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Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: June 05, 2023 **CASE NO(S):** OLT-21-001693

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	BET Realty Limited and 3420 Hurontario Street Incorporated
Subject:	Request to amend the Official Plan - Failure of City of Mississauga to adopt the requested amendment
Existing Designation:	Residential High Density” and “Office”
Proposed Designated:	Residential High Density – Special Site
Purpose:	To permit residential, retail and office uses
Property Address/Description:	3420 and 3442 Hurontario Street
Municipality:	City of Mississauga
Approval Authority File No.:	OZ 20/022 W7
OLT Case No.:	OLT-21-001693
OLT Lead Case No.:	OLT-21-001693
OLT Case Name:	BET Realty Limited v. Mississauga (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	BET Realty Limited and 3420 Hurontario Street Incorporated
Subject:	Application to amend - Zoning Bylaw 0225-2007, as amended and neglect of City of Mississauga to make a decision
Existing Zoning:	“RA-3-20 – Residential Apartment 3 Zone Exception 20” and “0-10” – Office Exception Zone 10”
Proposed Zoning:	“RA5-XX”
Purpose:	To permit residential, retail and office use
Property Address/Description:	3420 and 3442 Hurontario Street
Municipality:	City of Mississauga
Municipality File No.:	OZ 20/022 W7
OLT Case No.:	OLT-21-001694
OLT Lead Case No.:	OLT-21-001693

Heard: March 27, 2023 by Video Hearing

APPEARANCES:

Parties

BET Realty Ltd. & 3420 Hurontario
Street Inc.

City of Mississauga

Counsel

Jonathon Cheng

Lia Magi

**DECISION DELIVERED BY KURTIS SMITH AND K.R. ANDREWS AND ORDER OF
THE TRIBUNAL**

[Link to Final Order](#)

INTRODUCTION

[1] This is a Settlement Hearing with respect to an appeal filed by BET Realty Ltd. & 3420 Hurontario Street Inc. (“Appellants”) regarding the failure of the City of Mississauga (“City”) to make a decision within the timeframe prescribed in the *Planning Act* (“Act”). The subject Applications concern proposed Official Plan (“OPA”) and Zoning By-law (“ZBA”) amendments relating to the property municipally known as 3420 & 3442 Hurontario Street (“Subject Property”).

[2] The Subject Property is a rectangular shaped parcel, 1.61 acres in size, located at the southwest corner of Hurontario Street and Central Parkway West. Currently there is a 3-storey medical office building at the south end of the site with a large parking field in front of the building extending north to Central Parkway West. Vehicular access is available via a restricted right-in/right-out access from Hurontario Street and a full moves access from Central Parkway West.

[3] The original proposed development was designed to build two high-rise towers, 30 and 36 storeys atop a five (5) storey shared podium. The total gross floor area (“GFA”) was 48,435 square metres with 680 residential units and a total floor space

index ("FSI") of 7.4.

[4] Following two Case Management Conferences, a settlement was reached as a result of two (2) days of Tribunal led mediation.

HEARING

[5] To support the proposal, the sole witness called was Jim Levac, a land use planner who, upon review of his *Curriculum Vitae* and Acknowledgement of Expert's Duty form, was qualified by the Tribunal to provide opinion evidence in land use planning.

[6] Mr. Levac explained that the revised proposal addresses the comments and concerns of the City and community, which includes a reduction in the tower heights to 33 storeys (106 m) and 30 storeys (97.5 m) and altered the structures design to create a preferred transition.

[7] Mr. Levac reviewed the Act with regard to the matters of provincial interest set out in section 2. Specifically, he opined that the proposal would achieve the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems (s. 2.f), the orderly development of safe and healthy communities (s. 2.h), the adequate provision and distribution of educational, health, social, cultural and recreational facilities (s.2.i), the protection of public health and safety (s.2.o), and the appropriate location of growth and development (s.2.p).

[8] As it relates to the Provincial Policy Statement 2020 ("PPS"), Mr. Levac opined that the proposed development is consistent with PPS policy objectives, including healthy, livable and safe communities that are sustained by promoting efficient development and land use patterns and avoiding development and land use patterns which may cause environmental or public health and safety concerns. In his opinion, the revised proposed OPA and ZBA are consistent with sections 1.1.1.e, 1.1.3.1, 1.1.3.2, 1.1.3.2.f, 1.1.3.3, and 1.1.3.4 of the PPS.

[9] In Mr. Levac's opinion, the proposed instruments will permit development in compact form, while maximizing existing under-utilized lands in a built-up settlement area which maximizes existing infrastructure and promotes efficient land use and development patterns. Additionally, the proposed development will promote transit use along a major transit and intensification corridor.

