Record of Site Condition (RSC) is mandatory. A condition within the Holding Provision has been included to address this matter.”

In the July 29, 2019 staff report, the Town states that Halton Region has clarified that the revised Phase 1 and 2 ESA reports are satisfactory but that the Holding provision for the RSC would be required.

Conclusion

It is our opinion that the proposed use, which is a Community Use and not residential, is consistent with the Provincial Policy Statement (2014), conforms with the Growth Plan (2019), is consistent with the Region and Town's Official Plans and is consistent with applicable guidelines, including the D-6 Guidelines. The technical studies (air and noise) demonstrate that there will be no land use compatibility concerns with the surrounding land uses.

If you have any questions or would like to discuss this matter, please do not hesitate to contact myself or Stephanie Kwast of our office.

Yours very truly,



Emma West, BSc, MSc, MCIP, RPP,
Bousfields Inc.

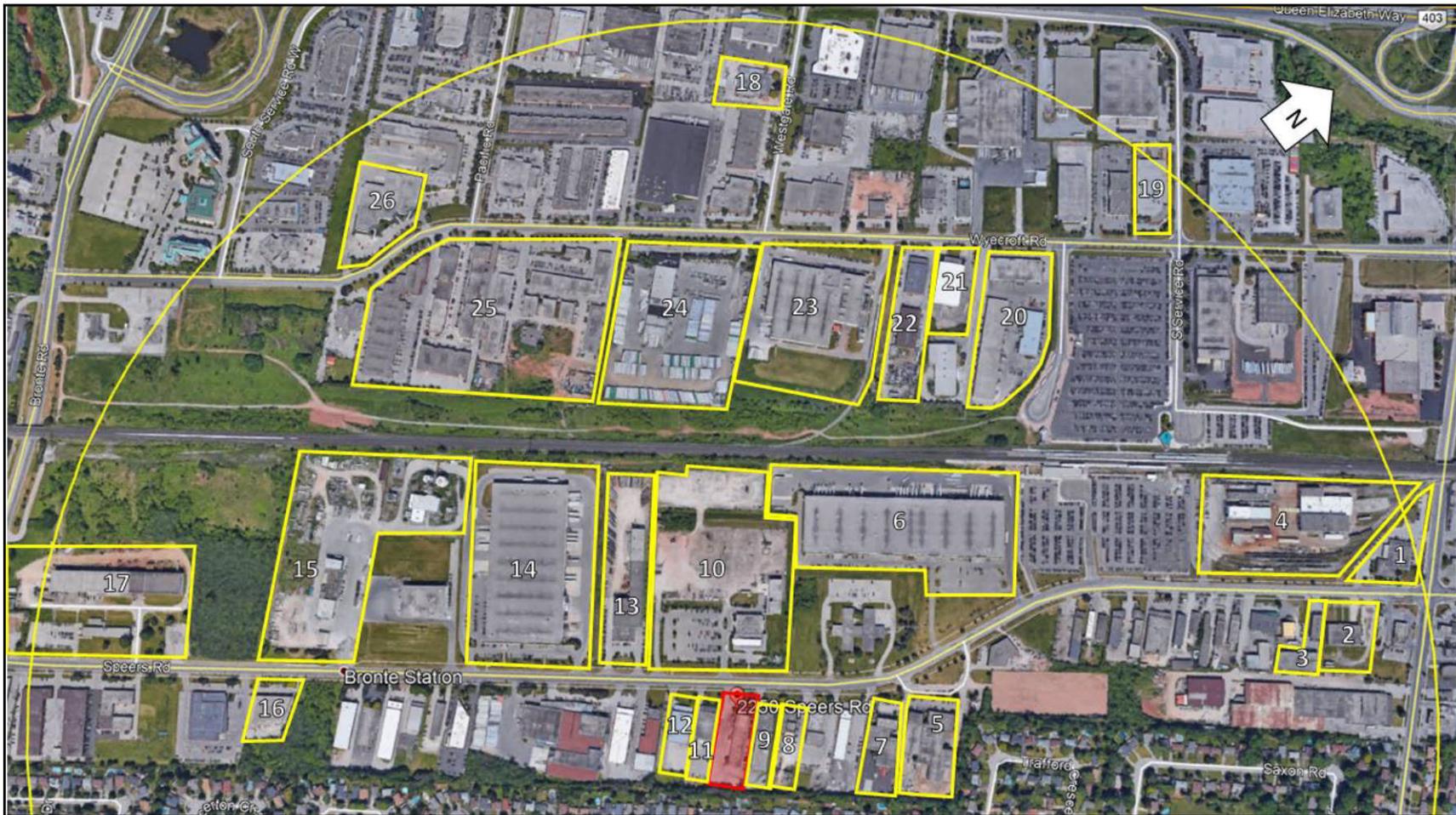
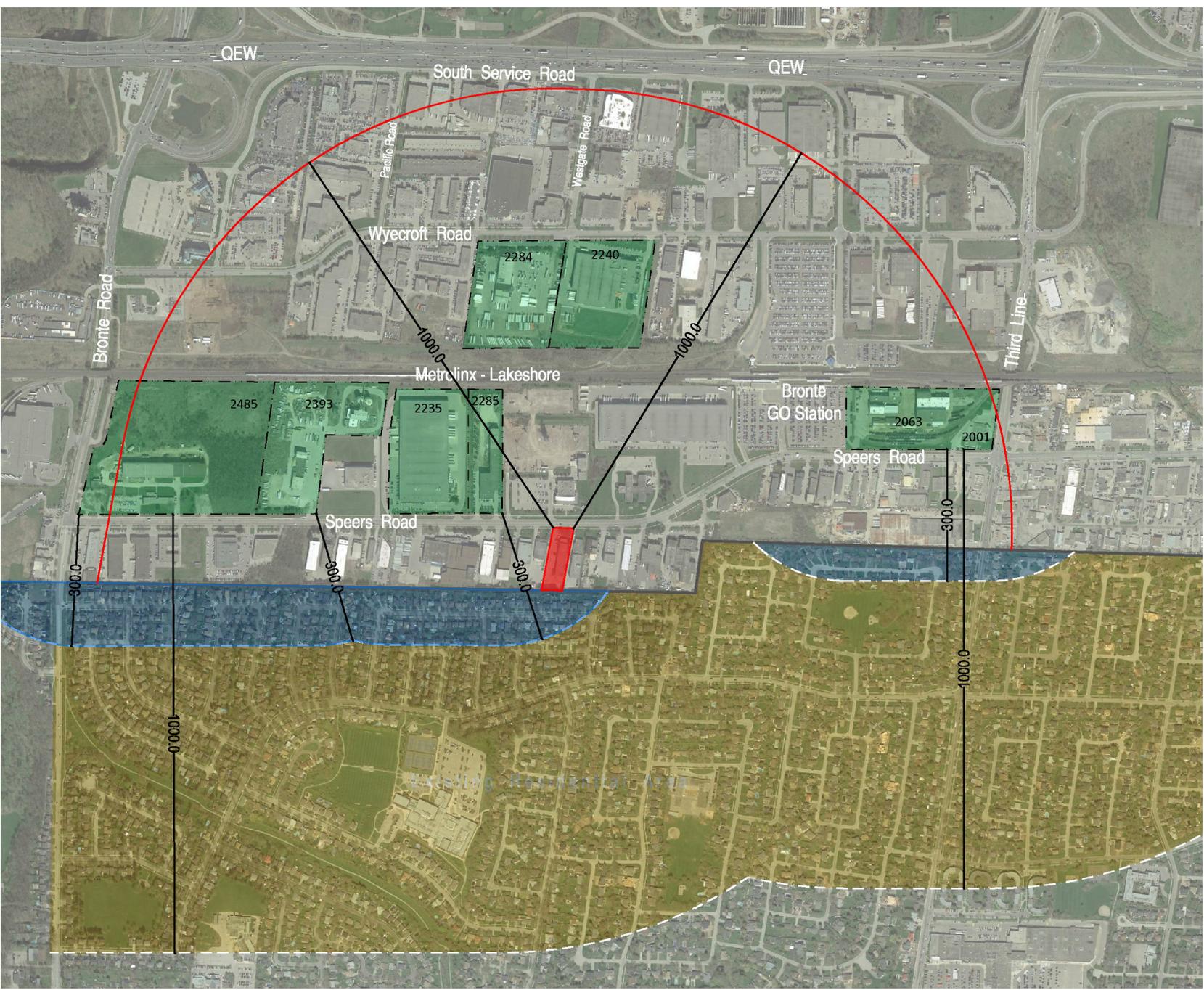


Figure 4: Industrial Identification within a 1km Radius of 2250 Speers Road

Figure 1. Figure from Novus Air Quality Report February 2019, 2250 Speers Rd.



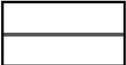
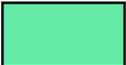
- LEGEND**
-  Edge of Existing Residential Properties
 -  Class III Properties
 -  Class III : Minimum Separation Distance over residential
 -  Class III : Area of Influence 1000m over residential

Figure 2