[10] Mr. Levac is further of the opinion that the proposed development conforms with the Growth Plan for the Greater Golden Horseshoe ("Growth Plan") as it supports the achievement of complete communities designed to support healthy and active living and to meet people's needs for daily living (s 1.2.1), directs growth to settlement areas that have a delineated built boundary, have existing or planned municipal water and wastewater systems (s 2.2.1), and the proposed development represents a form of intensification within the delineated built-up area, and prioritizes infrastructure that supports intensification (s 2.2.2.3).

[11] Mr. Levac testified that the Subject Property is part of the Downtown Mississauga Urban Growth Centre as identified in s.2.2.3.2.b of the Growth Plan. Additionally, the Subject Property is situated within an area planned to support significant population and employment growth and be a focal area for transit (s.2.2.3.1).

[12] Mr. Levac also testified that s.2.2.4 of the Growth Plan states that the Subject Property is within a designated protected Major Transit Station Area (MTSA) in the Region of Peel Official Plan ("Region OP") and is similarly proposed for a protected MTSA designation in the Mississauga Official Plan ("City OP"). The Downtown Fairview protected MTSA is directly located on the Hurontario LRT line and is able to maximize the area and number of potential transit users within walking distance. s.5.6.19 of the Region OP contains the Region's MTSA policies which apply to the subject lands and promote higher densities to support funded and planned transit infrastructure.

[13] The Region OP designates the Subject Property as Urban System. In Mr. Levac's opinion, the proposed development supports the designation of the Region OP as it is compact, transit supportive intensification in an area that efficiently utilizes land,

services, infrastructure and public finances while respecting the character of existing communities.

[14] The City OP provides a number of policies that relate to the City encouraging compact mixed-use development that is transit supportive. Mr. Levac testified that the Subject Property is within the “Downtown”. The Downtown area is directed to be a focal point for growth and density and support higher order transit. Furthermore, the City OP identifies “Corridor” policies which are meant to evolve to attract mixed use development while becoming public places as part of the broader public realm. Corridors within Downtown areas are identified as Intensification Corridors which will be supported by high order public transit, namely the Hurontario LRT, and support mixed uses and higher residential densities while providing appropriate transition of height and density.

[15] Mr. Levac summarily concluded that the proposed OPA and ZBA are consistent with the PPS, conform with the Growth Plan, Region OP and City OP, have sufficient regard for matters of provincial interest under s.2, and represent good land use planning.

FINDINGS

[16] The Tribunal accepts the uncontroverted planning evidence and opinions of Mr. Levac and is satisfied that the proposed OPA and ZBA are consistent with the PPS, and conform with the Growth Plan, Region OP and City OP. The Tribunal is satisfied that the proposed development represents good planning in the public interest and has appropriate regard for matters of Provincial interest, specifically as the development is designed to be sustainable, to support public transit and to be oriented to pedestrians.

ORDER

[17] **THE TRIBUNAL ORDERS** that:

1. The appeal is allowed in part and the Official Plan for the City of Mississauga is amended as set out in Attachment 1 to this Order; and
2. The appeal is allowed in part, and By-law 0225-2007 is hereby amended as set out in Attachment 2 to this Order. The Tribunal authorizes the municipal clerk of City of Mississauga to assign a number to this by-law for record keeping purposes.

"Kurtis Smith"

KURTIS SMITH
MEMBER

"K.R. Andrews"

K.R. ANDREWS
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal ("Tribunal"). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

ATTACHMENT 1 – OPA

Amendment No. 155

to

Mississauga Official Plan

The following text and Map "A" attached constitute Amendment No. 155.

PURPOSE

The purpose of this Amendment is to change the land use designation of the subject lands from Office to Residential High Density and to amend Special Site 2 in the Downtown Fairview Character Area.

LOCATION

The lands affected by this Amendment are located on the west side of Hurontrario Street, south of Central Parkway West. The subject lands are located in the Downtown Fairview Character Area, as identified in Mississauga Official Plan.

BASIS

Mississauga Official Plan came into effect on November 14, 2012, save and except for the outstanding site specific appeals to the Ontario Land Tribunal.

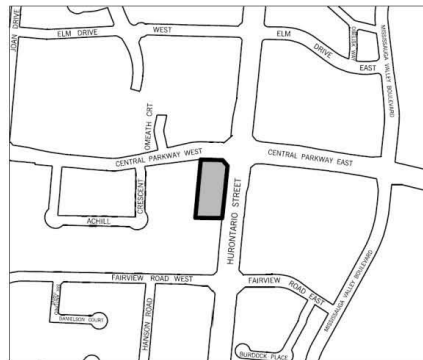
The subject lands are currently designated Residential High Density and Office and are within an area of Special Site Policies. The Residential High Density designation permits apartment dwelling, townhouse dwelling accessory to apartment dwelling and convenience commercial uses at grade in apartment dwellings. The Office designation permits major office, secondary office and accessory uses. Special Site 2 policies apply to a portion of the subject lands and permit a maximum of 135 units and a maximum floor space index of 3.75.

The proposed Amendment is required to re-designate a portion of the subject lands from Office to Residential High Density and to amend the Special Site Policies to permit two apartment dwellings with heights of 33 and 30 storeys.

DETAILS OF THE AMENDMENT AND POLICIES RELATIVE THERETO

1. Section 12.3, Downtown Fairview Character Area, of Mississauga Official Plan, is hereby amended by removing the floor space index (FSI) range from the subject lands on Map 12-3: Downtown Fairview Character Area.
2. Section 12.3.2, Special Site Policies, Downtown Fairview Character Area, of Mississauga Official Plan, is hereby amended by deleting Special Site 2 and replacing with the following:

12.3.2.2 Site 2



12.3.2.2.1 The lands identified as Special Site 2 are located on the west side of Hurontario Street, south of Central Parkway West.

12.3.2.2.2 Notwithstanding the policies of this Plan, two apartment dwellings with maximum heights of 33 and 30 storeys will be permitted.

12.3.2.2.3 Notwithstanding the policies of this Plan, a maximum ***floor space index (FSI)*** of 7.6 will be permitted.

3. Schedule 10, Land Use Designations, of the Mississauga Official Plan, is hereby amended by changing the land use designation of a portion of the subject lands from Office to Residential High Density, as shown on Map "A" of this Amendment.

IMPLEMENTATION

Upon receipt of the Ontario Land Tribunal's Final Order, Mississauga Official Plan will be amended in accordance with the Order.

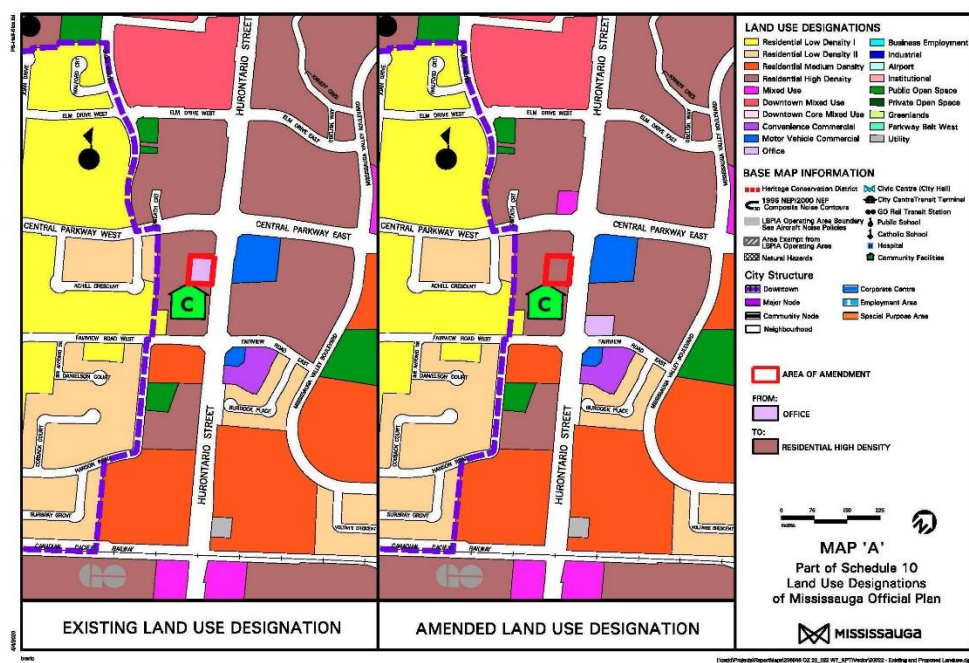
The lands will be rezoned as part of the same Tribunal Order.

This Amendment has been prepared based on the Office Consolidation of Mississauga Official Plan dated March 3, 2023.

INTERPRETATION

The provisions of Mississauga Official Plan, as amended from time to time regarding the interpretation of that Plan, will apply in regard to this Amendment.

This Amendment supplements the intent and policies of Mississauga Official Plan.



ATTACHMENT 2 – ZBA

1. By-law Number 0225-2007, as amended, being a City of Mississauga Zoning By-law, is amended by adding the following Exception Table:

4.15.6.61	Exception: RA5-61	Map # 22	By-law:
In a RA5-61 zone the permitted uses and applicable regulations shall be as specified for a RA5 zone except that the following uses/regulations shall apply:			
Additional Permitted Uses			
4.15.6.61.1	(1) Retail Store (2) Restaurant (3) Take-out Restaurant (4) Service Establishment (5) Financial Institution (6) Medical Office (7) Office		
Regulations			
4.15.6.61.2	The provisions of Lines 1.0 and 3.0 contained in Table 2.1.2.1.1, Subsections 2.1.14, 2.1.30 and Article 4.1.15.1 and the regulations of Lines 15.1, 15.2, 15.5 and 15.6 contained in Table 4.15.1 of this By-law shall not apply		
4.15.6.61.3	A dwelling unit shall not be permitted on the first storey		
4.15.6.61.4	The uses contained in Sentence 4.15.6.61.1 of this Exception shall not be permitted above the third storey		
4.15.6.61.5	The uses contained in Sentence 4.15.6.61.1 of this Exception shall only be located within a building, structure or part thereof used for an apartment, long-term care building, retirement building or any combination thereof		

4.15.6.61	Exception: RA5-61	Map # 22	By-law:
4.15.6.61.6	Maximum floor space index - apartment zone		7.6
4.15.6.61.7	Minimum gross floor area - non-residential used for medical office and office		1 790 m ²
4.15.6.61.8	Maximum gross floor area - apartment zone per storey for each storey above nine storeys		750 m ²
4.15.6.61.9	Minimum number of resident parking spaces per dwelling unit		0.8
4.15.6.61.10	Minimum number of visitor parking spaces per dwelling unit		0.2
4.15.6.61.11	Minimum number of accessible parking spaces		5
4.15.6.61.12	Minimum number of bicycle parking spaces - Class B		0
4.15.6.61.13	Minimum number of parking spaces per 100 m ² of gross floor area - non-residential for uses contained in Sentence 4.15.6.61.1 of this Exception		3.8
4.15.6.61.14	<p>For the visitor component, a shared parking arrangement may be used for the calculation of required residential visitor/non-residential parking in accordance with the following:</p> <p>the greater of</p> <p>0.2 visitor parking spaces per dwelling unit</p> <p>or</p> <p>Parking required for all non-residential uses, except for restaurant over 220 m² gross floor area - non-residential</p> <p>Parking for restaurant over 220 m² gross floor area - non-residential, shall not be included in the above shared parking arrangement and shall be provided in accordance with applicable regulations contained in Table 3.1.2.2 of this By-law</p>		
4.15.6.61.15	Minimum amenity area		4.5 m ² per dwelling unit

4.15.6.61	Exception: RA5-61	Map # 22	By-law:
4.15.6.61.16	All site development plans shall comply with Schedule RA5-61 of this Exception		
Holding Provision			
<p>The holding symbol H is to be removed from the whole or any part of the lands zoned H-RA5-61 by further amendment to Map 22 of Schedule B contained in Part 13 of this By-law, as amended, upon satisfaction of the following requirements:</p> <ol style="list-style-type: none">(1) delivery of an executed Development Agreement with Municipal Infrastructure and Streetscape Schedules in a form and on terms satisfactory to the City of Mississauga ("City");(2) delivery of a Temporary Discharge to Storm Sewer Commitment Letter to the satisfaction of the City's Transportation and Works Department(3) delivery of a Confirmation Letter from an Engineer that the above-ground storage tanks, wells and septic tanks have been removed to the satisfaction of the City's Transportation and Works Department;(4) delivery of a Record of Site Condition, together with all supporting documentation to the satisfaction of the City's Transportation and Works Department;(5) delivery of an updated Hydrogeological Study to the satisfaction of the City's Transportation and Works Department;(6) delivery of updated engineering drawings to the satisfaction of the City's Transportation and Works Department;(7) confirmation by Metrolinx/Mobilinx regarding grading and municipal boulevard works, including the amended boulevard treatment for the Hurontario Street frontage and bus stop maintenance or relocation, as the case may be.			

2. Map Number 22 of Schedule "B" to By-law Number 0225-2007, as amended, being a City of Mississauga Zoning By-law, is amended by changing thereon from "RA3-20" and "O1-10" to "H-RA5-61", the zoning of Part of Lot 16, Concession 1, North of Dundas Street, in the City of Mississauga, PROVIDED HOWEVER THAT the "H-RA5-61" zoning shall only apply to the lands which are shown on the attached Schedule "A", which is deemed to be an integral part of this By-law, outlined in the heaviest broken line with the "H-RA5-61" zoning indicated thereon.
3. This By-law shall not come into force until Mississauga Official Plan Amendment Number 155 is in full force and effect.

[http://teamsites.mississauga.ca/sites/18/Bylaws/OZ 20 022 W7.by-law OLT.ad.jmcc.docx](http://teamsites.mississauga.ca/sites/18/Bylaws/OZ%20022%20W7.by-law%20OLT.ad.jmcc.docx)



